
SENATE BILL 5406

State of Washington

63rd Legislature

2013 Regular Session

By Senator Ericksen

Read first time 01/29/13. Referred to Committee on Governmental Operations.

1 AN ACT Relating to local government compliance with the growth
2 management act; and amending RCW 36.135.030, 36.70A.130, 36.70A.295,
3 36.70A.330, 36.70A.340, 36.70A.345, 36.70A.500, 43.17.250, 43.155.070,
4 70.146.070, and 82.02.050.

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

6 **Sec. 1.** RCW 36.135.030 and 2009 c 45 s 3 are each amended to read
7 as follows:

8 (1) Counties, in consultation with cities and towns within the
9 county, may make loans to local governments from funds established
10 under RCW 36.135.020 for the purpose of assisting local governments in
11 funding public works projects. Counties may require terms and
12 conditions and may charge rates of interest on its loans as they deem
13 necessary or convenient to carry out the purposes of this chapter.
14 Counties may not pledge any amount greater than the sum of money in
15 their local public works assistance fund plus money to be received from
16 the payment of the debt service on loans made from that fund. Money
17 received from local governments in repayment of loans made under this
18 chapter must be paid into the fund of the lending county for uses
19 consistent with this chapter.

1 (2) Prior to receiving moneys from a fund established under RCW
2 36.135.020, a local government applying for financial assistance under
3 this chapter must demonstrate to the lending county:

4 (a) Utilization of all local revenue sources that are reasonably
5 available for funding public works projects;

6 (b) Compliance or a showing of working toward compliance with
7 applicable requirements of chapter 36.70A RCW; and

8 (c) Consistency between the proposed project and applicable capital
9 facilities plans.

10 (3) Counties may not make loans under this chapter prior to
11 completing the initial collaboration and prioritization requirements of
12 RCW 36.135.040(1).

13 **Sec. 2.** RCW 36.70A.130 and 2012 c 191 s 1 are each amended to read
14 as follows:

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

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

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

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

5 (2)(a) Each county and city shall establish and broadly disseminate
6 to the public a public participation program consistent with RCW
7 36.70A.035 and 36.70A.140 that identifies procedures and schedules
8 whereby updates, proposed amendments, or revisions of the comprehensive
9 plan are considered by the governing body of the county or city no more
10 frequently than once every year, except that, until December 31, 2015,
11 the program shall provide for consideration of amendments of an urban
12 growth area in accordance with RCW 36.70A.1301 once every year.
13 "Updates" means to review and revise, if needed, according to
14 subsection (1) of this section, and the deadlines in subsections (4)
15 and (5) of this section or in accordance with the provisions of
16 subsection (6) of this section. Amendments may be considered more
17 frequently than once per year under the following circumstances:

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

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

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

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

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

1 (b) Except as otherwise provided in (a) of this subsection, all
2 proposals shall be considered by the governing body concurrently so the
3 cumulative effect of the various proposals can be ascertained.
4 However, after appropriate public participation a county or city may
5 adopt amendments or revisions to its comprehensive plan that conform
6 with this chapter whenever an emergency exists or to resolve an appeal
7 of a comprehensive plan filed with the growth management hearings board
8 or with the court.

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

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

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

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

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

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

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

5 (5) Except as otherwise provided in subsections (6) and (8) of this
6 section, following the review of comprehensive plans and development
7 regulations required by subsection (4) of this section, counties and
8 cities shall take action to review and, if needed, revise their
9 comprehensive plans and development regulations to ensure the plan and
10 regulations comply with the requirements of this chapter as follows:

11 (a) On or before June 30, 2015, and every eight years thereafter,
12 for King, Pierce, and Snohomish counties and the cities within those
13 counties;

14 (b) On or before June 30, 2016, and every eight years thereafter,
15 for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit,
16 Thurston, and Whatcom counties and the cities within those counties;

17 (c) On or before June 30, 2017, and every eight years thereafter,
18 for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania,
19 Spokane, and Yakima counties and the cities within those counties; and

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

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

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

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

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

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

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

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

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

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

4 (i) Complying or a showing of working toward complying with the
5 deadlines in this section;

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

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

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

18 (8)(a) Except as otherwise provided in (c) of this subsection, if
19 a participating watershed is achieving benchmarks and goals for the
20 protection of critical areas functions and values, the county is not
21 required to update development regulations to protect critical areas as
22 they specifically apply to agricultural activities in that watershed.

