

E2SHB 2253 - S COMM AMD
By Committee on Environment

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 including climate change and greenhouse gases.

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

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

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

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

31 (iii) Propose a categorical exemption for categories of low-impact
32 development, which includes storm water management practices,
33 integrated into a project design, that emphasizes predisturbance
34 hydrologic process of infiltration, filtration, storage, evaporation,
35 and transpiration. Low-impact development includes, but is not limited
36 to, bioretention ponds, rain gardens, permeable pavements, roof
37 downspout controls, dispersion, soil quality and depth, vegetated
38 roofs, minimum excavation foundations, and water reuse.

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

4 (4)(a) The department of ecology shall convene an advisory
5 committee consisting of members representing, at minimum, cities,
6 counties, business interests, environmental interests, agricultural
7 interests, cultural resources interests, state agencies, and tribal
8 governments to:

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

12 (ii) Consider opportunities to ensure that the department of
13 transportation, the department of archaeology and historic
14 preservation, and other state agencies, tribes, and other interested
15 parties can receive notice about projects of interest through a means
16 other than through notice under chapter 43.21C RCW.

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

19 (5) This section expires July 31, 2014.

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

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

1 (2) An environmental impact statement is required to analyze only
2 those probable adverse environmental impacts which are significant.
3 Beneficial environmental impacts may be discussed. The responsible
4 official shall consult with agencies and the public to identify such
5 impacts and limit the scope of an environmental impact statement. The
6 subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate
7 sections of an environmental impact statement. Discussions of
8 significant short-term and long-term environmental impacts, significant
9 irrevocable commitments of natural resources, significant alternatives
10 including mitigation measures, and significant environmental impacts
11 which cannot be mitigated should be consolidated or included, as
12 applicable, in those sections of an environmental impact statement
13 where the responsible official decides they logically belong.

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

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

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

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

25 ~~(iv) Are located within an urban growth area, as defined in RCW
26 36.70A.030;~~

27 ~~(v) Are not essential public facilities, as defined in RCW
28 36.70A.200; and~~

29 ~~(vi) Are consistent with a comprehensive plan adopted under chapter
30 36.70A RCW.~~

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

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

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

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

8 (b) Have had the significant impacts adequately addressed in an
9 environmental impact statement under the requirements of this chapter
10 in conjunction with, or to implement, a comprehensive plan or subarea
11 plan adopted under chapter 36.70A RCW, or a fully contained community,
12 a master planned resort, a master planned development, or a phased
13 project;

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

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

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

22 (f) Are not essential public facilities, as defined in RCW
23 36.70A.200, unless an essential public facility is accessory to or part
24 of a residential, office, school, commercial, recreational, service, or
25 industrial development that is designated a planned action under this
26 subsection; and

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

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

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

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

35 (3)(a) A county, city, or town shall determine during permit review
36 whether a proposed project is consistent with a planned action
37 ordinance adopted by the jurisdiction. To determine project
38 consistency with a planned action ordinance, a county, city, or town

1 may utilize a modified checklist pursuant to the rules adopted to
2 implement RCW 43.21C.110, a form that is designated within the planned
3 action ordinance, or a form contained in agency rules adopted pursuant
4 to RCW 43.21C.120.

5 (b) A county, city, or town is not required to make a threshold
6 determination and may not require additional environmental review, for
7 a proposal that is determined to be consistent with the development or
8 redevelopment described in the planned action ordinance, except for
9 impacts that are specifically deferred to the project level at the time
10 of the planned action ordinance's adoption. At least one community
11 meeting must be held before the scoping notice is issued for the
12 planned action ordinance. Notice of scoping for the planned action and
13 notice of the community meeting required by this subsection (3)(b) must
14 be mailed or otherwise verifiably provided to: (i) All affected
15 federally recognized tribal governments; and (ii) agencies with
16 jurisdiction over the future development anticipated for the planned
17 action. The determination of consistency, and the adequacy of any
18 environmental review that was specifically deferred, are subject to the
19 type of administrative appeal that the county, city, or town provides
20 for the proposal itself consistent with RCW 36.70B.060.

