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HOUSE BILL 1713

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State of Washington

62nd Legislature

2011 Regular Session

By Representatives Upthegrove, Short, Morris, Taylor, Takko, Springer, Smith, Eddy, and McCune

Read first time 01/31/11. Referred to Committee on Environment.

1 AN ACT Relating to modifying the categorical exemptions for  
2 development under the state environmental policy act; adding new  
3 sections to chapter 43.21C RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that for the majority  
6 of new development and redevelopment in Washington, project review  
7 under the state environmental policy act is no longer needed to ensure  
8 high quality environmental outcomes that meet state and local goals,  
9 and that conducting a state environmental policy review can add  
10 unnecessary cost and delay.

11 The legislature further finds that state and local jurisdictions  
12 have adopted a broad array of regulations and programs that have  
13 substantially strengthened protections for the natural and built  
14 environment, including the growth management act, shoreline management  
15 act, and many others. These regulations provide for more effective and  
16 consistent environmental protection within and across jurisdictions.

17 The legislative intent of this act is to preempt selected  
18 categorical exemption levels in WAC 197-11-800, and adopt updated

1 levels in statute. Any levels not preempted under this act remain in  
2 effect.

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

5 (1) The proposed actions contained in this section are  
6 categorically exempt from the requirements of this chapter if the  
7 proposed action is within an urban growth area designated under RCW  
8 36.70A.110. For a specific proposal, the exemptions in subsections (2)  
9 through (7) of this section control, unless the city or county in which  
10 the project is located establishes an alternative exemption level  
11 consistent with section 3 of this act. If the proposed action is  
12 located in more than one city or county, the lower of the agencies'  
13 adopted levels controls regardless of which agency is the lead agency.

14 (2) Except when undertaken wholly or partly on lands covered by  
15 water in a jurisdiction without a valid critical areas code under  
16 chapter 36.70A RCW, the following types of construction are exempt  
17 under subsection (1) of this section:

18 (a) The construction or location of any residential structures of  
19 one hundred dwelling units or fewer;

20 (b) The construction of a barn, loafing shed, farm equipment  
21 storage building, produce storage or packing structure, or similar  
22 agricultural structure, covering up to twenty thousand square feet, and  
23 to be used only by the property owner or the property owner's agent in  
24 the conduct of farming the property. This exemption does not apply to  
25 feed lots;

26 (c) The construction of an office, school, commercial,  
27 recreational, service, or storage building with sixty thousand or fewer  
28 square feet of gross floor area;

29 (d) The construction of a parking lot designed for one hundred  
30 automobiles or fewer;

31 (e) Any landfill or excavation of two thousand five hundred cubic  
32 yards or fewer of disturbed area throughout the total lifetime of the  
33 fill or excavation; and any fill or excavation classified as a Class I,  
34 II, or III forest practice under RCW 76.09.050 or rules adopted to  
35 implement RCW 76.09.050;

36 (f) The construction or installation of minor road and street  
37 improvements, such as: Pavement marking; freeway surveillance and

1 control systems; railroad protective devices, not including grade-  
2 separated crossings; grooving; glare screen; safety barriers; energy  
3 attenuators; transportation corridor landscaping, including the  
4 application of Washington state department of agriculture-approved  
5 herbicides by licensed personnel for right-of-way weed control as long  
6 as this is not within watersheds controlled for the purpose of drinking  
7 water quality; temporary traffic controls and detours; correction of  
8 substandard curves and intersections within existing rights-of-way;  
9 widening of a highway by less than a single lane width and no new  
10 right-of-way is required; adding auxiliary lanes for localized  
11 purposes, such as weaving, climbing, speed change, etc., and no new  
12 right-of-way is required; channelization and elimination of sight  
13 restrictions at intersections; street lighting; guard rails and  
14 barricade installation; installation of catch basins and culverts; and  
15 reconstruction of existing roadbed (existing curb-to-curb in urban  
16 locations), including adding or widening of shoulders, addition of  
17 bicycle lanes, paths and facilities, and pedestrian walks and paths,  
18 but not including additional automobile lanes;

19 (g) Grading, excavating, filling, septic tank installations, and  
20 landscaping necessary for any building or facility exempted under this  
21 section, as well as fencing and the construction of small structures  
22 and minor facilities accessory thereto;

23 (h) The installation of impervious underground tanks having a  
24 capacity of ten thousand gallons or fewer or multiple tanks having a  
25 capacity of one hundred thousand gallons or fewer; and

26 (i) The removal of impervious underground tanks regardless of their  
27 capacity.

28 (3) The exemptions provided in subsection (2)(f) through (i) of  
29 this section apply to all licenses required to undertake the proposed  
30 action, except where a rezone is required.

