
ENGROSSED SUBSTITUTE HOUSE BILL 1478

State of Washington

62nd Legislature

2011 Regular Session

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

READ FIRST TIME 02/15/11.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (b) On or before (~~December 1, 2015~~) June 30, 2016, and every
12 (~~seven~~) ten years thereafter, for (~~Cowlitz, Island, Lewis~~) Kitsap,
13 (~~Mason, San Juan, Skagit,~~) Pierce, Snohomish, and (~~Skamania~~)
14 Thurston counties and the cities within those counties;

15 (c) On or before (~~December 1, 2016~~) June 30, 2017, and every
16 (~~seven~~) ten years thereafter, for (~~Benton, Chelan, Douglas, Grant,~~
17 ~~Kittitas~~) Clallam, Island, Jefferson, Mason, San Juan, Skagit,
18 Spokane, and (~~Yakima~~) Whatcom counties and the cities within those
19 counties; (~~and~~)

20 (d) On or before (~~December 1, 2017~~) June 30, 2018, and every
21 (~~seven~~) ten years thereafter, for (~~Adams, Asotin, Columbia, Ferry,~~
22 ~~Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan,~~
23 ~~Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman~~)
24 Benton, Chelan, Cowlitz, Douglas, Grant, Kittitas, Lewis, Skamania, and
25 Yakima counties and the cities within those counties; and

26 (e) On or before June 30, 2019, and every ten years thereafter, for
27 Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor,
28 Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens,
29 Wahkiakum, Walla Walla, and Whitman counties and the cities within
30 those counties.

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

37 (b) A county that is subject to a deadline established in
38 subsection (4)(b) through (d) of this section and meets the following

1 criteria may comply with the requirements of this section at any time
2 within the thirty-six months following the deadline established in
3 subsection (4) of this section: The county has a population of less
4 than fifty thousand and has had its population increase by no more than
5 seventeen percent in the ten years preceding the deadline established
6 in subsection (4) of this section as of that date.

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

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

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

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

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

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

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

36 (b) A county or city that is fewer than twelve months out of
37 compliance with the schedules in this section for development
38 regulations that protect critical areas is making substantial progress

1 towards compliance. Only those counties and cities in compliance with
2 the schedules in this section may receive preference for grants or
3 loans subject to the provisions of RCW 43.17.250.

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

6 (1) Subject to the limitations in subsection (7) of this section,
7 a county shall adopt, in consultation with its cities, countywide
8 planning policies to establish a review and evaluation program. This
9 program shall be in addition to the requirements of RCW 36.70A.110,
10 36.70A.130, and 36.70A.210. In developing and implementing the review
11 and evaluation program required by this section, the county and its
12 cities shall consider information from other appropriate jurisdictions
13 and sources. The purpose of the review and evaluation program shall be
14 to:

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

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

24 (2) The review and evaluation program shall:

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

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

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

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

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

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

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

21 (c) Based on the actual density of development as determined under
22 (b) of this subsection, review commercial, industrial, and housing
23 needs by type and density range to determine the amount of land needed
24 for commercial, industrial, and housing for the remaining portion of
25 the twenty-year planning period used in the most recently adopted
26 comprehensive plan.

27 (4) If the evaluation required by subsection (3) of this section
28 demonstrates an inconsistency between what has occurred since the
29 adoption of the countywide planning policies and the county and city
30 comprehensive plans and development regulations and what was envisioned
31 in those policies and plans and the planning goals and the requirements
32 of this chapter, as the inconsistency relates to the evaluation factors
33 specified in subsection (3) of this section, the county and its cities
34 shall adopt and implement measures that are reasonably likely to
35 increase consistency during the subsequent five-year period. If
36 necessary, a county, in consultation with its cities as required by RCW
37 36.70A.210, shall adopt amendments to countywide planning policies to

1 increase consistency. The county and its cities shall annually monitor
2 the measures adopted under this subsection to determine their effect
3 and may revise or rescind them as appropriate.

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

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

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

20 (7) The provisions of this section shall apply to counties, and the
21 cities within those counties, that were greater than one hundred fifty
22 thousand in population in 1995 as determined by office of financial
23 management population estimates and that are located west of the crest
24 of the Cascade mountain range. However, the provisions of this section
25 shall not apply to any city with a population of ten thousand
26 inhabitants or fewer. Any other county planning under RCW 36.70A.040
27 may carry out the review, evaluation, and amendment programs and
28 procedures as provided in this section.

