

**2SHB 2253** - H AMD 1083

By Representative Fitzgibbon

ADOPTED AS AMENDED 02/13/2012

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature recognizes that the  
4 rule-based categorical exemption thresholds to chapter 43.21C RCW,  
5 found in WAC 197-11-800, have not been updated in recent years, and  
6 should be reviewed in light of the increased environmental protections  
7 in place under chapters 36.70A and 90.58 RCW, and other laws. It is  
8 the intent of the legislature to direct the department of ecology to  
9 conduct two phases of rule making over the next two years to increase  
10 the thresholds for these categorical exemptions.

11 (2) By December 31, 2012, the department of ecology shall increase  
12 the rule-based categorical exemptions to chapter 43.21C RCW found in  
13 WAC 197-11-800 and update the environmental checklist found in WAC 197-  
14 11-960. In updating the categorical exemptions, the department of  
15 ecology must:

16 (a) At a minimum, increase the existing maximum threshold levels  
17 for the following project types:

18 (i) The construction or location of single-family residential  
19 developments;

20 (ii) The construction or location of multifamily residential  
21 developments;

22 (iii) The construction of an agricultural structure, other than a  
23 feed lot, that is similar to the following: A barn, a loafing shed, a  
24 farm equipment storage building, or a produce storing or packing  
25 structure;

26 (iv) The construction of the following, including any associated  
27 parking areas or facilities: An office, a school, a commercial  
28 building, a recreational building, a service building, or a storage  
29 building;

30 (v) Landfilling or excavation activities; and

1 (vi) The installation of an electric facility, lines, equipment, or  
2 appurtenances, other than substations.

3 (b) Establish maximum exemption levels for action types that differ  
4 based on whether the project is proposed to occur in:

5 (i) An incorporated city;

6 (ii) An unincorporated area within an urban growth area;

7 (iii) An unincorporated area outside of an urban growth area but  
8 within a county planning under chapter 36.70A RCW; or

9 (iv) An unincorporated area within a county not planning under  
10 chapter 36.70A RCW.

11 (c) In updating the environmental checklist found in WAC 197-11-  
12 960, the department of ecology shall:

13 (i) Improve efficiency of the environmental checklist; and

14 (ii) Not include any new subjects into the scope of the checklist.

15 (d) Until the completion of the rule making required under this  
16 section, a city or county may apply the highest categorical exemption  
17 levels authorized under WAC 197-11-800 to any action, regardless if the  
18 city or county with jurisdiction has exercised its authority to raise  
19 the exemption levels above the established minimums, unless the city or  
20 county with jurisdiction passes an ordinance or resolution that lowers  
21 the exemption levels to a level below the allowed maximum but not less  
22 than the default minimum levels detailed in WAC 197-11-800.

23 (3)(a) By December 31, 2013, the department of ecology shall:

24 (i) Update, but not decrease, the thresholds for all other project  
25 actions not specified in subsection (2) of this section;

26 (ii) Create a categorical exemption for projects designed to  
27 restore natural wildlife or fishery habitats or serve as environmental  
28 mitigation for other projects; and

29 (iii) Propose methods for integrating the state environmental  
30 policy act process with provisions of the growth management act,  
31 chapter 36.70A RCW, including consideration of ways to revise WAC 197-  
32 11-210 through 197-11-232 to further the goals of RCW 43.21C.240.

33 (b) During this process, the department of ecology may also review  
34 and update the thresholds resulting from the 2012 rule-making process  
35 outlined in subsection (2) of this section.

36 (4)(a) The department of ecology shall convene an advisory  
37 committee consisting of members representing, at minimum, cities,

1 counties, business interests, environmental interests, agricultural  
2 interests, cultural resources interests, state agencies, and tribal  
3 governments to:

4 (i) Assist in updating the environmental checklist and updating the  
5 thresholds for other project actions for both rule-making processes  
6 under subsections (2) and (3) of this section; and

7 (ii) Consider opportunities to ensure that state agencies, tribes,  
8 and other interested parties can receive notice about projects of  
9 interest through a means other than through notice under chapter 43.21C  
10 RCW.

11 (b) Advisory committee members must have direct experience with the  
12 implementation or application of the state environmental policy act.

13 (5) This section expires July 31, 2013.

14 **Sec. 2.** RCW 43.21C.031 and 1995 c 347 s 203 are each amended to  
15 read as follows:

16 (1) An environmental impact statement (the detailed statement  
17 required by RCW 43.21C.030(2)(c)) shall be prepared on proposals for  
18 legislation and other major actions having a probable significant,  
19 adverse environmental impact. The environmental impact statement may  
20 be combined with the recommendation or report on the proposal or issued  
21 as a separate document. The substantive decisions or recommendations  
22 shall be clearly identifiable in the combined document. Actions  
23 categorically exempt under RCW 43.21C.110(1)(a) and section 7 of this  
24 act do not require environmental review or the preparation of an  
25 environmental impact statement under this chapter. ~~((In a county,~~  
26 ~~city, or town planning under RCW 36.70A.040, a planned action, as~~  
27 ~~provided for in subsection (2) of this section, does not require a~~  
28 ~~threshold determination or the preparation of an environmental impact~~  
29 ~~statement under this chapter, but is subject to environmental review~~  
30 ~~and mitigation as provided in this chapter.))~~

31 (2) An environmental impact statement is required to analyze only  
32 those probable adverse environmental impacts which are significant.  
33 Beneficial environmental impacts may be discussed. The responsible  
34 official shall consult with agencies and the public to identify such  
35 impacts and limit the scope of an environmental impact statement. The  
36 subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate  
37 sections of an environmental impact statement. Discussions of

1 significant short-term and long-term environmental impacts, significant  
2 irrevocable commitments of natural resources, significant alternatives  
3 including mitigation measures, and significant environmental impacts  
4 which cannot be mitigated should be consolidated or included, as  
5 applicable, in those sections of an environmental impact statement  
6 where the responsible official decides they logically belong.

