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HOUSE BILL 1633

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State of Washington                      56th Legislature                      1999 Regular Session

By Representatives Mielke, Koster, Pennington, Mulliken, Benson, Bush, Campbell, Boldt and Dunn

Read first time 02/01/1999. Referred to Committee on Local Government.

1            AN ACT Relating to growth management hearings; amending RCW  
2 36.70A.280, 36.70A.290, 36.70A.300, 36.70A.310, 36.70A.320, 36.70A.330,  
3 36.70A.340, 36.70A.345, 36.70A.110, 36.70A.172, 36.70A.210, 36.70C.030,  
4 and 90.58.190; adding a new section to chapter 36.70A RCW; repealing  
5 RCW 36.70A.250, 36.70A.260, 36.70A.270, 36.70A.295, 36.70A.302,  
6 36.70A.305, and 36.70A.335; and declaring an emergency.

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

8            **Sec. 1.** RCW 36.70A.280 and 1996 c 325 s 2 are each amended to read  
9 as follows:

10            (1) The growth management hearings boards shall cease to exist on  
11 July 1, 2002. Prior to July 1, 2002, a growth management hearings  
12 board shall hear and determine only those petitions submitted before  
13 the effective date of this section and alleging either:

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

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

4 (2) On and after the effective date of this section, land use  
5 petitions making allegations under either subsection (1)(a) or (b) of  
6 this section may be filed as provided in chapter 36.70C RCW.

7 (3) A petition may be filed only by: (a) The state, or a county or  
8 city that plans under this chapter; (b) a person who has participated  
9 orally or in writing before the county or city regarding the matter on  
10 which a review is being requested; (c) a person who is certified by the  
11 governor within sixty days of filing the request with the board or  
12 court; or (d) a person qualified pursuant to RCW 34.05.530.

13 (~~(3)~~) (4) For purposes of this section "person" means any  
14 individual, partnership, corporation, association, state agency,  
15 governmental subdivision or unit thereof, or public or private  
16 organization or entity of any character.

17 (~~(4)~~) (5) When considering a possible adjustment to a growth  
18 management planning population projection prepared by the office of  
19 financial management, a board or court shall consider the implications  
20 of any such adjustment to the population forecast for the entire state.

21 The rationale for any adjustment that is adopted by a board or  
22 court must be documented and filed with the office of financial  
23 management within ten working days after adoption.

24 If adjusted by a board or court, a county growth management  
25 planning population projection shall only be used for the planning  
26 purposes set forth in this chapter and shall be known as a "board or  
27 court adjusted population projection". None of these changes shall  
28 affect the official state and county population forecasts prepared by  
29 the office of financial management, which shall continue to be used for  
30 state budget and planning purposes.

31 **Sec. 2.** RCW 36.70A.290 and 1997 c 429 s 12 are each amended to  
32 read as follows:

33 (1) Until the effective date of this section, all requests for  
34 review to a growth management hearings board shall be initiated by  
35 filing a petition that includes a detailed statement of issues  
36 presented for resolution by the board. The board shall render written  
37 decisions articulating the basis for its holdings. The board shall not  
38 issue advisory opinions on issues not presented to the board in the

1 statement of issues, as modified by any prehearing order. On and after  
2 the effective date of this section, land use petitions filed pursuant  
3 to RCW 36.70A.280 shall be initiated as provided in chapter 36.70C RCW.

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

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

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

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

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

31 (3) Unless the board dismisses the petition as frivolous or finds  
32 that the person filing the petition lacks standing, or the parties have  
33 filed an agreement to have the case heard in superior court as provided  
34 in RCW 36.70A.295, the board shall, within ten days of receipt of the  
35 petition, set a time for hearing the matter.

36 (4) The board shall base its decision on the record developed by  
37 the city, county, or the state and supplemented with additional  
38 evidence if the board determines that such additional evidence would be

1 necessary or of substantial assistance to the board in reaching its  
2 decision.

