
SUBSTITUTE HOUSE BILL 1478

State of Washington

62nd Legislature

2011 Regular Session

By House Local Government (originally sponsored by Representatives Springer, Asay, Takko, Orcutt, Haler, Rivers, Eddy, Hunt, Klippert, Sullivan, Goodman, Clibborn, Armstrong, Probst, Jacks, Johnson, and Kenney)

READ FIRST TIME 02/15/11.

1 AN ACT Relating to fiscal relief for cities and counties during
2 periods of economic downturn by delaying or modifying certain
3 regulatory and statutory requirements; amending RCW 36.70A.215,
4 43.19.648, 43.325.080, 46.68.113, 70.95.110, 82.02.070, 82.02.080,
5 90.46.015, 90.48.260, 90.58.080, and 90.58.090; reenacting and amending
6 RCW 36.70A.130; and creating a new section.

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

8 NEW SECTION. **Sec. 1.** It is the legislature's intent to provide
9 local governments with more time to meet certain statutory
10 requirements. Many cities and counties in Washington are facing
11 revenue shortfalls, higher expenses, and more difficulty with borrowing
12 money as a result of the economic downturn. The effects of the
13 economic downturn on the budgets of local governments will be felt most
14 deeply from 2010 to 2012. Local governments are facing the combined
15 impact of decreased tax revenues, a falloff in state and federal aid,
16 and increased demand for social services. With the loss of tax revenue
17 and state and federal aid, local governments are being forced to make
18 significant cuts that will eliminate jobs, curtail essential services,
19 and increase the number of people in need. Additionally, local

1 governments are struggling to comply with certain statutory
2 requirements. Local governments want to comply with these statutory
3 requirements, but with budget constraints, they need more time to do
4 so. The legislature does not intend to remove any existing statutory
5 requirement, but rather modify the time under which a local government
6 must meet certain statutory requirements.

7 **Sec. 2.** RCW 36.70A.130 and 2010 c 216 s 1 and 2010 c 211 s 2 are
8 each reenacted and amended to read as follows:

9 (1)(a) Each comprehensive land use plan and development regulations
10 shall be subject to continuing review and evaluation by the county or
11 city that adopted them. Except as otherwise provided, a county or city
12 shall take legislative action to review and, if needed, revise its
13 comprehensive land use plan and development regulations to ensure the
14 plan and regulations comply with the requirements of this chapter
15 according to the deadlines in subsections (4) and (5) of this section.

16 (b) Except as otherwise provided, a county or city not planning
17 under RCW 36.70A.040 shall take action to review and, if needed, revise
18 its policies and development regulations regarding critical areas and
19 natural resource lands adopted according to this chapter to ensure
20 these policies and regulations comply with the requirements of this
21 chapter according to the deadlines in subsections (4) and (5) of this
22 section. Legislative action means the adoption of a resolution or
23 ordinance following notice and a public hearing indicating at a
24 minimum, a finding that a review and evaluation has occurred and
25 identifying the revisions made, or that a revision was not needed and
26 the reasons therefor.

27 (c) The review and evaluation required by this subsection may be
28 combined with the review required by subsection (3) of this section.
29 The review and evaluation required by this subsection shall include,
30 but is not limited to, consideration of critical area ordinances and,
31 if planning under RCW 36.70A.040, an analysis of the population
32 allocated to a city or county from the most recent ten-year population
33 forecast by the office of financial management.

34 (d) Any amendment of or revision to a comprehensive land use plan
35 shall conform to this chapter. Any amendment of or revision to
36 development regulations shall be consistent with and implement the
37 comprehensive plan.

1 (2)(a) Each county and city shall establish and broadly disseminate
2 to the public a public participation program consistent with RCW
3 36.70A.035 and 36.70A.140 that identifies procedures and schedules
4 whereby updates, proposed amendments, or revisions of the comprehensive
5 plan are considered by the governing body of the county or city no more
6 frequently than once every year. "Updates" means to review and revise,
7 if needed, according to subsection (1) of this section, and the
8 deadlines in subsections (4) and (5) of this section or in accordance
9 with the provisions of subsection (6) of this section. Amendments may
10 be considered more frequently than once per year under the following
11 circumstances:

12 (i) The initial adoption of a subarea plan. Subarea plans adopted
13 under this subsection (2)(a)(i) must clarify, supplement, or implement
14 jurisdiction-wide comprehensive plan policies, and may only be adopted
15 if the cumulative impacts of the proposed plan are addressed by
16 appropriate environmental review under chapter 43.21C RCW;

17 (ii) The development of an initial subarea plan for economic
18 development located outside of the one hundred year floodplain in a
19 county that has completed a state-funded pilot project that is based on
20 watershed characterization and local habitat assessment;

21 (iii) The adoption or amendment of a shoreline master program under
22 the procedures set forth in chapter 90.58 RCW;

23 (iv) The amendment of the capital facilities element of a
24 comprehensive plan that occurs concurrently with the adoption or
25 amendment of a county or city budget; or

26 (v) The adoption of comprehensive plan amendments necessary to
27 enact a planned action under RCW 43.21C.031(2), provided that
28 amendments are considered in accordance with the public participation
29 program established by the county or city under this subsection (2)(a)
30 and all persons who have requested notice of a comprehensive plan
31 update are given notice of the amendments and an opportunity to
32 comment.