23 (b) A county that has made the election under RCW 36.70A.710(1) may
24 only adopt or amend development regulations to protect critical areas
25 as they specifically apply to agricultural activities in a
26 participating watershed if:

27 (i) A work plan has been approved for that watershed in accordance
28 with RCW 36.70A.725;

29 (ii) The local watershed group for that watershed has requested the
30 county to adopt or amend development regulations as part of a work plan
31 developed under RCW 36.70A.720;

32 (iii) The adoption or amendment of the development regulations is
33 necessary to enable the county to respond to an order of the growth
34 management hearings board or court;

35 (iv) The adoption or amendment of development regulations is
36 necessary to address a threat to human health or safety; or

37 (v) Three or more years have elapsed since the receipt of funding.

1 (c) Beginning ten years from the date of receipt of funding, a
2 county that has made the election under RCW 36.70A.710(1) must review
3 and, if necessary, revise development regulations to protect critical
4 areas as they specifically apply to agricultural activities in a
5 participating watershed in accordance with the review and revision
6 requirements and timeline in subsection (5) of this section. This
7 subsection (8)(c) does not apply to a participating watershed that has
8 determined under RCW 36.70A.720(2)(c)(ii) that the watershed's goals
9 and benchmarks for protection have been met.

10 **Sec. 3.** RCW 36.70A.295 and 2010 c 211 s 9 are each amended to read
11 as follows:

12 (1) The superior court may directly review a petition for review
13 filed under RCW 36.70A.290 if all parties to the proceeding before the
14 board have agreed to direct review in the superior court. The
15 agreement of the parties shall be in writing and signed by all of the
16 parties to the proceeding or their designated representatives. The
17 agreement shall include the parties' agreement to proper venue as
18 provided in RCW 36.70A.300(5). The parties shall file their agreement
19 with the board within ten days after the date the petition is filed, or
20 if multiple petitions have been filed and the board has consolidated
21 the petitions pursuant to RCW 36.70A.300, within ten days after the
22 board serves its order of consolidation.

23 (2) Within ten days of receiving the timely and complete agreement
24 of the parties, the board shall file a certificate of agreement with
25 the designated superior court and shall serve the parties with copies
26 of the certificate. The superior court shall obtain exclusive
27 jurisdiction over a petition when it receives the certificate of
28 agreement. With the certificate of agreement the board shall also file
29 the petition for review, any orders entered by the board, all other
30 documents in the board's files regarding the action, and the written
31 agreement of the parties.

32 (3) For purposes of a petition that is subject to direct review,
33 the superior court's subject matter jurisdiction shall be equivalent to
34 that of the board. Consistent with the requirements of the superior
35 court civil rules, the superior court may consolidate a petition
36 subject to direct review under this section with a separate action
37 filed in the superior court.

1 (4)(a) Except as otherwise provided in (b) and (c) of this
2 subsection, the provisions of RCW 36.70A.280 through 36.70A.330, which
3 specify the nature and extent of board review, shall apply to the
4 superior court's review.

5 (b) The superior court:

6 (i) Shall not have jurisdiction to directly review or modify an
7 office of financial management population projection;

8 (ii) Except as otherwise provided in RCW 36.70A.300(2)(b), shall
9 render its decision on the petition within one hundred eighty days of
10 receiving the certification of agreement; and

11 (iii) Shall give a compliance hearing under RCW 36.70A.330(2) the
12 highest priority of all civil matters before the court.