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

6 **Sec. 3.** RCW 36.70A.300 and 1997 c 429 s 14 are each amended to  
7 read as follows:

8 (1) For petitions filed prior to the effective date of this section  
9 the board, and for petitions filed on or after the effective date of  
10 this act the court, shall issue a final order that shall be based  
11 exclusively on whether or not a state agency, county, or city is in  
12 compliance with the requirements of this chapter, chapter 90.58 RCW as  
13 it relates to adoption or amendment of shoreline master programs, or  
14 chapter 43.21C RCW as it relates to adoption of plans, development  
15 regulations, and amendments thereto, under RCW 36.70A.040 or chapter  
16 90.58 RCW.

17 (2)(a) Except as provided in (b) of this subsection, the final  
18 order shall be issued within one hundred eighty days of receipt of the  
19 petition for review, or, if multiple petitions are filed, within one  
20 hundred eighty days of receipt of the last petition that is  
21 consolidated.

22 (b) The board or court may extend the period of time for issuing a  
23 decision to enable the parties to settle the dispute if additional time  
24 is necessary to achieve a settlement, and (i) an extension is requested  
25 by all parties, or (ii) an extension is requested by the petitioner and  
26 respondent and the board or court determines that a negotiated  
27 settlement between the remaining parties could resolve significant  
28 issues in dispute. The request must be filed with the board or court  
29 not later than seven days before the date scheduled for the hearing on  
30 the merits of the petition. The board or court may authorize one or  
31 more extensions for up to ninety days each, subject to the requirements  
32 of this section.

33 (3) In the final order, the board or court shall either:

34 (a) Find that the state agency, county, or city is in compliance  
35 with the requirements of this chapter, chapter 90.58 RCW as it relates  
36 to the adoption or amendment of shoreline master programs, or chapter  
37 43.21C RCW as it relates to adoption of plans, development regulations,  
38 and amendments thereto, under RCW 36.70A.040 or chapter 90.58 RCW; or

1 (b) Find that the state agency, county, or city is not in  
2 compliance with the requirements of this chapter, chapter 90.58 RCW as  
3 it relates to the adoption or amendment of shoreline master programs,  
4 or chapter 43.21C RCW as it relates to adoption of plans, development  
5 regulations, and amendments thereto, under RCW 36.70A.040 or chapter  
6 90.58 RCW, in which case the board or court shall remand the matter to  
7 the affected state agency, county, or city. The board or court shall  
8 specify a reasonable time not in excess of one hundred eighty days, or  
9 such longer period as determined by the board or court in cases of  
10 unusual scope or complexity, within which the state agency, county, or  
11 city shall comply with the requirements of this chapter. The board or  
12 court may require periodic reports (~~(to the board)~~) on the progress the  
13 jurisdiction is making towards compliance.

14 (4) (~~Unless the board makes a determination of invalidity as~~  
15 ~~provided in RCW 36.70A.302,)~~) A finding of noncompliance and an order  
16 of remand shall not affect the validity of comprehensive plans and  
17 development regulations during the period of remand.

18 (5) Any party aggrieved by a final decision of the hearings board  
19 may appeal the decision to superior court as provided in RCW 34.05.514  
20 or 36.01.050 within thirty days of the final order of the board.

21 **Sec. 4.** RCW 36.70A.310 and 1994 c 249 s 32 are each amended to  
22 read as follows:

23 A request for review by the state to a growth management hearings  
24 board prior to the effective date of this section, and to a court under  
25 chapter 36.70C RCW on or after the effective date of this section, may  
26 be made only by the governor, or with the governor's consent the head  
27 of an agency, or by the commissioner of public lands as relating to  
28 state trust lands, for the review of whether: (1) A county or city  
29 that is required or chooses to plan under RCW 36.70A.040 has failed to  
30 adopt a comprehensive plan or development regulations, or county-wide  
31 planning policies within the time limits established by this chapter;  
32 or (2) a county or city that is required or chooses to plan under this  
33 chapter has adopted a comprehensive plan, development regulations, or  
34 county-wide planning policies, that are not in compliance with the  
35 requirements of this chapter.

