

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1724

Chapter 347, Laws of 1995
(partial veto)

54th Legislature
1995 Regular Session

INTEGRATION OF GROWTH MANAGEMENT PLANNING AND ENVIRONMENTAL REVIEW

EFFECTIVE DATE: 7/23/95 - Except Section 410 which becomes effective 7/1/98; and Sections 801 through 806 which become effective 6/1/95

Passed by the House April 23, 1995
Yeas 94 Nays 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Passed by the Senate April 11, 1995
Yeas 44 Nays 0

JOEL PRITCHARD

President of the Senate

Approved May 15, 1995, with the exception of sections 103, 302 and 903, which are vetoed.

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1724** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN

Chief Clerk

FILED

May 15, 1995 - 11:22 a.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1724

AS AMENDED BY THE SENATE

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By House Committee on Government Operations (originally sponsored by Representatives Reams, Rust, L. Thomas, Goldsmith, Ogden, Patterson, Poulsen, Scott, Regala, Mastin, Valle and Chopp; by request of Governor Lowry)

Read first time 03/01/95.

1 AN ACT Relating to implementing the recommendations of the
2 governor's task force on regulatory reform on integrating growth
3 management planning and environmental review; amending RCW 36.70A.130,
4 36.70A.140, 36.70A.280, 36.70A.300, 36.70A.320, 36.70A.330, 34.05.514,
5 43.21C.031, 43.21C.075, 43.21C.080, 43.21C.110, 43.21C.900, 90.58.020,
6 90.58.030, 90.58.050, 90.58.060, 90.58.080, 90.58.090, 90.58.100,
7 90.58.120, 90.58.140, 90.58.180, 90.58.190, 34.05.461, 36.70A.440,
8 36.70A.065, 36.70A.065, 43.21C.033, 35.63.130, 35A.63.170, 36.70.970,
9 58.17.090, 58.17.092, 58.17.100, 58.17.330, 7.16.360, and 58.17.180;
10 reenacting and amending RCW 36.70A.030 and 36.70A.290; adding new
11 sections to chapter 36.70A RCW; adding a new section to chapter 43.21C
12 RCW; adding a new section to chapter 64.40 RCW; adding new sections to
13 chapter 43.131 RCW; adding a new section to chapter 4.84 RCW; adding
14 new chapters to Title 36 RCW; adding a new chapter to Title 90 RCW;
15 adding a new chapter to Title 82 RCW; creating new sections;
16 recodifying RCW 36.70A.065 and 36.70A.440; repealing RCW 90.58.145,
17 90.62.010, 90.62.020, 90.62.030, 90.62.040, 90.62.050, 90.62.060,
18 90.62.070, 90.62.080, 90.62.090, 90.62.100, 90.62.110, 90.62.120,
19 90.62.130, 90.62.900, 90.62.901, 90.62.904, 90.62.905, 90.62.906,
20 90.62.907, and 90.62.908; providing effective dates; providing
21 expiration dates; and declaring an emergency.

1 process for applicants, citizens, or agency staff to ensure that these
2 improvements are considered in the plan review process. The
3 legislature also finds that in the past environmental review and
4 permitting of proposed projects have been used to reopen and make land
5 use planning decisions that should have been made through the
6 comprehensive planning process, in part because agency staff and
7 hearing examiners have not been able to ensure consideration of all
8 issues in the local planning process. The legislature further finds
9 that, while plans and regulations should be improved and refined over
10 time, it is unfair to penalize applicants that have submitted permit
11 applications that meet current requirements. It is the intent of the
12 legislature in enacting section 102 of this act to establish a means by
13 which cities and counties will docket suggested plan or development
14 regulation amendments and ensure their consideration during the
15 planning process.

16 NEW SECTION. **Sec. 102.** A new section is added to chapter 36.70A
17 RCW to read as follows:

18 (1) Project review, which shall be conducted pursuant to the
19 provisions of chapter 36.-- RCW (the new chapter created in section 431
20 of this act), shall be used to make individual project decisions, not
21 land use planning decisions. If, during project review, a county or
22 city planning under RCW 36.70A.040 identifies deficiencies in plans or
23 regulations:

24 (a) The permitting process shall not be used as a comprehensive
25 planning process;

26 (b) Project review shall continue; and

27 (c) The identified deficiencies shall be docketed for possible
28 future plan or development regulation amendments.

29 (2) Each county and city planning under RCW 36.70A.040 shall
30 include in its development regulations a procedure for any interested
31 person, including applicants, citizens, hearing examiners, and staff of
32 other agencies, to suggest plan or development regulation amendments.
33 The suggested amendments shall be docketed and considered on at least
34 an annual basis, consistent with the provisions of RCW 36.70A.130.

35 (3) For purposes of this section, a deficiency in a comprehensive
36 plan or development regulation refers to the absence of required or
37 potentially desirable contents of a comprehensive plan or development
38 regulation. It does not refer to whether a development regulation

1 addresses a project's probable specific adverse environmental impacts
2 which the permitting agency could mitigate in the normal project review
3 process.

4 (4) For purposes of this section, docketing refers to compiling and
5 maintaining a list of suggested changes to the comprehensive plan or
6 development regulations in a manner that will ensure such suggested
7 changes will be considered by the county or city and will be available
8 for review by the public.

9 *Sec. 103. RCW 36.70A.030 and 1994 c 307 s 2 and 1994 c 257 s 5
10 are each reenacted and amended to read as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

13 (1) "Adopt a comprehensive land use plan" means to enact a new
14 comprehensive land use plan or to update an existing comprehensive land
15 use plan.

16 (2) "Agricultural land" means land primarily devoted to the
17 commercial production of horticultural, viticultural, floricultural,
18 dairy, apiary, vegetable, or animal products or of berries, grain, hay,
19 straw, turf, seed, Christmas trees not subject to the excise tax
20 imposed by RCW 84.33.100 through 84.33.140, finfish in upland
21 hatcheries, or livestock, and that has long-term commercial
22 significance for agricultural production.

23 (3) "City" means any city or town, including a code city.

24 (4) "Comprehensive land use plan," "comprehensive plan," or "plan"
25 means a generalized coordinated land use policy statement of the
26 governing body of a county or city that is adopted pursuant to this
27 chapter.

28 (5) "Critical areas" include the following areas and ecosystems:
29 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
30 used for potable water; (c) fish and wildlife habitat conservation
31 areas; (d) frequently flooded areas; and (e) geologically hazardous
32 areas.

33 (6) "Department" means the department of community, trade, and
34 economic development.

35 (7) (~~For purposes of RCW 36.70A.065 and 36.70A.440, "development~~
36 ~~permit application" means any application for a development proposal~~
37 ~~for a use that could be permitted under a plan adopted pursuant to this~~
38 ~~chapter and is consistent with the underlying land use and zoning,~~

1 ~~including but not limited to building permits, subdivisions, binding~~
2 ~~site plans, planned unit developments, conditional uses or other~~
3 ~~applications pertaining to land uses, but shall not include rezones,~~
4 ~~proposed amendments to comprehensive plans or the adoption or amendment~~
5 ~~of development regulations.~~

6 ~~(8))~~ "Development regulations" means ~~((any))~~ the controls placed
7 on development or land use activities by a county or city, including,
8 but not limited to, zoning ordinances, critical areas ordinances,
9 shoreline master programs, official controls, planned unit development
10 ordinances, subdivision ordinances, and binding site plan ordinances
11 together with any amendments thereto. A development regulation does
12 not include a decision to approve a project permit application, as
13 defined in section 402 of this act, even though the decision may be
14 expressed in a resolution or ordinance of the legislative body of the
15 county or city.

16 ~~((9))~~ (8) "Forest land" means land primarily devoted to growing
17 trees for long-term commercial timber production on land that can be
18 economically and practically managed for such production, including
19 Christmas trees subject to the excise tax imposed under RCW 84.33.100
20 through 84.33.140, and that has long-term commercial significance. In
21 determining whether forest land is primarily devoted to growing trees
22 for long-term commercial timber production on land that can be
23 economically and practically managed for such production, the following
24 factors shall be considered: (a) The proximity of the land to urban,
25 suburban, and rural settlements; (b) surrounding parcel size and the
26 compatibility and intensity of adjacent and nearby land uses; (c) long-
27 term local economic conditions that affect the ability to manage for
28 timber production; and (d) the availability of public facilities and
29 services conducive to conversion of forest land to other uses.

30 ~~((10))~~ (9) "Geologically hazardous areas" means areas that
31 because of their susceptibility to erosion, sliding, earthquake, or
32 other geological events, are not suited to the siting of commercial,
33 residential, or industrial development consistent with public health or
34 safety concerns.

35 ~~((11))~~ (10) "Long-term commercial significance" includes the
36 growing capacity, productivity, and soil composition of the land for
37 long-term commercial production, in consideration with the land's
38 proximity to population areas, and the possibility of more intense
39 uses of the land.

1 (~~(+12)~~) (11) "Minerals" include gravel, sand, and valuable
2 metallic substances.

3 (~~(+13)~~) (12) "Public facilities" include streets, roads, highways,
4 sidewalks, street and road lighting systems, traffic signals, domestic
5 water systems, storm and sanitary sewer systems, parks and recreational
6 facilities, and schools.

7 (~~(+14)~~) (13) "Public services" include fire protection and
8 suppression, law enforcement, public health, education, recreation,
9 environmental protection, and other governmental services.

10 (~~(+15)~~) (14) "Urban growth" refers to growth that makes intensive
11 use of land for the location of buildings, structures, and impermeable
12 surfaces to such a degree as to be incompatible with the primary use of
13 such land for the production of food, other agricultural products, or
14 fiber, or the extraction of mineral resources. When allowed to spread
15 over wide areas, urban growth typically requires urban governmental
16 services. "Characterized by urban growth" refers to land having urban
17 growth located on it, or to land located in relationship to an area
18 with urban growth on it as to be appropriate for urban growth.

19 (~~(+16)~~) (15) "Urban growth areas" means those areas designated by
20 a county pursuant to RCW 36.70A.110.

21 (~~(+17)~~) (16) "Urban governmental services" include those
22 governmental services historically and typically delivered by cities,
23 and include storm and sanitary sewer systems, domestic water systems,
24 street cleaning services, fire and police protection services, public
25 transit services, and other public utilities associated with urban
26 areas and normally not associated with nonurban areas.

27 (~~(+18)~~) (17) "Wetland" or "wetlands" means areas that are
28 inundated or saturated by surface water or ground water at a frequency
29 and duration sufficient to support, and that under normal circumstances
30 do support, a prevalence of vegetation typically adapted for life in
31 saturated soil conditions. Wetlands generally include swamps, marshes,
32 bogs, and similar areas. Wetlands do not include those artificial
33 wetlands intentionally created from nonwetland sites, including, but
34 not limited to, irrigation and drainage ditches, grass-lined swales,
35 canals, detention facilities, wastewater treatment facilities, farm
36 ponds, and landscape amenities. (~~(However,~~) Wetlands may include
37 those artificial wetlands intentionally created from nonwetland areas

1 *created to mitigate conversion of wetlands(~~(, if permitted by the~~*
2 *~~county or city)~~).*

3 *Sec. 103 was vetoed. See message at end of chapter.

4 NEW SECTION. **Sec. 104.** A new section is added to chapter 36.70A
5 RCW to read as follows:

6 (1) For shorelines of the state, the goals and policies of the
7 shoreline management act as set forth in RCW 90.58.020 are added as one
8 of the goals of this chapter as set forth in RCW 36.70A.020. The goals
9 and policies of a shoreline master program for a county or city
10 approved under chapter 90.58 RCW shall be considered an element of the
11 county or city's comprehensive plan. All other portions of the
12 shoreline master program for a county or city adopted under chapter
13 90.58 RCW, including use regulations, shall be considered a part of the
14 county or city's development regulations.

15 (2) The shoreline master program shall be adopted pursuant to the
16 procedures of chapter 90.58 RCW rather than the procedures set forth in
17 this chapter for the adoption of a comprehensive plan or development
18 regulations.

19 NEW SECTION. **Sec. 105.** A new section is added to chapter 36.70A
20 RCW to read as follows:

21 (1) In designating and protecting critical areas under this
22 chapter, counties and cities shall include the best available science
23 in developing policies and development regulations to protect the
24 functions and values of critical areas. In addition, counties and
25 cities shall give special consideration to conservation or protection
26 measures necessary to preserve or enhance anadromous fisheries.

27 (2) If it determines that advice from scientific or other experts
28 is necessary or will be of substantial assistance in reaching its
29 decision, a growth management hearings board may retain scientific or
30 other expert advice to assist in reviewing a petition under RCW
31 36.70A.290 that involves critical areas.

32 **Sec. 106.** RCW 36.70A.130 and 1990 1st ex.s. c 17 s 13 are each
33 amended to read as follows:

34 (1) Each comprehensive land use plan and development regulations
35 shall be subject to continuing evaluation and review by the county or
36 city that adopted them.

1 Any amendment or revision to a comprehensive land use plan shall
2 conform to this chapter, and any change to development regulations
3 shall be consistent with and implement the comprehensive plan.

4 (2)(a) Each county and city shall establish and broadly disseminate
5 to the public a public participation program identifying procedures
6 whereby proposed amendments or revisions of the comprehensive plan are
7 considered by the governing body of the county or city no more
8 frequently than once every year except that amendments may be
9 considered more frequently under the following circumstances:

10 (i) The initial adoption of a subarea plan; and

11 (ii) The adoption or amendment of a shoreline master program under
12 the procedures set forth in chapter 90.58 RCW.

13 (b) All proposals shall be considered by the governing body
14 concurrently so the cumulative effect of the various proposals can be
15 ascertained. However, after appropriate public participation a county
16 or city may adopt amendments or revisions to its comprehensive plan
17 that conform with this chapter whenever an emergency exists or to
18 resolve an appeal of a comprehensive plan filed with a growth
19 management hearings board or with the court.

