CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 1478

62nd Legislature
2011 Regular Session

Passed by the House April 22, 2011
Yeas 90 Nays 6

Speaker of the House of Representatives

Passed by the Senate April 22, 2011
Yeas 33 Nays 13

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1478** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

Secretary of State
State of Washington

ENGROSSED SUBSTITUTE HOUSE BILL 1478

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 2011 Regular Session

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.

AN ACT Relating to fiscal relief for cities and counties during periods of economic downturn by delaying or modifying certain regulatory and statutory requirements; amending RCW 36.70A.215, 43.19.648, 43.325.080, 43.185C.210, 46.68.113, 82.02.070, 82.02.080, 82.14.415, 90.46.015, 90.48.260, 90.58.080, and 90.58.090; reenacting and amending RCW 36.70A.130; and creating a new section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, ((~~at least every ten years~~)) according to the schedules established in subsection (5) of this section, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) A city that is subject to a deadline established in subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the deadline established in subsection (4) of this section: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the deadline established in subsection (4) of this section as of that date.

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

(e) A county that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

(f) A city that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

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

(7)(a) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the

terms of RCW 36.70A.040(1). Only those counties and cities that meet the following criteria may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70.146 RCW:

(i) Complying with the deadlines in this section;

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

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

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

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

(1) Subject to the limitations in subsection (7) of this section, a county shall adopt, in consultation with its cities, countywide planning policies to establish a review and evaluation program. This program shall be in addition to the requirements of RCW 36.70A.110, 36.70A.130, and 36.70A.210. In developing and implementing the review and evaluation program required by this section, the county and its cities shall consider information from other appropriate jurisdictions and sources. The purpose of the review and evaluation program shall be to:

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

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

(2) The review and evaluation program shall:

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

(b) Provide for evaluation of the data collected under (a) of this subsection ((~~every five years~~)) as provided in subsection (3) of this section. ((~~The first evaluation shall be completed not later than September 1, 2002.~~)) The evaluation shall be completed no later than one year prior to the deadline for review and, if necessary, update of comprehensive plans and development regulations as required by RCW 36.70A.130. The county and its cities may establish in the countywide planning policies indicators, benchmarks, and other similar criteria to use in conducting the evaluation;

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

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

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

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

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

(c) Based on the actual density of development as determined under (b) of this subsection, review commercial, industrial, and housing needs by type and density range to determine the amount of land needed

for commercial, industrial, and housing for the remaining portion of the twenty-year planning period used in the most recently adopted comprehensive plan.

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

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

(b) By December 31, 2007, the department shall submit to the appropriate committees of the legislature a report analyzing the effectiveness of the activities described in this section in achieving the goals envisioned by the countywide planning policies and the comprehensive plans and development regulations of the counties and cities.

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

(7) The provisions of this section shall apply to counties, and the cities within those counties, that were greater than one hundred fifty thousand in population in 1995 as determined by office of financial management population estimates and that are located west of the crest

of the Cascade mountain range. Any other county planning under RCW 36.70A.040 may carry out the review, evaluation, and amendment programs and procedures as provided in this section.

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

(1) Effective June 1, 2015, all state agencies ((~~and local government subdivisions of the state~~)), to the extent determined practicable by the rules adopted by the department of ((~~community, trade, and economic development~~)) commerce pursuant to RCW 43.325.080, are required to satisfy one hundred percent of their fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel.

(2) Effective June 1, 2018, all local government subdivisions of the state, to the extent determined practicable by the rules adopted by the department of commerce pursuant to RCW 43.325.080, are required to satisfy one hundred percent of their fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel.

(3) In order to phase in this transition for the state, all state agencies, to the extent determined practicable by the department of ((~~community, trade, and economic development~~)) commerce by rules adopted pursuant to RCW 43.325.080, are required to achieve forty percent fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel by June 1, 2013. The department of general administration, in consultation with the department of ((~~community, trade, and economic development~~)) commerce, shall report to the governor and the legislature by December 1, 2013, on what percentage of the state's fuel usage is from electricity or biofuel.