21 (4) For a planned action ordinance that encompasses the entire
22 jurisdictional boundary of a county, city, or town, at least one
23 community meeting must be held before the scoping notice is issued for
24 the planned action ordinance. Notice of scoping for the planned action
25 ordinance and notice of the community meeting required by this
26 subsection must be mailed or otherwise verifiably provided to:

- 27 (a) All property owners of record within the county, city, or town;
 - 28 (b) All affected federally recognized tribal governments; and
 - 29 (c) All agencies with jurisdiction over the future development
- 30 anticipated for the planned action.

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

33 (1) In order to accommodate infill development and thereby realize
34 the goals and policies of comprehensive plans adopted according to
35 chapter 36.70A RCW, a city or county planning under RCW 36.70A.040 is
36 authorized by this section to establish categorical exemptions from the
37 requirements of this chapter. An exemption adopted under this section

1 applies even if it differs from the categorical exemptions adopted by
2 rule of the department under RCW 43.21C.110(1)(a). An exemption may be
3 adopted by a city or county under this section if it meets the
4 following criteria:

5 (a) It categorically exempts government action related to
6 development (~~((that is new residential or mixed use development))~~)
7 proposed to fill in an urban growth area, designated according to RCW
8 36.70A.110, where current density and intensity of use in the area is
9 lower than called for in the goals and policies of the applicable
10 comprehensive plan and the development is either:

11 (i) Residential development;

12 (ii) Mixed-use development; or

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

15 (b) It does not exempt government action related to development
16 that is inconsistent with the applicable comprehensive plan or would
17 exceed the density or intensity of use called for in the goals and
18 policies of the applicable comprehensive plan; ~~((and))~~

19 (c) The local government considers the specific probable adverse
20 environmental impacts of the proposed action and determines that these
21 specific impacts are adequately addressed by the development
22 regulations or other applicable requirements of the comprehensive plan,
23 subarea plan element of the comprehensive plan, planned action
24 ordinance, or other local, state, or federal rules or laws; and

25 (d)(i) The city or county's applicable comprehensive plan was
26 previously subjected to environmental analysis through an environmental
27 impact statement under the requirements of this chapter prior to
28 adoption; or

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

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

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

1 (1) A county, city, or town may recover its reasonable expenses of
2 preparation of a nonproject environmental impact statement prepared
3 under RCW 43.21C.229 and section 3 of this act:

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

5 (b) With funding from private sources; and

6 (c) By the assessment of fees consistent with the requirements and
7 limitations of this section.

8 (2)(a) A county, city, or town is authorized to assess a fee upon
9 subsequent development that will make use of and benefit from: (i) The
10 analysis in an environmental impact statement prepared for the purpose
11 of compliance with section 3 of this act regarding planned actions; or
12 (ii) the reduction in environmental analysis requirements resulting
13 from the exercise of authority under RCW 43.21C.229 regarding infill
14 development.

15 (b) The amount of the fee must be reasonable and proportionate to
16 the total expenses incurred by the county, city, or town in the
17 preparation of the environmental impact statement.

18 (3) A county, city, or town assessing fees under subsection (2)(a)
19 of this section must provide for a mechanism by which project
20 proponents may either elect to utilize the environmental review
21 completed by the lead agency and pay the fees under subsection (1) of
22 this section or certify that they do not want the local jurisdiction to
23 utilize the environmental review completed as a part of a planned
24 action and therefore not be assessed any associated fees. Project
25 proponents who choose this option to perform their own review may not
26 make use of or benefit from the environmental review prepared by the
27 local jurisdiction.