20 (3) Each county that designates urban growth areas under RCW
21 36.70A.110 shall review, at least every ten years, its designated urban
22 growth area or areas, and the densities permitted within both the
23 incorporated and unincorporated portions of each urban growth area. In
24 conjunction with this review by the county, each city located within an
25 urban growth area shall review the densities permitted within its
26 boundaries, and the extent to which the urban growth occurring within
27 the county has located within each city and the unincorporated portions
28 of the urban growth areas. The county comprehensive plan designating
29 urban growth areas, and the densities permitted in the urban growth
30 areas by the comprehensive plans of the county and each city located
31 within the urban growth areas, shall be revised to accommodate the
32 urban growth projected to occur in the county for the succeeding
33 twenty-year period.

34 **Sec. 107.** RCW 36.70A.140 and 1990 1st ex.s. c 17 s 14 are each
35 amended to read as follows:

36 Each county and city that is required or chooses to plan under RCW
37 36.70A.040 shall establish and broadly disseminate to the public a
38 public participation program identifying procedures providing for early

1 and continuous public participation in the development and amendment of
2 comprehensive land use plans and development regulations implementing
3 such plans. The procedures shall provide for broad dissemination of
4 proposals and alternatives, opportunity for written comments, public
5 meetings after effective notice, provision for open discussion,
6 communication programs, information services, and consideration of and
7 response to public comments. In enacting legislation in response to
8 the board's decision pursuant to RCW 36.70A.300 declaring part or all
9 of a comprehensive plan or development regulation invalid, the county
10 or city shall provide for public participation that is appropriate and
11 effective under the circumstances presented by the board's order.
12 Errors in exact compliance with the established program and procedures
13 shall not render the comprehensive land use plan or development
14 regulations invalid if the spirit of the program and procedures is
15 observed.

16 **Sec. 108.** RCW 36.70A.280 and 1994 c 249 s 31 are each amended to
17 read as follows:

18 (1) A growth management hearings board shall hear and determine
19 only those petitions alleging either:

20 (a) That a state agency, county, or city planning under this
21 chapter is not in compliance with the requirements of this chapter,
22 chapter 90.58 RCW as it relates to the adoption of shoreline master
23 programs or amendments thereto, or chapter 43.21C RCW as it relates to
24 plans, development regulations, or amendments, adopted under RCW
25 36.70A.040 or chapter 90.58 RCW; or

26 (b) That the twenty-year growth management planning population
27 projections adopted by the office of financial management pursuant to
28 RCW 43.62.035 should be adjusted.

29 (2) A petition may be filed only by the state, a county or city
30 that plans under this chapter, a person who has either appeared before
31 the county or city regarding the matter on which a review is being
32 requested or is certified by the governor within sixty days of filing
33 the request with the board, or a person qualified pursuant to RCW
34 34.05.530.

35 (3) For purposes of this section "person" means any individual,
36 partnership, corporation, association, governmental subdivision or unit
37 thereof, or public or private organization or entity of any character.

1 (4) When considering a possible adjustment to a growth management
2 planning population projection prepared by the office of financial
3 management, a board shall consider the implications of any such
4 adjustment to the population forecast for the entire state.

5 The rationale for any adjustment that is adopted by a board must be
6 documented and filed with the office of financial management within ten
7 working days after adoption.

8 If adjusted by a board, a county growth management planning
9 population projection shall only be used for the planning purposes set
10 forth in this chapter and shall be known as a "board adjusted
11 population projection". None of these changes shall affect the
12 official state and county population forecasts prepared by the office
13 of financial management, which shall continue to be used for state
14 budget and planning purposes.

15 **Sec. 109.** RCW 36.70A.290 and 1994 c 257 s 2 and 1994 c 249 s 26
16 are each reenacted and amended to read as follows:

17 (1) All requests for review to a growth management hearings board
18 shall be initiated by filing a petition that includes a detailed
19 statement of issues presented for resolution by the board.

20 (2) All petitions relating to whether or not an adopted
21 comprehensive plan, development regulation, or permanent amendment
22 thereto, is in compliance with the goals and requirements of this
23 chapter or chapter 90.58 or 43.21C RCW must be filed within sixty days
24 after publication by the legislative bodies of the county or city.

25 (a) Except as provided in (c) of this subsection, the date of
26 publication for a city shall be the date the city publishes the
27 ordinance, or summary of the ordinance, adopting the comprehensive plan
28 or development regulations, or amendment thereto, as is required to be
29 published.

30 (b) Promptly after adoption, a county shall publish a notice that
31 it has adopted the comprehensive plan or development regulations, or
32 amendment thereto.

33 Except as provided in (c) of this subsection, for purposes of this
34 section the date of publication for a county shall be the date the
35 county publishes the notice that it has adopted the comprehensive plan
36 or development regulations, or amendment thereto.

37 (c) For local governments planning under RCW 36.70A.040, promptly
38 after approval or disapproval of a local government s shoreline master

1 program or amendment thereto by the department of ecology as provided
2 in RCW 90.58.090, the local government shall publish a notice that the
3 shoreline master program or amendment thereto has been approved or
4 disapproved by the department of ecology. For purposes of this
5 section, the date of publication for the adoption or amendment of a
6 shoreline master program is the date the local government publishes
7 notice that the shoreline master program or amendment thereto has been
8 approved or disapproved by the department of ecology.

9 (3) Unless the board dismisses the petition as frivolous or finds
10 that the person filing the petition lacks standing, the board shall,
11 within ten days of receipt of the petition, set a time for hearing the
12 matter.

13 (4) The board shall base its decision on the record developed by
14 the city, county, or the state and supplemented with additional
15 evidence if the board determines that such additional evidence would be
16 necessary or of substantial assistance to the board in reaching its
17 decision.

18 (5) The board, shall consolidate, when appropriate, all petitions
19 involving the review of the same comprehensive plan or the same
20 development regulation or regulations.

21 **Sec. 110.** RCW 36.70A.300 and 1991 sp.s. c 32 s 11 are each amended
22 to read as follows:

23 (1) The board shall issue a final order within one hundred eighty
24 days of receipt of the petition for review, or, when multiple petitions
25 are filed, within one hundred eighty days of receipt of the last
26 petition that is consolidated. Such a final order shall be based
27 exclusively on whether or not a state agency, county, or city is in
28 compliance with the requirements of this chapter, chapter 90.58 RCW as
29 it relates to adoption or amendment of shoreline master programs, or
30 chapter 43.21C RCW as it relates to plans, development regulations, and
31 amendments thereto, adopted under RCW 36.70A.040 or chapter 90.58 RCW.
32 In the final order, the board shall either: (a) Find that the state
33 agency, county, or city is in compliance with the requirements of this
34 chapter or chapter 90.58 RCW as it relates to the adoption or amendment
35 of shoreline master programs; or (b) find that the state agency,
36 county, or city is not in compliance with the requirements of this
37 chapter or chapter 90.58 RCW as it relates to the adoption or amendment
38 of shoreline master programs, in which case the board shall remand the

1 matter to the affected state agency, county, or city and specify a
2 reasonable time not in excess of one hundred eighty days within which
3 the state agency, county, or city shall comply with the requirements of
4 this chapter.

5 (2) A finding of noncompliance and an order of remand shall not
6 affect the validity of comprehensive plans and development regulations
7 during the period of remand, unless the board's final order also:

8 (a) Includes a determination, supported by findings of fact and
9 conclusions of law, that the continued validity of the plan or
10 regulation would substantially interfere with the fulfillment of the
11 goals of this chapter; and

12 (b) Specifies the particular part or parts of the plan or
13 regulation that are determined to be invalid, and the reasons for their
14 invalidity.

15 (3) A determination of invalidity shall:

16 (a) Be prospective in effect and shall not extinguish rights that
17 vested under state or local law before the date of the board's order;
18 and

19 (b) Subject any development application that would otherwise vest
20 after the date of the board's order to the local ordinance or
21 resolution that both is enacted in response to the order of remand and
22 determined by the board pursuant to RCW 36.70A.330 to comply with the
23 requirements of this chapter.

24 (4) If the ordinance that adopts a plan or development regulation
25 under this chapter includes a savings clause intended to revive prior
26 policies or regulations in the event the new plan or regulations are
27 determined to be invalid, the board shall determine under subsection
28 (2) of this section whether the prior policies or regulations are valid
29 during the period of remand.

30 (5) Any party aggrieved by a final decision of the hearings board
31 may appeal the decision to ((Thurston county)) superior court as
32 provided in RCW 34.05.514 or 36.01.050 within thirty days of the final
33 order of the board.

34 **Sec. 111.** RCW 36.70A.320 and 1991 sp.s. c 32 s 13 are each amended
35 to read as follows:

36 (1) Except as provided in subsection (2) of this section,
37 comprehensive plans and development regulations, and amendments
38 thereto, adopted under this chapter are presumed valid upon adoption.

1 In any petition under this chapter, the board, after full consideration
2 of the petition, shall determine whether there is compliance with the
3 requirements of this chapter. In making its determination, the board
4 shall consider the criteria adopted by the department under RCW
5 36.70A.190(4). The board shall find compliance unless it finds by a
6 preponderance of the evidence that the state agency, county, or city
7 erroneously interpreted or applied this chapter.

8 (2) The shoreline element of a comprehensive plan and the
9 applicable development regulations adopted by a county or city shall
10 take effect as provided in chapter 90.58 RCW.

11 **Sec. 112.** RCW 36.70A.330 and 1991 sp.s. c 32 s 14 are each amended
12 to read as follows:

13 (1) After the time set for complying with the requirements of this
14 chapter under RCW 36.70A.300(1)(b) has expired, or at an earlier time
15 upon the motion of a county or city subject to a determination of
16 invalidity under RCW 36.70A.300, the board(~~(, on its own motion or~~
17 ~~motion of the petitioner,~~)) shall set a hearing for the purpose of
18 determining whether the state agency, county, or city is in compliance
19 with the requirements of this chapter.

20 (2) The board shall conduct a hearing and issue a finding of
21 compliance or noncompliance with the requirements of this chapter. A
22 person with standing to challenge the legislation enacted in response
23 to the board's final order may participate in the hearing along with
24 the petitioner and the state agency, city, or county. A hearing under
25 this subsection shall be given the highest priority of business to be
26 conducted by the board, and a finding shall be issued within forty-five
27 days of the filing of the motion under subsection (1) of this section
28 with the board.

29 (3) If the board finds that the state agency, county, or city is
30 not in compliance, the board shall transmit its finding to the
31 governor. The board may recommend to the governor that the sanctions
32 authorized by this chapter be imposed.

33 (4) The board shall also reconsider its final order and decide:

34 (a) If a determination of invalidity has been made, whether such a
35 determination should be rescinded or modified under the standards in
36 RCW 36.70A.300(2); or

37 (b) If no determination of invalidity has been made, whether one
38 now should be made under the standards in RCW 36.70A.300(2).

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

3 **Sec. 113.** RCW 34.05.514 and 1994 c 257 s 23 are each amended to
4 read as follows:

5 (1) Except as provided in subsection (2) of this section (~~and RCW~~
6 ~~36.70A.300(3)~~), proceedings for review under this chapter shall be
7 instituted by filing a petition in the superior court, at the
8 petitioner's option, for (a) Thurston county, (b) the county of the
9 petitioner's residence or principal place of business, or (c) in any
10 county where the property owned by the petitioner and affected by the
11 contested decision is located.

12 (2) For proceedings involving institutions of higher education, the
13 petition shall be filed either in the county in which the principal
14 office of the institution involved is located or in the county of a
15 branch campus if the action involves such branch.

16 NEW SECTION. **Sec. 114.** (1) The legislature finds that:

17 (a) As of the effective date of this section, twenty-nine counties
18 and two hundred eight cities are conducting comprehensive planning
19 under the growth management act, chapter 36.70A RCW, which together
20 comprise over ninety percent of the state's population;

21 (b) Comprehensive plans for many of the jurisdictions were due by
22 July 1, 1994, and the remaining jurisdictions must complete plans under
23 due dates ranging from October 1994 to September 1997;

24 (c) Concurrently with these comprehensive planning activities,
25 local governments must conduct several other planning requirements
26 under the growth management act, such as the adoption of capital
27 facilities plans, urban growth areas, and development regulations;

28 (d) Local governments must also comply with the state environmental
29 policy act, chapter 43.21C RCW, in the development of comprehensive
30 plans and development regulations;

31 (e) The combined activities of comprehensive planning and the state
32 environmental policy act present a serious fiscal burden upon local
33 governments; and

34 (f) Detailed environmental analysis integrated with comprehensive
35 plans, subarea plans, and development regulations will facilitate
36 planning for and managing growth, allow greater protection of the

1 environment, and benefit both the general public and private property
2 owners.

3 (2) In order to provide financial assistance to cities and counties
4 planning under chapter 36.70A RCW and to improve the usefulness of
5 plans and integrated environmental analyses, the legislature has
6 created the fund described in section 115 of this act.

7 NEW SECTION. **Sec. 115.** A new section is added to chapter 36.70A
8 RCW to read as follows:

9 The growth management planning and environmental review fund is
10 hereby established in the state treasury. Moneys may be placed in the
11 fund from the proceeds of bond sales, tax revenues, budget transfers,
12 federal appropriations, gifts, or any other lawful source. Moneys in
13 the fund may be spent only after appropriation. Moneys in the fund
14 shall be used to make grants to local governments for the purposes set
15 forth in section 202 of this act, RCW 43.21C.031, or section 116 of
16 this act.

17 NEW SECTION. **Sec. 116.** A new section is added to chapter 36.70A
18 RCW to read as follows:

19 (1) The department of community, trade, and economic development
20 shall provide management services for the fund created by section 115
21 of this act. The department by rule shall establish procedures for
22 fund management.

23 (2) A grant may be awarded to a county or city that is required to
24 or has chosen to plan under RCW 36.70A.040 and that is qualified
25 pursuant to this section. The grant shall be provided to assist a
26 county or city in paying for the cost of preparing a detailed
27 environmental impact statement that is integrated with a comprehensive
28 plan or subarea plan and development regulations.

