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HOUSE BILL 1261

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By Representatives Hatfield, Sump, Doumit, Mulliken, Grant, Schoesler, Kessler, Pennington, Eickmeyer, Clements, Haigh, Lisk, Schindler and Mielke

Read first time 01/24/2001. Referred to Committee on Local Government & Housing.

1 AN ACT Relating to providing criteria for mandatory updates of  
2 shoreline master programs; amending RCW 90.58.060, 90.58.070,  
3 90.58.080, 90.58.090, and 90.58.250; adding a new section to  
4 chapter 90.58 RCW; and creating a new section.

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

6 **Sec. 1.** RCW 90.58.060 and 1995 c 347 s 304 are each amended to  
7 read as follows:

8 (1) Subject to the provisions of section 4 of this act, the  
9 department shall periodically review and adopt guidelines  
10 consistent with RCW 90.58.020, containing the elements specified  
11 in RCW 90.58.100 for:

12 (a) Development of master programs for regulation of the uses  
13 of shorelines; and

14 (b) Development of master programs for regulation of the uses  
15 of shorelines of statewide significance.

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

1 (a) The department shall mail copies of the proposal to all  
2 cities, counties, and federally recognized Indian tribes, and to  
3 any other person who has requested a copy, and shall publish the  
4 proposed guidelines in the Washington state register. Comments  
5 shall be submitted in writing to the department within sixty days  
6 from the date the proposal has been published in the register.

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

21 (c) At the conclusion of the public comment period, the  
22 department shall review the comments received and modify the  
23 proposal consistent with the provisions of this chapter. The  
24 proposal shall then be published for adoption pursuant to the  
25 provisions of chapter 34.05 RCW.

26 (3) The department may propose amendments to the guidelines not  
27 more than once each year. At least once every five years the  
28 department shall conduct a review of the guidelines pursuant to  
29 the procedures outlined in subsection (2) of this section.

30 **Sec. 2.** RCW 90.58.070 and 1971 ex.s. c 286 s 7 are each amended to  
31 read as follows:

32 (1) Subject to the provisions of section 4 of this act, local  
33 governments are directed with regard to shorelines of the state in  
34 their various jurisdictions to submit to the director of the  
35 department(~~(, within six months from June 1, 1971,)~~) letters  
36 stating that they propose to (~~complete an inventory and~~) develop  
37 or amend master programs (~~for these shorelines~~) as provided

1 (~~for~~) in RCW 90.58.080. Local governments shall submit these  
2 letters within nine months of the date the department adopts  
3 guidelines under RCW 90.58.060. Local governments that are exempt  
4 from the requirement to develop or amend shoreline master programs  
5 under section 4 of this act shall submit letters stating the basis  
6 for exemption to the director of the department within nine months  
7 of the date the department adopts guidelines under RCW 90.58.060.

8 (2) If any local government fails to submit a letter as  
9 provided in subsection (1) of this section, or fails to adopt a  
10 master program for the shorelines of the state within its  
11 jurisdiction in accordance with the time schedule provided in this  
12 chapter, the department shall carry out the requirements of RCW  
13 90.58.080 and adopt a master program for the shorelines of the  
14 state within the jurisdiction of the local government.

15 **Sec. 3.** RCW 90.58.080 and 1995 c 347 s 305 are each amended to  
16 read as follows:

17 Subject to the provisions of section 4 of this act, local  
18 governments shall develop or amend(~~(, within twenty-four months~~  
19 after the adoption of guidelines as provided in RCW 90.58.060,)) a  
20 master program for regulation of uses of the shorelines of the  
21 state consistent with the required elements of the guidelines  
22 adopted by the department. The department shall adopt a schedule  
23 for development or amendment of master programs as follows:

24 For counties and cities that do not meet the requirements of  
25 section 4 of this act, the department shall prepare a schedule  
26 allowing for development or amendment of master programs of all  
27 such counties and cities. Taking into account the amount of funding  
28 provided by the legislature and the ability of the department to  
29 timely review and approve the shoreline master program amendments,  
30 the schedule must require a county or city to submit its amended  
31 master program to the department no sooner than thirty-six months  
32 and no later than sixty months after that county or city has  
33 received the full amount of funding needed to amend its shoreline  
34 master program. The schedule may identify groups or classes of  
35 counties and cities and establish different schedules for the  
36 groups or classes. Prior to adoption of a schedule, each county and  
37 city included within the schedule must be notified in writing of

1 the time requirements applicable to the county or city. The  
2 department must give full consideration to comments made by  
3 counties and cities on the proposed schedule.

4 NEW SECTION. Sec. 4. A new section is added to chapter 90.58  
5 RCW to read as follows:

6 (1) A county or city is exempt from the requirements of RCW  
7 90.58.080 if the county or city meets the following criteria:

8 (a) The county or city has developed or amended its master  
9 program within five years of the date that the department adopts  
10 guidelines under RCW 90.58.060 and the master program has been  
11 approved by the department; or

12 (b) The county or city does not plan under RCW 36.70A.040; or

13 (c) At least seventy-five percent of the total land within the  
14 county or city is:

15 (i) Designated as a critical area under chapter 36.70A RCW;

16 (ii) Included within a preservation area, natural resource use,  
17 or open space management area. For the purposes of this subsection

18 (1)(c)(ii): (A) "Preservation" means land that is set aside for  
19 national parks, national wildlife refuges, state parks, local  
20 parks, conservation easements, natural resource conservation

21 areas, or any similar status; (B) "natural resource use" means

22 national forest land, state forest land, and agricultural, forest,  
23 and mineral resource lands designated under RCW 36.70A.170; and

24 (C) "open space" has the same meaning as defined in RCW 84.34.020;  
25 or

26 (d) The county or city has approved fewer than one hundred  
27 substantial development permits per year within the preceding five-  
28 year period; or

29 (e) The county or city has a population density of fewer than  
30 one hundred persons per square mile as determined by the office of  
31 financial management and published each year for the period July  
32 1st to June 30th.