36 **Sec. 5.** RCW 36.70A.320 and 1997 c 429 s 20 are each amended to  
37 read as follows:

1 (1) Except as provided in subsection ~~((+5))~~ (4) of this section,  
2 comprehensive plans and development regulations, and amendments  
3 thereto, adopted under this chapter are presumed valid upon adoption.

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

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

17 (4) ~~((A county or city subject to a determination of invalidity  
18 made under RCW 36.70A.300 or 36.70A.302 has the burden of demonstrating  
19 that the ordinance or resolution it has enacted in response to the  
20 determination of invalidity will no longer substantially interfere with  
21 the fulfillment of the goals of this chapter under the standard in RCW  
22 36.70A.302(1)).~~

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

26 **Sec. 6.** RCW 36.70A.330 and 1997 c 429 s 21 are each amended to  
27 read as follows:

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

34 (2) The board or court shall conduct a hearing and issue a finding  
35 of compliance or noncompliance with the requirements of this chapter  
36 and with any compliance schedule established by the board or court in  
37 its final order. A person with standing to challenge the legislation  
38 enacted in response to the board's or court's final order may

1 participate in the hearing along with the petitioner and the state  
2 agency, county, or city. A hearing under this subsection shall be  
3 given the highest priority of business to be conducted by the board or  
4 court, and a finding shall be issued within forty-five days of the  
5 filing of the motion under subsection (1) of this section with the  
6 board or court. The board or court shall issue any order necessary to  
7 make adjustments to the compliance schedule and set additional hearings  
8 as provided in subsection ((+5)) (4) of this section.

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

16 (4) ~~((In a compliance hearing upon petition of a party, the board  
17 shall also reconsider its final order and decide, if no determination  
18 of invalidity has been made, whether one now should be made under RCW  
19 36.70A.302.~~

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

22 **Sec. 7.** RCW 36.70A.340 and 1991 sp.s. c 32 s 26 are each amended  
23 to read as follows:

24 Upon receipt from the board or court of a finding that a state  
25 agency, county, or city is in noncompliance under RCW 36.70A.330, or as  
26 a result of failure to meet the requirements of RCW 36.70A.210, the  
27 governor may either:

28 (1) Notify and direct the director of the office of financial  
29 management to revise allotments in appropriation levels;

30 (2) Notify and direct the state treasurer to withhold the portion  
31 of revenues to which the county or city is entitled under one or more  
32 of the following: The motor vehicle fuel tax, as provided in chapter  
33 82.36 RCW; the transportation improvement account, as provided in RCW  
34 47.26.084; the urban arterial trust account, as provided in RCW  
35 47.26.080; the rural arterial trust account, as provided in RCW  
36 36.79.150; the sales and use tax, as provided in chapter 82.14 RCW; the  
37 liquor profit tax, as provided in RCW 66.08.190; and the liquor excise  
38 tax, as provided in RCW 82.08.170; or

1 (3) File a notice of noncompliance with the secretary of state and  
2 the county or city, which shall temporarily rescind the county or  
3 city's authority to collect the real estate excise tax under RCW  
4 82.46.030 until the governor files a notice rescinding the notice of  
5 noncompliance.

6 **Sec. 8.** RCW 36.70A.345 and 1994 c 249 s 33 are each amended to  
7 read as follows:

8 The governor may impose a sanction or sanctions specified under RCW  
9 36.70A.340 on: (1) A county or city that fails to designate critical  
10 areas, agricultural lands, forest lands, or mineral resource lands  
11 under RCW 36.70A.170 by the date such action was required to have been  
12 taken; (2) a county or city that fails to adopt development regulations  
13 under RCW 36.70A.060 protecting critical areas or conserving  
14 agricultural lands, forest lands, or mineral resource lands by the date  
15 such action was required to have been taken; (3) a county that fails to  
16 designate urban growth areas under RCW 36.70A.110 by the date such  
17 action was required to have been taken; and (4) a county or city that  
18 fails to adopt its comprehensive plan or development regulations when  
19 such actions are required to be taken.