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

31 (1) Except as provided in subsection (2) of this section, effective
32 June 1, 2015, all state agencies and local government subdivisions of
33 the state, to the extent determined practicable by the rules adopted by
34 the department of ((community, - trade, - and - economic - development))
35 commerce pursuant to RCW 43.325.080, are required to satisfy one
36 hundred percent of their fuel usage for operating publicly owned

1 vessels, vehicles, and construction equipment from electricity or
2 biofuel.

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

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

20 (~~(3)~~) (4) Except for cars owned or operated by the Washington
21 state patrol, when tires on vehicles in the state's motor vehicle fleet
22 are replaced, they must be replaced with tires that have the same or
23 better rolling resistance as the original tires.

24 (~~(4)~~) (5) By December 31, 2015, the state must, to the extent
25 practicable, install electrical outlets capable of charging electric
26 vehicles in each of the state's fleet parking and maintenance
27 facilities.

28 (~~(5)~~) (6) The department of transportation's obligations under
29 subsection (~~(2)~~) (3) of this section are subject to the availability
30 of amounts appropriated for the specific purpose identified in
31 subsection (~~(2)~~) (3) of this section.

32 (~~(6)~~) (7) The department of transportation's obligations under
33 subsection (~~(4)~~) (5) of this section are subject to the availability
34 of amounts appropriated for the specific purpose identified in
35 subsection (~~(4)~~) (5) of this section unless the department receives
36 federal or private funds for the specific purpose identified in
37 subsection (~~(4)~~) (5) of this section.

1 ~~((7))~~ (8) The definitions in this subsection apply throughout
2 this section unless the context clearly requires otherwise.

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

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

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

16 (1) Except as provided in subsection (2) of this section, by June
17 1, 2010, the department shall adopt rules to define practicability and
18 clarify how state agencies and local government subdivisions will be
19 evaluated in determining whether they have met the goals set out in RCW
20 43.19.648(1). At a minimum, the rules must address:

21 ~~((1))~~ (a) Criteria for determining how the goal in RCW
22 43.19.648(1) will be met by June 1, 2015;

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

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

31 (2) By June 1, 2015, the department shall adopt rules to define
32 practicability and clarify how cities and counties will be evaluated in
33 determining whether they have met the goals set out in RCW
34 43.19.648(2). At a minimum, the rules must address:

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

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

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

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

11 During the ((2003-2005)) 2013-2015 biennium, cities and towns shall
12 provide to the transportation commission, or its successor entity,
13 preservation rating information on at least seventy percent of the
14 total city and town arterial network. Thereafter, the preservation
15 rating information requirement shall increase in five percent
16 increments in subsequent biennia, but in no case shall it exceed eighty
17 percent. The rating system used by cities and towns must be based upon
18 the Washington state pavement rating method or an equivalent standard
19 approved by the department of transportation. Beginning January 1,
20 2007, the preservation rating information shall be submitted to the
21 department.

22 **Sec. 7.** RCW 82.02.070 and 2009 c 263 s 1 are each amended to read
23 as follows:

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

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

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

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

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

15 (5) Each county, city, or town that imposes impact fees shall
16 provide for an administrative appeals process for the appeal of an
17 impact fee; the process may follow the appeal process for the
18 underlying development approval or the county, city, or town may
19 establish a separate appeals process. The impact fee may be modified
20 upon a determination that it is proper to do so based on principles of
21 fairness. The county, city, or town may provide for the resolution of
22 disputes regarding impact fees by arbitration.

23 **Sec. 8.** RCW 82.02.080 and 1990 1st ex.s. c 17 s 47 are each
24 amended to read as follows:

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

36 The request for a refund must be submitted to the county, city, or
37 town governing body in writing within one year of the date the right to

1 claim the refund arises or the date that notice is given, whichever is
2 later. Any impact fees that are not expended within these time
3 limitations, and for which no application for a refund has been made
4 within this one-year period, shall be retained and expended on the
5 indicated capital facilities. Refunds of impact fees under this
6 subsection shall include interest earned on the impact fees.