33 (2) A city or county is exempt from the requirements of RCW  
34 90.58.080 if the county or city has an approved habitat  
35 conservation plan under 16 U.S.C. Sec. 1539 or an exemption under  
36 16 U.S.C. Sec. 1533(d).

37 (3) If the department determines that a county or city no

1 longer meets the exemption criteria specified in subsection (1) of  
2 this section, the department must determine whether a need exists  
3 for the county or city to develop or amend its master program  
4 based on the current guidelines. If the department determines that  
5 a county or city no longer meeting the exemption criteria of  
6 subsection (1) of this section is required to develop or amend its  
7 master program, the department must notify the county or city of  
8 its determination. The department must include in its notice any  
9 evidence, information, or documents supporting its determination  
10 that the county or city no longer meets the exemption criteria and  
11 that a need exists for development or amendment of a master  
12 program. The county or city receiving such a notice may appeal the  
13 department's determination to the shorelines hearings board.

14 **Sec. 5.** RCW 90.58.090 and 1997 c 429 s 50 are each amended to read  
15 as follows:

16 (1) A master program, segment of a master program, or an  
17 amendment to a master program shall become effective when approved  
18 by the department. Subject to the provisions of section 4 of this  
19 act, within the time period provided in RCW 90.58.080, each local  
20 government shall have submitted a master program, either totally  
21 or by segments, for all shorelines of the state within its  
22 jurisdiction to the department for review and approval.

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

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

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

36 (c) Within fifteen days after the close of public comment,  
37 request the local government to review the issues identified by

1 the public, interested parties, groups, and agencies and provide a  
2 written response as to how the proposal addresses the identified  
3 issues;

4 (d) Within thirty days after receipt of the local government  
5 response pursuant to (c) of this subsection, make written findings  
6 and conclusions regarding the consistency of the proposal with the  
7 policy of RCW 90.58.020 and the applicable guidelines, provide a  
8 response to the issues identified in (c) of this subsection, and  
9 either approve the proposal as submitted, recommend specific  
10 changes necessary to make the proposal approvable, or deny  
11 approval of the proposal in those instances where no alteration of  
12 the proposal appears likely to be consistent with the policy of  
13 RCW 90.58.020 and the applicable guidelines. The written findings  
14 and conclusions shall be provided to the local government, all  
15 interested persons, parties, groups, and agencies of record on the  
16 proposal;

17 (e) If the department recommends changes to the proposed master  
18 program or amendment, within thirty days after the department  
19 mails the written findings and conclusions to the local  
20 government, the local government may:

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

24 (ii) Submit an alternative proposal. If, in the opinion of the  
25 department, the alternative is consistent with the purpose and  
26 intent of the changes originally submitted by the department and  
27 with this chapter it shall approve the changes and provide written  
28 notice to all recipients of the written findings and conclusions.  
29 If the department determines the proposal is not consistent with  
30 the purpose and intent of the changes proposed by the department,  
31 the department may resubmit the proposal for public and agency  
32 review pursuant to this section or reject the proposal.

33 (3) The department shall approve the segment of a master  
34 program relating to shorelines unless it determines that the  
35 submitted segments are not consistent with the policy of RCW  
36 90.58.020 and the applicable guidelines.

37 (4) The department shall approve those segments of the master

1 program relating to shorelines of statewide significance only  
2 after determining the program provides the optimum implementation  
3 of the policy of this chapter to satisfy the statewide interest.  
4 If the department does not approve a segment of a local government  
5 master program relating to a shoreline of statewide significance,  
6 the department may develop and by rule adopt an alternative to the  
7 local government's proposal.

8 (5) In the event a local government has not complied with the  
9 requirements of RCW 90.58.070 it may thereafter upon written  
10 notice to the department elect to adopt a master program for the  
11 shorelines within its jurisdiction, in which event it shall comply  
12 with the provisions established by this chapter for the adoption  
13 of a master program for such shorelines.

14 Upon approval of such master program by the department it shall  
15 supersede such master program as may have been adopted by the  
16 department for such shorelines.

17 (6) A master program or amendment to a master program takes  
18 effect when and in such form as approved or adopted by the  
19 department. Shoreline master programs that were adopted by the  
20 department prior to July 22, 1995, in accordance with the  
21 provisions of this section then in effect, shall be deemed  
22 approved by the department in accordance with the provisions of  
23 this section that became effective on that date. The department  
24 shall maintain a record of each master program, the action taken  
25 on any proposal for adoption or amendment of the master program,  
26 and any appeal of the department's action. The department's  
27 approved document of record constitutes the official master  
28 program.

29 **Sec. 6.** RCW 90.58.250 and 1971 ex.s. c 286 s 25 are each amended  
30 to read as follows:

31 The department is directed to cooperate fully with local  
32 governments in discharging their responsibilities under this  
33 chapter. Funds shall be available for distribution to local  
34 governments on the basis of applications for preparation of master  
35 programs. Such applications shall be submitted in accordance with  
36 ((regulations)) rules developed by the department. The department

1 is authorized to make and administer grants within appropriations  
2 authorized by the legislature to any local government within the  
3 state for the purpose of developing a master shorelines program.

4 ~~((No grant shall be made in an amount in excess of the  
5 recipient's contribution to the estimated cost of such program.))~~

6 NEW SECTION. **Sec. 7.** This act applies to all guidelines adopted  
7 by the department of ecology on or after November 1, 2000.

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