20 Imposition of a sanction or sanctions under this section shall be  
21 preceded by written findings by the governor, that either the county or  
22 city is not proceeding in good faith to meet the requirements of the  
23 act; or that the county or city has unreasonably delayed taking the  
24 required action. (~~The governor shall consult with and communicate his  
25 or her findings to the appropriate growth management hearings board  
26 prior to imposing the sanction or sanctions.~~) For those counties or  
27 cities that are not required to plan or have not opted in, the governor  
28 in imposing sanctions shall consider the size of the jurisdiction  
29 relative to the requirements of this chapter and the degree of  
30 technical and financial assistance provided.

31 **Sec. 9.** RCW 36.70A.110 and 1997 c 429 s 24 are each amended to  
32 read as follows:

33 (1) Each county that is required or chooses to plan under RCW  
34 36.70A.040 shall designate an urban growth area or areas within which  
35 urban growth shall be encouraged and outside of which growth can occur  
36 only if it is not urban in nature. Each city that is located in such  
37 a county shall be included within an urban growth area. An urban

1 growth area may include more than a single city. An urban growth area  
2 may include territory that is located outside of a city only if such  
3 territory already is characterized by urban growth whether or not the  
4 urban growth area includes a city, or is adjacent to territory already  
5 characterized by urban growth, or is a designated new fully contained  
6 community as defined by RCW 36.70A.350.

7 (2) Based upon the growth management population projection made for  
8 the county by the office of financial management, the county and each  
9 city within the county shall include areas and densities sufficient to  
10 permit the urban growth that is projected to occur in the county or  
11 city for the succeeding twenty-year period. Each urban growth area  
12 shall permit urban densities and shall include greenbelt and open space  
13 areas. An urban growth area determination may include a reasonable  
14 land market supply factor and shall permit a range of urban densities  
15 and uses. In determining this market factor, cities and counties may  
16 consider local circumstances. Cities and counties have discretion in  
17 their comprehensive plans to make many choices about accommodating  
18 growth.

19 Within one year of July 1, 1990, each county that as of June 1,  
20 1991, was required or chose to plan under RCW 36.70A.040, shall begin  
21 consulting with each city located within its boundaries and each city  
22 shall propose the location of an urban growth area. Within sixty days  
23 of the date the county legislative authority of a county adopts its  
24 resolution of intention or of certification by the office of financial  
25 management, all other counties that are required or choose to plan  
26 under RCW 36.70A.040 shall begin this consultation with each city  
27 located within its boundaries. The county shall attempt to reach  
28 agreement with each city on the location of an urban growth area within  
29 which the city is located. If such an agreement is not reached with  
30 each city located within the urban growth area, the county shall  
31 justify in writing why it so designated the area an urban growth area.  
32 A city may object formally with the department over the designation of  
33 the urban growth area within which it is located. Where appropriate,  
34 the department shall attempt to resolve the conflicts, including the  
35 use of mediation services.

36 (3) Urban growth should be located first in areas already  
37 characterized by urban growth that have adequate existing public  
38 facility and service capacities to serve such development, second in  
39 areas already characterized by urban growth that will be served

1 adequately by a combination of both existing public facilities and  
2 services and any additional needed public facilities and services that  
3 are provided by either public or private sources, and third in the  
4 remaining portions of the urban growth areas. Urban growth may also be  
5 located in designated new fully contained communities as defined by RCW  
6 36.70A.350.

7 (4) In general, cities are the units of local government most  
8 appropriate to provide urban governmental services. In general, it is  
9 not appropriate that urban governmental services be extended to or  
10 expanded in rural areas except in those limited circumstances shown to  
11 be necessary to protect basic public health and safety and the  
12 environment and when such services are financially supportable at rural  
13 densities and do not permit urban development.