31 (4) Except when undertaken wholly or partly on lands covered by  
32 water in a jurisdiction without a valid critical areas code under  
33 chapter 36.70A RCW, the repair, remodeling, maintenance, or minor  
34 alteration of existing private or public structures, facilities, or  
35 equipment, including utilities, involving no material expansions are  
36 exempt under subsection (1) of this section.

37 (a) The following maintenance activities are not exempt under this  
38 subsection:

1 (i) Dredging;  
2 (ii) The reconstruction or maintenance of groins and similar  
3 shoreline protection structures;

4 (iii) The replacement of utility cables that must be buried under  
5 the surface of the bedlands; or

6 (iv) The repair or rebuilding of major dams, dikes, and reservoirs.

7 (b) If undertaken wholly or partly on lands covered by water in a  
8 jurisdiction without a valid critical areas code under chapter 36.70A  
9 RCW, only minor repairs or replacement of structures, including the  
10 repair or replacement of piling, ramps, floats, or mooring buoys, or  
11 minor repair, alteration, or maintenance of docks are exempt under  
12 subsection (1) of this section.

13 (5) Except when undertaken on lands covered by water in a  
14 jurisdiction without a valid critical areas code under chapter 36.70A  
15 RCW, the approval of short plats or short subdivisions under RCW  
16 58.17.060 are exempt under subsection (1) of this section. Further  
17 short subdivisions or short platting within a plat or subdivision are  
18 also exempt when the total lots do not exceed nine.

19 (6) All technical codes meeting minimum standards are exempt from  
20 the requirements of this chapter.

21 (7) Except when undertaken wholly or partly on lands covered by  
22 water in a jurisdiction without a valid critical areas code under  
23 chapter 36.70A RCW, the following types of utility-related actions are  
24 exempt under subsection (1) of this section:

25 (a) All storm water, water and sewer facilities, lines, equipment,  
26 hookups, or appurtenances, including, utilizing, or related to lines  
27 twenty-four inches or fewer in diameter.

28 (b) The exemption includes installation and construction,  
29 relocation when required by other governmental bodies, repair,  
30 replacement, maintenance, operation, or alteration, that does not  
31 change the action from an exempt class.

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

34 (1) The proposed actions contained in this section are  
35 categorically exempt from the requirements of this chapter if the  
36 proposed action is within an urban growth area designated under RCW  
37 36.70A.110, and the city or county in which the project is located

1 establishes an exemption level consistent with this section. If a city  
2 or county does not establish an exemption level under this section, the  
3 exemption levels in section 2 of this act apply. If the proposed  
4 action is located in more than one city or county, the lower of the  
5 agencies' adopted levels controls regardless of which agency is the  
6 lead agency.

7 (2) Except when undertaken wholly or partly on lands covered by  
8 water in a jurisdiction without a valid critical areas code under  
9 chapter 36.70A RCW, the following types of construction are exempt  
10 under subsection (1) of this section:

11 (a) The construction or location of any residential structures of  
12 two hundred dwelling units or fewer;

13 (b) The construction of an office, school, commercial,  
14 recreational, service, or storage building with one hundred twenty  
15 thousand or fewer square feet of gross floor area, and with associated  
16 parking facilities designed for four hundred automobiles or fewer;

17 (c) The construction of a parking lot designed for four hundred  
18 automobiles or fewer; and

19 (d) Any landfill or excavation of five thousand cubic yards or  
20 fewer of disturbed area throughout the total lifetime of the fill or  
21 excavation; and any fill or excavation classified as a Class I, II, or  
22 III forest practice under RCW 76.09.050 or rules adopted to implement  
23 RCW 76.09.050.

24 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.21C RCW  
25 to read as follows:

26 (1) The proposed actions contained in this section are  
27 categorically exempt from the requirements of this chapter if the  
28 proposed action is outside an urban growth area and is not on natural  
29 resources lands designated under RCW 36.70A.110. For a specific  
30 proposal, the exemptions in subsections (2) through (7) of this section  
31 control. If the proposed action is located in more than one city or  
32 county, the lower of the agencies' adopted levels controls regardless  
33 of which agency is the lead agency.