33 (b) Except as otherwise provided in (a) of this subsection, all
34 proposals shall be considered by the governing body concurrently so the
35 cumulative effect of the various proposals can be ascertained.
36 However, after appropriate public participation a county or city may
37 adopt amendments or revisions to its comprehensive plan that conform

1 with this chapter whenever an emergency exists or to resolve an appeal
2 of a comprehensive plan filed with the growth management hearings board
3 or with the court.

4 (3)(a) Each county that designates urban growth areas under RCW
5 36.70A.110 shall review, at least every ten years, its designated urban
6 growth area or areas, and the densities permitted within both the
7 incorporated and unincorporated portions of each urban growth area. In
8 conjunction with this review by the county, each city located within an
9 urban growth area shall review the densities permitted within its
10 boundaries, and the extent to which the urban growth occurring within
11 the county has located within each city and the unincorporated portions
12 of the urban growth areas.

13 (b) The county comprehensive plan designating urban growth areas,
14 and the densities permitted in the urban growth areas by the
15 comprehensive plans of the county and each city located within the
16 urban growth areas, shall be revised to accommodate the urban growth
17 projected to occur in the county for the succeeding twenty-year period.
18 The review required by this subsection may be combined with the review
19 and evaluation required by RCW 36.70A.215.

20 (4) Except as provided in subsection (6) of this section, counties
21 and cities shall take action to review and, if needed, revise their
22 comprehensive plans and development regulations to ensure the plan and
23 regulations comply with the requirements of this chapter as follows:

24 (a) On or before December 1, 2004, for Clallam, Clark, Jefferson,
25 King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the
26 cities within those counties;

27 (b) On or before December 1, 2005, for Cowlitz, Island, Lewis,
28 Mason, San Juan, Skagit, and Skamania counties and the cities within
29 those counties;

30 (c) On or before December 1, 2006, for Benton, Chelan, Douglas,
31 Grant, Kittitas, Spokane, and Yakima counties and the cities within
32 those counties; and

33 (d) On or before December 1, 2007, for Adams, Asotin, Columbia,
34 Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan,
35 Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman
36 counties and the cities within those counties.

37 (5) Except as otherwise provided in subsection (6) of this section,
38 following the review of comprehensive plans and development regulations

1 required by subsection (4) of this section, counties and cities shall
2 take action to review and, if needed, revise their comprehensive plans
3 and development regulations to ensure the plan and regulations comply
4 with the requirements of this chapter as follows:

5 (a) On or before (~~December 1, 2014~~) June 30, 2015, and every
6 (~~seven~~) ten years thereafter, for (~~Clallam, Clark, Jefferson,~~)
7 King, (~~Kitsap,~~) Pierce, and Snohomish(~~, Thurston, and Whatcom~~)
8 counties and the cities within those counties;

9 (b) On or before (~~December 1, 2015~~) June 30, 2016, and every
10 (~~seven~~) ten years thereafter, for (~~Cowlitz~~) Clallam, Clark, Island,
11 (~~Lewis~~) Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and
12 (~~Skamania~~) Whatcom counties and the cities within those counties;

13 (c) On or before (~~December 1, 2016~~) June 30, 2017, and every
14 (~~seven~~) ten years thereafter, for Benton, Chelan, Cowlitz, Douglas,
15 (~~Grant,~~) Kittitas, Lewis, Skamania, Spokane, and Yakima counties and
16 the cities within those counties; and

17 (d) On or before (~~December 1, 2017~~) June 30, 2018, and every
18 (~~seven~~) ten years thereafter, for Adams, Asotin, Columbia, Ferry,
19 Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan,
20 Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman
21 counties and the cities within those counties.

22 (6)(a) Nothing in this section precludes a county or city from
23 conducting the review and evaluation required by this section before
24 the deadlines established in subsections (4) and (5) of this section.
25 Counties and cities may begin this process early and may be eligible
26 for grants from the department, subject to available funding, if they
27 elect to do so.

28 (b) A county that is subject to a deadline established in
29 subsection (4)(b) through (d) of this section and meets the following
30 criteria may comply with the requirements of this section at any time
31 within the thirty-six months following the deadline established in
32 subsection (4) of this section: The county has a population of less
33 than fifty thousand and has had its population increase by no more than
34 seventeen percent in the ten years preceding the deadline established
35 in subsection (4) of this section as of that date.

36 (c) A city that is subject to a deadline established in subsection
37 (4)(b) through (d) of this section and meets the following criteria may
38 comply with the requirements of this section at any time within the

1 thirty-six months following the deadline established in subsection (4)
2 of this section: The city has a population of no more than five
3 thousand and has had its population increase by the greater of either
4 no more than one hundred persons or no more than seventeen percent in
5 the ten years preceding the deadline established in subsection (4) of
6 this section as of that date.

7 (d) A county or city that is subject to a deadline established in
8 subsection (4)(d) of this section and that meets the criteria
9 established in subsection (6)(b) or (c) of this section may comply with
10 the requirements of subsection (4)(d) of this section at any time
11 within the thirty-six months after the extension provided in subsection
12 (6)(b) or (c) of this section.