7 ~~((2)(a) For purposes of this section, a planned action means one  
8 or more types of project action that:~~

9 ~~(i) Are designated planned actions by an ordinance or resolution  
10 adopted by a county, city, or town planning under RCW 36.70A.040;~~

11 ~~(ii) Have had the significant impacts adequately addressed in an  
12 environmental impact statement prepared in conjunction with (A) a  
13 comprehensive plan or subarea plan adopted under chapter 36.70A RCW, or  
14 (B) a fully contained community, a master planned resort, a master  
15 planned development, or a phased project;~~

16 ~~(iii) Are subsequent or implementing projects for the proposals  
17 listed in (a)(ii) of this subsection;~~

18 ~~(iv) Are located within an urban growth area, as defined in RCW  
19 36.70A.030;~~

20 ~~(v) Are not essential public facilities, as defined in RCW  
21 36.70A.200; and~~

22 ~~(vi) Are consistent with a comprehensive plan adopted under chapter  
23 36.70A RCW.~~

24 ~~(b) A county, city, or town shall limit planned actions to certain  
25 types of development or to specific geographical areas that are less  
26 extensive than the jurisdictional boundaries of the county, city, or  
27 town and may limit a planned action to a time period identified in the  
28 environmental impact statement or the ordinance or resolution adopted  
29 under this subsection.))~~

30 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.21C RCW  
31 to read as follows:

32 (1) For purposes of this chapter, a planned action means one or  
33 more types of development or redevelopment that meet the following  
34 criteria:

35 (a) Are designated as planned actions by an ordinance or resolution  
36 adopted by a county, city, or town planning under RCW 36.70A.040;

1 (b) Have had the significant impacts adequately addressed in an  
2 environmental impact statement under the requirements of this chapter  
3 in conjunction with, or to implement, a comprehensive plan or subarea  
4 plan adopted under chapter 36.70A RCW, or a fully contained community,  
5 a master planned resort, a master planned development, or a phased  
6 project;

7 (c) Have had project level significant impacts adequately addressed  
8 in an environmental impact statement unless the impacts are  
9 specifically deferred for consideration at the project level pursuant  
10 to subsection (3)(b) of this section;

11 (d) Are subsequent or implementing projects for the proposals  
12 listed in (b) of this subsection;

13 (e) Are located within an urban growth area designated pursuant to  
14 RCW 36.70A.110;

15 (f) Are not essential public facilities, as defined in RCW  
16 36.70A.200, unless an essential public facility is accessory to or part  
17 of a residential, office, school, commercial, recreational, service, or  
18 industrial development that is designated a planned action under this  
19 subsection; and

20 (g) Are consistent with a comprehensive plan or subarea plan  
21 adopted under chapter 36.70A RCW.

22 (2) A county, city, or town shall define the types of development  
23 included in the planned action and may limit a planned action to:

24 (a) A specific geographic area that is less extensive than the  
25 jurisdictional boundaries of the county, city, or town; or

26 (b) A time period identified in the ordinance or resolution adopted  
27 under this subsection.

28 (3)(a) A county, city, or town shall determine during permit review  
29 whether a proposed project is consistent with a planned action  
30 ordinance adopted by the jurisdiction. To determine project  
31 consistency with a planned action ordinance, a county, city, or town  
32 may utilize a modified checklist pursuant to the rules adopted to  
33 implement RCW 43.21C.110, a form that is designated within the planned  
34 action ordinance, or a form contained in agency rules adopted pursuant  
35 to RCW 43.21C.120.

36 (b) Except for impacts that are specifically deferred, at the time  
37 of planned action ordinance adoption, for consideration at the project  
38 level, a county, city, or town is not required to make a threshold

1 determination and may not require additional environmental review for  
2 a proposal that is determined to be consistent with the development or  
3 redevelopment described in the planned action ordinance. The  
4 determination of consistency, and the adequacy of any environmental  
5 review that was specifically deferred, are subject to the type of  
6 administrative appeal that the county, city, or town provides for the  
7 proposal itself consistent with RCW 36.70B.060.

8 (4) For a planned action that encompasses the entire jurisdictional  
9 boundary of a county, city, or town, at least one community meeting  
10 must be held before the scoping notice for such a planned action is  
11 issued. Notice of scoping for such a planned action and notice of the  
12 community meeting required by this subsection must be mailed or  
13 otherwise verifiably provided to:

- 14 (a) All property owners of record within the county, city, or town;
- 15 (b) All affected federally recognized tribal governments whose  
16 ceded area is within one-half mile of the jurisdictional boundaries of  
17 the county, city, or town, and to agencies with jurisdiction over the  
18 future development anticipated for the planned action.

19 **Sec. 4.** RCW 43.21C.229 and 2003 c 298 s 1 are each amended to read  
20 as follows:

21 (1) In order to accommodate infill development and thereby realize  
22 the goals and policies of comprehensive plans adopted according to  
23 chapter 36.70A RCW, a city or county planning under RCW 36.70A.040 is  
24 authorized by this section to establish categorical exemptions from the  
25 requirements of this chapter. An exemption adopted under this section  
26 applies even if it differs from the categorical exemptions adopted by  
27 rule of the department under RCW 43.21C.110(1)(a). An exemption may be  
28 adopted by a city or county under this section if it meets the  
29 following criteria:

30 (a) It categorically exempts government action related to  
31 development (~~((that is new residential or mixed use development))~~)  
32 proposed to fill in an urban growth area, designated according to RCW  
33 36.70A.110, where current density and intensity of use in the area is  
34 lower than called for in the goals and policies of the applicable  
35 comprehensive plan and the development is either:

- 36 (i) Residential development;
- 37 (ii) Mixed-use development; or

1       (iii) Commercial development up to sixty-five thousand square feet,  
2 excluding retail development;

3       (b) It does not exempt government action related to development  
4 that is inconsistent with the applicable comprehensive plan or would  
5 exceed the density or intensity of use called for in the goals and  
6 policies of the applicable comprehensive plan; and

7       (c)(i) The city or county's applicable comprehensive plan was  
8 previously subjected to environmental analysis through an environmental  
9 impact statement under the requirements of this chapter prior to  
10 adoption; or

11       (ii) The city or county has prepared an environmental impact  
12 statement that considers the proposed use or density and intensity of  
13 use in the area proposed for an exemption under this section.