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

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

23 **Sec. 9.** RCW 90.46.015 and 2009 c 456 s 2 are each amended to read
24 as follows:

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

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

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

9 **Sec. 10.** RCW 90.48.260 and 2007 c 341 s 55 are each amended to
10 read as follows:

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

35 ~~((1))~~ (a) Complete authority to establish and administer a
36 comprehensive state point source waste discharge or pollution discharge
37 elimination permit program which will enable the department to qualify

1 for full participation in any national waste discharge or pollution
2 discharge elimination permit system and will allow the department to be
3 the sole agency issuing permits required by such national system
4 operating in the state of Washington subject to the provisions of RCW
5 90.48.262(2). Program elements authorized herein may include, but are
6 not limited to: ~~((a))~~ (i) Effluent treatment and limitation
7 requirements together with timing requirements related thereto; ~~((b))~~
8 (ii) applicable receiving water quality standards requirements; ~~((c))~~
9 (iii) requirements of standards of performance for new sources; ~~((d))~~
10 (iv) pretreatment requirements; ~~((e))~~ (v) termination and
11 modification of permits for cause; ~~((f))~~ (vi) requirements for public
12 notices and opportunities for public hearings; ~~((g))~~ (vii)
13 appropriate relationships with the secretary of the army in the
14 administration of his responsibilities which relate to anchorage and
15 navigation, with the administrator of the environmental protection
16 agency in the performance of his duties, and with other governmental
17 officials under the federal clean water act; ~~((h))~~ (viii)
18 requirements for inspection, monitoring, entry, and reporting; ~~((i))~~
19 (ix) enforcement of the program through penalties, emergency powers,
20 and criminal sanctions; ~~((j))~~ (x) a continuing planning process; and
21 ~~((k))~~ (xi) user charges.

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

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

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

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

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

37 (b) Issue an updated national pollutant discharge elimination

1 system municipal storm water general permit for any permit first issued
2 on January 17, 2007. An updated permit issued under this subsection
3 shall become effective beginning August 1, 2013.

4 **Sec. 11.** RCW 90.58.080 and 2007 c 170 s 1 are each amended to read
5 as follows:

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

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

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

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

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

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

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

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

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

36 (3)(a) Following approval by the department of a new or amended
37 master program, local governments required to develop or amend master

1 programs on or before December 1, 2009, as provided by subsection
2 (2)(a)(i) and (ii) of this section, shall be deemed to have complied
3 with the schedule established by subsection (2)(a)(iii) of this section
4 and shall not be required to complete master program amendments until
5 seven years after the applicable dates established by subsection
6 (2)(a)(iii) of this section. Any jurisdiction listed in subsection
7 (2)(a)(i) of this section that has a new or amended master program
8 approved by the department on or after March 1, 2002, but before July
9 27, 2003, shall not be required to complete master program amendments
10 until seven years after the applicable date provided by subsection
11 (2)(a)(iii) of this section.

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

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

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

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

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

35 (i) On or before June 30, 2020, and every ten years thereafter, for
36 King and Clark counties and the cities within those counties;

37 (ii) On or before June 30, 2021, and every ten years thereafter,

1 for Snohomish, Pierce, Kitsap, and Thurston counties and the cities
2 within those counties;

3 (iii) On or before June 30, 2022, and every ten years thereafter,
4 for Spokane, Island, San Juan, Skagit, Whatcom, Clallam, Jefferson, and
5 Mason counties and the cities within those counties;

6 (iv) On or before June 30, 2023, and every ten years thereafter,
7 for Lewis, Cowlitz, Skamania, Yakima, Benton, Kittitas, Chelan,
8 Douglas, and Grant counties and the cities within those counties; and

9 (v) On or before June 30, 2024, and every ten years thereafter, for
10 Lincoln, Adams, Whitman, Asotin, Columbia, Garfield, Walla Walla,
11 Franklin, Klickitat, Okanogan, Ferry, Stevens, Pend Oreille, Grays
12 Harbor, Pacific, and Wahkiakum counties and the cities within those
13 counties.

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

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

35 (b) Local governments with delayed compliance dates as provided in
36 (a) of this subsection shall be the first priority for funding in
37 subsequent biennia, and the development or amendment compliance

1 deadline for those local governments shall be two years after the date
2 of grant approval.

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

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

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

18 **Sec. 12.** RCW 90.58.090 and 2003 c 321 s 3 are each amended to read
19 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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