13 (e) State agencies are encouraged to provide technical assistance
14 to the counties and cities in the review of critical area ordinances,
15 comprehensive plans, and development regulations.

16 (7)(a) The requirements imposed on counties and cities under this
17 section shall be considered "requirements of this chapter" under the
18 terms of RCW 36.70A.040(1). Only those counties and cities that meet
19 the following criteria may receive grants, loans, pledges, or financial
20 guarantees under chapter 43.155 or 70.146 RCW:

21 (i) Complying with the deadlines in this section;

22 (ii) Demonstrating substantial progress towards compliance with the
23 schedules in this section for development regulations that protect
24 critical areas; or

25 (iii) Complying with the extension provisions of subsection (6)(b),
26 (c), or (d) of this section.

27 (b) A county or city that is fewer than twelve months out of
28 compliance with the schedules in this section for development
29 regulations that protect critical areas is making substantial progress
30 towards compliance. Only those counties and cities in compliance with
31 the schedules in this section may receive preference for grants or
32 loans subject to the provisions of RCW 43.17.250.

33 **Sec. 3.** RCW 36.70A.215 and 1997 c 429 s 25 are each amended to
34 read as follows:

35 (1) Subject to the limitations in subsection (7) of this section,
36 a county shall adopt, in consultation with its cities, countywide
37 planning policies to establish a review and evaluation program. This

1 program shall be in addition to the requirements of RCW 36.70A.110,
2 36.70A.130, and 36.70A.210. In developing and implementing the review
3 and evaluation program required by this section, the county and its
4 cities shall consider information from other appropriate jurisdictions
5 and sources. The purpose of the review and evaluation program shall be
6 to:

7 (a) Determine whether a county and its cities are achieving urban
8 densities within urban growth areas by comparing growth and development
9 assumptions, targets, and objectives contained in the countywide
10 planning policies and the county and city comprehensive plans with
11 actual growth and development that has occurred in the county and its
12 cities; and

13 (b) Identify reasonable measures, other than adjusting urban growth
14 areas, that will be taken to comply with the requirements of this
15 chapter.

16 (2) The review and evaluation program shall:

17 (a) Encompass land uses and activities both within and outside of
18 urban growth areas and provide for annual collection of data on urban
19 and rural land uses, development, critical areas, and capital
20 facilities to the extent necessary to determine the quantity and type
21 of land suitable for development, both for residential and employment-
22 based activities;

23 (b) Provide for evaluation of the data collected under (a) of this
24 subsection every five years as provided in subsection (3) of this
25 section. The first evaluation shall be completed not later than
26 September 1, 2002. The county and its cities may establish in the
27 countywide planning policies indicators, benchmarks, and other similar
28 criteria to use in conducting the evaluation;

29 (c) Provide for methods to resolve disputes among jurisdictions
30 relating to the countywide planning policies required by this section
31 and procedures to resolve inconsistencies in collection and analysis of
32 data; and

33 (d) Provide for the amendment of the countywide policies and county
34 and city comprehensive plans as needed to remedy an inconsistency
35 identified through the evaluation required by this section, or to bring
36 these policies into compliance with the requirements of this chapter.

37 (3) At a minimum, the evaluation component of the program required
38 by subsection (1) of this section shall:

1 (a) Determine whether there is sufficient suitable land to
2 accommodate the countywide population projection established for the
3 county pursuant to RCW 43.62.035 and the subsequent population
4 allocations within the county and between the county and its cities and
5 the requirements of RCW 36.70A.110;

6 (b) Determine the actual density of housing that has been
7 constructed and the actual amount of land developed for commercial and
8 industrial uses within the urban growth area since the adoption of a
9 comprehensive plan under this chapter or since the last periodic
10 evaluation as required by subsection (1) of this section; and

11 (c) Based on the actual density of development as determined under
12 (b) of this subsection, review commercial, industrial, and housing
13 needs by type and density range to determine the amount of land needed
14 for commercial, industrial, and housing for the remaining portion of
15 the twenty-year planning period used in the most recently adopted
16 comprehensive plan.

17 (4) If the evaluation required by subsection (3) of this section
18 demonstrates an inconsistency between what has occurred since the
19 adoption of the countywide planning policies and the county and city
20 comprehensive plans and development regulations and what was envisioned
21 in those policies and plans and the planning goals and the requirements
22 of this chapter, as the inconsistency relates to the evaluation factors
23 specified in subsection (3) of this section, the county and its cities
24 shall adopt and implement measures that are reasonably likely to
25 increase consistency during the subsequent five-year period. If
26 necessary, a county, in consultation with its cities as required by RCW
27 36.70A.210, shall adopt amendments to countywide planning policies to
28 increase consistency. The county and its cities shall annually monitor
29 the measures adopted under this subsection to determine their effect
30 and may revise or rescind them as appropriate.

31 (5)(a) Not later than July 1, 1998, the department shall prepare a
32 list of methods used by counties and cities in carrying out the types
33 of activities required by this section. The department shall provide
34 this information and appropriate technical assistance to counties and
35 cities required to or choosing to comply with the provisions of this
36 section.