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

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

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

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

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

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

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

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

(1) By June 1, 2010, the department shall adopt rules to define practicability and clarify how state agencies ((~~and local government subdivisions~~)) will be evaluated in determining whether they have met the goals set out in RCW 43.19.648(1). At a minimum, the rules must address:

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

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

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

(2) By June 1, 2015, the department shall adopt rules to define practicability and clarify how local government subdivisions of the state will be evaluated in determining whether they have met the goals set out in RCW 43.19.648(2). At a minimum, the rules must address:

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

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

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

Sec. 6. RCW 43.185C.210 and 2008 c 256 s 1 are each amended to read as follows:

(1) The transitional housing operating and rent program is created in the department to assist individuals and families who are homeless or who are at risk of becoming homeless to secure and retain safe, decent, and affordable housing. The department shall provide grants to eligible organizations, as described in RCW 43.185.060, to provide assistance to program participants. The eligible organizations must use grant moneys for:

(a) Rental assistance, which includes security or utility deposits, first and last month's rent assistance, and eligible moving expenses to be determined by the department;

(b) Case management services designed to assist program participants to secure and retain immediate housing and to transition into permanent housing and greater levels of self-sufficiency;

(c) Operating expenses of transitional housing facilities that serve homeless families with children; and

(d) Administrative costs of the eligible organization, which must not exceed limits prescribed by the department.

(2) Eligible to receive assistance through the transitional housing operating and rent program are:

(a) Families with children who are homeless or who are at risk of becoming homeless and who have household incomes at or below fifty percent of the median household income for their county;

(b) Families with children who are homeless or who are at risk of becoming homeless and who are receiving services under chapter 13.34 RCW;

(c) Individuals or families without children who are homeless or at risk of becoming homeless and who have household incomes at or below thirty percent of the median household income for their county;

(d) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult member who has a mental health or chemical dependency disorder; and

(e) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult member who is an offender released from confinement within the past eighteen months.

(3) All program participants must be willing to create and actively participate in a housing stability plan for achieving permanent housing and greater levels of self-sufficiency.

(4) Data on all program participants must be entered into and tracked through the Washington homeless client management information system as described in RCW 43.185C.180. For eligible organizations serving victims of domestic violence or sexual assault, compliance with this subsection must be accomplished in accordance with 42 U.S.C. Sec. 11383(a)(8).

(5)(a) Except as provided in (b) of this subsection, beginning in 2011, each eligible organization receiving over five hundred thousand dollars during the previous calendar year from the transitional housing operating and rent program and from sources including: ((~~(a)~~)) (i) State housing-related funding sources; ((~~(b)~~)) (ii) the affordable housing for all surcharge in RCW 36.22.178; ((~~(c)~~)) (iii) the home security fund surcharges in RCW 36.22.179 and 36.22.1791; and ((~~(d)~~)) (iv) any other surcharge imposed under chapter 36.22 or 43.185C RCW to fund homelessness programs or other housing programs, shall apply to the Washington state quality award program for an independent assessment of its quality management, accountability, and performance system, once every three years.

(b) Cities and counties are exempt from the provisions of (a) of this subsection until 2018.

(6) The department may develop rules, requirements, procedures, and guidelines as necessary to implement and operate the transitional housing operating and rent program.

(7) The department shall produce an annual transitional housing operating and rent program report that must be included in the department's homeless housing strategic plan as described in RCW 43.185C.040. The report must include performance measures to be determined by the department that address, at a minimum, the following issue areas:

(a) The success of the program in helping program participants transition into permanent affordable housing and achieve self-sufficiency or increase their levels of self-sufficiency, which shall be defined by the department based upon the costs of living, including housing costs, needed to support: (i) One adult individual; and (ii) two adult individuals and one preschool-aged child and one school-aged child;

(b) The financial performance of the program related to efficient program administration by the department and program operation by selected eligible organizations, including an analysis of the costs per program participant served;

(c) The quality, completeness, and timeliness of the information on program participants provided to the Washington homeless client management information system database; and

(d) The satisfaction of program participants in the assistance provided through the program.

Sec. 7. RCW 46.68.113 and 2006 c 334 s 21 are each amended to read as follows:

During the ((~~2003-2005~~)) 2013-2015 biennium, cities and towns shall provide to the transportation commission, or its successor entity, preservation rating information on at least seventy percent of the total city and town arterial network. Thereafter, the preservation rating information requirement shall increase in five percent increments in subsequent biennia, but in no case shall it exceed eighty percent. The rating system used by cities and towns must be based upon the Washington state pavement rating method or an equivalent standard

approved by the department of transportation. Beginning January 1, 2007, the preservation rating information shall be submitted to the department.

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

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

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

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

(b) School impact fees must be expended or encumbered for a permissible use within ten years of receipt, unless there exists an extraordinary and compelling reason for fees to be held longer than ten years. Such extraordinary or compelling reasons shall be identified in written findings by the governing body of the county, city, or town.

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

(5) Each county, city, or town that imposes impact fees shall provide for an administrative appeals process for the appeal of an impact fee; the process may follow the appeal process for the underlying development approval or the county, city, or town may establish a separate appeals process. The impact fee may be modified

upon a determination that it is proper to do so based on principles of fairness. The county, city, or town may provide for the resolution of disputes regarding impact fees by arbitration.