34 (2) Except when undertaken wholly or partly on lands covered by  
35 water in a jurisdiction without a valid critical areas code under  
36 chapter 36.70A RCW, the following types of construction are exempt  
37 under subsection (1) of this section:

1 (a) The construction or location of any residential structures of  
2 forty dwelling units or fewer;

3 (b) The construction of a barn, loafing shed, farm equipment  
4 storage building, produce storage or packing structure, or similar  
5 agricultural structure, covering up to twenty thousand square feet, and  
6 to be used only by the property owner or the property owner's agent in  
7 the conduct of farming the property. This exemption does not apply to  
8 feed lots;

9 (c) The construction of an office, school, commercial,  
10 recreational, service, or storage building with twenty-five thousand or  
11 fewer square feet of gross floor area, and with associated parking  
12 facilities designed for eighty automobiles or fewer;

13 (d) The construction of a parking lot designed for eighty  
14 automobiles or fewer;

15 (e) Any landfill or excavation of one thousand cubic yards or fewer  
16 of disturbed area throughout the total lifetime of the fill or  
17 excavation; and any fill or excavation classified as a Class I, II, or  
18 III forest practice under RCW 76.09.050 or rules adopted to implement  
19 RCW 76.09.050;

20 (f) The construction or installation of minor road and street  
21 improvements, such as: Pavement marking; freeway surveillance and  
22 control systems; railroad protective devices, not including grade-  
23 separated crossings; grooving; glare screen; safety barriers; energy  
24 attenuators; transportation corridor landscaping, including the  
25 application of Washington state department of agriculture-approved  
26 herbicides by licensed personnel for right-of-way weed control as long  
27 as this is not within watersheds controlled for the purpose of drinking  
28 water quality; temporary traffic controls and detours; correction of  
29 substandard curves and intersections within existing rights-of-way;  
30 widening of a highway by less than a single lane width and no new  
31 right-of-way is required; adding auxiliary lanes for localized  
32 purposes, such as weaving, climbing, speed change, etc., and no new  
33 right-of-way is required; channelization and elimination of sight  
34 restrictions at intersections; street lighting; guard rails and  
35 barricade installation; installation of catch basins and culverts; and  
36 reconstruction of existing roadbed (existing curb-to-curb in urban  
37 locations), including adding or widening of shoulders, addition of

1 bicycle lanes, paths and facilities, and pedestrian walks and paths,  
2 but not including additional automobile lanes;

3 (g) Grading, excavating, filling, septic tank installations, and  
4 landscaping necessary for any building or facility exempted under this  
5 section, as well as fencing and the construction of small structures  
6 and minor facilities accessory thereto;

7 (h) The installation of impervious underground tanks having a  
8 capacity of ten thousand gallons or fewer or multiple tanks having a  
9 capacity of one hundred thousand gallons or fewer; and

10 (i) The removal of impervious underground tanks regardless of their  
11 capacity.

12 (3) The exemptions provided in subsection (2)(f) through (i) of  
13 this section apply to all licenses required to undertake the proposed  
14 action, except where a rezone is required.

15 (4) Except when undertaken wholly or partly on lands covered by  
16 water in a jurisdiction without a valid critical areas code under  
17 chapter 36.70A RCW, the repair, remodeling, maintenance, or minor  
18 alteration of existing private or public structures, facilities, or  
19 equipment, including utilities, involving no material expansions are  
20 exempt under subsection (1) of this section.

21 (a) The following maintenance activities are not exempt under this  
22 subsection:

23 (i) Dredging;

24 (ii) The reconstruction or maintenance of groins and similar  
25 shoreline protection structures;

26 (iii) The replacement of utility cables that must be buried under  
27 the surface of the bedlands; or

28 (iv) The repair or rebuilding of major dams, dikes, and reservoirs.

29 (b) If undertaken wholly or partly on lands covered by water in a  
30 jurisdiction without a valid critical areas code under chapter 36.70A  
31 RCW, only minor repairs or replacement of structures, including the  
32 repair or replacement of piling, ramps, floats, or mooring buoys, or  
33 minor repair, alteration, or maintenance of docks are exempt under  
34 subsection (1) of this section.

35 (5) Except when undertaken on lands covered by water in a  
36 jurisdiction without a valid critical areas code under chapter 36.70A  
37 RCW, the approval of short plats or short subdivisions under RCW

1 58.17.060 are exempt under subsection (1) of this section. Further  
2 short subdivisions or short platting within a plat or subdivision are  
3 also exempt when the total lots do not exceed nine.

4 (6) All technical codes meeting minimum standards are exempt from  
5 the requirements of this chapter.

6 (7) Except when undertaken wholly or partly on lands covered by  
7 water in a jurisdiction without a valid critical areas code under  
8 chapter 36.70A RCW, the following types of utility-related actions are  
9 exempt under subsection (1) of this section:

10 (a) All storm water, water and sewer facilities, lines, equipment,  
11 hookups, or appurtenances, including, utilizing, or related to lines  
12 twenty-four inches or fewer in diameter.

13 (b) The exemption includes installation and construction,  
14 relocation when required by other governmental bodies, repair,  
15 replacement, maintenance, operation, or alteration, that does not  
16 change the action from an exempt class.