14       (2) Any categorical exemption adopted by a city or county under  
15 this section shall be subject to the rules of the department adopted  
16 according to RCW 43.21C.110(1)(a) that provide exceptions to the use of  
17 categorical exemptions adopted by the department.

18       NEW SECTION. Sec. 5. A new section is added to chapter 43.21C RCW  
19 to read as follows:

20       (1) The legislature recognizes that a county, city, or town that  
21 prepares a nonproject environmental review under RCW 43.21C.030(2),  
22 including reviews necessary for compliance with RCW 43.21C.420, must  
23 endure a substantial financial burden.

24       (2) A county, city, or town may recover reasonable expenses  
25 incurred in the preparation of a nonproject environmental impact  
26 statement prepared under RCW 43.21C.030(2):

27       (a) Through access to financial assistance under RCW 36.70A.490;

28       (b) With funding from private sources; and

29       (c) By the assessment of a reasonable and proportionate fee upon  
30 subsequent development that is consistent with the plan and development  
31 regulations adopted under RCW 43.21C.030(2), as long as the development  
32 makes use of and benefits from, as described in RCW 43.21C.030(2), the  
33 nonproject environmental review prepared by the county, city, or town.

34       (3) In order to collect fees under this section, the county, city,  
35 or town must enact an ordinance that sets forth objective standards for  
36 determining how the fees to be imposed upon each development will be

1 proportionate to the impacts of each development and to the benefits  
2 accruing to each development from the nonproject environmental review.

3 (4) Any assessment of fees collected under this section from  
4 subsequent development may be used to reimburse funding received from  
5 private sources.

6 (5)(a) Any disagreement about the reasonableness or amount of the  
7 fees imposed upon a development may not be the basis for delay in  
8 issuance of a project permit for that development.

9 (b) The fee assessed by the county, city, or town may be paid with  
10 the written stipulation "paid under protest" and, if the city provides  
11 for an administrative appeal of its decision on the project for which  
12 the fees are imposed, any dispute about the amount of the fees must be  
13 resolved in the same administrative appeal process.

14 **Sec. 6.** RCW 43.21C.420 and 2010 c 153 s 2 are each amended to read  
15 as follows:

16 (1) Cities with a population greater than five thousand, in  
17 accordance with their existing comprehensive planning and development  
18 regulation authority under chapter 36.70A RCW, and in accordance with  
19 this section, may adopt optional elements of their comprehensive plans  
20 and optional development regulations that apply within specified  
21 subareas of the cities, that are either:

22 (a) Areas designated as mixed-use or urban centers in a land use or  
23 transportation plan adopted by a regional transportation planning  
24 organization; or

25 (b) Areas within one-half mile of a major transit stop that are  
26 zoned to have an average minimum density of fifteen dwelling units or  
27 more per gross acre.

28 (2) Cities located on the east side of the Cascade mountains and  
29 located in a county with a population of two hundred thirty thousand or  
30 less, in accordance with their existing comprehensive planning and  
31 development regulation authority under chapter 36.70A RCW, and in  
32 accordance with this section, may adopt optional elements of their  
33 comprehensive plans and optional development regulations that apply  
34 within the mixed-use or urban centers. The optional elements of their  
35 comprehensive plans and optional development regulations must enhance  
36 pedestrian, bicycle, transit, or other nonvehicular transportation  
37 methods.



1 (3) A major transit stop is defined as:

2 (a) A stop on a high capacity transportation service funded or  
3 expanded under the provisions of chapter 81.104 RCW;

4 (b) Commuter rail stops;

5 (c) Stops on rail or fixed guideway systems, including transitways;

6 (d) Stops on bus rapid transit routes or routes that run on high  
7 occupancy vehicle lanes; or

8 (e) Stops for a bus or other transit mode providing fixed route  
9 service at intervals of at least thirty minutes during the peak hours  
10 of operation.

11 (4)(a) A city that elects to adopt such an optional comprehensive  
12 plan element and optional development regulations shall prepare a  
13 nonproject environmental impact statement, pursuant to RCW 43.21C.030,  
14 assessing and disclosing the probable significant adverse environmental  
15 impacts of the optional comprehensive plan element and development  
16 regulations and of future development that is consistent with the plan  
17 and regulations.

18 (b) At least one community meeting must be held on the proposed  
19 subarea plan before the scoping notice for such a nonproject  
20 environmental impact statement is issued. Notice of scoping for such  
21 a nonproject environmental impact statement and notice of the community  
22 meeting required by this section must be mailed to all property owners  
23 of record within the subarea to be studied, to all property owners  
24 within one hundred fifty feet of the boundaries of such a subarea, to  
25 all affected federally recognized tribal governments whose ceded area  
26 is within one-half mile of the boundaries of the subarea, and to  
27 agencies with jurisdiction over the future development or its impacts  
28 anticipated within the subarea.