14 (5) On or before October 1, 1993, each county that was initially  
15 required to plan under RCW 36.70A.040(1) shall adopt development  
16 regulations designating interim urban growth areas under this chapter.  
17 Within three years and three months of the date the county legislative  
18 authority of a county adopts its resolution of intention or of  
19 certification by the office of financial management, all other counties  
20 that are required or choose to plan under RCW 36.70A.040 shall adopt  
21 development regulations designating interim urban growth areas under  
22 this chapter. Adoption of the interim urban growth areas may only  
23 occur after public notice; public hearing; and compliance with the  
24 state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110.  
25 Such action may be appealed to the appropriate growth management  
26 hearings board or court under RCW 36.70A.280. Final urban growth areas  
27 shall be adopted at the time of comprehensive plan adoption under this  
28 chapter.

29 (6) Each county shall include designations of urban growth areas in  
30 its comprehensive plan.

31 **Sec. 10.** RCW 36.70A.172 and 1995 c 347 s 105 are each amended to  
32 read as follows:

33 (1) In designating and protecting critical areas under this  
34 chapter, counties and cities shall include the best available science  
35 in developing policies and development regulations to protect the  
36 functions and values of critical areas. In addition, counties and  
37 cities shall give special consideration to conservation or protection  
38 measures necessary to preserve or enhance anadromous fisheries.

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

6 **Sec. 11.** RCW 36.70A.210 and 1998 c 171 s 4 are each amended to  
7 read as follows:

8 (1) The legislature recognizes that counties are regional  
9 governments within their boundaries, and cities are primary providers  
10 of urban governmental services within urban growth areas. For the  
11 purposes of this section, a "county-wide planning policy" is a written  
12 policy statement or statements used solely for establishing a county-  
13 wide framework from which county and city comprehensive plans are  
14 developed and adopted pursuant to this chapter. This framework shall  
15 ensure that city and county comprehensive plans are consistent as  
16 required in RCW 36.70A.100. Nothing in this section shall be construed  
17 to alter the land-use powers of cities.

18 (2) The legislative authority of a county that plans under RCW  
19 36.70A.040 shall adopt a county-wide planning policy in cooperation  
20 with the cities located in whole or in part within the county as  
21 follows:

22 (a) No later than sixty calendar days from July 16, 1991, the  
23 legislative authority of each county that as of June 1, 1991, was  
24 required or chose to plan under RCW 36.70A.040 shall convene a meeting  
25 with representatives of each city located within the county for the  
26 purpose of establishing a collaborative process that will provide a  
27 framework for the adoption of a county-wide planning policy. In other  
28 counties that are required or choose to plan under RCW 36.70A.040, this  
29 meeting shall be convened no later than sixty days after the date the  
30 county adopts its resolution of intention or was certified by the  
31 office of financial management.

32 (b) The process and framework for adoption of a county-wide  
33 planning policy specified in (a) of this subsection shall determine the  
34 manner in which the county and the cities agree to all procedures and  
35 provisions including but not limited to desired planning policies,  
36 deadlines, ratification of final agreements and demonstration thereof,  
37 and financing, if any, of all activities associated therewith.

1 (c) If a county fails for any reason to convene a meeting with  
2 representatives of cities as required in (a) of this subsection, the  
3 governor may immediately impose any appropriate sanction or sanctions  
4 on the county from those specified under RCW 36.70A.340.

5 (d) If there is no agreement by October 1, 1991, in a county that  
6 was required or chose to plan under RCW 36.70A.040 as of June 1, 1991,  
7 or if there is no agreement within one hundred twenty days of the date  
8 the county adopted its resolution of intention or was certified by the  
9 office of financial management in any other county that is required or  
10 chooses to plan under RCW 36.70A.040, the governor shall first inquire  
11 of the jurisdictions as to the reason or reasons for failure to reach  
12 an agreement. If the governor deems it appropriate, the governor may  
13 immediately request the assistance of the department of community,  
14 trade, and economic development to mediate any disputes that preclude  
15 agreement. If mediation is unsuccessful in resolving all disputes that  
16 will lead to agreement, the governor may impose appropriate sanctions  
17 from those specified under RCW 36.70A.340 on the county, city, or  
18 cities for failure to reach an agreement as provided in this section.  
19 The governor shall specify the reason or reasons for the imposition of  
20 any sanction.