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

30 (a) Demonstrate that it will prepare an environmental analysis
31 pursuant to chapter 43.21C RCW that is integrated with a comprehensive
32 plan or subarea plan and development regulations;

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

1 (c) Include mechanisms in the plan to monitor the consequences of
2 growth as it occurs in the plan area and provide ongoing data to update
3 the plan and environmental analysis;

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

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

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

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

14 (b) Comprehensive and subarea plan proposals that are designed to
15 identify and monitor system capacities for elements of the built
16 environment, and to the extent appropriate, of the natural environment;

17 (c) Programs to improve the efficiency and effectiveness of the
18 permitting process by greater reliance on integrated plans;

19 (d) Programs for effective citizen and neighborhood involvement
20 that contribute to greater certainty that planning decisions will be
21 implemented; and

22 (e) Plans that identify environmental impacts and establish
23 mitigation measures that provide effective means to satisfy concurrency
24 requirements and establish project consistency with the plans.

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

29 **PART II - STATE ENVIRONMENTAL POLICY ACT**

30 NEW SECTION. **Sec. 201.** (1) The legislature finds in adopting
31 section 202 of this act that:

32 (a) Comprehensive plans and development regulations adopted by
33 counties, cities, and towns under chapter 36.70A RCW and environmental
34 laws and rules adopted by the state and federal government have
35 addressed a wide range of environmental subjects and impacts. These
36 plans, regulations, rules, and laws often provide environmental

1 analysis and mitigation measures for project actions without the need
2 for an environmental impact statement or further project mitigation.

3 (b) Existing plans, regulations, rules, or laws provide
4 environmental analysis and measures that avoid or otherwise mitigate
5 the probable specific adverse environmental impacts of proposed
6 projects should be integrated with, and should not be duplicated by,
7 environmental review under chapter 43.21C RCW.

8 (c) Proposed projects should continue to receive environmental
9 review, which should be conducted in a manner that is integrated with
10 and does not duplicate other requirements. Project-level environmental
11 review should be used to: (i) Review and document consistency with
12 comprehensive plans and development regulations; (ii) provide prompt
13 and coordinated review by government agencies and the public on
14 compliance with applicable environmental laws and plans, including
15 mitigation for specific project impacts that have not been considered
16 and addressed at the plan or development regulation level; and (iii)
17 ensure accountability by local government to applicants and the public
18 for requiring and implementing mitigation measures.

19 (d) When a project permit application is filed, an agency should
20 analyze the proposal's environmental impacts, as required by applicable
21 regulations and the environmental review process required by this
22 chapter, in one project review process. The project review process
23 should include land use, environmental, public, and governmental
24 review, as provided by the applicable regulations and the rules adopted
25 under this chapter, so that documents prepared under different
26 requirements can be reviewed together by the public and other agencies.
27 This project review will provide an agency with the information
28 necessary to make a decision on the proposed project.

29 (e) Through this project review process: (i) If the applicable
30 regulations require studies that adequately analyze all of the
31 project's specific probable adverse environmental impacts, additional
32 studies under this chapter will not be necessary on those impacts; (ii)
33 if the applicable regulations require measures that adequately address
34 such environmental impacts, additional measures would likewise not be
35 required under this chapter; and (iii) if the applicable regulations do
36 not adequately analyze or address a proposal's specific probable
37 adverse environmental impacts, this chapter provides the authority and
38 procedures for additional review.

1 (2) The legislature intends that a primary role of environmental
2 review under chapter 43.21C RCW is to focus on the gaps and overlaps
3 that may exist in applicable laws and requirements related to a
4 proposed action. The review of project actions conducted by counties,
5 cities, and towns planning under RCW 36.70A.040 should integrate
6 environmental review with project review. Chapter 43.21C RCW should
7 not be used as a substitute for other land use planning and
8 environmental requirements.

9 NEW SECTION. **Sec. 202.** A new section is added to chapter 43.21C
10 RCW to read as follows:

11 (1) If the requirements of subsection (2) of this section are
12 satisfied, a county, city, or town reviewing a project action may
13 determine that the requirements for environmental analysis, protection,
14 and mitigation measures in the county, city, or town's development
15 regulations and comprehensive plans adopted under chapter 36.70A RCW,
16 and in other applicable local, state, or federal laws and rules provide
17 adequate analysis of and mitigation for the specific adverse
18 environmental impacts of the project action to which the requirements
19 apply.

20 (2) A county, city, or town may make the determination provided for
21 in subsection (1) of this section if:

22 (a) In the course of project review, including any required
23 environmental analysis, the local government considers the specific
24 probable adverse environmental impacts of the proposed action and
25 determines that these specific impacts are adequately addressed by the
26 development regulations or other applicable requirements of the
27 comprehensive plan, subarea plan element of the comprehensive plan, or
28 other local, state, or federal rules or laws; and

29 (b) The local government bases or conditions its approval on
30 compliance with these requirements or mitigation measures.

31 (3) If a county, city, or town's comprehensive plans, subarea
32 plans, and development regulations adequately address a project's
33 probable specific adverse environmental impacts, as determined under
34 subsections (1) and (2) of this section, the county, city, or town
35 shall not impose additional mitigation under this chapter during
36 project review. Project review shall be integrated with environmental
37 analysis under this chapter.

1 (4) A comprehensive plan, subarea plan, or development regulation
2 shall be considered to adequately address an impact if the county,
3 city, or town, through the planning and environmental review process
4 under chapter 36.70A RCW and this chapter, has identified the specific
5 adverse environmental impacts and:

6 (a) The impacts have been avoided or otherwise mitigated; or

7 (b) The legislative body of the county, city, or town has
8 designated as acceptable certain levels of service, land use
9 designations, development standards, or other land use planning
10 required or allowed by chapter 36.70A RCW.

11 (5) In deciding whether a specific adverse environmental impact has
12 been addressed by an existing rule or law of another agency with
13 jurisdiction with environmental expertise with regard to a specific
14 environmental impact, the county, city, or town shall consult orally
15 or in writing with that agency and may expressly defer to that agency.
16 In making this deferral, the county, city, or town shall base or
17 condition its project approval on compliance with these other existing
18 rules or laws.

19 (6) Nothing in this section limits the authority of an agency in
20 its review or mitigation of a project to adopt or otherwise rely on
21 environmental analyses and requirements under other laws, as provided
22 by this chapter.

23 (7) This section shall apply only to a county, city, or town
24 planning under RCW 36.70A.040.

25 **Sec. 203.** RCW 43.21C.031 and 1983 c 117 s 1 are each amended to
26 read as follows:

27 (1) An environmental impact statement (the detailed statement
28 required by RCW 43.21C.030(2)(c)) shall be prepared on proposals for
29 legislation and other major actions having a probable significant,
30 adverse environmental impact. The environmental impact statement may
31 be combined with the recommendation or report on the proposal or issued
32 as a separate document. The substantive decisions or recommendations
33 shall be clearly identifiable in the combined document. Actions
34 categorically exempt under RCW 43.21C.110(1)(a) do not require
35 environmental review or the preparation of an environmental impact
36 statement under this chapter. In a county, city, or town planning
37 under RCW 36.70A.040, a planned action, as provided for in subsection
38 (2) of this section, does not require a threshold determination or the

1 preparation of an environmental impact statement under this chapter,
2 but is subject to environmental review and mitigation as provided in
3 this chapter.

4 An environmental impact statement is required to analyze only those
5 probable adverse environmental impacts which are significant.
6 Beneficial environmental impacts may be discussed. The responsible
7 official shall consult with agencies and the public to identify such
8 impacts and limit the scope of an environmental impact statement. The
9 subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate
10 sections of an environmental impact statement. Discussions of
11 significant short-term and long-term environmental impacts, significant
12 irrevocable commitments of natural resources, significant alternatives
13 including mitigation measures, and significant environmental impacts
14 which cannot be mitigated should be consolidated or included, as
15 applicable, in those sections of an environmental impact statement
16 where the responsible official decides they logically belong.

17 (2)(a) For purposes of this section, a planned action means one or
18 more types of project action that:

19 (i) Are designated planned actions by an ordinance or resolution
20 adopted by a county, city, or town planning under RCW 36.70A.040;

21 (ii) Have had the significant impacts adequately addressed in an
22 environmental impact statement prepared in conjunction with (A) a
23 comprehensive plan or subarea plan adopted under chapter 36.70A RCW, or
24 (B) a fully contained community, a master planned resort, a master
25 planned development, or a phased project;

26 (iii) Are subsequent or implementing projects for the proposals
27 listed in (a)(ii) of this subsection;

28 (iv) Are located within an urban growth area, as defined in RCW
29 36.70A.030;

30 (v) Are not essential public facilities, as defined in RCW
31 36.70A.200; and

32 (vi) Are consistent with a comprehensive plan adopted under chapter
33 36.70A RCW.

34 (b) A county, city, or town shall limit planned actions to certain
35 types of development or to specific geographical areas that are less
36 extensive than the jurisdictional boundaries of the county, city, or
37 town and may limit a planned action to a time period identified in the
38 environmental impact statement or the ordinance or resolution adopted
39 under this subsection.

1 **Sec. 204.** RCW 43.21C.075 and 1994 c 253 s 4 are each amended to
2 read as follows:

3 (1) Because a major purpose of this chapter is to combine
4 environmental considerations with public decisions, any appeal brought
5 under this chapter shall be linked to a specific governmental action.
6 The State Environmental Policy Act provides a basis for challenging
7 whether governmental action is in compliance with the substantive and
8 procedural provisions of this chapter. The State Environmental Policy
9 Act is not intended to create a cause of action unrelated to a specific
10 governmental action.

11 (2) Unless otherwise provided by this section:

12 (a) Appeals under this chapter shall be of the governmental action
13 together with its accompanying environmental determinations.

14 (b) Appeals of environmental determinations made (or lacking) under
15 this chapter shall be commenced within the time required to appeal the
16 governmental action which is subject to environmental review.

17 (3) If an agency has a procedure for appeals of agency
18 environmental determinations made under this chapter, such procedure:

19 (a) Shall not allow more than one agency appeal proceeding on a
20 procedural determination (the adequacy of a determination of
21 significance/nonsignificance or of a final environmental impact
22 statement)(~~(, consistent with any state statutory requirements for~~
23 ~~appeals to local legislative bodies)~~). The appeal proceeding on a
24 determination of significance(~~(/nonsignificance)~~) may occur before the
25 agency's final decision on a proposed action. The appeal proceeding on
26 a determination of nonsignificance may occur before the agency's final
27 decision on a proposed action only if the appeal is heard at a
28 proceeding where the hearing body or officer will render a final
29 recommendation or decision on the proposed underlying governmental
30 action. Such ((an)) appeals shall also be allowed for a determination
31 of significance/nonsignificance which may be issued by the agency after
32 supplemental review;

33 (b) Shall consolidate an appeal of procedural issues and of
34 substantive determinations made under this chapter (such as a decision
35 to require particular mitigation measures or to deny a proposal) with
36 a hearing or appeal on the underlying governmental action by providing
37 for a single simultaneous ((~~appeal of an~~) hearing before one hearing
38 officer or body to consider the agency decision on a proposal and any
39 environmental determinations made under this chapter, with the

1 exception of the (~~threshold determination~~) appeal, if any, of a
2 determination of significance as provided in (a) of this subsection or
3 an appeal to the local legislative authority under RCW 43.21C.060 or
4 other applicable state statutes;

5 (c) Shall provide for the preparation of a record for use in any
6 subsequent appeal proceedings, and shall provide for any subsequent
7 appeal proceedings to be conducted on the record, consistent with other
8 applicable law. An adequate record consists of findings and
9 conclusions, testimony under oath, and taped or written transcript. An
10 electronically recorded transcript will suffice for purposes of review
11 under this subsection; and

12 (d) Shall provide that procedural determinations made by the
13 responsible official shall be entitled to substantial weight.

14 (4) If a person aggrieved by an agency action has the right to
15 judicial appeal and if an agency has an appeal procedure, such person
16 shall, prior to seeking any judicial review, use such agency procedure
17 if any such procedure is available, unless expressly provided otherwise
18 by state statute.

19 (5) (~~RCW 43.21C.080 establishes an optional "notice of action"~~
20 ~~procedure which, if used, imposes a time period for appealing decisions~~
21 ~~under this chapter.~~) Some statutes and ordinances contain time
22 periods for challenging governmental actions which are subject to
23 review under this chapter, such as various local land use approvals
24 (the "underlying governmental action"). RCW 43.21C.080 establishes an
25 optional "notice of action" procedure which, if used, imposes a time
26 period for appealing decisions under this chapter. This (~~section~~)
27 subsection does not modify any such time periods. (~~This section~~
28 ~~governs when a judicial appeal must be brought under this chapter where~~
29 ~~a "notice of action" is used, and/or where there is another time period~~
30 ~~which is required by statute or ordinance for challenging the~~
31 ~~underlying governmental action.~~) In this subsection, the term "appeal"
32 refers to a judicial appeal only.

33 (a) If there is a time period for appealing the underlying
34 governmental action, appeals under this chapter shall be commenced
35 within (~~thirty days~~) such time period. The agency shall give
36 official notice stating the date and place for commencing an appeal.
37 (~~If there is an agency proceeding under subsection (3) of this~~
38 ~~section, the appellant shall, prior to commencing a judicial appeal,~~
39 ~~submit to the responsible official a notice of intent to commence a~~

1 ~~judicial appeal. This notice of intent shall be given within the time~~
2 ~~period for commencing a judicial appeal on the underlying governmental~~
3 ~~action.)~~)

4 (b) If there is no time period for appealing the underlying
5 governmental action, and a notice of action under RCW 43.21C.080 ((~~may~~
6 ~~be used. If a notice of action~~)) is used, ((~~judicial~~)) appeals shall
7 be commenced within the time period specified by RCW 43.21C.080((~~7~~
8 ~~unless there is a time period for appealing the underlying governmental~~
9 ~~action in which case (a) of this subsection shall apply.~~

10 (c) ~~Notwithstanding RCW 43.21C.080(1), if there is a time period~~
11 ~~for appealing the underlying governmental action, a notice of action~~
12 ~~may be published within such time period)).~~

13 (6)(a) Judicial review under subsection (5) of this section of an
14 appeal decision made by an agency under ((~~RCW 43.21C.075(5)~~))
15 subsection (3) of this section shall be on the record, consistent with
16 other applicable law.