37 (b) By December 31, 2007, the department shall submit to the
38 appropriate committees of the legislature a report analyzing the

1 effectiveness of the activities described in this section in achieving
2 the goals envisioned by the countywide planning policies and the
3 comprehensive plans and development regulations of the counties and
4 cities.

5 (6) From funds appropriated by the legislature for this purpose,
6 the department shall provide grants to counties, cities, and regional
7 planning organizations required under subsection (7) of this section to
8 conduct the review and perform the evaluation required by this section.

9 (7) The provisions of this section shall apply to counties, and the
10 cities within those counties, that were greater than one hundred fifty
11 thousand in population in 1995 as determined by office of financial
12 management population estimates and that are located west of the crest
13 of the Cascade mountain range. The obligations under this subsection
14 are subject to the availability of amounts appropriated for the
15 specific purpose identified in subsection (1) of this section, unless
16 the department received private funds for the specific purpose
17 identified in subsection (1) of this section. Any other county
18 planning under RCW 36.70A.040 may carry out the review, evaluation, and
19 amendment programs and procedures as provided in this section.

20 **Sec. 4.** RCW 43.19.648 and 2009 c 459 s 7 are each amended to read
21 as follows:

22 (1) Except as provided in subsection (2) of this section, effective
23 June 1, 2015, all state agencies and local government subdivisions of
24 the state, to the extent determined practicable by the rules adopted by
25 the department of ((community, trade, and economic development))
26 commerce pursuant to RCW 43.325.080, are required to satisfy one
27 hundred percent of their fuel usage for operating publicly owned
28 vessels, vehicles, and construction equipment from electricity or
29 biofuel.

30 (2) Effective June 1, 2018, all cities and counties, to the extent
31 determined practicable by the rules adopted by the department of
32 commerce pursuant to RCW 43.325.080, are required to satisfy one
33 hundred percent of their fuel usage for operating publicly owned
34 vessels, vehicles, and construction equipment from electricity or
35 biofuel.

36 (3) In order to phase in this transition for the state, all state
37 agencies, to the extent determined practicable by the department of

1 ((community, trade, and economic development)) commerce by rules
2 adopted pursuant to RCW 43.325.080, are required to achieve forty
3 percent fuel usage for operating publicly owned vessels, vehicles, and
4 construction equipment from electricity or biofuel by June 1, 2013.
5 The department of general administration, in consultation with the
6 department of ((community, trade, and economic development)) commerce,
7 shall report to the governor and the legislature by December 1, 2013,
8 on what percentage of the state's fuel usage is from electricity or
9 biofuel.

10 ((+3)) (4) Except for cars owned or operated by the Washington
11 state patrol, when tires on vehicles in the state's motor vehicle fleet
12 are replaced, they must be replaced with tires that have the same or
13 better rolling resistance as the original tires.

14 ((+4)) (5) By December 31, 2015, the state must, to the extent
15 practicable, install electrical outlets capable of charging electric
16 vehicles in each of the state's fleet parking and maintenance
17 facilities.

18 ((+5)) (6) The department of transportation's obligations under
19 subsection ((+2)) (3) of this section are subject to the availability
20 of amounts appropriated for the specific purpose identified in
21 subsection ((+2)) (3) of this section.

22 ((+6)) (7) The department of transportation's obligations under
23 subsection ((+4)) (5) of this section are subject to the availability
24 of amounts appropriated for the specific purpose identified in
25 subsection ((+4)) (5) of this section unless the department receives
26 federal or private funds for the specific purpose identified in
27 subsection ((+4)) (5) of this section.

28 ((+7)) (8) The definitions in this subsection apply throughout
29 this section unless the context clearly requires otherwise.

30 (a) "Battery charging station" means an electrical component
31 assembly or cluster of component assemblies designed specifically to
32 charge batteries within electric vehicles, which meet or exceed any
33 standards, codes, and regulations set forth by chapter 19.28 RCW and
34 consistent with rules adopted under RCW 19.27.540.

35 (b) "Battery exchange station" means a fully automated facility
36 that will enable an electric vehicle with a swappable battery to enter
37 a drive lane and exchange the depleted battery with a fully charged

1 battery through a fully automated process, which meets or exceeds any
2 standards, codes, and regulations set forth by chapter 19.28 RCW and
3 consistent with rules adopted under RCW 19.27.540.

4 **Sec. 5.** RCW 43.325.080 and 2007 c 348 s 204 are each amended to
5 read as follows:

6 (1) Except as provided in subsection (2) of this section, by June
7 1, 2010, the department shall adopt rules to define practicability and
8 clarify how state agencies and local government subdivisions will be
9 evaluated in determining whether they have met the goals set out in RCW
10 43.19.648(1). At a minimum, the rules must address:

11 ~~((+1))~~ (a) Criteria for determining how the goal in RCW
12 43.19.648(1) will be met by June 1, 2015;

13 ~~((+2))~~ (b) Factors considered to determine compliance with the
14 goal in RCW 43.19.648(1), including but not limited to: The regional
15 availability of fuels; vehicle costs; differences between types of
16 vehicles, vessels, or equipment; the cost of program implementation;
17 and cost differentials in different parts of the state; and

18 ~~((+3))~~ (c) A schedule for phased-in progress towards meeting the
19 goal in RCW 43.19.648(1) that may include different schedules for
20 different fuel applications or different quantities of biofuels.