13 (c) An aggrieved party may secure appellate review of a final
14 judgment of the superior court under this section by the supreme court
15 or the court of appeals. The review shall be secured in the manner
16 provided by law for review of superior court decisions in other civil
17 cases.

18 (5) If, following a compliance hearing, the court finds that the
19 state agency, county, or city is not in compliance with the court's
20 prior order, the court may use its remedial and contempt powers to
21 enforce compliance.

22 (6) The superior court shall transmit a copy of its decision and
23 order on direct review to the board, the department, and the governor.
24 If the court has determined that a county or city is not in compliance
25 and the county or city cannot show that it is working toward compliance
26 with the provisions of this chapter, the governor may impose sanctions
27 against the county or city in the same manner as if the board had
28 recommended the imposition of sanctions as provided in RCW 36.70A.330.

29 (7) After the court has assumed jurisdiction over a petition for
30 review under this section, the superior court civil rules shall govern
31 a request for intervention and all other procedural matters not
32 specifically provided for in this section.

33 **Sec. 4.** RCW 36.70A.330 and 1997 c 429 s 21 are each amended to
34 read as follows:

35 (1) After the time set for complying with the requirements of this
36 chapter under RCW 36.70A.300(3)(b) has expired, or at an earlier time
37 upon the motion of a county or city subject to a determination of

1 invalidity under RCW 36.70A.300, the board shall set a hearing for the
2 purpose of determining whether the state agency, county, or city is in
3 compliance with the requirements of this chapter.

4 (2) The board shall conduct a hearing and issue a finding of
5 compliance or noncompliance with the requirements of this chapter and
6 with any compliance schedule established by the board in its final
7 order. A person with standing to challenge the legislation enacted in
8 response to the board's final order may participate in the hearing
9 along with the petitioner and the state agency, county, or city. A
10 hearing under this subsection shall be given the highest priority of
11 business to be conducted by the board, and a finding shall be issued
12 within forty-five days of the filing of the motion under subsection (1)
13 of this section with the board. The board shall issue any order
14 necessary to make adjustments to the compliance schedule and set
15 additional hearings as provided in subsection (5) of this section.

16 (3) If the board after a compliance hearing finds that the state
17 agency, county, or city is not in compliance, the board shall transmit
18 its finding to the governor. The board may recommend to the governor
19 that the sanctions authorized by this chapter be imposed. The board
20 shall take into consideration the county's or city's efforts to meet
21 its compliance schedule in making the decision to recommend sanctions
22 to the governor. The governor may only impose sanctions against the
23 county or city if the county or city cannot show that it is working
24 toward compliance with the provisions of this chapter.

25 (4) In a compliance hearing upon petition of a party, the board
26 shall also reconsider its final order and decide, if no determination
27 of invalidity has been made, whether one now should be made under RCW
28 36.70A.302.

29 (5) The board shall schedule additional hearings as appropriate
30 pursuant to subsections (1) and (2) of this section.

31 **Sec. 5.** RCW 36.70A.340 and 2011 c 120 s 2 are each amended to read
32 as follows:

33 Upon receipt from the board of a finding that a state agency,
34 county, or city is in noncompliance under RCW 36.70A.330, or as a
35 result of failure to meet the requirements of RCW 36.70A.210, the
36 governor may, if the county or city cannot show that it is working
37 toward compliance with RCW 36.70A.330 and 36.70A.210, either:

1 (1) Notify and direct the director of the office of financial
2 management to revise allotments in appropriation levels;

3 (2) Notify and direct the state treasurer to withhold the portion
4 of revenues to which the county or city is entitled under one or more
5 of the following: The motor vehicle fuel tax, as provided in chapter
6 82.36 RCW; the transportation improvement account, as provided in RCW
7 47.26.084; the rural arterial trust account, as provided in RCW
8 36.79.150; the sales and use tax, as provided in chapter 82.14 RCW; the
9 liquor profit tax, as provided in RCW 66.08.190; and the liquor excise
10 tax, as provided in RCW 82.08.170; or

11 (3) File a notice of noncompliance with the secretary of state and
12 the county or city, which shall temporarily rescind the county or
13 city's authority to collect the real estate excise tax under RCW
14 82.46.030 until the governor files a notice rescinding the notice of
15 noncompliance.