17 (b) A taped or written transcript may be used. If a taped
18 transcript is to be reviewed, a record shall identify the location on
19 the taped transcript of testimony and evidence to be reviewed. Parties
20 are encouraged to designate only those portions of the testimony
21 necessary to present the issues raised on review, but if a party
22 alleges that a finding of fact is not supported by evidence, the party
23 should include in the record all evidence relevant to the disputed
24 finding. Any other party may designate additional portions of the
25 taped transcript relating to issues raised on review. A party may
26 provide a written transcript of portions of the testimony at the
27 party's own expense or apply to that court for an order requiring the
28 party seeking review to pay for additional portions of the written
29 transcript.

30 (c) Judicial review under this chapter shall without exception be
31 of the governmental action together with its accompanying environmental
32 determinations.

33 (7) Jurisdiction over the review of determinations under this
34 chapter in an appeal before an agency or superior court shall upon
35 consent of the parties be transferred in whole or part to the
36 shorelines hearings board. The shorelines hearings board shall hear
37 the matter and sign the final order expeditiously. The superior court
38 shall certify the final order of the shorelines hearings board and said
39 certified final order may only be appealed to an appellate court. In

1 the case of an appeal under this chapter regarding a project or other
2 matter that is also the subject of an appeal to the shorelines hearings
3 board under chapter 90.58 RCW, the shorelines hearings board shall have
4 sole jurisdiction over both the appeal under this section and the
5 appeal under chapter 90.58 RCW, shall consider them together, and shall
6 issue a final order within one hundred eighty days as provided in RCW
7 90.58.180.

8 (8) For purposes of this section and RCW 43.21C.080, the words
9 "action", "decision", and "determination" mean substantive agency
10 action including any accompanying procedural determinations under this
11 chapter (except where the word "action" means "appeal" in RCW
12 43.21C.080(2) (~~and (3)~~)). The word "action" in this section and RCW
13 43.21C.080 does not mean a procedural determination by itself made
14 under this chapter. The word "determination" includes any
15 environmental document required by this chapter and state or local
16 implementing rules. The word "agency" refers to any state or local
17 unit of government. Except as provided in subsection (5) of this
18 section, the word "appeal" refers to administrative, legislative, or
19 judicial appeals.

20 (9) The court in its discretion may award reasonable attorney's
21 fees of up to one thousand dollars in the aggregate to the prevailing
22 party, including a governmental agency, on issues arising out of this
23 chapter if the court makes specific findings that the legal position of
24 a party is frivolous and without reasonable basis.

25 **Sec. 205.** RCW 43.21C.080 and 1977 ex.s. c 278 s 1 are each amended
26 to read as follows:

27 (1) Notice of any action taken by a governmental agency may be
28 publicized by the acting governmental agency, the applicant for, or the
29 proponent of such action, in substantially the form as set forth in
30 (~~subsection (3) of this section and in the following manner~~) rules
31 adopted under RCW 43.21C.110:

32 (a) By publishing notice on the same day of each week for two
33 consecutive weeks in a legal newspaper of general circulation in the
34 area where the property which is the subject of the action is located;

35 (b) By filing notice of such action with the department of ecology
36 at its main office in Olympia prior to the date of the last newspaper
37 publication; and

1 (c) Except for those actions which are of a nonproject nature, by
2 one of the following methods which shall be accomplished prior to the
3 date of ~~((last))~~ first newspaper publication;

4 (i) Mailing to the latest recorded real property owners, as shown
5 by the records of the county treasurer, who share a common boundary
6 line with the property upon which the project is proposed through
7 United States mail, first class, postage prepaid.

8 (ii) Posting of the notice in a conspicuous manner on the property
9 upon which the project is to be constructed.

10 (2)(a) Except as otherwise provided in RCW 43.21C.075(5)(a), any
11 action to set aside, enjoin, review, or otherwise challenge any such
12 governmental action or subsequent governmental action for which notice
13 is given as provided in subsection (1) of this section on grounds of
14 noncompliance with the provisions of this chapter shall be commenced
15 within ~~((thirty))~~ twenty-one days from the date of last newspaper
16 publication of the notice pursuant to subsection (1) of this section,
17 or be barred~~((: PROVIDED, HOWEVER, That the time period within which~~
18 ~~an action shall be commenced shall be ninety days (i) for projects to~~
19 ~~be performed by a governmental agency or to be performed under~~
20 ~~government contract, or (ii) for thermal power plant projects:~~
21 ~~PROVIDED FURTHER, That))~~.

22 (b) Any subsequent governmental action on the proposal for which
23 notice has been given as provided in subsection (1) of this section
24 shall not be set aside, enjoined, reviewed, or otherwise challenged on
25 grounds of noncompliance with the provisions of RCW 43.21C.030(2)(a)
26 through (h) unless there has been a substantial change in the proposal
27 between the time of the first governmental action and the subsequent
28 governmental action that is likely to have adverse environmental
29 impacts beyond the range of impacts previously analyzed, or unless the
30 action now being considered was identified in an earlier detailed
31 statement or declaration of nonsignificance as being one which would
32 require further environmental evaluation.

33 ~~((b) Any action to challenge a subsequent governmental action~~
34 ~~based upon any provisions of this chapter shall be commenced within~~
35 ~~thirty days from the date of last newspaper publication of the~~
36 ~~subsequent governmental action except (i) for projects to be performed~~
37 ~~by a governmental agency or to be performed under governmental~~
38 ~~contract, or (ii) for thermal power plant projects which shall be~~

1 challenged within ninety days from the date of last newspaper
2 publication of the subsequent governmental action, or be barred.

3 (3) The form for such notice of action shall be issued by the
4 department of ecology and shall be made available by the governmental
5 agency taking an action subject to being publicized pursuant to this
6 section, by the county auditor, and/or the city clerk to the project
7 applicant or proposer. The form of such notice shall be substantially
8 as follows:

9 NOTICE OF ACTION BY
10 _____
11 (Government agency or entity)

12 Pursuant to the provisions of chapter 43.21C RCW, notice is hereby
13 given that:

14 The _____ (Government agency or entity) did on
15 _____ (date), take the action described below.

16 Any action to set aside, enjoin, review, or otherwise challenge
17 such action on the grounds of noncompliance with the provisions of
18 chapter 43.21C RCW (State Environmental Policy Act) shall be commenced
19 within _____ days or be barred.

20 The action taken by _____ (Government agency or
21 entity), notice of which is hereby given, was as follows:

22 (1) _____ (Here insert description of action taken such
23 as: Adoption Ordinance No. _____; Issued Building Permit; Approved
24 preliminary (or final) plat, etc.)

25 (2) _____ (Here insert brief description of the
26 complete project or proposal.)

27 (3) Said action pertained to property commonly known as:
28 _____
29 _____
30 _____
31 _____
32 (Sufficient description to locate property, but complete legal
33 description not required)

34 (4) Pertinent documents may be examined during regular business
35 hours at the office of: _____ located at:
36 _____
37 (Location, including room number)

1 (b) Rules for criteria and procedures applicable to the
2 determination of when an act of a branch of government is a major
3 action significantly affecting the quality of the environment for which
4 a detailed statement is required to be prepared pursuant to RCW
5 43.21C.030.

6 (c) Rules and procedures applicable to the preparation of detailed
7 statements and other environmental documents, including but not limited
8 to rules for timing of environmental review, obtaining comments, data
9 and other information, and providing for and determining areas of
10 public participation which shall include the scope and review of draft
11 environmental impact statements.

12 (d) Scope of coverage and contents of detailed statements assuring
13 that such statements are simple, uniform, and as short as practicable;
14 statements are required to analyze only reasonable alternatives and
15 probable adverse environmental impacts which are significant, and may
16 analyze beneficial impacts.

17 (e) Rules and procedures for public notification of actions taken
18 and documents prepared.

19 (f) Definition of terms relevant to the implementation of this
20 chapter including the establishment of a list of elements of the
21 environment. Analysis of environmental considerations under RCW
22 43.21C.030(2) may be required only for those subjects listed as
23 elements of the environment (or portions thereof). The list of
24 elements of the environment shall consist of the "natural" and "built"
25 environment. The elements of the built environment shall consist of
26 public services and utilities (such as water, sewer, schools, fire and
27 police protection), transportation, environmental health (such as
28 explosive materials and toxic waste), and land and shoreline use
29 (including housing, and a description of the relationships with land
30 use and shoreline plans and designations, including population).

31 (g) Rules for determining the obligations and powers under this
32 chapter of two or more branches of government involved in the same
33 project significantly affecting the quality of the environment.

34 (h) Methods to assure adequate public awareness of the preparation
35 and issuance of detailed statements required by RCW 43.21C.030(2)(c).

36 (i) To prepare rules for projects setting forth the time limits
37 within which the governmental entity responsible for the action shall
38 comply with the provisions of this chapter.

1 (j) Rules for utilization of a detailed statement for more than one
2 action and rules improving environmental analysis of nonproject
3 proposals and encouraging better interagency coordination and
4 integration between this chapter and other environmental laws.

5 (k) Rules relating to actions which shall be exempt from the
6 provisions of this chapter in situations of emergency.

7 (l) Rules relating to the use of environmental documents in
8 planning and decision making and the implementation of the substantive
9 policies and requirements of this chapter, including procedures for
10 appeals under this chapter.

11 (m) Rules and procedures that provide for the integration of
12 environmental review with project review as provided in section 202 of
13 this act. The rules and procedures shall be jointly developed with the
14 department of community, trade, and economic development and shall be
15 applicable to the preparation of environmental documents for actions in
16 counties, cities, and towns planning under RCW 36.70A.040. The rules
17 and procedures shall also include criteria to analyze the consistency
18 of project actions, including planned actions under RCW 43.21C.031(2),
19 with development regulations adopted under chapter 36.70A RCW, or in
20 the absence of applicable development regulations, the appropriate
21 elements of a comprehensive plan or subarea plan adopted under chapter
22 36.70A RCW. Ordinances or procedures adopted by a county, city, or
23 town to implement the provisions of section 202 of this act prior to
24 the effective date of rules adopted under this subsection (1)(m) shall
25 continue to be effective until the adoption of any new or revised
26 ordinances or procedures that may be required. If any revisions are
27 required as a result of rules adopted under this subsection (1)(m),
28 those revisions shall be made within the time limits specified in RCW
29 43.21C.120.

30 (2) In exercising its powers, functions, and duties under this
31 section, the department may:

32 (a) Consult with the state agencies and with representatives of
33 science, industry, agriculture, labor, conservation organizations,
34 state and local governments and other groups, as it deems advisable;
35 and

36 (b) Utilize, to the fullest extent possible, the services,
37 facilities, and information (including statistical information) of
38 public and private agencies, organizations, and individuals, in order
39 to avoid duplication of effort and expense, overlap, or conflict with

1 similar activities authorized by law and performed by established
2 agencies.

3 (3) Rules adopted pursuant to this section shall be subject to the
4 review procedures of chapter 34.05 RCW (~~(34.05.538 and 34.05.240)~~).

5 **Sec. 207.** RCW 43.21C.900 and 1971 ex.s. c 109 s 7 are each amended
6 to read as follows:

7 This chapter shall be known and may be cited as the "State
8 Environmental Policy Act (~~of 1971~~)" or "SEPA".

9 **PART III - SHORELINE MANAGEMENT ACT**

10 **Sec. 301.** RCW 90.58.020 and 1992 c 105 s 1 are each amended to
11 read as follows:

12 The legislature finds that the shorelines of the state are among
13 the most valuable and fragile of its natural resources and that there
14 is great concern throughout the state relating to their utilization,
15 protection, restoration, and preservation. In addition it finds that
16 ever increasing pressures of additional uses are being placed on the
17 shorelines necessitating increased coordination in the management and
18 development of the shorelines of the state. The legislature further
19 finds that much of the shorelines of the state and the uplands adjacent
20 thereto are in private ownership; that unrestricted construction on the
21 privately owned or publicly owned shorelines of the state is not in the
22 best public interest; and therefore, coordinated planning is necessary
23 in order to protect the public interest associated with the shorelines
24 of the state while, at the same time, recognizing and protecting
25 private property rights consistent with the public interest. There is,
26 therefor, a clear and urgent demand for a planned, rational, and
27 concerted effort, jointly performed by federal, state, and local
28 governments, to prevent the inherent harm in an uncoordinated and
29 piecemeal development of the state's shorelines.

30 It is the policy of the state to provide for the management of the
31 shorelines of the state by planning for and fostering all reasonable
32 and appropriate uses. This policy is designed to insure the
33 development of these shorelines in a manner which, while allowing for
34 limited reduction of rights of the public in the navigable waters, will
35 promote and enhance the public interest. This policy contemplates
36 protecting against adverse effects to the public health, the land and

1 its vegetation and wildlife, and the waters of the state and their
2 aquatic life, while protecting generally public rights of navigation
3 and corollary rights incidental thereto.

4 The legislature declares that the interest of all of the people
5 shall be paramount in the management of shorelines of state-wide
6 significance. The department, in adopting guidelines for shorelines of
7 state-wide significance, and local government, in developing master
8 programs for shorelines of state-wide significance, shall give
9 preference to uses in the following order of preference which:

10 (1) Recognize and protect the state-wide interest over local
11 interest;

12 (2) Preserve the natural character of the shoreline;

13 (3) Result in long term over short term benefit;

14 (4) Protect the resources and ecology of the shoreline;

15 (5) Increase public access to publicly owned areas of the
16 shorelines;

17 (6) Increase recreational opportunities for the public in the
18 shoreline;

19 (7) Provide for any other element as defined in RCW 90.58.100
20 deemed appropriate or necessary.