28 (4) Prior to the collection of fees, the county, city, or town must
29 enact an ordinance that establishes the total amount of expenses to be
30 recovered through fees and provides objective standards for determining
31 the fee amount to be imposed upon each development proposal
32 proportionate to the impacts of each development and to the benefits
33 accruing to each development from the nonproject environmental review.
34 The ordinance must provide (a) a procedure by which an applicant who
35 disagrees with the reasonableness or the amount of the fee may pay the
36 fee with the written stipulation "paid under protest"; and (b) if the
37 county, city, or town provides for an administrative appeal of its
38 decision on the project for which the fees are imposed, any dispute

1 about the amount of the fees must be resolved in the same
2 administrative appeals process. Any disagreement about the
3 reasonableness or amount of the fees imposed upon a development may not
4 be the basis for delay in issuance of a project permit for that
5 development.

6 (5) The ordinance adopted under subsection (4) of this section must
7 make information available about the amount of the expenses designated
8 for recovery. When such expenses have been fully recovered, the
9 county, city, or town may no longer assess a fee under this section.

10 (6) Any fees collected under this section from subsequent
11 development may be used to reimburse funding received from private
12 sources to conduct the environmental review.

13 (7) The city, county, or town shall refund fees collected where a
14 court of competent jurisdiction determines that the environmental
15 review conducted under section 3 of this act, regarding planned
16 actions, or under RCW 43.21C.229, regarding infill development, was not
17 sufficient to comply with the requirements of this chapter regarding
18 the proposed development activity for which the fees were collected.
19 The applicant and the city, county, or town may mutually agree to a
20 partial refund or to waive the refund in the interest of resolving any
21 dispute regarding compliance with this chapter.

22 **Sec. 6.** RCW 82.02.020 and 2010 c 153 s 3 are each amended to read
23 as follows:

24 Except only as expressly provided in chapters 67.28, 81.104, and
25 82.14 RCW, the state preempts the field of imposing retail sales and
26 use taxes and taxes upon parimutuel wagering authorized pursuant to RCW
27 67.16.060, conveyances, and cigarettes, and no county, town, or other
28 municipal subdivision shall have the right to impose taxes of that
29 nature. Except as provided in RCW 64.34.440 and 82.02.050 through
30 82.02.090, no county, city, town, or other municipal corporation shall
31 impose any tax, fee, or charge, either direct or indirect, on the
32 construction or reconstruction of residential buildings, commercial
33 buildings, industrial buildings, or on any other building or building
34 space or appurtenance thereto, or on the development, subdivision,
35 classification, or reclassification of land. However, this section
36 does not preclude dedications of land or easements within the proposed
37 development or plat which the county, city, town, or other municipal

1 corporation can demonstrate are reasonably necessary as a direct result
2 of the proposed development or plat to which the dedication of land or
3 easement is to apply.

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

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

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

18 (3) Any payment not so expended shall be refunded with interest to
19 be calculated from the original date the deposit was received by the
20 county and at the same rate applied to tax refunds pursuant to RCW
21 84.69.100; however, if the payment is not expended within five years
22 due to delay attributable to the developer, the payment shall be
23 refunded without interest.

24 No county, city, town, or other municipal corporation shall require
25 any payment as part of such a voluntary agreement which the county,
26 city, town, or other municipal corporation cannot establish is
27 reasonably necessary as a direct result of the proposed development or
28 plat.

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

36 This section does not limit the existing authority of any county,
37 city, town, or other municipal corporation to impose special

1 assessments on property specifically benefited thereby in the manner
2 prescribed by law.

3 Nothing in this section prohibits counties, cities, or towns from
4 imposing or permits counties, cities, or towns to impose water, sewer,
5 natural gas, drainage utility, and drainage system charges. However,
6 no such charge shall exceed the proportionate share of such utility or
7 system's capital costs which the county, city, or town can demonstrate
8 are attributable to the property being charged. Furthermore, these
9 provisions may not be interpreted to expand or contract any existing
10 authority of counties, cities, or towns to impose such charges.

11 Nothing in this section prohibits a transportation benefit district
12 from imposing fees or charges authorized in RCW 36.73.120 nor prohibits
13 the legislative authority of a county, city, or town from approving the
14 imposition of such fees within a transportation benefit district.