29 (c) In cities with over five hundred thousand residents, notice of  
30 scoping for such a nonproject environmental impact statement and notice  
31 of the community meeting required by this section must be mailed to all  
32 small businesses as defined in RCW 19.85.020, and to all community  
33 preservation and development authorities established under chapter  
34 43.167 RCW, located within the subarea to be studied or within one  
35 hundred fifty feet of the boundaries of such subarea. The process for  
36 community involvement must have the goal of fair treatment and  
37 meaningful involvement of all people with respect to the development  
38 and implementation of the subarea planning process.

1 (d) The notice of the community meeting must include general  
2 illustrations and descriptions of buildings generally representative of  
3 the maximum building envelope that will be allowed under the proposed  
4 plan and indicate that future appeals of proposed developments that are  
5 consistent with the plan will be limited. Notice of the community  
6 meeting must include signs located on major travel routes in the  
7 subarea. If the building envelope increases during the process,  
8 another notice complying with the requirements of this section must be  
9 issued before the next public involvement opportunity.

10 (e) Any person that has standing to appeal the adoption of this  
11 subarea plan or the implementing regulations under RCW 36.70A.280 has  
12 standing to bring an appeal of the nonproject environmental impact  
13 statement required by this subsection.

14 (f) Cities with over five hundred thousand residents shall prepare  
15 a study that accompanies or is appended to the nonproject environmental  
16 impact statement, but must not be part of that statement, that analyzes  
17 the extent to which the proposed subarea plan may result in the  
18 displacement or fragmentation of existing businesses, existing  
19 residents, including people living with poverty, families with  
20 children, and intergenerational households, or cultural groups within  
21 the proposed subarea plan. The city shall also discuss the results of  
22 the analysis at the community meeting.

23 (g) As an incentive for development authorized under this section,  
24 a city shall consider establishing a transfer of development rights  
25 program in consultation with the county where the city is located, that  
26 conserves county-designated agricultural and forest land of long-term  
27 commercial significance. If the city decides not to establish a  
28 transfer of development rights program, the city must state in the  
29 record the reasons for not adopting the program. The city's decision  
30 not to establish a transfer of development rights program is not  
31 subject to appeal. Nothing in this subsection (4)(g) may be used as a  
32 basis to challenge the optional comprehensive plan or subarea plan  
33 policies authorized under this section.

34 (5)(a) Until July 1, 2018, a proposed development that is  
35 consistent with the optional comprehensive plan or subarea plan  
36 policies and development regulations adopted under subsection (1) or  
37 (2) of this section and that is environmentally reviewed under  
38 subsection (4) of this section may not be challenged in administrative

1 or judicial appeals for noncompliance with this chapter as long as a  
2 complete application for such a development that vests the application  
3 or would later lead to vested status under city or state law is  
4 submitted to the city within a time frame established by the city, but  
5 not to exceed ten years from the date of issuance of the final  
6 environmental impact statement.

7 (b) After July 1, 2018, the immunity from appeals under this  
8 chapter of any application that vests or will vest under this  
9 subsection or the ability to vest under this subsection is still valid,  
10 provided that the final subarea environmental impact statement is  
11 issued by July 1, 2018. (~~After July 1, 2018, a city may continue to~~  
12 ~~collect reimbursement fees under subsection (6) of this section for the~~  
13 ~~proportionate share of a subarea environmental impact statement issued~~  
14 ~~prior to July 1, 2018.))~~

15 (6) (~~It is recognized that a city that prepares a nonproject~~  
16 ~~environmental impact statement under subsection (4) of this section~~  
17 ~~must endure a substantial financial burden. A city may recover its~~  
18 ~~reasonable expenses of preparation of a nonproject environmental impact~~  
19 ~~statement prepared under subsection (4) of this section through access~~  
20 ~~to financial assistance under RCW 36.70A.490 or funding from private~~  
21 ~~sources. In addition, a city is authorized to recover a portion of its~~  
22 ~~reasonable expenses of preparation of such a nonproject environmental~~  
23 ~~impact statement by the assessment of reasonable and proportionate fees~~  
24 ~~upon subsequent development that is consistent with the plan and~~  
25 ~~development regulations adopted under subsection (5) of this section,~~  
26 ~~as long as the development makes use of and benefits [from], as~~  
27 ~~described in subsection (5) of this section, from the nonproject~~  
28 ~~environmental impact statement prepared by the city. Any assessment~~  
29 ~~fees collected from subsequent development may be used to reimburse~~  
30 ~~funding received from private sources. In order to collect such fees,~~  
31 ~~the city must enact an ordinance that sets forth objective standards~~  
32 ~~for determining how the fees to be imposed upon each development will~~  
33 ~~be proportionate to the impacts of each development and to the benefits~~  
34 ~~accruing to each development from the nonproject environmental impact~~  
35 ~~statement. Any disagreement about the reasonableness or amount of the~~  
36 ~~fees imposed upon a development may not be the basis for delay in~~  
37 ~~issuance of a project permit for that development. The fee assessed by~~  
38 ~~the city may be paid with the written stipulation "paid under protest"~~

1 ~~and if the city provides for an administrative appeal of its decision~~  
2 ~~on the project for which the fees are imposed, any dispute about the~~  
3 ~~amount of the fees must be resolved in the same administrative appeal~~  
4 ~~process.~~

5 (+7)) If a proposed development is inconsistent with the optional  
6 comprehensive plan or subarea plan policies and development regulations  
7 adopted under subsection (1) of this section, the city shall require  
8 additional environmental review in accordance with this chapter.