21 In the implementation of this policy the public's opportunity to
22 enjoy the physical and aesthetic qualities of natural shorelines of the
23 state shall be preserved to the greatest extent feasible consistent
24 with the overall best interest of the state and the people generally.
25 To this end uses shall be preferred which are consistent with control
26 of pollution and prevention of damage to the natural environment, or
27 are unique to or dependent upon use of the state's shoreline.
28 Alterations of the natural condition of the shorelines of the state, in
29 those limited instances when authorized, shall be given priority for
30 single family residences and their appurtenant structures, ports,
31 shoreline recreational uses including but not limited to parks,
32 marinas, piers, and other improvements facilitating public access to
33 shorelines of the state, industrial and commercial developments which
34 are particularly dependent on their location on or use of the
35 shorelines of the state and other development that will provide an
36 opportunity for substantial numbers of the people to enjoy the
37 shorelines of the state. Alterations of the natural condition of the
38 shorelines and ((wetlands)) shorelands of the state shall be recognized
39 by the department. Shorelines and ((wetlands)) shorelands of the state

1 shall be appropriately classified and these classifications shall be
2 revised when circumstances warrant regardless of whether the change in
3 circumstances occurs through man-made causes or natural causes. Any
4 areas resulting from alterations of the natural condition of the
5 shorelines and ((wetlands)) shorelands of the state no longer meeting
6 the definition of "shorelines of the state" shall not be subject to the
7 provisions of chapter 90.58 RCW.

8 Permitted uses in the shorelines of the state shall be designed and
9 conducted in a manner to minimize, insofar as practical, any resultant
10 damage to the ecology and environment of the shoreline area and any
11 interference with the public's use of the water.

12 **Sec. 302. RCW 90.58.030 and 1987 c 474 s 1 are each amended to*
13 *read as follows:*

14 *As used in this chapter, unless the context otherwise requires, the*
15 *following definitions and concepts apply:*

16 *(1) Administration:*

17 *(a) "Department" means the department of ecology;*

18 *(b) "Director" means the director of the department of ecology;*

19 *(c) "Local government" means any county, incorporated city, or town*
20 *which contains within its boundaries any lands or waters subject to*
21 *this chapter;*

22 *(d) "Person" means an individual, partnership, corporation,*
23 *association, organization, cooperative, public or municipal*
24 *corporation, or agency of the state or local governmental unit however*
25 *designated;*

26 *(e) "Hearing board" means the shoreline hearings board established*
27 *by this chapter.*

28 *(2) Geographical:*

29 *(a) "Extreme low tide" means the lowest line on the land reached by*
30 *a receding tide;*

31 *(b) "Ordinary high water mark" on all lakes, streams, and tidal*
32 *water is that mark that will be found by examining the bed and banks*
33 *and ascertaining where the presence and action of waters are so common*
34 *and usual, and so long continued in all ordinary years, as to mark upon*
35 *the soil a character distinct from that of the abutting upland, in*
36 *respect to vegetation as that condition exists on June 1, 1971, as it*
37 *may naturally change thereafter, or as it may change thereafter in*
38 *accordance with permits issued by a local government or the department:*

1 *PROVIDED, That in any area where the ordinary high water mark cannot be*
2 *found, the ordinary high water mark adjoining salt water shall be the*
3 *line of mean higher high tide and the ordinary high water mark*
4 *adjoining fresh water shall be the line of mean high water;*

5 *(c) "Shorelines of the state" are the total of all "shorelines" and*
6 *"shorelines of state-wide significance" within the state;*

7 *(d) "Shorelines" means all of the water areas of the state,*
8 *including reservoirs, and their associated ((wetlands)) shorelands,*
9 *together with the lands underlying them; except (i) shorelines of*
10 *state-wide significance; (ii) shorelines on segments of streams*
11 *upstream of a point where the mean annual flow is twenty cubic feet per*
12 *second or less and the wetlands associated with such upstream segments;*
13 *and (iii) shorelines on lakes less than twenty acres in size and*
14 *wetlands associated with such small lakes;*

15 *(e) "Shorelines of state-wide significance" means the following*
16 *shorelines of the state:*

17 *(i) The area between the ordinary high water mark and the western*
18 *boundary of the state from Cape Disappointment on the south to Cape*
19 *Flattery on the north, including harbors, bays, estuaries, and inlets;*

20 *(ii) Those areas of Puget Sound and adjacent salt waters and the*
21 *Strait of Juan de Fuca between the ordinary high water mark and the*
22 *line of extreme low tide as follows:*

23 *(A) Nisqually Delta--from DeWolf Bight to Tatsolo Point,*

24 *(B) Birch Bay--from Point Whitehorn to Birch Point,*

25 *(C) Hood Canal--from Tala Point to Foulweather Bluff,*

26 *(D) Skagit Bay and adjacent area--from Brown Point to Yokeko Point,*
27 *and*

28 *(E) Padilla Bay--from March Point to William Point;*

29 *(iii) Those areas of Puget Sound and the Strait of Juan de Fuca and*
30 *adjacent salt waters north to the Canadian line and lying seaward from*
31 *the line of extreme low tide;*

32 *(iv) Those lakes, whether natural, artificial, or a combination*
33 *thereof, with a surface acreage of one thousand acres or more measured*
34 *at the ordinary high water mark;*

35 *(v) Those natural rivers or segments thereof as follows:*

36 *(A) Any west of the crest of the Cascade range downstream of a*
37 *point where the mean annual flow is measured at one thousand cubic feet*
38 *per second or more,*

1 (B) Any east of the crest of the Cascade range downstream of a
2 point where the annual flow is measured at two hundred cubic feet per
3 second or more, or those portions of rivers east of the crest of the
4 Cascade range downstream from the first three hundred square miles of
5 drainage area, whichever is longer;

6 (vi) Those ~~((wetlands))~~ shorelands associated with (i), (ii), (iv),
7 and (v) of this subsection (2)(e);

8 (f) "~~((Wetlands))~~ Shorelands" or "~~((wetland))~~ shoreland areas"
9 means those lands extending landward for two hundred feet in all
10 directions as measured on a horizontal plane from the ordinary high
11 water mark; floodways and contiguous floodplain areas landward two
12 hundred feet from such floodways; and all ~~((marshes, bogs, swamps,))~~
13 wetlands and river deltas associated with the streams, lakes, and tidal
14 waters which are subject to the provisions of this chapter; the same to
15 be designated as to location by the department of ecology(~~(:—PROVIDED,~~
16 ~~That))~~). Any county or city may determine that portion of a one-
17 hundred-year-flood plain to be included in its master program as long
18 as such portion includes, as a minimum, the floodway and the adjacent
19 land extending landward two hundred feet therefrom;

20 (g) "Floodway" means those portions of the area of a river valley
21 lying streamward from the outer limits of a watercourse upon which
22 flood waters are carried during periods of flooding that occur with
23 reasonable regularity, although not necessarily annually, said floodway
24 being identified, under normal condition, by changes in surface soil
25 conditions or changes in types or quality of vegetative ground cover
26 condition. The floodway shall not include those lands that can
27 reasonably be expected to be protected from flood waters by flood
28 control devices maintained by or maintained under license from the
29 federal government, the state, or a political subdivision of the state;

30 (h) "Wetlands" means areas that are inundated or saturated by
31 surface water or ground water at a frequency and duration sufficient to
32 support, and that under normal circumstances do support, a prevalence
33 of vegetation typically adapted for life in saturated soil conditions.
34 Wetlands generally include swamps, marshes, bogs, and similar areas.
35 Wetlands do not include those artificial wetlands intentionally created
36 from nonwetland sites, including, but not limited to, irrigation and
37 drainage ditches, grass-lined swales, canals, detention facilities,
38 wastewater treatment facilities, farm ponds, and landscape amenities.

1 Wetlands may include those artificial wetlands intentionally created
2 from nonwetland areas to mitigate the conversion of wetlands.

3 (3) Procedural terms:

4 (a) "Guidelines" means those standards adopted to implement the
5 policy of this chapter for regulation of use of the shorelines of the
6 state prior to adoption of master programs. Such standards shall also
7 provide criteria to local governments and the department in developing
8 master programs;

9 (b) "Master program" shall mean the comprehensive use plan for a
10 described area, and the use regulations together with maps, diagrams,
11 charts, or other descriptive material and text, a statement of desired
12 goals, and standards developed in accordance with the policies
13 enunciated in RCW 90.58.020;

14 (c) "State master program" is the cumulative total of all master
15 programs approved or adopted by the department of ecology;

16 (d) "Development" means a use consisting of the construction or
17 exterior alteration of structures; dredging; drilling; dumping;
18 filling; removal of any sand, gravel, or minerals; bulkheading; driving
19 of piling; placing of obstructions; or any project of a permanent or
20 temporary nature which interferes with the normal public use of the
21 surface of the waters overlying lands subject to this chapter at any
22 state of water level;

23 (e) "Substantial development" shall mean any development of which
24 the total cost or fair market value exceeds two thousand five hundred
25 dollars, or any development which materially interferes with the normal
26 public use of the water or shorelines of the state; except that the
27 following shall not be considered substantial developments for the
28 purpose of this chapter:

29 (i) Normal maintenance or repair of existing structures or
30 developments, including damage by accident, fire, or elements;

31 (ii) Construction of the normal protective bulkhead common to
32 single family residences;

33 (iii) Emergency construction necessary to protect property from
34 damage by the elements;

35 (iv) Construction and practices normal or necessary for farming,
36 irrigation, and ranching activities, including agricultural service
37 roads and utilities on ((wetlands)) shorelands, and the construction
38 and maintenance of irrigation structures including but not limited to
39 head gates, pumping facilities, and irrigation channels(~~(- PROVIDED,~~

1 ~~That~~)). A feedlot of any size, all processing plants, other activities
2 of a commercial nature, alteration of the contour of the ((wetlands))
3 shorelands by leveling or filling other than that which results from
4 normal cultivation, shall not be considered normal or necessary farming
5 or ranching activities. A feedlot shall be an enclosure or facility
6 used or capable of being used for feeding livestock hay, grain, silage,
7 or other livestock feed, but shall not include land for growing crops
8 or vegetation for livestock feeding and/or grazing, nor shall it
9 include normal livestock wintering operations;

10 (v) Construction or modification of navigational aids such as
11 channel markers and anchor buoys;

12 (vi) Construction on ((wetlands)) shorelands by an owner, lessee,
13 or contract purchaser of a single family residence for his own use or
14 for the use of his family, which residence does not exceed a height of
15 thirty-five feet above average grade level and which meets all
16 requirements of the state agency or local government having
17 jurisdiction thereof, other than requirements imposed pursuant to this
18 chapter;

19 (vii) Construction of a dock, including a community dock, designed
20 for pleasure craft only, for the private noncommercial use of the
21 owner, lessee, or contract purchaser of single and multiple family
22 residences, the cost of which does not exceed two thousand five hundred
23 dollars;

24 (viii) Operation, maintenance, or construction of canals,
25 waterways, drains, reservoirs, or other facilities that now exist or
26 are hereafter created or developed as a part of an irrigation system
27 for the primary purpose of making use of system waters, including
28 return flow and artificially stored ground water for the irrigation of
29 lands;

30 (ix) The marking of property lines or corners on state owned lands,
31 when such marking does not significantly interfere with normal public
32 use of the surface of the water;

33 (x) Operation and maintenance of any system of dikes, ditches,
34 drains, or other facilities existing on September 8, 1975, which were
35 created, developed, or utilized primarily as a part of an agricultural
36 drainage or diking system((;

37 ~~(xi) Any action commenced prior to December 31, 1982, pertaining to~~
38 ~~(A) the restoration of interim transportation services as may be~~
39 ~~necessary as a consequence of the destruction of the Hood Canal bridge,~~

1 ~~including, but not limited to, improvements to highways, development of~~
2 ~~park and ride facilities, and development of ferry terminal facilities~~
3 ~~until a new or reconstructed Hood Canal bridge is open to traffic; and~~
4 ~~(B) the reconstruction of a permanent bridge at the site of the~~
5 ~~original Hood Canal bridge)).~~

6 *Sec. 302 was vetoed. See message at end of chapter.

7 **Sec. 303.** RCW 90.58.050 and 1971 ex.s. c 286 s 5 are each amended
8 to read as follows:

9 This chapter establishes a cooperative program of shoreline
10 management between local government and the state. Local government
11 shall have the primary responsibility for initiating the planning
12 required by this chapter and administering the regulatory program
13 consistent with the policy and provisions of this chapter. The
14 department shall act primarily in a supportive and review capacity with
15 ~~((primary))~~ an emphasis on providing assistance to local government and
16 on insuring compliance with the policy and provisions of this chapter.

17 **Sec. 304.** RCW 90.58.060 and 1971 ex.s. c 286 s 6 are each amended
18 to read as follows:

19 (1) ~~((Within one hundred twenty days from June 1, 1971,))~~ The
20 department shall ~~((submit to local governments proposed))~~ periodically
21 review and adopt guidelines consistent with RCW 90.58.020, containing
22 the elements specified in RCW 90.58.100 for:

23 (a) Development of master programs for regulation of the uses of
24 shorelines; and

25 (b) Development of master programs for regulation of the uses of
26 shorelines of state-wide significance.

27 (2) Before adopting or amending guidelines under this section, the
28 department shall provide an opportunity for public review and comment
29 as follows:

30 (a) The department shall mail copies of the proposal to all cities,
31 counties, and federally recognized Indian tribes, and to any other
32 person who has requested a copy, and shall publish the proposed
33 guidelines in the Washington state register. Comments shall be
34 submitted in writing to the department within sixty days from ~~((receipt~~
35 ~~of such proposed guidelines, local governments shall submit to the~~
36 ~~department in writing proposed changes, if any, and comments upon the~~
37 ~~proposed guidelines.~~

1 ~~(3) Thereafter and within one hundred twenty days from the~~
2 ~~submission of such proposed guidelines to local governments, the~~
3 ~~department, after review and consideration of the comments and~~
4 ~~suggestions submitted to it, shall resubmit final proposed guidelines.~~

5 ~~(4) Within sixty days thereafter public hearings shall be held by))~~
6 the date the proposal has been published in the register.