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

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

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

(2) When a county, city, or town seeks to terminate any or all impact fee requirements, all unexpended or unencumbered funds, including interest earned, shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the county, city, or town shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first-class mail to the last known address of claimants. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the local government, but must be expended for the indicated public facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within an account or accounts being terminated.

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

Sec. 10. RCW 82.14.415 and 2009 c 550 s 1 are each amended to read as follows:

(1) The legislative authority of any city that is located in a county with a population greater than six hundred thousand that annexes an area consistent with its comprehensive plan required by chapter 36.70A RCW((~~,~~)) may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to other taxes authorized by law and ((~~shall be~~)) is collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the city. The tax may only be imposed by a city if:

(a) The city has commenced annexation of an area having a population of at least ten thousand people, or four thousand in the case of a city described under subsection (3)(a)(i) of this section, prior to January 1, 2015; and

(b) The city legislative authority determines by resolution or ordinance that the projected cost to provide municipal services to the annexation area exceeds the projected general revenue that the city would otherwise receive from the annexation area on an annual basis.

(2) The tax authorized under this section is a credit against the state tax under chapter 82.08 or 82.12 RCW. The department of revenue ((~~shall~~)) must perform the collection of such taxes on behalf of the city at no cost to the city and ((~~shall~~)) must remit the tax to the city as provided in RCW 82.14.060.

(3)(a) Except as provided in (b) of this subsection, the maximum rate of tax any city may impose under this section is:

(i) 0.1 percent for each annexed area in which the population is greater than ten thousand and less than twenty thousand. The ten thousand population threshold in this subsection (3)(a)(i) is four thousand for a city with a population between one hundred fifteen thousand and one hundred forty thousand and located within a county with a population over one million five hundred thousand; and

(ii) 0.2 percent for an annexed area in which the population is greater than twenty thousand.

(b) Beginning July 1, 2011, the maximum rate of tax imposed under this section is 0.85 percent for an annexed area in which the population is greater than ((~~eighteen~~)) sixteen thousand if the annexed area was, prior to November 1, 2008, officially designated as a potential annexation area by more than one city, one of which has a population greater than four hundred thousand.

(4)(a) Except as provided in (b) of this subsection, the maximum cumulative rate of tax a city may impose under subsection (3)(a) of this section is 0.2 percent for the total number of annexed areas the city may annex.

(b) The maximum cumulative rate of tax a city may impose under subsection (3)(a) of this section is 0.3 percent, beginning July 1, 2011, if the city commenced annexation of an area, prior to January 1, 2010, that would have otherwise allowed the city to increase the rate of tax imposed under this section absent the rate limit imposed in (a) of this subsection.

(c) The maximum cumulative rate of tax a city may impose under subsection (3)(b) of this section is 0.85 percent for the single annexed area the city may annex and the amount of tax distributed to a city under subsection (3)(b) of this section ((~~shall~~)) may not exceed five million dollars per fiscal year.

(5) The tax imposed by this section ((~~shall~~)) may only be imposed at the beginning of a fiscal year and ((~~shall~~)) may continue for no more than ten years from the date that each increment of the tax is first imposed. Tax rate increases due to additional annexed areas ((~~shall be~~)) are effective on July 1st of the fiscal year following the fiscal year in which the annexation occurred, provided that notice is given to the department as set forth in subsection (9) of this section.

(6) All revenue collected under this section ((~~shall~~)) may be used solely to provide, maintain, and operate municipal services for the annexation area.

(7) The revenues from the tax authorized in this section may not exceed that which the city deems necessary to generate revenue equal to the difference between the city's cost to provide, maintain, and operate municipal services for the annexation area and the general revenues that the cities would otherwise expect to receive from the annexation during a year. If the revenues from the tax authorized in this section and the revenues from the annexation area exceed the costs

to the city to provide, maintain, and operate municipal services for the annexation area during a given year, the city ((~~shall~~)) must notify the department and the tax distributions authorized in this section ((~~shall~~)) must be suspended for the remainder of the year.

(8) No tax may be imposed under this section before July 1, 2007. Before imposing a tax under this section, the legislative authority of a city ((~~shall~~)) must adopt an ordinance that includes the following:

(a) A certification that the amount needed to provide municipal services to the annexed area reflects the city's true and actual costs;

(b) The rate of tax under this section that ((~~shall be~~)) is imposed within the city; and

(c) The threshold amount for the first fiscal year following the annexation and passage of the ordinance.