21 (2) By June 1, 2015, the department shall adopt rules to define
22 practicability and clarify how cities and counties will be evaluated in
23 determining whether they have met the goals set out in RCW
24 43.19.648(2). At a minimum, the rules must address:

25 (a) Criteria for determining how the goal in RCW 43.19.648(2) will
26 be met by June 1, 2018;

27 (b) Factors considered to determine compliance with the goal in RCW
28 43.19.648(2), including but not limited to: The regional availability
29 of fuels; vehicle costs; differences between types of vehicles,
30 vessels, or equipment; the cost of program implementation; and cost
31 differentials in different parts of the state; and

32 (c) A schedule for phased-in progress towards meeting the goal in
33 RCW 43.19.648(2) that may include different schedules for different
34 fuel applications or different quantities of biofuels.

35 **Sec. 6.** RCW 46.68.113 and 2006 c 334 s 21 are each amended to read
36 as follows:

1 During the ((2003-2005)) 2013-2015 biennium, cities and towns shall
2 provide to the transportation commission, or its successor entity,
3 preservation rating information on at least seventy percent of the
4 total city and town arterial network. Thereafter, the preservation
5 rating information requirement shall increase in five percent
6 increments in subsequent biennia, but in no case shall it exceed eighty
7 percent. The rating system used by cities and towns must be based upon
8 the Washington state pavement rating method or an equivalent standard
9 approved by the department of transportation. Beginning January 1,
10 2007, the preservation rating information shall be submitted to the
11 department.

12 **Sec. 7.** RCW 70.95.110 and 1991 c 298 s 4 are each amended to read
13 as follows:

14 (1) The comprehensive county solid waste management plans and any
15 comprehensive city solid waste management plans prepared in accordance
16 with RCW 70.95.080 shall be maintained in a current condition and
17 reviewed and revised periodically by counties and cities as may be
18 required by the department. Upon each review such plans shall be
19 extended to show long-range needs for solid waste handling facilities
20 for twenty years in the future, and a revised construction and capital
21 acquisition program for six years in the future. Each revised solid
22 waste management plan shall be submitted to the department.

23 Each plan shall be reviewed and revised within five years of July
24 1, 1984, and thereafter shall be reviewed, and revised if necessary
25 according to the schedule provided in subsection (2) of this section.

26 (2) Cities and counties preparing solid waste management plans
27 shall submit the waste reduction and recycling element required in RCW
28 70.95.090 and any revisions to other elements of its comprehensive
29 solid waste management plan to the department no later than:

30 (a) July 1, 1991, for class one areas: PROVIDED, That portions
31 relating to multiple family residences shall be submitted no later than
32 July 1, 1992;

33 (b) July 1, 1992, for class two areas; and

34 (c) July 1, 1994, for class three areas.

35 Thereafter, each plan shall be reviewed and revised, if necessary,
36 at least every ((five)) ten years. Nothing in chapter 431, Laws of

1 1989 shall prohibit local governments from submitting a plan prior to
2 the dates listed in this subsection.

3 (3) The classes of areas are defined as follows:

4 (a) Class one areas are the counties of Spokane, Snohomish, King,
5 Pierce, and Kitsap and all the cities therein.

6 (b) Class two areas are all other counties located west of the
7 crest of the Cascade mountains and all the cities therein.

8 (c) Class three areas are the counties east of the crest of the
9 Cascade mountains and all the cities therein, except for Spokane
10 county.

11 (4) Cities and counties shall begin implementing the programs to
12 collect source separated materials no later than one year following the
13 adoption and approval of the waste reduction and recycling element and
14 these programs shall be fully implemented within two years of approval.

15 **Sec. 8.** RCW 82.02.070 and 2009 c 263 s 1 are each amended to read
16 as follows:

17 (1) Impact fee receipts shall be earmarked specifically and
18 retained in special interest-bearing accounts. Separate accounts shall
19 be established for each type of public facility for which impact fees
20 are collected. All interest shall be retained in the account and
21 expended for the purpose or purposes for which the impact fees were
22 imposed. Annually, each county, city, or town imposing impact fees
23 shall provide a report on each impact fee account showing the source
24 and amount of all moneys collected, earned, or received and system
25 improvements that were financed in whole or in part by impact fees.

26 (2) Impact fees for system improvements shall be expended only in
27 conformance with the capital facilities plan element of the
28 comprehensive plan.

29 (3)(a) Except as provided otherwise by (b) of this subsection,
30 impact fees shall be expended or encumbered for a permissible use
31 within ((~~six~~)) ten years of receipt, unless there exists an
32 extraordinary and compelling reason for fees to be held longer than
33 ((~~six~~)) ten years. Such extraordinary or compelling reasons shall be
34 identified in written findings by the governing body of the county,
35 city, or town.

36 (b) School impact fees must be expended or encumbered for a
37 permissible use within ten years of receipt, unless there exists an

1 extraordinary and compelling reason for fees to be held longer than ten
2 years. Such extraordinary or compelling reasons shall be identified in
3 written findings by the governing body of the county, city, or town.