7 (b) The department ((in Olympia and Spokane, at which interested
8 public and private parties shall have the opportunity)) shall hold at
9 least four public hearings on the proposal in different locations
10 throughout the state to provide a reasonable opportunity for residents
11 in all parts of the state to present statements and views on the
12 proposed guidelines. Notice of ((such)) the hearings shall be
13 published at least once in each of the three weeks immediately
14 preceding the hearing in one or more newspapers of general circulation
15 in each county of the state. If an amendment to the guidelines
16 addresses an issue limited to one geographic area, the number and
17 location of hearings may be adjusted consistent with the intent of this
18 subsection to assure all parties a reasonable opportunity to comment on
19 the proposed amendment. The department shall accept written comments
20 on the proposal during the sixty-day public comment period and for
21 seven days after the final public hearing.

22 (c) At the conclusion of the public comment period, the department
23 shall review the comments received and modify the proposal consistent
24 with the provisions of this chapter. The proposal shall then be
25 published for adoption pursuant to the provisions of chapter 34.05 RCW.

26 ~~((5) Within ninety days following such public hearings, the~~
27 ~~department at a public hearing to be held in Olympia shall adopt~~
28 ~~guidelines.))~~ (3) The department may propose amendments to the
29 guidelines not more than once each year. At least once every five
30 years the department shall conduct a review of the guidelines pursuant
31 to the procedures outlined in subsection (2) of this section.

32 **Sec. 305.** RCW 90.58.080 and 1974 ex.s. c 61 s 1 are each amended
33 to read as follows:

34 Local governments ~~((are directed with regard to shorelines of the~~
35 ~~state within their various jurisdictions as follows:~~

36 ~~(1) To complete within eighteen months after June 1, 1971, a~~
37 ~~comprehensive inventory of such shorelines. Such inventory shall~~
38 ~~include but not be limited to the general ownership patterns of the~~

1 lands located therein in terms of public and private ownership, a
2 survey of the general natural characteristics thereof, present uses
3 conducted therein and initial projected uses thereof;

4 ~~(2) To~~) shall develop or amend, within twenty-four months after
5 the adoption of guidelines as provided in RCW 90.58.060, a master
6 program for regulation of uses of the shorelines of the state
7 consistent with the required elements of the guidelines adopted by the
8 department.

9 **Sec. 306.** RCW 90.58.090 and 1971 ex.s. c 286 s 9 are each amended
10 to read as follows:

11 (1) A master program(~~s or segments thereof~~), segment of a master
12 program, or an amendment to a master program shall become effective
13 when (~~adopted or~~) approved by the department (~~as appropriate~~).
14 Within the time period provided in RCW 90.58.080, each local government
15 shall have submitted a master program, either totally or by segments,
16 for all shorelines of the state within its jurisdiction to the
17 department for review and approval.

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

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

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

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

35 (d) Within thirty days after receipt of the local government
36 response pursuant to (c) of this subsection, make written findings and
37 conclusions regarding the consistency of the proposal with the policy
38 of RCW 90.58.020 and the applicable guidelines, provide a response to

1 the issues identified in (c) of this subsection, and either approve the
2 proposal as submitted, recommend specific changes necessary to make the
3 proposal approvable, or deny approval of the proposal in those
4 instances where no alteration of the proposal appears likely to be
5 consistent with the policy of RCW 90.58.020 and the applicable
6 guidelines. The written findings and conclusions shall be provided to
7 the local government, all interested persons, parties, groups, and
8 agencies of record on the proposal;

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

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

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

25 ~~((1) As to those segments of the master program relating to~~
26 ~~shorelines, they shall be approved by))~~

27 (3) The department shall approve the segment of a master program
28 relating to shorelines unless it determines that the submitted segments
29 are not consistent with the policy of RCW 90.58.020 and the applicable
30 guidelines. ((If approval is denied, the department shall state within
31 ninety days from the date of submission in detail the precise facts
32 upon which that decision is based, and shall submit to the local
33 government suggested modifications to the program to make it consistent
34 with said policy and guidelines. The local government shall have
35 ninety days after it receives recommendations from the department to
36 make modifications designed to eliminate the inconsistencies and to
37 resubmit the program to the department for approval. Any resubmitted
38 program shall take effect when and in such form and content as is
39 approved by the department.

1 ~~(2) As to))~~ (4) The department shall approve those segments of the
2 master program relating to shorelines of state-wide significance ((the
3 department shall have full authority following review and evaluation of
4 the submission by local government to develop and adopt an alternative
5 to the local government's proposal if in the department's opinion the
6 program submitted does not)) only after determining the program
7 provides the optimum implementation of the policy of this chapter to
8 satisfy the state-wide interest. ((If the submission by local
9 government is not approved, the department shall suggest modifications
10 to the local government within ninety days from receipt of the
11 submission. The local government shall have ninety days after it
12 receives said modifications to consider the same and resubmit a master
13 program to the department. Thereafter, the department shall adopt the
14 resubmitted program or, if the department determines that said program
15 does not provide for optimum implementation, it may develop and adopt
16 an alternative as hereinbefore provided.)) If the department does not
17 approve a segment of a local government master program relating to a
18 shoreline of state-wide significance, the department may develop and by
19 rule adopt an alternative to the local government s proposal.

20 ~~((+3))~~ (5) In the event a local government has not complied with
21 the requirements of RCW 90.58.070 it may thereafter upon written notice
22 to 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 (6) A master program or amendment to a master program takes effect
30 when and in such form as approved or adopted by the department. The
31 department shall maintain a record of each master program, the action
32 taken on any proposal for adoption or amendment of the master program,
33 and any appeal of the department's action. The department's approved
34 document of record constitutes the official master program.

35 **Sec. 307.** RCW 90.58.100 and 1992 c 105 s 2 are each amended to
36 read as follows:

37 (1) The master programs provided for in this chapter, when adopted
38 ~~((and))~~ or approved by the department~~((, as appropriate,))~~ shall

1 constitute use regulations for the various shorelines of the state. In
2 preparing the master programs, and any amendments thereto, the
3 department and local governments shall to the extent feasible:

4 (a) Utilize a systematic interdisciplinary approach which will
5 insure the integrated use of the natural and social sciences and the
6 environmental design arts;

7 (b) Consult with and obtain the comments of any federal, state,
8 regional, or local agency having any special expertise with respect to
9 any environmental impact;

10 (c) Consider all plans, studies, surveys, inventories, and systems
11 of classification made or being made by federal, state, regional, or
12 local agencies, by private individuals, or by organizations dealing
13 with pertinent shorelines of the state;

14 (d) Conduct or support such further research, studies, surveys, and
15 interviews as are deemed necessary;

16 (e) Utilize all available information regarding hydrology,
17 geography, topography, ecology, economics, and other pertinent data;

18 (f) Employ, when feasible, all appropriate, modern scientific data
19 processing and computer techniques to store, index, analyze, and manage
20 the information gathered.

21 (2) The master programs shall include, when appropriate, the
22 following:

23 (a) An economic development element for the location and design of
24 industries, transportation facilities, port facilities, tourist
25 facilities, commerce and other developments that are particularly
26 dependent on their location on or use of the shorelines of the state;

27 (b) A public access element making provision for public access to
28 publicly owned areas;

29 (c) A recreational element for the preservation and enlargement of
30 recreational opportunities, including but not limited to parks,
31 tidelands, beaches, and recreational areas;

32 (d) A circulation element consisting of the general location and
33 extent of existing and proposed major thoroughfares, transportation
34 routes, terminals, and other public utilities and facilities, all
35 correlated with the shoreline use element;

36 (e) A use element which considers the proposed general distribution
37 and general location and extent of the use on shorelines and adjacent
38 land areas for housing, business, industry, transportation,
39 agriculture, natural resources, recreation, education, public buildings

1 and grounds, and other categories of public and private uses of the
2 land;

3 (f) A conservation element for the preservation of natural
4 resources, including but not limited to scenic vistas, aesthetics, and
5 vital estuarine areas for fisheries and wildlife protection;

6 (g) An historic, cultural, scientific, and educational element for
7 the protection and restoration of buildings, sites, and areas having
8 historic, cultural, scientific, or educational values;

9 (h) An element that gives consideration to the state-wide interest
10 in the prevention and minimization of flood damages; and

11 (i) Any other element deemed appropriate or necessary to effectuate
12 the policy of this chapter.

13 (3) The master programs shall include such map or maps, descriptive
14 text, diagrams and charts, or other descriptive material as are
15 necessary to provide for ease of understanding.

16 (4) Master programs will reflect that state-owned shorelines of the
17 state are particularly adapted to providing wilderness beaches,
18 ecological study areas, and other recreational activities for the
19 public and will give appropriate special consideration to same.

20 (5) Each master program shall contain provisions to allow for the
21 varying of the application of use regulations of the program, including
22 provisions for permits for conditional uses and variances, to insure
23 that strict implementation of a program will not create unnecessary
24 hardships or thwart the policy enumerated in RCW 90.58.020. Any such
25 varying shall be allowed only if extraordinary circumstances are shown
26 and the public interest suffers no substantial detrimental effect. The
27 concept of this subsection shall be incorporated in the rules adopted
28 by the department relating to the establishment of a permit system as
29 provided in RCW 90.58.140(3).

30 (6) Each master program shall contain standards governing the
31 protection of single family residences and appurtenant structures
32 against damage or loss due to shoreline erosion. The standards shall
33 govern the issuance of substantial development permits for shoreline
34 protection, including structural methods such as construction of
35 bulkheads, and nonstructural methods of protection. The standards
36 shall provide for methods which achieve effective and timely protection
37 against loss or damage to single family residences and appurtenant
38 structures due to shoreline erosion. The standards shall provide a
39 preference for permit issuance for measures to protect single family

1 residences occupied prior to January 1, 1992, where the proposed
2 measure is designed to minimize harm to the shoreline natural
3 environment.

4 **Sec. 308.** RCW 90.58.120 and 1989 c 175 s 182 are each amended to
5 read as follows:

6 All rules, regulations, (~~master programs,~~) designations, and
7 guidelines, issued by the department, and master programs and
8 amendments adopted by the department pursuant to RCW 90.58.070(2) or
9 90.58.090(4) shall be adopted or approved in accordance with the
10 provisions of RCW 34.05.310 through 34.05.395 insofar as such
11 provisions are not inconsistent with the provisions of this chapter.
12 In addition:

13 (1) Prior to the (~~approval or~~) adoption by the department of a
14 master program, or portion thereof pursuant to RCW 90.58.070(2) or
15 90.58.090(4), at least one public hearing shall be held in each county
16 affected by a program or portion thereof for the purpose of obtaining
17 the views and comments of the public. Notice of each such hearing
18 shall be published at least once in each of the three weeks immediately
19 preceding the hearing in one or more newspapers of general circulation
20 in the county in which the hearing is to be held.

21 (2) All guidelines, regulations, designations, or master programs
22 adopted or approved under this chapter shall be available for public
23 inspection at the office of the department or the appropriate county
24 (~~auditor~~) and city (~~clerk~~). The terms "adopt" and "approve" for
25 purposes of this section, shall include modifications and rescission of
26 guidelines.

27 **Sec. 309.** RCW 90.58.140 and 1992 c 105 s 3 are each amended to
28 read as follows:

29 (1) A development shall not be undertaken on the shorelines of the
30 state unless it is consistent with the policy of this chapter and,
31 after adoption or approval, as appropriate, the applicable guidelines,
32 rules, or master program.

33 (2) A substantial development shall not be undertaken on shorelines
34 of the state without first obtaining a permit from the government
35 entity having administrative jurisdiction under this chapter.

36 A permit shall be granted:

1 (a) From June 1, 1971, until such time as an applicable master
2 program has become effective, only when the development proposed is
3 consistent with: (i) The policy of RCW 90.58.020; and (ii) after their
4 adoption, the guidelines and rules of the department; and (iii) so far
5 as can be ascertained, the master program being developed for the area;

6 (b) After adoption or approval, as appropriate, by the department
7 of an applicable master program, only when the development proposed is
8 consistent with the applicable master program and ~~((the provisions of))~~
9 this chapter ((90.58-RCW)).

10 (3) The local government shall establish a program, consistent with
11 rules adopted by the department, for the administration and enforcement
12 of the permit system provided in this section. The administration of
13 the system so established shall be performed exclusively by the local
14 government.

15 (4) Except as otherwise specifically provided in subsection
16 ~~((+13))~~ (11) of this section, the local government shall require
17 notification of the public of all applications for permits governed by
18 any permit system established pursuant to subsection (3) of this
19 section by ensuring that~~((+)~~

20 ~~((a))~~ ~~A notice of such an application is published at least once a~~
21 ~~week on the same day of the week for two consecutive weeks in a legal~~
22 ~~newspaper of general circulation within the area in which the~~
23 ~~development is proposed; and~~

24 ~~((b))~~ ~~Additional~~ notice of ~~((such an))~~ the application is given by
25 at least one of the following methods:

26 ~~((+i))~~ (a) Mailing of the notice to the latest recorded real
27 property owners as shown by the records of the county assessor within
28 at least three hundred feet of the boundary of the property upon which
29 the substantial development is proposed;

30 ~~((+ii))~~ (b) Posting of the notice in a conspicuous manner on the
31 property upon which the project is to be constructed; or

32 ~~((+iii))~~ (c) Any other manner deemed appropriate by local
33 authorities to accomplish the objectives of reasonable notice to
34 adjacent landowners and the public.

35 The notices shall include a statement that any person desiring to
36 submit written comments concerning an application, or desiring to
37 receive ~~((a copy))~~ notification of the final ~~((order))~~ decision
38 concerning an application as expeditiously as possible after the
39 issuance of the ~~((order))~~ decision, may submit the comments or requests

1 for ~~((orders))~~ decisions to the local government within thirty days of
2 the last date the notice is to be published pursuant to ~~((subsection~~
3 ~~(a) of))~~ this subsection. The local government shall forward, in a
4 timely manner following the issuance of ~~((an order))~~ a decision, a copy
5 of the ~~((order))~~ decision to each person who submits a request for the
6 ~~((order))~~ decision.

7 If a hearing is to be held on an application, notices of such a
8 hearing shall include a statement that any person may submit oral or
9 written comments on an application at the hearing.