(9) The tax ((~~shall~~)) must cease to be distributed to the city for the remainder of the fiscal year once the threshold amount has been reached. No later than March 1st of each year, the city ((~~shall~~)) must provide the department with a certification of the city's true and actual costs to provide municipal services to the annexed area, a new threshold amount for the next fiscal year, and notice of any applicable tax rate changes. Distributions of tax under this section ((~~shall~~)) must begin again on July 1st of the next fiscal year and continue until the new threshold amount has been reached or June 30th, whichever is sooner. Any revenue generated by the tax in excess of the threshold amount ((~~shall~~)) belongs to the state of Washington. Any amount resulting from the threshold amount less the total fiscal year distributions, as of June 30th, ((~~shall~~)) may not be carried forward to the next fiscal year.

(10) The tax ((~~shall~~)) must cease to be distributed to a city imposing the tax under subsection (3)(b) of this section for the remainder of the fiscal year, if the total distributions to the city imposing the tax exceed five million dollars for the fiscal year.

(11) The resident population of the annexation area must be determined in accordance with chapter 35.13 or 35A.14 RCW.

(12) The following definitions apply throughout this section unless the context clearly requires otherwise:

(a) "Annexation area" means an area that has been annexed to a city under chapter 35.13 or 35A.14 RCW. "Annexation area" includes all territory described in the city resolution.

(b) "Commenced annexation" means the initiation of annexation proceedings has taken place under the direct petition method or the election method under chapter 35.13 or 35A.14 RCW.

(c) "Department" means the department of revenue.

(d) "Municipal services" means those services customarily provided to the public by city government.

(e) "Fiscal year" means the year beginning July 1st and ending the following June 30th.

(f) "Potential annexation area" means one or more geographic areas that a city has officially designated for potential future annexation, as part of its comprehensive plan adoption process under the state growth management act, chapter 36.70A RCW.

(g) "Threshold amount" means the maximum amount of tax distributions as determined by the city in accordance with subsection (7) of this section that the department ((~~shall~~)) must distribute to the city generated from the tax imposed under this section in a fiscal year.

Sec. 11. RCW 90.46.015 and 2009 c 456 s 2 are each amended to read as follows:

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

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

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

Sec. 12. RCW 90.48.260 and 2007 c 341 s 55 are each amended to read as follows:

(1) The department of ecology is hereby designated as the state water pollution control agency for all purposes of the federal clean water act as it exists on February 4, 1987, and is hereby authorized to participate fully in the programs of the act as well as to take all action necessary to secure to the state the benefits and to meet the requirements of that act. With regard to the national estuary program established by section 320 of that act, the department shall exercise its responsibility jointly with the Puget Sound partnership, created in RCW 90.71.210. The department of ecology may delegate its authority under this chapter, including its national pollutant discharge elimination permit system authority and duties regarding animal feeding operations and concentrated animal feeding operations, to the department of agriculture through a memorandum of understanding. Until any such delegation receives federal approval, the department of agriculture's adoption or issuance of animal feeding operation and concentrated animal feeding operation rules, permits, programs, and directives pertaining to water quality shall be accomplished after reaching agreement with the director of the department of ecology. Adoption or issuance and implementation shall be accomplished so that compliance with such animal feeding operation and concentrated animal feeding operation rules, permits, programs, and directives will achieve compliance with all federal and state water pollution control laws. The powers granted herein include, among others, and notwithstanding any other provisions of chapter 90.48 RCW or otherwise, the following:

((~~(1)~~)) (a) Complete authority to establish and administer a comprehensive state point source waste discharge or pollution discharge elimination permit program which will enable the department to qualify for full participation in any national waste discharge or pollution discharge elimination permit system and will allow the department to be the sole agency issuing permits required by such national system operating in the state of Washington subject to the provisions of RCW 90.48.262(2). Program elements authorized herein may include, but are

not limited to: ((~~(a)~~)) (i) Effluent treatment and limitation requirements together with timing requirements related thereto; ((~~(b)~~)) (ii) applicable receiving water quality standards requirements; ((~~(c)~~)) (iii) requirements of standards of performance for new sources; ((~~(d)~~)) (iv) pretreatment requirements; ((~~(e)~~)) (v) termination and modification of permits for cause; ((~~(f)~~)) (vi) requirements for public notices and opportunities for public hearings; ((~~(g)~~)) (vii) appropriate relationships with the secretary of the army in the administration of his responsibilities which relate to anchorage and navigation, with the administrator of the environmental protection agency in the performance of his duties, and with other governmental officials under the federal clean water act; ((~~(h)~~)) (viii) requirements for inspection, monitoring, entry, and reporting; ((~~(i)~~)) (ix) enforcement of the program through penalties, emergency powers, and criminal sanctions; ((~~(j)~~)) (x) a continuing planning process; and ((~~(k)~~)) (xi) user charges.