21 (e) No later than July 1, 1992, the legislative authority of each  
22 county that was required or chose to plan under RCW 36.70A.040 as of  
23 June 1, 1991, or no later than fourteen months after the date the  
24 county adopted its resolution of intention or was certified by the  
25 office of financial management the county legislative authority of any  
26 other county that is required or chooses to plan under RCW 36.70A.040,  
27 shall adopt a county-wide planning policy according to the process  
28 provided under this section and that is consistent with the agreement  
29 pursuant to (b) of this subsection, and after holding a public hearing  
30 or hearings on the proposed county-wide planning policy.

31 (3) A county-wide planning policy shall at a minimum, address the  
32 following:

33 (a) Policies to implement RCW 36.70A.110;

34 (b) Policies for promotion of contiguous and orderly development  
35 and provision of urban services to such development;

36 (c) Policies for siting public capital facilities of a county-wide  
37 or state-wide nature, including transportation facilities of state-wide  
38 significance as defined in RCW 47.06.140;

1 (d) Policies for county-wide transportation facilities and  
2 strategies;

3 (e) Policies that consider the need for affordable housing, such as  
4 housing for all economic segments of the population and parameters for  
5 its distribution;

6 (f) Policies for joint county and city planning within urban growth  
7 areas;

8 (g) Policies for county-wide economic development and employment;  
9 and

10 (h) An analysis of the fiscal impact.

11 (4) Federal agencies and Indian tribes may participate in and  
12 cooperate with the county-wide planning policy adoption process.  
13 Adopted county-wide planning policies shall be adhered to by state  
14 agencies.

15 (5) Failure to adopt a county-wide planning policy that meets the  
16 requirements of this section may result in the imposition of a sanction  
17 or sanctions on a county or city within the county, as specified in RCW  
18 36.70A.340. In imposing a sanction or sanctions, the governor shall  
19 specify the reasons for failure to adopt a county-wide planning policy  
20 in order that any imposed sanction or sanctions are fairly and  
21 equitably related to the failure to adopt a county-wide planning  
22 policy.

23 (6) Cities and the governor may appeal an adopted county-wide  
24 planning policy to the growth management hearings board prior to the  
25 effective date of this section or to a court under chapter 36.70C RCW  
26 on or after the effective date of this section within sixty days of the  
27 adoption of the county-wide planning policy.

28 (7) Multicounty planning policies shall be adopted by two or more  
29 counties, each with a population of four hundred fifty thousand or  
30 more, with contiguous urban areas and may be adopted by other counties,  
31 according to the process established under this section or other  
32 processes agreed to among the counties and cities within the affected  
33 counties throughout the multicounty region.

34 **Sec. 12.** RCW 36.70C.030 and 1995 c 347 s 704 are each amended to  
35 read as follows:

36 (1) This chapter replaces the writ of certiorari for appeal of land  
37 use decisions and shall be the exclusive means of judicial review of  
38 land use decisions, except that this chapter does not apply to:

1 (a) Judicial review of:

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

4 (ii) Land use decisions of a local jurisdiction that are subject to  
5 review by a quasi-judicial body created by state law, such as the  
6 shorelines hearings board or, for petitions filed prior to the  
7 effective date of this section, the growth management hearings board;

8 (b) Judicial review of applications for a writ of mandamus or  
9 prohibition; or

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

17 (2) The superior court civil rules govern procedural matters under  
18 this chapter to the extent that the rules are consistent with this  
19 chapter.