10 (5) The system shall include provisions to assure that construction
11 pursuant to a permit will not begin or be authorized until ~~((thirty))~~
12 twenty-one days from the date the ~~((final order))~~ permit decision was
13 filed as provided in subsection (6) of this section; or until all
14 review proceedings are terminated if the proceedings were initiated
15 within ~~((thirty))~~ twenty-one days from the date of filing as defined in
16 subsection (6) of this section except as follows:

17 (a) In the case of any permit issued to the state of Washington,
18 department of transportation, for the construction and modification of
19 SR 90 (I-90) on or adjacent to Lake Washington, the construction may
20 begin after thirty days from the date of filing, and the permits are
21 valid until December 31, 1995;

22 (b) Construction may be commenced no sooner than thirty days after
23 the date of the appeal of the board's decision is filed if a permit is
24 granted by the local government and (i) the granting of the permit is
25 appealed to the shorelines hearings board within ~~((thirty))~~ twenty-one
26 days of the date of filing, (ii) the hearings board approves the
27 granting of the permit by the local government or approves a portion of
28 the substantial development for which the local government issued the
29 permit, and (iii) an appeal for judicial review of the hearings board
30 decision is filed pursuant to chapter 34.05 RCW~~((, the permittee))~~.
31 The appellant may request, within ten days of the filing of the appeal
32 with the court, a hearing before the court to determine whether
33 construction ~~((may begin))~~ pursuant to the permit approved by the
34 hearings board or to a revised permit issued pursuant to the order of
35 the hearings board should not commence. If, at the conclusion of the
36 hearing, the court finds that construction pursuant to such a permit
37 would ~~((not))~~ involve a significant, irreversible damaging of the
38 environment, the court ~~((may allow))~~ shall prohibit the permittee ~~((to~~
39 ~~begin))~~ from commencing the construction pursuant to the approved or

1 revised permit ((as the court deems appropriate. The court may require
2 the permittee to post bonds, in the name of the local government that
3 issued the permit, sufficient to remove the substantial development or
4 to restore the environment if the permit is ultimately disapproved by
5 the courts, or to alter the substantial development if the alteration
6 is ultimately ordered by the courts)) until all review proceedings are
7 final. Construction pursuant to a permit revised at the direction of
8 the hearings board may begin only on that portion of the substantial
9 development for which the local government had originally issued the
10 permit, and construction pursuant to such a revised permit on other
11 portions of the substantial development may not begin until after all
12 review proceedings are terminated. In such a hearing before the court,
13 the burden of proving whether the construction may involve significant
14 irreversible damage to the environment and demonstrating whether such
15 construction would or would not be appropriate is on the appellant;

16 (c) ((If a permit is granted by the local government and the
17 granting of the permit is appealed directly to the superior court for
18 judicial review pursuant to the proviso in RCW 90.58.180(1), the
19 permittee may request the court to remand the appeal to the shorelines
20 hearings board, in which case the appeal shall be so remanded and
21 construction pursuant to such a permit shall be governed by the
22 provisions of subsection (b) of this subsection or may otherwise begin
23 after review proceedings before the hearings board are terminated if
24 judicial review is not thereafter requested pursuant to chapter 34.05
25 RCW;

26 (d)) If the permit is for a substantial development meeting the
27 requirements of subsection ((+13)) (11) of this section, construction
28 pursuant to that permit may not begin or be authorized until ((thirty))
29 twenty-one days from the date the ((final order)) permit decision was
30 filed as provided in subsection (6) of this section.

31 If a permittee begins construction pursuant to subsections (a),
32 (b), or (c)((, or (d))) of this subsection, the construction is begun
33 at the permittee's own risk. If, as a result of judicial review, the
34 courts order the removal of any portion of the construction or the
35 restoration of any portion of the environment involved or require the
36 alteration of any portion of a substantial development constructed
37 pursuant to a permit, the permittee is barred from recovering damages
38 or costs involved in adhering to such requirements from the local

1 government that granted the permit, the hearings board, or any
2 appellant or intervener.

3 (6) Any (~~ruling~~) decision on an application for a permit under
4 the authority of this section, whether it is an approval or a denial,
5 shall, concurrently with the transmittal of the ruling to the
6 applicant, be filed with the department and the attorney general. With
7 regard to a permit other than a permit governed by subsection (~~(12)~~)
8 (10) of this section, "date of filing" as used herein means the date of
9 actual receipt by the department. With regard to a permit for a
10 variance or a conditional use, "date of filing" means the date a
11 decision of the department rendered on the permit pursuant to
12 subsection (~~(12)~~) (10) of this section is transmitted by the
13 department to the local government. The department shall notify in
14 writing the local government and the applicant of the date of filing.

15 (7) Applicants for permits under this section have the burden of
16 proving that a proposed substantial development is consistent with the
17 criteria that must be met before a permit is granted. In any review of
18 the granting or denial of an application for a permit as provided in
19 RCW 90.58.180 (1) and (2), the person requesting the review has the
20 burden of proof.

21 (8) Any permit may, after a hearing with adequate notice to the
22 permittee and the public, be rescinded by the issuing authority upon
23 the finding that a permittee has not complied with conditions of a
24 permit. If the department is of the opinion that noncompliance exists,
25 the department shall provide written notice to the local government and
26 the permittee. If the department is of the opinion that the
27 noncompliance continues to exist thirty days after the date of the
28 notice, and the local government has taken no action to rescind the
29 permit, the department may petition the hearings board for a rescission
30 of the permit upon written notice of the petition to the local
31 government and the permittee if the request by the department is made
32 to the hearings board within fifteen days of the termination of the
33 thirty-day notice to the local government.

34 (9) The holder of a certification from the governor pursuant to
35 chapter 80.50 RCW shall not be required to obtain a permit under this
36 section.

37 (10) (~~A permit shall not be required for any development on~~
38 ~~shorelines of the state included within a preliminary or final plat~~

1 approved by the applicable state agency or local government before
2 April 1, 1971, if:

3 (a) The final plat was approved after April 13, 1961, or the
4 preliminary plat was approved after April 30, 1969; and

5 (b) The development is completed within two years after June 1,
6 1971.

7 (11) The applicable state agency or local government is authorized
8 to approve a final plat with respect to shorelines of the state
9 included within a preliminary plat approved after April 30, 1969, and
10 before April 1, 1971: PROVIDED, That any substantial development
11 within the platted shorelines of the state is authorized by a permit
12 granted pursuant to this section, or does not require a permit as
13 provided in subsection (10) of this section, or does not require a
14 permit because of substantial development occurred before June 1, 1971.

15 (12)) Any permit for a variance or a conditional use by local
16 government under approved master programs must be submitted to the
17 department for its approval or disapproval.

18 ((13)) (11)(a) An application for a substantial development
19 permit for a limited utility extension or for the construction of a
20 bulkhead or other measures to protect a single family residence and its
21 appurtenant structures from shoreline erosion shall be subject to the
22 following procedures:

23 (i) The public comment period under subsection (4) of this section
24 shall be twenty days. The notice provided under subsection (4) of this
25 section shall state the manner in which the public may obtain a copy of
26 the local government decision on the application no later than two days
27 following its issuance;

28 (ii) The local government shall issue its decision to grant or deny
29 the permit within twenty-one days of the last day of the comment period
30 specified in (i) of this subsection; and

31 (iii) If there is an appeal of the decision to grant or deny the
32 permit to the local government legislative authority, the appeal shall
33 be finally determined by the legislative authority within thirty days.

34 (b) For purposes of this section, a limited utility extension means
35 the extension of a utility service that:

36 (i) Is categorically exempt under chapter 43.21C RCW for one or
37 more of the following: Natural gas, electricity, telephone, water, or
38 sewer;

1 (ii) Will serve an existing use in compliance with this chapter;
2 and
3 (iii) Will not extend more than twenty-five hundred linear feet
4 within the shorelines of the state.

5 **Sec. 310.** RCW 90.58.180 and 1994 c 253 s 3 are each amended to
6 read as follows:

7 (1) Any person aggrieved by the granting, denying, or rescinding of
8 a permit on shorelines of the state pursuant to RCW 90.58.140 may seek
9 review from the shorelines hearings board by filing a ~~((request for the~~
10 ~~same))~~ petition for review within ~~((thirty))~~ twenty-one days of the
11 date of filing as defined in RCW 90.58.140(6).

12 ~~((Concurrently with))~~ Within seven days of the filing of any
13 ~~((request))~~ petition for review with the board as provided in this
14 section pertaining to a final ~~((order))~~ decision of a local government,
15 the ~~((requestor))~~ petitioner shall ~~((file a copy))~~ serve copies of
16 ~~((his or her request with))~~ the petition on the department and the
17 office of the attorney general. ~~((If it appears to the department or~~
18 ~~the attorney general that the requestor has valid reasons to seek~~
19 ~~review, either the department or the attorney general may certify the~~
20 ~~request within thirty days after its receipt to the shorelines hearings~~
21 ~~board following which the board shall then, but not otherwise, review~~
22 ~~the matter covered by the requestor. The failure to obtain such~~
23 ~~certification shall not preclude the requestor from obtaining a review~~
24 ~~in the superior court under any right to review otherwise available to~~
25 ~~the requestor.))~~ The department and the attorney general may intervene
26 to protect the public interest and insure that the provisions of this
27 chapter are complied with at any time within fifteen days from the date
28 of the receipt by the department or the attorney general of a copy of
29 the ~~((request))~~ petition for review filed pursuant to this section.
30 The shorelines hearings board shall ~~((initially))~~ schedule review
31 proceedings on ~~((such requests))~~ the petition for review without regard
32 as to whether ~~((such requests have or have not been certified or as to~~
33 ~~whether))~~ the period for the department or the attorney general to
34 intervene has or has not expired~~((, unless such review is to begin~~
35 ~~within thirty days of such scheduling. If at the end of the thirty day~~
36 ~~period for certification neither the department nor the attorney~~
37 ~~general has certified a request for review, the hearings board shall~~
38 ~~remove the request from its review schedule))~~.

1 (2) The department or the attorney general may obtain review of any
2 final ~~((order))~~ decision granting a permit, or granting or denying an
3 application for a permit issued by a local government by filing a
4 written ~~((request))~~ petition with the shorelines hearings board and the
5 appropriate local government within ~~((thirty))~~ twenty-one days from the
6 date the final ~~((order))~~ decision was filed as provided in RCW
7 90.58.140(6).

8 (3) The review proceedings authorized in subsections (1) and (2) of
9 this section are subject to the provisions of chapter 34.05 RCW
10 pertaining to procedures in adjudicative proceedings. Judicial review
11 of such proceedings of the shorelines hearings board is governed by
12 chapter 34.05 RCW. The board shall issue its decision on the appeal
13 authorized under subsections (1) and (2) of this section within one
14 hundred eighty days after the date the petition is filed with the board
15 or a petition to intervene is filed by the department or the attorney
16 general, whichever is later. The time period may be extended by the
17 board for a period of thirty days upon a showing of good cause or may
18 be waived by the parties.

19 ~~((A local government may appeal to the shorelines hearings~~
20 ~~board)) Any person may appeal any rules, regulations, or guidelines
21 adopted or approved by the department within thirty days of the date of
22 the adoption or approval. The board shall make a final decision within
23 sixty days following the hearing held thereon.~~

24 ~~((If the board))~~ (5) The board shall find the rule, regulation, or
25 guideline to be valid and enter a final decision to that effect unless
26 it determines that the rule, regulation, or guideline:

27 (a) Is clearly erroneous in light of the policy of this chapter; or

28 (b) Constitutes an implementation of this chapter in violation of
29 constitutional or statutory provisions; or

30 (c) Is arbitrary and capricious; or

31 (d) Was developed without fully considering and evaluating all
32 material submitted to the department ~~((by the local government))~~ during
33 public review and comment; or

34 (e) Was not adopted in accordance with required procedures~~((?))~~.

35 (6) If the board makes a determination under subsection (5) (a)
36 through (e) of this section, it shall enter a final decision declaring
37 the rule, regulation, or guideline invalid, remanding the rule,
38 regulation, or guideline to the department with a statement of the
39 reasons in support of the determination, and directing the department

1 to adopt, after a thorough consultation with the affected local
2 government and any other interested party, a new rule, regulation, or
3 guideline consistent with the board's decision. (~~Unless the board~~
4 ~~makes one or more of the determinations as hereinbefore provided, the~~
5 ~~board shall find the rule, regulation, or guideline to be valid and~~
6 ~~enter a final decision to that effect.~~

7 ~~(5) Rules, regulations, and guidelines))~~ (7) A decision of the
8 board on the validity of a rule, regulation, or guideline shall be
9 subject to review in superior court, if authorized pursuant to ((RCW
10 34.05.570(2). No review shall be granted by a superior court on
11 petition from a local government unless the local government shall
12 first have obtained review under subsection (4) of this section and the
13 petition for court review is)) chapter 34.05 RCW. A petition for
14 review of the decision of the shorelines hearings board on a rule,
15 regulation, or guideline shall be filed within ((three months)) thirty
16 days after the date of final decision by the shorelines hearings board.

17 **Sec. 311.** RCW 90.58.190 and 1989 c 175 s 184 are each amended to
18 read as follows:

19 (1) (~~The department and each local government shall periodically~~
20 ~~review any master programs under its jurisdiction and make such~~
21 ~~adjustments thereto as are necessary. Any adjustments proposed by a~~
22 ~~local government to its master program shall be forwarded to the~~
23 ~~department for review. The department shall approve, reject, or~~
24 ~~propose modification to the adjustment. If the department either~~
25 ~~rejects or proposes modification to the master program adjustment, it~~
26 ~~shall provide substantive written comments as to why the proposal is~~
27 ~~being rejected or modified.)) The appeal of the department s decision
28 to adopt a master program or amendment pursuant to RCW 90.58.070(2) or
29 90.58.090(4) is governed by RCW 34.05.510 through 34.05.598.~~

30 (2)(a) The department's decision to approve, reject, or modify a
31 proposed master program or amendment adopted by a local government
32 planning under RCW 36.70A.040 shall be appealed to the growth
33 management hearings board with jurisdiction over the local government.
34 The appeal shall be initiated by filing a petition as provided in RCW
35 36.70A.250 through 36.70A.320.