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

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

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

(2) By July 31, 2012, the department shall:

(a) Reissue without modification and for a term of one year any national pollutant discharge elimination system municipal storm water general permit first issued on January 17, 2007; and

(b) Issue an updated national pollutant discharge elimination system municipal storm water general permit for any permit first issued on January 17, 2007. An updated permit issued under this subsection shall become effective beginning August 1, 2013.

Sec. 13. RCW 90.58.080 and 2007 c 170 s 1 are each amended to read as follows:

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

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

(i) On or before December 1, 2005, for the city of Port Townsend, the city of Bellingham, the city of Everett, Snohomish county, and Whatcom county;

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

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

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

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

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

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

(3)(a) Following approval by the department of a new or amended master program, local governments required to develop or amend master programs on or before December 1, 2009, as provided by subsection (2)(a)(i) and (ii) of this section, shall be deemed to have complied with the schedule established by subsection (2)(a)(iii) of this section and shall not be required to complete master program amendments until ((~~seven years after~~)) the applicable dates established by subsection ((~~(2)(a)(iii)~~)) (4)(b) of this section. Any jurisdiction listed in

subsection (2)(a)(i) of this section that has a new or amended master program approved by the department on or after March 1, 2002, but before July 27, 2003, shall not be required to complete master program amendments until ((~~seven years after~~)) the applicable date provided by subsection ((~~(2)(a)(iii)~~)) (4)(b) of this section.

(b) Following approval by the department of a new or amended master program, local governments choosing to develop or amend master programs on or before December 1, 2009, shall be deemed to have complied with the schedule established by subsection (2)(a)(iii) through (vi) of this section and shall not be required to complete master program amendments until ((~~seven years after~~)) the applicable dates established by subsection ((~~(2)(a)(iii) through (vi)~~)) (4)(b) of this section.

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

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

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

(b) Counties and cities shall take action to review and, if necessary, revise their master programs as required by (a) of this subsection as follows:

(i) On or before June 30, 2019, and every eight years thereafter, for King, Pierce, and Snohomish counties and the cities within those counties;

(ii) On or before June 30, 2020, and every eight years thereafter, for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(iii) On or before June 30, 2021, and every eight years thereafter, for Benton, Chelan, Cowlitz, Douglas, Grant, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties; and

(iv) On or before June 30, 2022, and every eight years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

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

(6) In meeting the update requirements of subsection (2) of this section, the following shall apply:

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

(b) Local governments with delayed compliance dates as provided in (a) of this subsection shall be the first priority for funding in subsequent biennia, and the development or amendment compliance deadline for those local governments shall be two years after the date of grant approval.

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

(7) ((~~Notwithstanding the provisions~~)) In meeting the update requirements of subsection (2) of this section, all local governments subject to the requirements of this chapter that have not developed or amended master programs on or after March 1, 2002, shall, no later than December 1, 2014, develop or amend their master programs to comply with guidelines adopted by the department after January 1, 2003.

(8) In meeting the update requirements of subsection (2) of this section, local governments may be provided an additional year beyond the deadlines in this section to complete their master program or amendment. The department shall grant the request if it determines that the local government is likely to adopt or amend its master program within the additional year.

Sec. 14. RCW 90.58.090 and 2003 c 321 s 3 are each amended to read as follows:

(1) A master program, segment of a master program, or an amendment to a master program shall become effective when approved by the department. Within the time period provided in RCW 90.58.080, each local government shall have submitted a master program, either totally or by segments, for all shorelines of the state within its jurisdiction to the department for review and approval.

The department shall strive to achieve final action on a submitted master program within one hundred eighty days of receipt and shall post an annual assessment related to this performance benchmark on the agency web site.

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

(a) Provide notice to and opportunity for written comment by all interested parties of record as a part of the local government review process for the proposal and to all persons, groups, and agencies that have requested in writing notice of proposed master programs or amendments generally or for a specific area, subject matter, or issue. The comment period shall be at least thirty days, unless the department determines that the level of complexity or controversy involved supports a shorter period;

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

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

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

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

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

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

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

(4) The department shall approve the segment of a master program relating to critical areas as defined by RCW 36.70A.030(5) provided the

master program segment is consistent with RCW 90.58.020 and applicable shoreline guidelines, and if the segment provides a level of protection of critical areas at least equal to that provided by the local government's critical areas ordinances adopted and thereafter amended pursuant to RCW 36.70A.060(2).

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

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

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

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

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