16 **Sec. 6.** RCW 36.70A.345 and 2010 c 211 s 13 are each amended to
17 read as follows:

18 (1) The governor may impose a sanction or sanctions specified under
19 RCW 36.70A.340 on: ~~((+1))~~ (a) A county or city that fails to
20 designate critical areas, agricultural lands, forest lands, or mineral
21 resource lands under RCW 36.70A.170 by the date such action was
22 required to have been taken; ~~((+2))~~ (b) a county or city that fails to
23 adopt development regulations under RCW 36.70A.060 protecting critical
24 areas or conserving agricultural lands, forest lands, or mineral
25 resource lands by the date such action was required to have been taken;
26 ~~((+3))~~ (c) a county that fails to designate urban growth areas under
27 RCW 36.70A.110 by the date such action was required to have been taken;
28 and ~~((+4))~~ (d) a county or city that fails to adopt its comprehensive
29 plan or development regulations when such actions are required to be
30 taken.

31 (2) Imposition of a sanction or sanctions under this section shall
32 be preceded by written findings by the governor, that either the county
33 or city is not proceeding in good faith to meet the requirements of the
34 act; or that the county or city has unreasonably delayed taking the
35 required action. The governor shall consult with and communicate his
36 or her findings to the growth management hearings board prior to
37 imposing the sanction or sanctions. For those counties or cities that

1 are not required to plan or have not opted in, the governor in imposing
2 sanctions shall consider the size of the jurisdiction relative to the
3 requirements of this chapter and the degree of technical and financial
4 assistance provided. The governor may only impose sanctions against
5 the county or city if the county or city cannot show that it is working
6 toward compliance with the provisions of this chapter.

7 **Sec. 7.** RCW 36.70A.500 and 2012 1st sp.s. c 1 s 310 are each
8 amended to read as follows:

9 (1) The department of commerce shall provide management services
10 for the growth management planning and environmental review fund
11 created by RCW 36.70A.490. The department shall establish procedures
12 for fund management. The department shall encourage participation in
13 the grant or loan program by other public agencies. The department
14 shall develop the grant or loan criteria, monitor the grant or loan
15 program, and select grant or loan recipients in consultation with state
16 agencies participating in the grant or loan program through the
17 provision of grant or loan funds or technical assistance.

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

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

28 (b) Encourages use of plans and information developed for purposes
29 of complying with this chapter to satisfy requirements of other state
30 programs.

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

33 (a) Demonstrate that it will prepare an environmental analysis
34 pursuant to chapter 43.21C RCW and subsection (2) of this section that
35 is integrated with a comprehensive plan, subarea plan, plan element,
36 countywide planning policy, development regulations, monitoring

1 program, or other planning activity adopted under or implementing this
2 chapter;

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

7 (c) Demonstrate that procedures for review of development permit
8 applications will be based on the integrated plans and environmental
9 analysis;

10 (d) Include mechanisms to monitor the consequences of growth as it
11 occurs in the plan area and to use the resulting data to update the
12 plan, policy, or implementing mechanisms and associated environmental
13 analysis;

14 (e) Demonstrate substantial progress towards compliance with the
15 requirements of this chapter. A county or city that is more than six
16 months out of compliance with a requirement of this chapter is deemed
17 not to be making substantial progress towards compliance unless the
18 county or city can show that it is working toward compliance with the
19 requirements of this chapter; and

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

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

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

27 (b) Identification and monitoring of system capacities for elements
28 of the built environment, and to the extent appropriate, of the natural
29 environment;

30 (c) Coordination with state, federal, and tribal governments in
31 project review;

32 (d) Furtherance of important state objectives related to economic
33 development, protection of areas of statewide significance, and siting
34 of essential public facilities;

35 (e) Programs to improve the efficiency and effectiveness of the
36 permitting process by greater reliance on integrated plans and
37 prospective environmental analysis;

1 (f) Programs for effective citizen and neighborhood involvement
2 that contribute to greater likelihood that planning decisions can be
3 implemented with community support;

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

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

11 (5) If the local funding includes funding provided by other state
12 functional planning programs, including open space planning and
13 watershed or basin planning, the functional plan shall be integrated
14 into and be consistent with the comprehensive plan.