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

19 (1) The proposed actions contained in this section are  
20 categorically exempt from the requirements of this chapter if the  
21 proposed action is within a planning jurisdiction that is partially  
22 planning under chapter 36.70A RCW, the growth management act. For a  
23 specific proposal, the exemption in subsections (2) through (6) of this  
24 section control. If the proposed action is located in more than one  
25 city or county, the lower of the agencies' adopted levels controls  
26 regardless of which agency is the lead agency.

27 (2) Except when undertaken wholly or partly on lands covered by  
28 water, the following types of construction are exempt under subsection  
29 (1) of this section:

30 (a) The construction or location of any residential structures of  
31 twenty dwelling units or fewer;

32 (b) The construction of a barn, loafing shed, farm equipment  
33 storage building, produce storage or packing structure, or similar  
34 agricultural structure, covering up to twenty thousand square feet, and  
35 to be used only by the property owner or the property owner's agent in  
36 the conduct of farming the property. This exemption does not apply to  
37 feed lots;



1 (c) The construction of an office, school, commercial,  
2 recreational, service, or storage building with twelve thousand or  
3 fewer square feet of gross floor area, and with associated parking  
4 facilities designed for forty automobiles or fewer;

5 (d) The construction of a parking lot designed for forty  
6 automobiles or fewer;

7 (e) Any landfill or excavation of five hundred cubic yards or fewer  
8 of disturbed area throughout the total lifetime of the fill or  
9 excavation; and any fill or excavation classified as a Class I, II, or  
10 III forest practice under RCW 76.09.050 or rules adopted to implement  
11 RCW 76.09.050;

12 (f) The construction or installation of minor road and street  
13 improvements, such as: Pavement marking; freeway surveillance and  
14 control systems; railroad protective devices, not including grade-  
15 separated crossings; grooving; glare screen; safety barriers; energy  
16 attenuators; transportation corridor landscaping, including the  
17 application of Washington state department of agriculture-approved  
18 herbicides by licensed personnel for right-of-way weed control as long  
19 as this is not within watersheds controlled for the purpose of drinking  
20 water quality; temporary traffic controls and detours; correction of  
21 substandard curves and intersections within existing rights-of-way;  
22 widening of a highway by less than a single lane width and no new  
23 right-of-way is required; adding auxiliary lanes for localized  
24 purposes, such as weaving, climbing, speed change, etc., and no new  
25 right-of-way is required; channelization and elimination of sight  
26 restrictions at intersections; street lighting; guard rails and  
27 barricade installation; installation of catch basins and culverts; and  
28 reconstruction of existing roadbed (existing curb-to-curb in urban  
29 locations), including adding or widening of shoulders, addition of  
30 bicycle lanes, paths and facilities, and pedestrian walks and paths,  
31 but not including additional automobile lanes;

32 (g) Grading, excavating, filling, septic tank installations, and  
33 landscaping necessary for any building or facility exempted under this  
34 section, as well as fencing and the construction of small structures  
35 and minor facilities accessory thereto; and

36 (h) The removal and replacement of existing impervious underground  
37 tanks regardless of their capacity.

1 (3) The exemptions provided in subsection (2)(f) through (h) of  
2 this section apply to all licenses required to undertake the proposed  
3 action, except where a rezone is required.

4 (4) Except when undertaken wholly or partly on lands covered by  
5 water, the following types of construction are exempt under subsection  
6 (1) of this section:

7 (a) The repair, remodeling, maintenance, or minor alteration of  
8 existing private or public structures, facilities, or equipment,  
9 including utilities, involving no material expansions;

10 (b) The following maintenance activities are not exempt under this  
11 subsection:

12 (i) Dredging;

13 (ii) The reconstruction or maintenance of groins and similar  
14 shoreline protection structures;

15 (iii) The replacement of utility cables that must be buried under  
16 the surface of the bedlands; or

17 (iv) The repair or rebuilding of major dams, dikes, and reservoirs.

18 (5) All technical codes meeting minimum standards are exempt from  
19 the requirements of this chapter.

20 (6) Except when undertaken wholly or partly on lands covered by  
21 water, the following types of utility-related actions are exempt under  
22 subsection (1) of this section:

23 (a) All storm water, water and sewer facilities, lines, equipment,  
24 hookups, or appurtenances, including, utilizing, or related to lines  
25 twenty-four inches or fewer in diameter.

26 (b) The exemption includes installation and construction,  
27 relocation when required by other governmental bodies, repair,  
28 replacement, maintenance, operation, or alteration, that does not  
29 change the action from an exempt class.

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

32 A city or county may establish an alternative exemption level  
33 consistent with this section. A city or county may set lower exemption  
34 levels for a portion of their jurisdiction or for a specific issue or  
35 subject area if the city or county finds that the local development

1 code is not fully sufficient to mitigate the impacts of development or  
2 redevelopment.

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