
HOUSE BILL 2694

State of Washington 62nd Legislature 2012 Regular Session

By Representatives Fitzgibbon and Santos

Read first time 01/25/12. Referred to Committee on Local Government.

1 AN ACT Relating to incentivizing upfront environmental planning and
2 review; amending RCW 36.70A.490, 36.70A.500, and 82.02.020; and adding
3 a new section to chapter 82.02 RCW.

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

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

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

16 **Sec. 2.** RCW 36.70A.500 and 1997 c 429 s 28 are each amended to
17 read as follows:

18 (1) The department of (~~community, trade, and economic~~

1 development)) commerce shall provide management services for the growth
2 management planning and environmental review fund created by RCW
3 36.70A.490. The department shall establish procedures for fund
4 management. The department shall encourage participation in the grant
5 or loan program by other public agencies. The department shall develop
6 the grant or loan criteria, monitor the grant or loan program, and
7 select grant or loan recipients in consultation with state agencies
8 participating in the grant or loan program through the provision of
9 grant or loan funds or technical assistance.

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

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

20 (b) Encourages use of plans and information developed for purposes
21 of complying with this chapter to satisfy requirements of other state
22 programs.

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

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

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

35 (c) Demonstrate that procedures for review of development permit
36 applications will be based on the integrated plans and environmental
37 analysis;

1 (d) Include mechanisms to monitor the consequences of growth as it
2 occurs in the plan area and to use the resulting data to update the
3 plan, policy, or implementing mechanisms and associated environmental
4 analysis;

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

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

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

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

16 (b) Identification and monitoring of system capacities for elements
17 of the built environment, and to the extent appropriate, of the natural
18 environment;

19 (c) Coordination with state, federal, and tribal governments in
20 project review;

21 (d) Furtherance of important state objectives related to economic
22 development, protection of areas of statewide significance, and siting
23 of essential public facilities;

24 (e) Programs to improve the efficiency and effectiveness of the
25 permitting process by greater reliance on integrated plans and
26 prospective environmental analysis;

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

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

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

37 (5) If the local funding includes funding provided by other state

1 functional planning programs, including open space planning and
2 watershed or basin planning, the functional plan shall be integrated
3 into and be consistent with the comprehensive plan.

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

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.02 RCW
8 to read as follows:

9 (1) The legislature finds that:

10 (a) Detailed environmental analysis integrated with comprehensive
11 plans, subarea plans, and development regulations will facilitate
12 planning for and managing growth, allow greater protection of the
13 environment, and benefit both the general public and private property
14 owners;

15 (b) Compact development in urban growth areas, or transfer of
16 development rights programs, will assist in the conservation of rural,
17 agricultural, and forest land by redirecting growth from this land to
18 areas designated for compact development or receiving areas in cities
19 and towns where growth should occur;

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

22 (d) Planning for compact or increased growth in urban growth areas,
23 or receiving areas under chapter 43.362 RCW in compliance with chapter
24 43.21C RCW, presents a financial burden on cities and towns;

25 (e) Planning for compact or increased growth in urban growth areas,
26 or receiving areas under chapter 43.362 RCW in compliance with chapter
27 43.21C RCW, should be encouraged to ensure that the quality of life in
28 receiving neighborhoods and the protection of environmental values over
29 time are maintained by providing financial assistance through the
30 growth management planning and environmental review fund created in RCW
31 36.70A.490;

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

36 (g) Counties, cities, and towns will have the ability to repay
37 loans from the growth management planning and environmental review fund

1 created in RCW 36.70A.490, or recoup their own costs associated with
2 environmental review conducted at a comprehensive plan or subarea plan
3 level, with fees they collect from developers who will benefit from the
4 environmental review that the city or county has already conducted
5 under chapter 43.21C RCW on a comprehensive plan or subarea plan, or in
6 conjunction with the designation of a receiving area under chapter
7 43.362 RCW, and that addresses the impacts of compact development or
8 projects using transferable development rights.

9 (2) Counties, cities, and towns that conduct detailed environmental
10 review under chapter 43.21C RCW, integrated with a comprehensive plan
11 or subarea plan within urban growth areas, are authorized to impose
12 environmental fees on development activity as part of the financing for
13 environmental review conducted under chapter 43.21C RCW on a
14 comprehensive plan or subarea plan.

15 (3) The environmental fees:

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

18 (b) May not exceed the proportionate share of the costs of
19 environmental review conducted for a comprehensive plan or subarea
20 plan; and

21 (c) May, if applicable, be used to repay a loan from the growth
22 management planning and environmental review fund created in RCW
23 36.70A.490.

24 **Sec. 4.** RCW 82.02.020 and 2010 c 153 s 3 are each amended to read
25 as follows:

26 Except only as expressly provided in chapters 67.28, 81.104, and
27 82.14 RCW, the state preempts the field of imposing retail sales and
28 use taxes and taxes upon parimutuel wagering authorized pursuant to RCW
29 67.16.060, conveyances, and cigarettes, and no county, town, or other
30 municipal subdivision shall have the right to impose taxes of that
31 nature. Except as provided in RCW 64.34.440, section 3 of this act,
32 and RCW 82.02.050 through 82.02.090, no county, city, town, or other
33 municipal corporation shall impose any tax, fee, or charge, either
34 direct or indirect, on the construction or reconstruction of
35 residential buildings, commercial buildings, industrial buildings, or
36 on any other building or building space or appurtenance thereto, or on
37 the development, subdivision, classification, or reclassification of

1 land. However, this section does not preclude dedications of land or
2 easements within the proposed development or plat which the county,
3 city, town, or other municipal corporation can demonstrate are
4 reasonably necessary as a direct result of the proposed development or
5 plat to which the dedication of land or easement is to apply.

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

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

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

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

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

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

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

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

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

17 Nothing in this section prohibits counties, cities, or towns from
18 imposing transportation impact fees authorized pursuant to chapter
19 39.92 RCW.

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

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

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

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