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

18 **Sec. 8.** RCW 43.17.250 and 1999 c 164 s 601 are each amended to
19 read as follows:

20 (1) Whenever a state agency is considering awarding grants or loans
21 for a county, city, or town planning under RCW 36.70A.040 to finance
22 public facilities, it shall consider whether the county, city, or town
23 requesting the grant or loan has adopted a comprehensive plan and
24 development regulations as required by RCW 36.70A.040.

25 (2) When reviewing competing requests from counties, cities, or
26 towns planning under RCW 36.70A.040, a state agency considering
27 awarding grants or loans for public facilities shall accord additional
28 preference to those counties, cities, or towns that have adopted a
29 comprehensive plan and development regulations as required by RCW
30 36.70A.040. For the purposes of the preference accorded in this
31 section, a county, city, or town planning under RCW 36.70A.040 is
32 deemed to have satisfied the requirements for adopting a comprehensive
33 plan and development regulations specified in RCW 36.70A.040 if the
34 county, city, or town:

35 (a) Adopts or has adopted a comprehensive plan and development
36 regulations within the time periods specified in RCW 36.70A.040;

1 (b) Adopts or has adopted a comprehensive plan and development
2 regulations before submitting a request for a grant or loan if the
3 county, city, or town failed to adopt a comprehensive plan and/or
4 development regulations within the time periods specified in RCW
5 36.70A.040; or

6 (c) Demonstrates substantial progress toward adopting a
7 comprehensive plan or development regulations within the time periods
8 specified in RCW 36.70A.040. A county, city, or town that is more than
9 six months out of compliance with the time periods specified in RCW
10 36.70A.040 or that cannot show that it is working toward compliance
11 with the time periods specified in RCW 36.70A.040 shall not be deemed
12 to demonstrate substantial progress for purposes of this section.

13 (3) The preference specified in subsection (2) of this section
14 applies only to competing requests for grants or loans from counties,
15 cities, or towns planning under RCW 36.70A.040. A request from a
16 county, city, or town planning under RCW 36.70A.040 shall be accorded
17 no additional preference based on subsection (2) of this section over
18 a request from a county, city, or town not planning under RCW
19 36.70A.040.

20 (4) Whenever a state agency is considering awarding grants or loans
21 for public facilities to a special district requesting funding for a
22 proposed facility located in a county, city, or town planning under RCW
23 36.70A.040, it shall consider whether the county, city, or town in
24 whose planning jurisdiction the proposed facility is located has
25 adopted a comprehensive plan and development regulations as required by
26 RCW 36.70A.040 and shall apply the preference specified in subsection
27 (2) of this section and restricted in subsection (3) of this section.

28 **Sec. 9.** RCW 43.155.070 and 2012 c 196 s 9 are each amended to read
29 as follows:

30 (1) To qualify for loans or pledges under this chapter the board
31 must determine that a local government meets all of the following
32 conditions:

33 (a) The city or county must be imposing a tax under chapter 82.46
34 RCW at a rate of at least one-quarter of one percent;

35 (b) The local government must have developed a capital facility
36 plan; and

1 (c) The local government must be using all local revenue sources
2 which are reasonably available for funding public works, taking into
3 consideration local employment and economic factors.