9 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.21C RCW  
10 to read as follows:

11 The following nonproject actions are categorically exempt from the  
12 requirements of this chapter:

13 (1) Amendments to development regulations that are required to  
14 ensure consistency with an adopted comprehensive plan pursuant to RCW  
15 36.70A.040, where the comprehensive plan was previously subjected to  
16 environmental review pursuant to this chapter;

17 (2) Amendments to development regulations that are required to  
18 ensure consistency with a shoreline master program approved pursuant to  
19 RCW 90.58.090, where the shoreline master program was previously  
20 subjected to environmental review pursuant to this chapter;

21 (3) Amendments to development regulations that do not change  
22 regulations applicable to any of the following: Allowed uses or  
23 activities, intensity, density, building height, lot coverage,  
24 impervious surface limits, vegetation retention requirements,  
25 regulations for critical areas as defined in RCW 36.70A.030, cultural  
26 resource regulations, regulations for the protection of the  
27 environment, human health, and human safety, protections for other uses  
28 and activities, regulations for billboards and freestanding signs,  
29 requirements for public facilities or services, or uses, activities,  
30 developments, or structures that would have a probable adverse impact  
31 on the human or natural environment;

32 (4) Amendments to development regulations that, upon implementation  
33 of a project action, will provide increased environmental protection,  
34 limited to the following:

35 (a) Increased protections for critical areas, such as enhanced  
36 buffers or setbacks;

1 (b) Increased vegetation retention or decreased impervious surface  
2 areas in shoreline jurisdiction; and

3 (c) Increased vegetation retention or decreased impervious surface  
4 areas in critical areas;

5 (5) Amendments to technical codes adopted by a county, city, or  
6 town to ensure consistency with minimum standards contained in state  
7 law, including the following:

8 (a) Building codes required by chapter 19.27 RCW;

9 (b) Energy codes required by chapter 19.27A RCW; and

10 (c) Electrical codes required by chapter 19.28 RCW.

11 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.21C RCW  
12 to read as follows:

13 (1) The lead agency for an environmental review under this chapter  
14 utilizing an environmental checklist developed by the department of  
15 ecology pursuant to RCW 43.21C.110 may satisfy the requirements of the  
16 checklist by identifying instances where questions on the checklist are  
17 adequately covered by a specifically identified provision of a locally  
18 adopted ordinance, development regulation, land use plan, or other  
19 legal authority.

20 (2) In instances where the locally adopted ordinance, development  
21 regulation, land use plan, or other legal authority provide the  
22 necessary information to answer a specific question, the lead agency  
23 must explain how the proposed project satisfies the underlying local  
24 legal authority.

25 (3) If the lead agency identifies instances where questions on the  
26 checklist are adequately covered by a locally adopted ordinance,  
27 development regulation, land use plan, or other legal authority, an  
28 applicant may still provide answers to any questions on the checklist.

29 (4) Nothing in this section authorizes a lead agency to ignore or  
30 delete a question on the checklist.

31 (5) Nothing in this section affects the appeal provisions provided  
32 in this chapter.

33 (6) Nothing in this section modifies existing rules for determining  
34 the lead agency, as defined in WAC 197-11-922 through 197-11-948, nor  
35 does it modify agency procedures for complying with the state  
36 environmental policy act when an agency other than a local government  
37 is serving as the lead agency.

1       **Sec. 9.** RCW 36.70A.490 and 1995 c 347 s 115 are each amended to  
2 read as follows:

3       The growth management planning and environmental review fund is  
4 hereby established in the state treasury. Moneys may be placed in the  
5 fund from the proceeds of bond sales, tax revenues, budget transfers,  
6 federal appropriations, gifts, or any other lawful source. Moneys in  
7 the fund may be spent only after appropriation. Moneys in the fund  
8 shall be used to make grants or loans to local governments for the  
9 purposes set forth in RCW 43.21C.240, 43.21C.031, or 36.70A.500. Any  
10 payment of either principal or interest, or both, derived from loans  
11 made from this fund must be deposited into the fund.

12       **Sec. 10.** RCW 36.70A.500 and 1997 c 429 s 28 are each amended to  
13 read as follows:

14       (1) The department of (~~community, trade, and economic~~  
15 ~~development~~) commerce shall provide management services for the growth  
16 management planning and environmental review fund created by RCW  
17 36.70A.490. The department shall establish procedures for fund  
18 management. The department shall encourage participation in the grant  
19 or loan program by other public agencies. The department shall develop  
20 the grant or loan criteria, monitor the grant or loan program, and  
21 select grant or loan recipients in consultation with state agencies  
22 participating in the grant or loan program through the provision of  
23 grant or loan funds or technical assistance.

24       (2) A grant or loan may be awarded to a county or city that is  
25 required to or has chosen to plan under RCW 36.70A.040 and that is  
26 qualified pursuant to this section. The grant or loan shall be  
27 provided to assist a county or city in paying for the cost of preparing  
28 an environmental analysis under chapter 43.21C RCW, that is integrated  
29 with a comprehensive plan, subarea plan, plan element, countywide  
30 planning policy, development regulation, monitoring program, or other  
31 planning activity adopted under or implementing this chapter that:

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

34       (b) Encourages use of plans and information developed for purposes  
35 of complying with this chapter to satisfy requirements of other state  
36 programs.

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

3 (a) Demonstrate that it will prepare an environmental analysis  
4 pursuant to chapter 43.21C RCW and subsection (2) of this section that  
5 is integrated with a comprehensive plan, subarea plan, plan element,  
6 countywide planning policy, development regulations, monitoring  
7 program, or other planning activity adopted under or implementing this  
8 chapter;

9 (b) Address environmental impacts and consequences, alternatives,  
10 and mitigation measures in sufficient detail to allow the analysis to  
11 be adopted in whole or in part by applicants for development permits  
12 within the geographic area analyzed in the plan;

13 (c) Demonstrate that procedures for review of development permit  
14 applications will be based on the integrated plans and environmental  
15 analysis;

16 (d) Include mechanisms to monitor the consequences of growth as it  
17 occurs in the plan area and to use the resulting data to update the  
18 plan, policy, or implementing mechanisms and associated environmental  
19 analysis;

20 (e) Demonstrate substantial progress towards compliance with the  
21 requirements of this chapter. A county or city that is more than six  
22 months out of compliance with a requirement of this chapter is deemed  
23 not to be making substantial progress towards compliance; and

24 (f) Provide local funding, which may include financial  
25 participation by the private sector.