4 (4) Impact fees may be paid under protest in order to obtain a
5 permit or other approval of development activity.

6 (5) Each county, city, or town that imposes impact fees shall
7 provide for an administrative appeals process for the appeal of an
8 impact fee; the process may follow the appeal process for the
9 underlying development approval or the county, city, or town may
10 establish a separate appeals process. The impact fee may be modified
11 upon a determination that it is proper to do so based on principles of
12 fairness. The county, city, or town may provide for the resolution of
13 disputes regarding impact fees by arbitration.

14 **Sec. 9.** RCW 82.02.080 and 1990 1st ex.s. c 17 s 47 are each
15 amended to read as follows:

16 (1) The current owner of property on which an impact fee has been
17 paid may receive a refund of such fees if the county, city, or town
18 fails to expend or encumber the impact fees within (~~six~~) ten years of
19 when the fees were paid or other such period of time established
20 pursuant to RCW 82.02.070(3) on public facilities intended to benefit
21 the development activity for which the impact fees were paid. In
22 determining whether impact fees have been encumbered, impact fees shall
23 be considered encumbered on a first in, first out basis. The county,
24 city, or town shall notify potential claimants by first-class mail
25 deposited with the United States postal service at the last known
26 address of claimants.

27 The request for a refund must be submitted to the county, city, or
28 town governing body in writing within one year of the date the right to
29 claim the refund arises or the date that notice is given, whichever is
30 later. Any impact fees that are not expended within these time
31 limitations, and for which no application for a refund has been made
32 within this one-year period, shall be retained and expended on the
33 indicated capital facilities. Refunds of impact fees under this
34 subsection shall include interest earned on the impact fees.

35 (2) When a county, city, or town seeks to terminate any or all
36 impact fee requirements, all unexpended or unencumbered funds,
37 including interest earned, shall be refunded pursuant to this section.

1 Upon the finding that any or all fee requirements are to be terminated,
2 the county, city, or town shall place notice of such termination and
3 the availability of refunds in a newspaper of general circulation at
4 least two times and shall notify all potential claimants by first-class
5 mail to the last known address of claimants. All funds available for
6 refund shall be retained for a period of one year. At the end of one
7 year, any remaining funds shall be retained by the local government,
8 but must be expended for the indicated public facilities. This notice
9 requirement shall not apply if there are no unexpended or unencumbered
10 balances within an account or accounts being terminated.

11 (3) A developer may request and shall receive a refund, including
12 interest earned on the impact fees, when the developer does not proceed
13 with the development activity and no impact has resulted.

14 **Sec. 10.** RCW 90.46.015 and 2009 c 456 s 2 are each amended to read
15 as follows:

16 (1) The department of ecology shall, in coordination with the
17 department of health, adopt rules for reclaimed water use consistent
18 with this chapter. The rules must address all aspects of reclaimed
19 water use, including commercial and industrial uses, land applications,
20 direct groundwater recharge, wetland discharge, surface percolation,
21 constructed wetlands, and streamflow or surface water augmentation.
22 The department of health shall, in coordination with the department of
23 ecology, adopt rules for greywater reuse. The rules must also
24 designate whether the department of ecology or the department of health
25 will be the lead agency responsible for a particular aspect of
26 reclaimed water use. In developing the rules, the departments of
27 health and ecology shall amend or rescind any existing rules on
28 reclaimed water in conflict with the new rules.

29 (2) All rules required to be adopted pursuant to this section must
30 be completed no ~~((later than December 31, 2010, although the department~~
31 ~~of ecology is encouraged to adopt the final rules as soon as possible))~~
32 earlier than June 30, 2013.

33 (3) The department of ecology must consult with the advisory
34 committee created under RCW 90.46.050 in all aspects of rule
35 development required under this section.

1 **Sec. 11.** RCW 90.48.260 and 2007 c 341 s 55 are each amended to
2 read as follows:

3 The department of ecology is hereby designated as the state water
4 pollution control agency for all purposes of the federal clean water
5 act as it exists on February 4, 1987, and is hereby authorized to
6 participate fully in the programs of the act as well as to take all
7 action necessary to secure to the state the benefits and to meet the
8 requirements of that act. With regard to the national estuary program
9 established by section 320 of that act, the department shall exercise
10 its responsibility jointly with the Puget Sound partnership, created in
11 RCW 90.71.210. The department of ecology may delegate its authority
12 under this chapter, including its national pollutant discharge
13 elimination permit system authority and duties regarding animal feeding
14 operations and concentrated animal feeding operations, to the
15 department of agriculture through a memorandum of understanding. Until
16 any such delegation receives federal approval, the department of
17 agriculture's adoption or issuance of animal feeding operation and
18 concentrated animal feeding operation rules, permits, programs, and
19 directives pertaining to water quality shall be accomplished after
20 reaching agreement with the director of the department of ecology.
21 Adoption or issuance and implementation shall be accomplished so that
22 compliance with such animal feeding operation and concentrated animal
23 feeding operation rules, permits, programs, and directives will achieve
24 compliance with all federal and state water pollution control laws.
25 The department of ecology shall extend without modification any
26 national pollution discharge elimination system municipal storm water
27 general permit first issued on January 17, 2007, until after June 30,
28 2013. The powers granted herein include, among others, and
29 notwithstanding any other provisions of chapter 90.48 RCW or otherwise,
30 the following:

31 (1) Complete authority to establish and administer a comprehensive
32 state point source waste discharge or pollution discharge elimination
33 permit program which will enable the department to qualify for full
34 participation in any national waste discharge or pollution discharge
35 elimination permit system and will allow the department to be the sole
36 agency issuing permits required by such national system operating in
37 the state of Washington subject to the provisions of RCW 90.48.262(2).
38 Program elements authorized herein may include, but are not limited to:

1 (a) Effluent treatment and limitation requirements together with timing
2 requirements related thereto; (b) applicable receiving water quality
3 standards requirements; (c) requirements of standards of performance
4 for new sources; (d) pretreatment requirements; (e) termination and
5 modification of permits for cause; (f) requirements for public notices
6 and opportunities for public hearings; (g) appropriate relationships
7 with the secretary of the army in the administration of his
8 responsibilities which relate to anchorage and navigation, with the
9 administrator of the environmental protection agency in the performance
10 of his duties, and with other governmental officials under the federal
11 clean water act; (h) requirements for inspection, monitoring, entry,
12 and reporting; (i) enforcement of the program through penalties,
13 emergency powers, and criminal sanctions; (j) a continuing planning
14 process; and (k) user charges.

15 (2) The power to establish and administer state programs in a
16 manner which will insure the procurement of moneys, whether in the form
17 of grants, loans, or otherwise; to assist in the construction,
18 operation, and maintenance of various water pollution control
19 facilities and works; and the administering of various state water
20 pollution control management, regulatory, and enforcement programs.

21 (3) The power to develop and implement appropriate programs
22 pertaining to continuing planning processes, area-wide waste treatment
23 management plans, and basin planning.

24 The governor shall have authority to perform those actions required
25 of him or her by the federal clean water act.

26 **Sec. 12.** RCW 90.58.080 and 2007 c 170 s 1 are each amended to read
27 as follows:

28 (1) Local governments shall develop or amend a master program for
29 regulation of uses of the shorelines of the state consistent with the
30 required elements of the guidelines adopted by the department in
31 accordance with the schedule established by this section.

32 (2)(a) Subject to the provisions of subsections (5) and (6) of this
33 section, each local government subject to this chapter shall develop or
34 amend its master program for the regulation of uses of shorelines
35 within its jurisdiction according to the following schedule:

36 (i) On or before December 1, 2005, for the city of Port Townsend,

1 the city of Bellingham, the city of Everett, Snohomish county, and
2 Whatcom county;

3 (ii) On or before December 1, 2009, for King county and the cities
4 within King county greater in population than ten thousand;

5 (iii) Except as provided by (a)(i) and (ii) of this subsection, on
6 or before December 1, 2011, for Clallam, Clark, Jefferson, King,
7 Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the
8 cities within those counties;

9 (iv) On or before December 1, 2012, for Cowlitz, Island, Lewis,
10 Mason, San Juan, Skagit, and Skamania counties and the cities within
11 those counties;

12 (v) On or before December 1, 2013, for Benton, Chelan, Douglas,
13 Grant, Kittitas, Spokane, and Yakima counties and the cities within
14 those counties; and

15 (vi) On or before December 1, 2014, for Adams, Asotin, Columbia,
16 Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan,
17 Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman
18 counties and the cities within those counties.

19 (b) Nothing in this subsection (2) shall preclude a local
20 government from developing or amending its master program prior to the
21 dates established by this subsection (2).

22 (3)(a) Following approval by the department of a new or amended
23 master program, local governments required to develop or amend master
24 programs on or before December 1, 2009, as provided by subsection
25 (2)(a)(i) and (ii) of this section, shall be deemed to have complied
26 with the schedule established by subsection (2)(a)(iii) of this section
27 and shall not be required to complete master program amendments until
28 (~~seven~~) ten years after the applicable dates established by
29 subsection (2)(a)(iii) of this section. Any jurisdiction listed in
30 subsection (2)(a)(i) of this section that has a new or amended master
31 program approved by the department on or after March 1, 2002, but
32 before July 27, 2003, shall not be required to complete master program
33 amendments until (~~seven~~) ten years after the applicable date provided
34 by subsection (2)(a)(iii) of this section.

35 (b) Following approval by the department of a new or amended master
36 program, local governments choosing to develop or amend master programs
37 on or before December 1, 2009, shall be deemed to have complied with
38 the schedule established by subsection (2)(a)(iii) through (vi) of this

1 section and shall not be required to complete master program amendments
2 until (~~seven~~) ten years after the applicable dates established by
3 subsection (2)(a)(iii) through (vi) of this section.

4 (4) Local governments shall conduct a review of their master
5 programs at least once every (~~seven~~) ten years after the applicable
6 dates established by subsection (2)(a)(iii) through (vi) of this
7 section. Following the review required by this subsection (4), local
8 governments shall, if necessary, revise their master programs. The
9 purpose of the review is:

10 (a) To assure that the master program complies with applicable law
11 and guidelines in effect at the time of the review; and

12 (b) To assure consistency of the master program with the local
13 government's comprehensive plan and development regulations adopted
14 under chapter 36.70A RCW, if applicable, and other local requirements.