4 (2) Except where necessary to address a public health need or
5 substantial environmental degradation, a county, city, or town planning
6 under RCW 36.70A.040 must have adopted a comprehensive plan, including
7 a capital facilities plan element, and development regulations as
8 required by RCW 36.70A.040. A county, city, or town that has adopted
9 a comprehensive plan and development regulations as required in RCW
10 36.70A.040 may request a grant or loan for public works projects. This
11 subsection does not require any county, city, or town planning under
12 RCW 36.70A.040 to adopt a comprehensive plan or development regulations
13 before requesting (~~(or receiving)~~) a loan or loan guarantee under this
14 chapter (~~((if such request is made before the expiration of the time~~
15 ~~periods specified in RCW 36.70A.040))~~). A county, city, or town
16 planning under RCW 36.70A.040 (~~((which))~~) that has not adopted a
17 comprehensive plan and development regulations within the time periods
18 specified in RCW 36.70A.040 is not prohibited from receiving a loan or
19 loan guarantee under this chapter if the comprehensive plan and
20 development regulations are adopted as required by RCW 36.70A.040
21 before (~~((submitting a request for a loan or loan guarantee))~~) the board
22 disburses the funds or guarantees the loan, or if the county, city, or
23 town can show that it is working toward compliance with adopting
24 comprehensive plan and development regulations as required in RCW
25 36.70A.040.

26 (3) In considering awarding loans for public facilities to special
27 districts requesting funding for a proposed facility located in a
28 county, city, or town planning under RCW 36.70A.040, the board must
29 consider whether the county, city, or town planning under RCW
30 36.70A.040 in whose planning jurisdiction the proposed facility is
31 located has adopted a comprehensive plan and development regulations as
32 required by RCW 36.70A.040.

33 (4) The board must develop a priority process for public works
34 projects as provided in this section. The intent of the priority
35 process is to maximize the value of public works projects accomplished
36 with assistance under this chapter. The board must attempt to assure
37 a geographical balance in assigning priorities to projects. The board

1 must consider at least the following factors in assigning a priority to
2 a project:

3 (a) Whether the local government receiving assistance has
4 experienced severe fiscal distress resulting from natural disaster or
5 emergency public works needs;

6 (b) Except as otherwise conditioned by RCW 43.155.110, whether the
7 entity receiving assistance is a Puget Sound partner, as defined in RCW
8 90.71.010;

9 (c) Whether the project is referenced in the action agenda
10 developed by the Puget Sound partnership under RCW 90.71.310;

11 (d) Whether the project is critical in nature and would affect the
12 health and safety of a great number of citizens;

13 (e) Whether the applicant's permitting process has been certified
14 as streamlined by the office of regulatory assistance;

15 (f) Whether the applicant has developed and adhered to guidelines
16 regarding its permitting process for those applying for development
17 permits consistent with section 1(2), chapter 231, Laws of 2007;

18 (g) The cost of the project compared to the size of the local
19 government and amount of loan money available;

20 (h) The number of communities served by or funding the project;

21 (i) Whether the project is located in an area of high unemployment,
22 compared to the average state unemployment;

23 (j) Whether the project is the acquisition, expansion, improvement,
24 or renovation by a local government of a public water system that is in
25 violation of health and safety standards, including the cost of
26 extending existing service to such a system;

27 (k) Except as otherwise conditioned by RCW 43.155.120, and
28 effective one calendar year following the development of model
29 evergreen community management plans and ordinances under RCW
30 35.105.050, whether the entity receiving assistance has been
31 recognized, and what gradation of recognition was received, in the
32 evergreen community recognition program created in RCW 35.105.030;

33 (l) The relative benefit of the project to the community,
34 considering the present level of economic activity in the community and
35 the existing local capacity to increase local economic activity in
36 communities that have low economic growth; and

37 (m) Other criteria that the board considers advisable.

1 (5) Existing debt or financial obligations of local governments may
2 not be refinanced under this chapter. Each local government applicant
3 must provide documentation of attempts to secure additional local or
4 other sources of funding for each public works project for which
5 financial assistance is sought under this chapter.