26 (4) In awarding grants or loans, the department shall give  
27 preference to proposals that include one or more of the following  
28 elements:

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

31 (b) Identification and monitoring of system capacities for elements  
32 of the built environment, and to the extent appropriate, of the natural  
33 environment;

34 (c) Coordination with state, federal, and tribal governments in  
35 project review;

36 (d) Furtherance of important state objectives related to economic  
37 development, protection of areas of statewide significance, and siting  
38 of essential public facilities;

1 (e) Programs to improve the efficiency and effectiveness of the  
2 permitting process by greater reliance on integrated plans and  
3 prospective environmental analysis;

4 (f) Programs for effective citizen and neighborhood involvement  
5 that contribute to greater likelihood that planning decisions can be  
6 implemented with community support; (~~and~~)

7 (g) Programs to identify environmental impacts and establish  
8 mitigation measures that provide effective means to satisfy concurrency  
9 requirements and establish project consistency with the plans; or

10 (h) Environmental review that addresses the impacts of increased  
11 density or intensity of comprehensive plans, subarea plans, or  
12 receiving areas designated by a city or town under the regional  
13 transfer of development rights program in chapter 43.362 RCW.

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

18 (6) State agencies shall work with grant or loan recipients to  
19 facilitate state and local project review processes that will implement  
20 the projects receiving grants or loans under this section.

21 NEW SECTION. Sec. 11. A new section is added to chapter 82.02 RCW  
22 to read as follows:

23 (1) The legislature finds that:

24 (a) Detailed environmental analysis integrated with comprehensive  
25 plans, subarea plans, and development regulations will facilitate  
26 planning for and managing growth, allow greater protection of the  
27 environment, and benefit both the general public and private property  
28 owners;

29 (b) Development in urban growth areas, or transfer of development  
30 rights programs, will assist in the conservation of rural,  
31 agricultural, and forest land by redirecting growth from this land to  
32 areas designated for urban development or receiving areas in cities and  
33 towns where growth should occur;

34 (c) Cities and towns planning for increased growth in receiving  
35 areas under chapter 43.362 RCW must comply with chapter 43.21C RCW;

36 (d) Planning for urban or increased growth in urban growth areas,



1 or receiving areas under chapter 43.362 RCW in compliance with chapter  
2 43.21C RCW, presents a financial burden on cities and towns;

3 (e) Planning for urban or increased growth in urban growth areas,  
4 or receiving areas under chapter 43.362 RCW in compliance with chapter  
5 43.21C RCW, should be encouraged to ensure that the quality of life in  
6 receiving neighborhoods and the protection of environmental values over  
7 time are maintained by providing financial assistance through the  
8 growth management planning and environmental review fund created in RCW  
9 36.70A.490;

10 (f) Access to financial assistance through the growth management  
11 planning and environmental review fund created in RCW 36.70A.490 may be  
12 increased by allowing the fund to become a revolving loan program  
13 rather than only a grant program; and

14 (g) Counties, cities, and towns will have the ability to repay  
15 loans from the growth management planning and environmental review fund  
16 created in RCW 36.70A.490, or recoup their own costs associated with  
17 environmental review conducted at a comprehensive plan or subarea plan  
18 level, with fees they collect from developers who will benefit from the  
19 environmental review that the city or county has already conducted  
20 under chapter 43.21C RCW on a comprehensive plan or subarea plan, or in  
21 conjunction with the designation of a receiving area under chapter  
22 43.362 RCW, and that addresses the impacts of urban development or  
23 projects using transferable development rights.

24 (2) Counties, cities, and towns that conduct detailed environmental  
25 review under chapter 43.21C RCW, integrated with a comprehensive plan  
26 or subarea plan within urban growth areas, are authorized to impose  
27 environmental fees on development activity as part of the financing for  
28 environmental review conducted under chapter 43.21C RCW on a  
29 comprehensive plan or subarea plan.

30 (3) The environmental fees:

31 (a) May only be imposed for environmental review costs that have  
32 been identified as reasonably related to the new development;

33 (b) May not exceed the proportionate share of the costs of  
34 environmental review conducted for a comprehensive plan or subarea  
35 plan; and

36 (c) May, if applicable, be used to repay a loan from the growth  
37 management planning and environmental review fund created in RCW  
38 36.70A.490.

1       **Sec. 12.** RCW 82.02.020 and 2010 c 153 s 3 are each amended to read  
2 as follows:

3       Except only as expressly provided in chapters 67.28, 81.104, and  
4 82.14 RCW, the state preempts the field of imposing retail sales and  
5 use taxes and taxes upon parimutuel wagering authorized pursuant to RCW  
6 67.16.060, conveyances, and cigarettes, and no county, town, or other  
7 municipal subdivision shall have the right to impose taxes of that  
8 nature. Except as provided in RCW 64.34.440, section 11 of this act,  
9 and RCW 82.02.050 through 82.02.090, no county, city, town, or other  
10 municipal corporation shall impose any tax, fee, or charge, either  
11 direct or indirect, on the construction or reconstruction of  
12 residential buildings, commercial buildings, industrial buildings, or  
13 on any other building or building space or appurtenance thereto, or on  
14 the development, subdivision, classification, or reclassification of  
15 land. However, this section does not preclude dedications of land or  
16 easements within the proposed development or plat which the county,  
17 city, town, or other municipal corporation can demonstrate are  
18 reasonably necessary as a direct result of the proposed development or  
19 plat to which the dedication of land or easement is to apply.