20 **Sec. 13.** RCW 90.58.190 and 1995 c 347 s 311 are each amended to  
21 read as follows:

22 (1) The appeal of the department's decision to adopt a master  
23 program or amendment pursuant to RCW 90.58.070(2) or 90.58.090(4) is  
24 governed by RCW 34.05.510 through 34.05.598.

25 (2)(a) Prior to the effective date of this section, the  
26 department's decision to approve, reject, or modify a proposed master  
27 program or amendment adopted by a local government planning under RCW  
28 36.70A.040 shall be appealed to the growth management hearings board  
29 with jurisdiction over the local government. The appeal shall be  
30 initiated by filing a petition as provided in RCW 36.70A.250 through  
31 36.70A.320. On and after the effective date of this section the  
32 department's decision to approve, reject, or modify a proposed master  
33 program or amendment adopted by a local government planning under RCW  
34 36.70A.040 shall be appealed to a court by filing a land use petition  
35 as provided in chapter 36.70C RCW.

36 (b) If the appeal to the growth management hearings board or a  
37 court concerns shorelines, the growth management hearings board or  
38 court shall review the proposed master program or amendment for

1 compliance with the requirements of this chapter and chapter 36.70A  
2 RCW, the policy of RCW 90.58.020 and the applicable guidelines, and  
3 chapter 43.21C RCW as it relates to the adoption of master programs and  
4 amendments under chapter 90.58 RCW.

5 (c) If the appeal to the growth management hearings board or court  
6 concerns a shoreline of state-wide significance, the board or court  
7 shall uphold the decision by the department unless the board or court,  
8 by clear and convincing evidence, determines that the decision of the  
9 department is inconsistent with the policy of RCW 90.58.020 and the  
10 applicable guidelines.

11 (d) The appellant has the burden of proof in all appeals to the  
12 growth management hearings board or court under this subsection.

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

16 (3)(a) The department's decision to approve, reject, or modify a  
17 proposed master program or master program amendment by a local  
18 government not planning under RCW 36.70A.040 shall be appealed to the  
19 shorelines hearings board by filing a petition within thirty days of  
20 the date of the department's written notice to the local government of  
21 the department's decision to approve, reject, or modify a proposed  
22 master program or master program amendment as provided in RCW  
23 90.58.090(2).

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

30 (c) In an appeal relating to shorelines of state-wide significance,  
31 the shorelines hearings board shall uphold the decision by the  
32 department unless the board determines, by clear and convincing  
33 evidence that the decision of the department is inconsistent with the  
34 policy of RCW 90.58.020 and the applicable guidelines.

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

1 (e) Whenever possible, the review by the shorelines hearings board  
2 shall be heard within the county where the land subject to the proposed  
3 master program or master program amendment is primarily located. The  
4 department and any local government aggrieved by a final decision of  
5 the hearings board may appeal the decision to superior court as  
6 provided in chapter 34.05 RCW.

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

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

16 Effective July 1, 2002, the following acts or parts of acts are  
17 each repealed:

- 18 (1) RCW 36.70A.250 and 1994 c 249 s 29 & 1991 sp.s. c 32 s 5;
- 19 (2) RCW 36.70A.260 and 1994 c 249 s 30 & 1991 sp.s. c 32 s 6;
- 20 (3) RCW 36.70A.270 and 1997 c 429 s 11, 1996 c 325 s 1, 1994 c 257  
21 s 1, & 1991 sp.s. c 32 s 7;
- 22 (4) RCW 36.70A.295 and 1997 c 429 s 13;
- 23 (5) RCW 36.70A.302 and 1997 c 429 s 16;
- 24 (6) RCW 36.70A.305 and 1996 c 325 s 4; and
- 25 (7) RCW 36.70A.335 and 1997 c 429 s 22.

26 NEW SECTION. **Sec. 15.** This act is necessary for the immediate  
27 preservation of the public peace, health, or safety, or support of the  
28 state government and its existing public institutions, and takes effect  
29 immediately.

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