15 (5) Local governments are encouraged to begin the process of
16 developing or amending their master programs early and are eligible for
17 grants from the department as provided by RCW 90.58.250, subject to
18 available funding. Except for those local governments listed in
19 subsection (2)(a)(i) and (ii) of this section, the deadline for
20 completion of the new or amended master programs shall be two years
21 after the date the grant is approved by the department. Subsequent
22 master program review dates shall not be altered by the provisions of
23 this subsection.

24 (6)(a) Grants to local governments for developing and amending
25 master programs pursuant to the schedule established by this section
26 shall be provided at least two years before the adoption dates
27 specified in subsection (2) of this section. To the extent possible,
28 the department shall allocate grants within the amount appropriated for
29 such purposes to provide reasonable and adequate funding to local
30 governments that have indicated their intent to develop or amend master
31 programs during the biennium according to the schedule established by
32 subsection (2) of this section. Any local government that applies for
33 but does not receive funding to comply with the provisions of
34 subsection (2) of this section may delay the development or amendment
35 of its master program until the following biennium.

36 (b) Local governments with delayed compliance dates as provided in
37 (a) of this subsection shall be the first priority for funding in

1 subsequent biennia, and the development or amendment compliance
2 deadline for those local governments shall be two years after the date
3 of grant approval.

4 (c) Failure of the local government to apply in a timely manner for
5 a master program development or amendment grant in accordance with the
6 requirements of the department shall not be considered a delay
7 resulting from the provisions of (a) of this subsection.

8 (7) Notwithstanding the provisions of this section, all local
9 governments subject to the requirements of this chapter that have not
10 developed or amended master programs on or after March 1, 2002, shall,
11 no later than December 1, 2014, develop or amend their master programs
12 to comply with guidelines adopted by the department after January 1,
13 2003.

14 (8) Local governments may be provided an additional year beyond the
15 deadlines in this section to complete their master program or
16 amendment. The department shall grant the request if it determines
17 that the local government is likely to adopt or amend its master
18 program within the additional year.

19 **Sec. 13.** RCW 90.58.090 and 2003 c 321 s 3 are each amended to read
20 as follows:

21 (1) A master program, segment of a master program, or an amendment
22 to a master program shall become effective when approved by the
23 department or within one hundred eighty days of receipt by the
24 department. The one hundred eighty day time period may be extended for
25 an additional thirty days by the department or at the request of the
26 local government. Within the time period provided in RCW 90.58.080,
27 each local government shall have submitted a master program, either
28 totally or by segments, for all shorelines of the state within its
29 jurisdiction to the department for review and approval.

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

32 (a) Provide notice to and opportunity for written comment by all
33 interested parties of record as a part of the local government review
34 process for the proposal and to all persons, groups, and agencies that
35 have requested in writing notice of proposed master programs or
36 amendments generally or for a specific area, subject matter, or issue.

1 The comment period shall be at least thirty days, unless the department
2 determines that the level of complexity or controversy involved
3 supports a shorter period;

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

7 (c) Within fifteen days after the close of public comment, request
8 the local government to review the issues identified by the public,
9 interested parties, groups, and agencies and provide a written response
10 as to how the proposal addresses the identified issues;

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

23 (e) If the department recommends changes to the proposed master
24 program or amendment, within thirty days after the department mails the
25 written findings and conclusions to the local government, the local
26 government may:

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

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

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

5 (4) The department shall approve the segment of a master program
6 relating to critical areas as defined by RCW 36.70A.030(5) provided the
7 master program segment is consistent with RCW 90.58.020 and applicable
8 shoreline guidelines, and if the segment provides a level of protection
9 of critical areas at least equal to that provided by the local
10 government's critical areas ordinances adopted and thereafter amended
11 pursuant to RCW 36.70A.060(2).

12 (5) The department shall approve those segments of the master
13 program relating to shorelines of statewide significance only after
14 determining the program provides the optimum implementation of the
15 policy of this chapter to satisfy the statewide interest. If the
16 department does not approve a segment of a local government master
17 program relating to a shoreline of statewide significance, the
18 department may develop and by rule adopt an alternative to the local
19 government's proposal.

20 (6) In the event a local government has not complied with the
21 requirements of RCW 90.58.070 it may thereafter upon written notice to
22 the department elect to adopt a master program for the shorelines
23 within its jurisdiction, in which event it shall comply with the
24 provisions established by this chapter for the adoption of a master
25 program for such shorelines.

26 Upon approval of such master program by the department it shall
27 supersede such master program as may have been adopted by the
28 department for such shorelines.

29 (7) A master program or amendment to a master program takes effect
30 when and in such form as approved or adopted by the department.
31 Shoreline master programs that were adopted by the department prior to
32 July 22, 1995, in accordance with the provisions of this section then
33 in effect, shall be deemed approved by the department in accordance
34 with the provisions of this section that became effective on that date.
35 The department shall maintain a record of each master program, the
36 action taken on any proposal for adoption or amendment of the master

1 program, and any appeal of the department's action. The department's
2 approved document of record constitutes the official master program.

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