6 (6) Before November 1st of each even-numbered year, the board must
7 develop and submit to the appropriate fiscal committees of the senate
8 and house of representatives a description of the loans made under RCW
9 43.155.065, 43.155.068, and subsection (9) of this section during the
10 preceding fiscal year and a prioritized list of projects which are
11 recommended for funding by the legislature, including one copy to the
12 staff of each of the committees. The list must include, but not be
13 limited to, a description of each project and recommended financing,
14 the terms and conditions of the loan or financial guarantee, the local
15 government jurisdiction and unemployment rate, demonstration of the
16 jurisdiction's critical need for the project and documentation of local
17 funds being used to finance the public works project. The list must
18 also include measures of fiscal capacity for each jurisdiction
19 recommended for financial assistance, compared to authorized limits and
20 state averages, including local government sales taxes; real estate
21 excise taxes; property taxes; and charges for or taxes on sewerage,
22 water, garbage, and other utilities.

23 (7) The board may not sign contracts or otherwise financially
24 obligate funds from the public works assistance account before the
25 legislature has appropriated funds for a specific list of public works
26 projects. The legislature may remove projects from the list
27 recommended by the board. The legislature may not change the order of
28 the priorities recommended for funding by the board.

29 (8) Subsection (7) of this section does not apply to loans made
30 under RCW 43.155.065, 43.155.068, and subsection (9) of this section.

31 (9) Loans made for the purpose of capital facilities plans are
32 exempted from subsection (7) of this section.

33 (10) To qualify for loans or pledges for solid waste or recycling
34 facilities under this chapter, a city or county must demonstrate that
35 the solid waste or recycling facility is consistent with and necessary
36 to implement the comprehensive solid waste management plan adopted by
37 the city or county under chapter 70.95 RCW.

1 (11) After January 1, 2010, any project designed to address the
2 effects of storm water or wastewater on Puget Sound may be funded under
3 this section only if the project is not in conflict with the action
4 agenda developed by the Puget Sound partnership under RCW 90.71.310.

5 **Sec. 10.** RCW 70.146.070 and 2008 c 299 s 26 are each amended to
6 read as follows:

7 (1) When making grants or loans for water pollution control
8 facilities, the department shall consider the following:

9 (a) The protection of water quality and public health;

10 (b) The cost to residential ratepayers if they had to finance water
11 pollution control facilities without state assistance;

12 (c) Actions required under federal and state permits and compliance
13 orders;

14 (d) The level of local fiscal effort by residential ratepayers
15 since 1972 in financing water pollution control facilities;

16 (e) Except as otherwise conditioned by RCW 70.146.110, whether the
17 entity receiving assistance is a Puget Sound partner, as defined in RCW
18 90.71.010;

19 (f) Whether the project is referenced in the action agenda
20 developed by the Puget Sound partnership under RCW 90.71.310;

21 (g) Except as otherwise provided in RCW 70.146.120, and effective
22 one calendar year following the development and statewide availability
23 of model evergreen community management plans and ordinances under RCW
24 35.105.050, whether the project is sponsored by an entity that has been
25 recognized, and what gradation of recognition was received, in the
26 evergreen community recognition program created in RCW 35.105.030;

27 (h) The extent to which the applicant county or city, or if the
28 applicant is another public body, the extent to which the county or
29 city in which the applicant public body is located, has established
30 programs to mitigate nonpoint pollution of the surface or subterranean
31 water sought to be protected by the water pollution control facility
32 named in the application for state assistance; and

33 (i) The recommendations of the Puget Sound partnership, created in
34 RCW 90.71.210, and any other board, council, commission, or group
35 established by the legislature or a state agency to study water
36 pollution control issues in the state.