20       This section does not prohibit voluntary agreements with counties,  
21 cities, towns, or other municipal corporations that allow a payment in  
22 lieu of a dedication of land or to mitigate a direct impact that has  
23 been identified as a consequence of a proposed development,  
24 subdivision, or plat. A local government shall not use such voluntary  
25 agreements for local off-site transportation improvements within the  
26 geographic boundaries of the area or areas covered by an adopted  
27 transportation program authorized by chapter 39.92 RCW. Any such  
28 voluntary agreement is subject to the following provisions:

29       (1) The payment shall be held in a reserve account and may only be  
30 expended to fund a capital improvement agreed upon by the parties to  
31 mitigate the identified, direct impact;

32       (2) The payment shall be expended in all cases within five years of  
33 collection; and

34       (3) Any payment not so expended shall be refunded with interest to  
35 be calculated from the original date the deposit was received by the  
36 county and at the same rate applied to tax refunds pursuant to RCW  
37 84.69.100; however, if the payment is not expended within five years

1 due to delay attributable to the developer, the payment shall be  
2 refunded without interest.

3 No county, city, town, or other municipal corporation shall require  
4 any payment as part of such a voluntary agreement which the county,  
5 city, town, or other municipal corporation cannot establish is  
6 reasonably necessary as a direct result of the proposed development or  
7 plat.

8 Nothing in this section prohibits cities, towns, counties, or other  
9 municipal corporations from collecting reasonable fees from an  
10 applicant for a permit or other governmental approval to cover the cost  
11 to the city, town, county, or other municipal corporation of processing  
12 applications, inspecting and reviewing plans, or preparing detailed  
13 statements required by chapter 43.21C RCW, including reasonable fees  
14 that are consistent with (~~(RCW 43.21C.420(6))~~) section 5 of this act.

15 This section does not limit the existing authority of any county,  
16 city, town, or other municipal corporation to impose special  
17 assessments on property specifically benefited thereby in the manner  
18 prescribed by law.

19 Nothing in this section prohibits counties, cities, or towns from  
20 imposing or permits counties, cities, or towns to impose water, sewer,  
21 natural gas, drainage utility, and drainage system charges. However,  
22 no such charge shall exceed the proportionate share of such utility or  
23 system's capital costs which the county, city, or town can demonstrate  
24 are attributable to the property being charged. Furthermore, these  
25 provisions may not be interpreted to expand or contract any existing  
26 authority of counties, cities, or towns to impose such charges.

27 Nothing in this section prohibits a transportation benefit district  
28 from imposing fees or charges authorized in RCW 36.73.120 nor prohibits  
29 the legislative authority of a county, city, or town from approving the  
30 imposition of such fees within a transportation benefit district.

31 Nothing in this section prohibits counties, cities, or towns from  
32 imposing transportation impact fees authorized pursuant to chapter  
33 39.92 RCW.

34 Nothing in this section prohibits counties, cities, or towns from  
35 requiring property owners to provide relocation assistance to tenants  
36 under RCW 59.18.440 and 59.18.450.

37 Nothing in this section limits the authority of counties, cities,

1 or towns to implement programs consistent with RCW 36.70A.540, nor to  
2 enforce agreements made pursuant to such programs.

3 This section does not apply to special purpose districts formed and  
4 acting pursuant to Title 54, 57, or 87 RCW, nor is the authority  
5 conferred by these titles affected.

6 **Sec. 13.** RCW 43.21C.110 and 1997 c 429 s 47 are each amended to  
7 read as follows:

8 It shall be the duty and function of the department of ecology:

9 (1) To adopt and amend (~~((thereafter))~~) rules of interpretation and  
10 implementation of this chapter, subject to the requirements of chapter  
11 34.05 RCW, for the purpose of providing uniform rules and guidelines to  
12 all branches of government including state agencies, political  
13 subdivisions, public and municipal corporations, and counties. The  
14 proposed rules shall be subject to full public hearings requirements  
15 associated with rule (~~((promulgation))~~) adoption. Suggestions for  
16 modifications of the proposed rules shall be considered on their  
17 merits, and the department shall have the authority and responsibility  
18 for full and appropriate independent (~~((promulgation-and))~~) adoption of  
19 rules, assuring consistency with this chapter as amended and with the  
20 preservation of protections afforded by this chapter. The rule-making  
21 powers authorized in this section shall include, but shall not be  
22 limited to, the following phases of interpretation and implementation  
23 of this chapter:

24 (a) Categories of governmental actions which are not to be  
25 considered as potential major actions significantly affecting the  
26 quality of the environment, including categories pertaining to  
27 applications for water right permits pursuant to chapters 90.03 and  
28 90.44 RCW. The types of actions included as categorical exemptions in  
29 the rules shall be limited to those types which are not major actions  
30 significantly affecting the quality of the environment. The rules  
31 shall provide for certain circumstances where actions which potentially  
32 are categorically exempt require environmental review. An action that  
33 is categorically exempt under the rules adopted by the department may  
34 not be conditioned or denied under this chapter.

35 (b) Rules for criteria and procedures applicable to the  
36 determination of when an act of a branch of government is a major

1 action significantly affecting the quality of the environment for which  
2 a detailed statement is required to be prepared pursuant to RCW  
3 43.21C.030.

4 (c) Rules and procedures applicable to the preparation of detailed  
5 statements and other environmental documents, including but not limited  
6 to rules for timing of environmental review, obtaining comments, data  
7 and other information, and providing for and determining areas of  
8 public participation which shall include the scope and review of draft  
9 environmental impact statements.

10 (d) Scope of coverage and contents of detailed statements assuring  
11 that such statements are simple, uniform, and as short as practicable;  
12 statements are required to analyze only reasonable alternatives and  
13 probable adverse environmental impacts which are significant, and may  
14 analyze beneficial impacts.