15 Nothing in this section prohibits counties, cities, or towns from
16 imposing transportation impact fees authorized pursuant to chapter
17 39.92 RCW.

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

21 Nothing in this section limits the authority of counties, cities,
22 or towns to implement programs consistent with RCW 36.70A.540, nor to
23 enforce agreements made pursuant to such programs.

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

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

29 The following nonproject actions are categorically exempt from the
30 requirements of this chapter:

- 31 (1) Amendments to development regulations that are required to
32 ensure consistency with an adopted comprehensive plan pursuant to RCW
33 36.70A.040, where the comprehensive plan was previously subjected to
34 environmental review pursuant to this chapter and the impacts
35 associated with the proposed regulation were specifically addressed in
36 the prior environmental review;

1 (2) Amendments to development regulations that are required to
2 ensure consistency with a shoreline master program approved pursuant to
3 RCW 90.58.090, where the shoreline master program was previously
4 subjected to environmental review pursuant to this chapter and the
5 impacts associated with the proposed regulation were specifically
6 addressed in the prior environmental review;

7 (3) Amendments to development regulations that, upon implementation
8 of a project action, will provide increased environmental protection,
9 limited to the following:

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

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

14 (c) Increased vegetation retention or decreased impervious surface
15 areas in critical areas;

16 (4) Amendments to technical codes adopted by a county, city, or
17 town to ensure consistency with minimum standards contained in state
18 law, including the following:

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

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

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

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

24 (1) The lead agency for an environmental review under this chapter
25 utilizing an environmental checklist developed by the department of
26 ecology pursuant to RCW 43.21C.110 may identify the requirements of the
27 checklist by identifying instances where questions on the checklist are
28 adequately covered by a locally adopted ordinance, development
29 regulation, land use plan, or other legal authority.

30 (2) If a lead agency identifies an instance as described in
31 subsection (1) of this section, it still must consider whether the
32 action has an impact on the particular element or elements of the
33 environment in question.

34 (3) In instances where the locally adopted ordinance, development
35 regulation, land use plan, or other legal authority provide the
36 necessary information to answer a specific question, the lead agency

1 must explain how the proposed project satisfies the underlying local
2 legal authority.

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

7 (5) Nothing in this section authorizes a lead agency to ignore or
8 delete a question on the checklist.

9 (6) Nothing in this section changes the standard for whether an
10 environmental impact statement is required for an action that may have
11 a probable significant, adverse environmental impact pursuant to RCW
12 43.21C.030.

13 (7) Nothing in this section affects the appeal provisions provided
14 in this chapter.

15 (8) Nothing in this section modifies existing rules for determining
16 the lead agency, as defined in WAC 197-11-922 through 197-11-948, nor
17 does it modify agency procedures for complying with the state
18 environmental policy act when an agency other than a local government
19 is serving as the lead agency.

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

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

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

33 (1) The department of (~~community, trade, and economic~~
34 ~~development~~) commerce shall provide management services for the growth
35 management planning and environmental review fund created by RCW
36 36.70A.490. The department shall establish procedures for fund

1 management. The department shall encourage participation in the grant
2 or loan program by other public agencies. The department shall develop
3 the grant or loan criteria, monitor the grant or loan program, and
4 select grant or loan recipients in consultation with state agencies
5 participating in the grant or loan program through the provision of
6 grant or loan funds or technical assistance.

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

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

17 (b) Encourages use of plans and information developed for purposes
18 of complying with this chapter to satisfy requirements of other state
19 programs.