1 (2) Except where necessary to address a public health need or
2 substantial environmental degradation, a county, city, or town planning
3 under RCW 36.70A.040 may not receive a grant or loan for water
4 pollution control facilities unless it has adopted a comprehensive
5 plan, including a capital facilities plan element, and development
6 regulations as required by RCW 36.70A.040. A county, city, or town
7 that has adopted a comprehensive plan and development regulations as
8 required in RCW 36.70A.040 may request a grant or loan for water
9 pollution control facilities. This subsection does not require any
10 county, city, or town planning under RCW 36.70A.040 to adopt a
11 comprehensive plan or development regulations before requesting (~~or~~
12 ~~receiving~~) a grant or loan under this chapter if such request is made
13 before the expiration of the time periods specified in RCW 36.70A.040.
14 A county, city, or town planning under RCW 36.70A.040 (~~which~~) that
15 has not adopted a comprehensive plan and development regulations within
16 the time periods specified in RCW 36.70A.040 is not prohibited from
17 receiving a grant or loan under this chapter if the comprehensive plan
18 and development regulations are adopted as required by RCW 36.70A.040
19 before (~~submitting a request for a~~) the department disburses funds
20 for the grant or loan, or if the county, city, or town can show that it
21 is working toward compliance with adopting comprehensive plan and
22 development regulations as required in RCW 36.70A.040.

23 (3) Whenever the department is considering awarding grants or loans
24 for public facilities to special districts requesting funding for a
25 proposed facility located in a county, city, or town planning under RCW
26 36.70A.040, it shall consider whether the county, city, or town
27 planning under RCW 36.70A.040 in whose planning jurisdiction the
28 proposed facility is located has adopted a comprehensive plan and
29 development regulations as required by RCW 36.70A.040.

30 (4) After January 1, 2010, any project designed to address the
31 effects of water pollution on Puget Sound may be funded under this
32 chapter only if the project is not in conflict with the action agenda
33 developed by the Puget Sound partnership under RCW 90.71.310.

34 **Sec. 11.** RCW 82.02.050 and 1994 c 257 s 24 are each amended to
35 read as follows:

36 (1) It is the intent of the legislature:

1 (a) To ensure that adequate facilities are available to serve new
2 growth and development;

3 (b) To promote orderly growth and development by establishing
4 standards by which counties, cities, and towns may require, by
5 ordinance, that new growth and development pay a proportionate share of
6 the cost of new facilities needed to serve new growth and development;
7 and

8 (c) To ensure that impact fees are imposed through established
9 procedures and criteria so that specific developments do not pay
10 arbitrary fees or duplicative fees for the same impact.

11 (2) Counties, cities, and towns that are required or choose to plan
12 under RCW 36.70A.040 are authorized to impose impact fees on
13 development activity as part of the financing for public facilities,
14 provided that the financing for system improvements to serve new
15 development must provide for a balance between impact fees and other
16 sources of public funds and cannot rely solely on impact fees.

17 (3) The impact fees:

18 (a) Shall only be imposed for system improvements that are
19 reasonably related to the new development;

20 (b) Shall not exceed a proportionate share of the costs of system
21 improvements that are reasonably related to the new development; and

22 (c) Shall be used for system improvements that will reasonably
23 benefit the new development.

24 (4) Impact fees may be collected and spent only for the public
25 facilities defined in RCW 82.02.090 which are addressed by a capital
26 facilities plan element of a comprehensive land use plan adopted
27 pursuant to the provisions of RCW 36.70A.070 or the provisions for
28 comprehensive plan adoption contained in chapter 36.70, 35.63, or
29 35A.63 RCW. After the date a county, city, or town is required to
30 adopt its development regulations under chapter 36.70A RCW, continued
31 authorization to collect and expend impact fees shall be contingent on
32 the county, city, or town adopting or revising a comprehensive plan in
33 compliance or with a showing of working toward compliance with RCW
34 36.70A.070, and on the capital facilities plan identifying:

35 (a) Deficiencies in public facilities serving existing development
36 and the means by which existing deficiencies will be eliminated within
37 a reasonable period of time;

1 (b) Additional demands placed on existing public facilities by new
2 development; and

3 (c) Additional public facility improvements required to serve new
4 development.

5 If the capital facilities plan of the county, city, or town is
6 complete other than for the inclusion of those elements which are the
7 responsibility of a special district, the county, city, or town may
8 impose impact fees to address those public facility needs for which the
9 county, city, or town is responsible.

--- END ---