15 (e) Rules and procedures for public notification of actions taken  
16 and documents prepared.

17 (f) Definition of terms relevant to the implementation of this  
18 chapter including the establishment of a list of elements of the  
19 environment. Analysis of environmental considerations under RCW  
20 43.21C.030(2) may be required only for those subjects listed as  
21 elements of the environment (or portions thereof). The list of  
22 elements of the environment shall consist of the "natural" and "built"  
23 environment. The elements of the built environment shall consist of  
24 public services and utilities (such as water, sewer, schools, fire and  
25 police protection), transportation, environmental health (such as  
26 explosive materials and toxic waste), and land and shoreline use  
27 (including housing, and a description of the relationships with land  
28 use and shoreline plans and designations, including population).

29 (g) Rules for determining the obligations and powers under this  
30 chapter of two or more branches of government involved in the same  
31 project significantly affecting the quality of the environment.

32 (h) Methods to assure adequate public awareness of the preparation  
33 and issuance of detailed statements required by RCW 43.21C.030(2)(c).

34 (i) To prepare rules for projects setting forth the time limits  
35 within which the governmental entity responsible for the action shall  
36 comply with the provisions of this chapter.

37 (j) Rules for utilization of a detailed statement for more than one

1 action and rules improving environmental analysis of nonproject  
2 proposals and encouraging better interagency coordination and  
3 integration between this chapter and other environmental laws.

4 (k) Rules relating to actions which shall be exempt from the  
5 provisions of this chapter in situations of emergency.

6 (l) Rules relating to the use of environmental documents in  
7 planning and decision making and the implementation of the substantive  
8 policies and requirements of this chapter, including procedures for  
9 appeals under this chapter.

10 (m) Rules and procedures that provide for the integration of  
11 environmental review with project review as provided in RCW 43.21C.240.  
12 The rules and procedures shall be jointly developed with the department  
13 of (~~community, trade, and economic development~~) commerce and shall be  
14 applicable to the preparation of environmental documents for actions in  
15 counties, cities, and towns planning under RCW 36.70A.040. The rules  
16 and procedures shall also include procedures and criteria to analyze  
17 planned actions under (~~RCW 43.21C.031(2)~~) section 3 of this act and  
18 revisions to the rules adopted under this section to ensure that they  
19 are compatible with the requirements and authorizations of chapter 347,  
20 Laws of 1995, as amended by chapter 429, Laws of 1997. Ordinances or  
21 procedures adopted by a county, city, or town to implement the  
22 provisions of chapter 347, Laws of 1995 prior to the effective date of  
23 rules adopted under this subsection (1)(m) shall continue to be  
24 effective until the adoption of any new or revised ordinances or  
25 procedures that may be required. If any revisions are required as a  
26 result of rules adopted under this subsection (1)(m), those revisions  
27 shall be made within the time limits specified in RCW 43.21C.120.

28 (2) In exercising its powers, functions, and duties under this  
29 section, the department may:

30 (a) Consult with the state agencies and with representatives of  
31 science, industry, agriculture, labor, conservation organizations,  
32 state and local governments, and other groups, as it deems advisable;  
33 and

34 (b) Utilize, to the fullest extent possible, the services,  
35 facilities, and information (including statistical information) of  
36 public and private agencies, organizations, and individuals, in order  
37 to avoid duplication of effort and expense, overlap, or conflict with

1 similar activities authorized by law and performed by established  
2 agencies.

3 (3) Rules adopted pursuant to this section shall be subject to the  
4 review procedures of chapter 34.05 RCW.

5 **Sec. 14.** RCW 43.21C.095 and 1983 c 117 s 5 are each amended to  
6 read as follows:

7 The rules ((~~promulgated~~)) adopted under RCW 43.21C.110 shall be  
8 accorded substantial deference in the interpretation of this chapter."

9 Correct the title.

EFFECT: Specifies that a city or county may apply the highest categorical exemption levels authorized under the state environmental policy act rules to any action until the department of ecology completes both phases of required rule making, regardless of whether the city or county has exercised its authority to raise the exemption levels above the established minimums, unless it passes an ordinance or resolution that lowers the exemption levels to a level below the allowed maximum but not less than the default minimum levels detailed in rule.

Adds the requirement that the department of ecology include in its 2013 rule making proposed methods for integrating the state environmental policy act process with provisions of the growth management act.

Requires members of the advisory committee that the department of ecology must convene for both phases of rule making to have direct experience with the implementation or application of the state environmental policy act.

Requires the advisory committee to assist the department of ecology in considering opportunities to ensure that state agencies, tribes, and other interested parties can receive notice about projects of interest through a means other than through notice under the state environmental policy act.

Removes the requirement that the department of ecology accept electronic submittal of all required filings from lead agencies.

Adds the requirement that a planned action must have had project level impacts adequately addressed in an environmental impact statement unless such impacts are specifically deferred for consideration at the project level.

Allows a city or county planning under the growth management act to adopt, if certain requirements are met, a categorical exemption for commercial development up to 65,000 square feet excluding retail development.

Adds a statutory categorical exemption for amendments to development regulations that do not change regulations applicable to any of the following: Allowed uses or activities, intensity, density,

building height, lot coverage, impervious surface limits, vegetation retention requirements; regulations for critical areas; cultural resources regulations; regulations for the protection of the environment, human health, and human safety; protections for other uses and activities; regulations for billboards and freestanding signs; requirements for public facilities or services; and amendments that would allow uses, activities, developments, or structures that would have a probable significant adverse impact on the human or natural environment.

Specifies that a lead agency may satisfy the requirements of the environmental checklist developed by the department of ecology by identifying instances where questions on the checklist are adequately covered by a specifically identified provision of a locally adopted ordinance, development regulation, land use plan, or other legal authority.

Makes technical corrections.

--- END ---