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

22 (a) Demonstrate that it will prepare an environmental analysis
23 pursuant to chapter 43.21C RCW and subsection (2) of this section that
24 is integrated with a comprehensive plan, subarea plan, plan element,
25 countywide planning policy, development regulations, monitoring
26 program, or other planning activity adopted under or implementing this
27 chapter;

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

32 (c) Demonstrate that procedures for review of development permit
33 applications will be based on the integrated plans and environmental
34 analysis;

35 (d) Include mechanisms to monitor the consequences of growth as it
36 occurs in the plan area and to use the resulting data to update the
37 plan, policy, or implementing mechanisms and associated environmental
38 analysis;

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

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

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

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

12 (b) Identification and monitoring of system capacities for elements
13 of the built environment, and to the extent appropriate, of the natural
14 environment;

15 (c) Coordination with state, federal, and tribal governments in
16 project review;

17 (d) Furtherance of important state objectives related to economic
18 development, protection of areas of statewide significance, and siting
19 of essential public facilities;

20 (e) Programs to improve the efficiency and effectiveness of the
21 permitting process by greater reliance on integrated plans and
22 prospective environmental analysis;

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

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

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

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

37 (6) State agencies shall work with grant or loan recipients to

1 facilitate state and local project review processes that will implement
2 the projects receiving grants or loans under this section.

3 **Sec. 11.** RCW 43.21C.110 and 1997 c 429 s 47 are each amended to
4 read as follows:

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

6 (1) To adopt and amend (~~((thereafter))~~) rules of interpretation and
7 implementation of this chapter, subject to the requirements of chapter
8 34.05 RCW, for the purpose of providing uniform rules and guidelines to
9 all branches of government including state agencies, political
10 subdivisions, public and municipal corporations, and counties. The
11 proposed rules shall be subject to full public hearings requirements
12 associated with rule (~~((promulgation))~~) adoption. Suggestions for
13 modifications of the proposed rules shall be considered on their
14 merits, and the department shall have the authority and responsibility
15 for full and appropriate independent (~~((promulgation and))~~) adoption of
16 rules, assuring consistency with this chapter as amended and with the
17 preservation of protections afforded by this chapter. The rule-making
18 powers authorized in this section shall include, but shall not be
19 limited to, the following phases of interpretation and implementation
20 of this chapter:

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

32 (b) Rules for criteria and procedures applicable to the
33 determination of when an act of a branch of government is a major
34 action significantly affecting the quality of the environment for which
35 a detailed statement is required to be prepared pursuant to RCW
36 43.21C.030.

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

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

12 (e) Rules and procedures for public notification of actions taken
13 and documents prepared.

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

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

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

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

34 (j) Rules for utilization of a detailed statement for more than one
35 action and rules improving environmental analysis of nonproject
36 proposals and encouraging better interagency coordination and
37 integration between this chapter and other environmental laws.

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

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

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

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

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

31 (b) Utilize, to the fullest extent possible, the services,
32 facilities, and information (including statistical information) of
33 public and private agencies, organizations, and individuals, in order
34 to avoid duplication of effort and expense, overlap, or conflict with
35 similar activities authorized by law and performed by established
36 agencies.

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

1 **Sec. 12.** RCW 43.21C.095 and 1983 c 117 s 5 are each amended to
2 read as follows:

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

5 NEW SECTION. **Sec. 13.** A new section is added to chapter 43.21C
6 RCW to read as follows:

7 Upon receiving a notice of application of a development project,
8 the county, city, or town shall provide notification in writing to the
9 affected federally recognized tribe in a format that is mutually agreed
10 upon that will provide sufficient information to inform that tribe
11 about its potential interest in the project. Supporting documents, if
12 requested, may be made available electronically.

13 NEW SECTION. **Sec. 14.** If specific funding for the purposes of
14 this act, referencing this act by bill or chapter number, is not
15 provided by June 30, 2012, in the omnibus appropriations act, this act
16 is null and void."

E2SHB 2253 - S COMM AMD
By Committee on Environment

17 On page 1, line 3 of the title, after "legislation;" strike the
18 remainder of the title and insert "amending RCW 43.21C.031, 43.21C.229,
19 82.02.020, 36.70A.490, 36.70A.500, 43.21C.110, and 43.21C.095; adding
20 new sections to chapter 43.21C RCW; creating new sections; and
21 providing an expiration date."

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