36 (b) If the appeal to the growth management hearings board concerns
37 shorelines, the growth management hearings board shall review the
38 proposed master program or amendment for compliance with the

1 requirements of this chapter and chapter 36.70A RCW, the policy of RCW
2 90.58.020 and the applicable guidelines, and chapter 43.21C RCW as it
3 relates to the adoption of master programs and amendments under chapter
4 90.58 RCW.

5 (c) If the appeal to the growth management hearings board concerns
6 a shoreline of state-wide significance, the board shall uphold the
7 decision by the department unless the board, by clear and convincing
8 evidence, determines that the decision of the department is
9 inconsistent with the policy of RCW 90.58.020 and the applicable
10 guidelines.

11 (d) The appellant has the burden of proof in all appeals to the
12 growth management hearings board under this subsection.

13 (e) Any party aggrieved by a final decision of a growth management
14 hearings board under this subsection may appeal the decision to
15 superior court as provided in RCW 36.70A.300.

16 ((Any local government aggrieved by)) (3)(a) The department's
17 decision to approve, reject, or modify a proposed master program or
18 master program ((adjustment may appeal the department's decision))
19 amendment by a local government not planning under RCW 36.70A.040 shall
20 be appealed to the shorelines hearings board by filing a petition
21 within thirty days of the date of the department s written notice to
22 the local government of the department s decision to approve, reject,
23 or modify a proposed master program or master program amendment as
24 provided in RCW 90.58.090(2).

25 (b) In an appeal relating to shorelines, the shorelines hearings
26 board shall review the proposed master program or master program
27 ((adjustment)) amendment and, after full consideration of the
28 presentations of the local government and the department, shall
29 determine the validity of the local government's ((adjustment)) master
30 program or amendment in light of the policy of RCW 90.58.020 and the
31 applicable guidelines.

32 (c) In an appeal relating to shorelines of state-wide significance,
33 the shorelines hearings board shall uphold the decision by the
34 department unless ((a local government shall)) the board determines, by
35 clear and convincing evidence ((and argument, persuade the board)) that
36 the decision of the department is inconsistent with the policy of RCW
37 90.58.020 and the applicable guidelines.

38 (d) Review by the shorelines hearings board shall be considered an
39 adjudicative proceeding under chapter 34.05 RCW, the Administrative

1 Procedure Act. The aggrieved local government shall have the burden of
2 proof in all such reviews.

3 (e) Whenever possible, the review by the shorelines hearings board
4 shall be heard within the county where the land subject to the proposed
5 master program or master program (~~(adjustment)~~) amendment is primarily
6 located. The department and any local government aggrieved by a final
7 decision of the hearings board may appeal the decision to (~~(the)~~)
8 superior court (~~(of Thurston county)~~) as provided in chapter 34.05 RCW.

9 (~~((3))~~) (4) A master program amendment shall become effective after
10 the approval of the department or after the decision of the shorelines
11 hearings board to uphold the master program or master program
12 (~~(adjustment)~~) amendment, provided that the board may remand the master
13 program or master program adjustment to the local government or the
14 department for modification prior to the final adoption of the master
15 program or master program (~~(adjustment)~~) amendment.

16 **Sec. 312.** RCW 34.05.461 and 1989 c 175 s 19 are each amended to
17 read as follows:

18 (1) Except as provided in subsection (2) of this section:

19 (a) If the presiding officer is the agency head or one or more
20 members of the agency head, the presiding officer may enter an initial
21 order if further review is available within the agency, or a final
22 order if further review is not available;

23 (b) If the presiding officer is a person designated by the agency
24 to make the final decision and enter the final order, the presiding
25 officer shall enter a final order; and

26 (c) If the presiding officer is one or more administrative law
27 judges, the presiding officer shall enter an initial order.

28 (2) With respect to agencies exempt from chapter 34.12 RCW or an
29 institution of higher education, the presiding officer shall transmit
30 a full and complete record of the proceedings, including such comments
31 upon demeanor of witnesses as the presiding officer deems relevant, to
32 each agency official who is to enter a final or initial order after
33 considering the record and evidence so transmitted.

34 (3) Initial and final orders shall include a statement of findings
35 and conclusions, and the reasons and basis therefor, on all the
36 material issues of fact, law, or discretion presented on the record,
37 including the remedy or sanction and, if applicable, the action taken
38 on a petition for a stay of effectiveness. Any findings based

1 substantially on credibility of evidence or demeanor of witnesses shall
2 be so identified. Findings set forth in language that is essentially
3 a repetition or paraphrase of the relevant provision of law shall be
4 accompanied by a concise and explicit statement of the underlying
5 evidence of record to support the findings. The order shall also
6 include a statement of the available procedures and time limits for
7 seeking reconsideration or other administrative relief. An initial
8 order shall include a statement of any circumstances under which the
9 initial order, without further notice, may become a final order.

10 (4) Findings of fact shall be based exclusively on the evidence of
11 record in the adjudicative proceeding and on matters officially noticed
12 in that proceeding. Findings shall be based on the kind of evidence on
13 which reasonably prudent persons are accustomed to rely in the conduct
14 of their affairs. Findings may be based on such evidence even if it
15 would be inadmissible in a civil trial. However, the presiding officer
16 shall not base a finding exclusively on such inadmissible evidence
17 unless the presiding officer determines that doing so would not unduly
18 abridge the parties' opportunities to confront witnesses and rebut
19 evidence. The basis for this determination shall appear in the order.

20 (5) Where it bears on the issues presented, the agency's
21 experience, technical competency, and specialized knowledge may be used
22 in the evaluation of evidence.

23 (6) If a person serving or designated to serve as presiding officer
24 becomes unavailable for any reason before entry of the order, a
25 substitute presiding officer shall be appointed as provided in RCW
26 34.05.425. The substitute presiding officer shall use any existing
27 record and may conduct any further proceedings appropriate in the
28 interests of justice.

29 (7) The presiding officer may allow the parties a designated time
30 after conclusion of the hearing for the submission of memos, briefs, or
31 proposed findings.

32 (8)(a) Except as otherwise provided in (b) of this subsection,
33 initial or final orders shall be served in writing within ninety days
34 after conclusion of the hearing or after submission of memos, briefs,
35 or proposed findings in accordance with subsection (7) of this section
36 unless this period is waived or extended for good cause shown.

37 (b) This subsection does not apply to the final order of the
38 shorelines hearings board on appeal under RCW 90.58.180(3).

1 (9) The presiding officer shall cause copies of the order to be
2 served on each party and the agency.

3 NEW SECTION. **Sec. 313.** RCW 90.58.145 and 1979 ex.s. c 84 s 4 are
4 each repealed.

5 **PART IV - LOCAL PERMIT PROCESS**

6 NEW SECTION. **Sec. 401.** The legislature finds and declares the
7 following:

8 (1) As the number of environmental laws and development regulations
9 has increased for land uses and development, so has the number of
10 required local land use permits, each with its own separate approval
11 process.

12 (2) The increasing number of local and state land use permits and
13 separate environmental review processes required by agencies has
14 generated continuing potential for conflict, overlap, and duplication
15 between the various permit and review processes.

16 (3) This regulatory burden has significantly added to the cost and
17 time needed to obtain local and state land use permits and has made it
18 difficult for the public to know how and when to provide timely
19 comments on land use proposals that require multiple permits and have
20 separate environmental review processes.

21 NEW SECTION. **Sec. 402.** Unless the context clearly requires
22 otherwise, the definitions in this section apply throughout this
23 chapter.

24 (1) "Closed record appeal" means an administrative appeal on the
25 record to a local government body or officer, including the legislative
26 body, following an open record hearing on a project permit application
27 when the appeal is on the record with no or limited new evidence or
28 information allowed to be submitted and only appeal argument allowed.

29 (2) "Local government" means a county, city, or town.

30 (3) "Open record hearing" means a hearing, conducted by a single
31 hearing body or officer authorized by the local government to conduct
32 such hearings, that creates the local government's record through
33 testimony and submission of evidence and information, under procedures
34 prescribed by the local government by ordinance or resolution. An open
35 record hearing may be held prior to a local government's decision on a

1 project permit to be known as an "open record predecision hearing." An
2 open record hearing may be held on an appeal, to be known as an "open
3 record appeal hearing," if no open record predecision hearing has been
4 held on the project permit.

5 (4) "Project permit" or "project permit application" means any land
6 use or environmental permit or license required from a local government
7 for a project action, including but not limited to building permits,
8 subdivisions, binding site plans, planned unit developments,
9 conditional uses, shoreline substantial development permits, site plan
10 review, permits or approvals required by critical area ordinances,
11 site-specific rezones authorized by a comprehensive plan or subarea
12 plan, but excluding the adoption or amendment of a comprehensive plan,
13 subarea plan, or development regulations except as otherwise
14 specifically included in this subsection.

15 (5) "Public meeting" means an informal meeting, hearing, workshop,
16 or other public gathering of people to obtain comments from the public
17 or other agencies on a proposed project permit prior to the local
18 government's decision. A public meeting may include, but is not
19 limited to, a design review or architectural control board meeting, a
20 special review district or community council meeting, or a scoping
21 meeting on a draft environmental impact statement. A public meeting
22 does not include an open record hearing. The proceedings at a public
23 meeting may be recorded and a report or recommendation may be included
24 in the local government's project permit application file.

25 NEW SECTION. **Sec. 403.** In enacting sections 404 and 405 of this
26 act, the legislature intends to establish a mechanism for implementing
27 the provisions of chapter 36.70A RCW regarding compliance, conformity,
28 and consistency of proposed projects with adopted comprehensive plans
29 and development regulations. In order to achieve this purpose the
30 legislature finds that:

31 (1) Given the extensive investment that public agencies and a broad
32 spectrum of the public are making and will continue to make in
33 comprehensive plans and development regulations for their communities,
34 it is essential that project review start from the fundamental land use
35 planning choices made in these plans and regulations. If the
36 applicable regulations or plans identify the type of land use, specify
37 residential density in urban growth areas, and identify and provide for
38 funding of public facilities needed to serve the proposed development

1 and site, these decisions at a minimum provide the foundation for
2 further project review unless there is a question of code
3 interpretation. The project review process, including the
4 environmental review process under chapter 43.21C RCW and the
5 consideration of consistency, should start from this point and should
6 not reanalyze these land use planning decisions in making a permit
7 decision.

8 (2) Comprehensive plans and development regulations adopted by
9 local governments under chapter 36.70A RCW and environmental laws and
10 rules adopted by the state and federal government have addressed a wide
11 range of environmental subjects and impacts. These provisions typically
12 require environmental studies and contain specific standards to address
13 various impacts associated with a proposed development, such as
14 building size and location, drainage, transportation requirements, and
15 protection of critical areas. When a permitting agency applies these
16 existing requirements to a proposed project, some or all of a project's
17 potential environmental impacts will be avoided or otherwise mitigated.
18 Through the integrated project review process described in subsection
19 (1) of this section, the local government will determine whether
20 existing requirements, including the applicable regulations or plans,
21 adequately analyze and address a project's environmental impacts.
22 Section 202 of this act provides that project review should not require
23 additional studies or mitigation under chapter 43.21C RCW where
24 existing regulations have adequately addressed a proposed project's
25 probable specific adverse environmental impacts.

26 (3) Given the hundreds of jurisdictions and agencies in the state
27 and the numerous communities and applicants affected by development
28 regulations and comprehensive plans adopted under chapter 36.70A RCW,
29 it is essential to establish a uniform framework for considering the
30 consistency of a proposed project with the applicable regulations or
31 plan. Consistency should be determined in the project review process
32 by considering four factors found in applicable regulations or plans:
33 The type of land use allowed; the level of development allowed, such as
34 units per acre or other measures of density; infrastructure, such as
35 the adequacy of public facilities and services to serve the proposed
36 project; and the character of the proposed development, such as
37 compliance with specific development standards. This uniform approach
38 corresponds to existing project review practices and will not place a
39 burden on applicants or local government. The legislature intends that

1 this approach should be largely a matter of checking compliance with
2 existing requirements for most projects, which are simple or routine,
3 while more complex projects may require more analysis. Sections 202
4 and 404 of this act establish this uniform framework and also direct
5 state agencies to consult with local government and the public to
6 develop a better format than the current environmental checklist to
7 meet this objective.

8 (4) When an applicant applies for a project permit, consistency
9 between the proposed project and applicable regulations or plan should
10 be determined through a project review process that integrates land use
11 and environmental impact analysis, so that governmental and public
12 review of the proposed project as required by this chapter, by
13 development regulations under chapter 36.70A RCW, and by the
14 environmental process under chapter 43.21C RCW run concurrently and not
15 separately.

16 (5) Sections 404 and 405 of this act address three related needs
17 with respect to how the project review process should address
18 consistency between a proposed project and the applicable regulations
19 or plan:

20 (a) A uniform framework for the meaning of consistency;

21 (b) An emphasis on relying on existing requirements and adopted
22 standards, with the use of supplemental authority as specified by
23 chapter 43.21C RCW to the extent that existing requirements do not
24 adequately address a project's specific probable adverse environmental
25 impacts; and

26 (c) The identification of three basic land use planning choices
27 made in applicable regulations or plans that, at a minimum, serve as a
28 foundation for project review and that should not be reanalyzed during
29 project permitting.

30 NEW SECTION. **Sec. 404.** (1) Fundamental land use planning choices
31 made in adopted comprehensive plans and development regulations shall
32 serve as the foundation for project review. The review of a proposed
33 project's consistency with applicable development regulations, or in
34 the absence of applicable regulations the adopted comprehensive plan,
35 under section 405 of this act shall incorporate the determinations
36 under this section.

37 (2) During project review, a local government or any subsequent
38 reviewing body shall determine whether the items listed in this

1 subsection are defined in the development regulations applicable to the
2 proposed project or, in the absence of applicable regulations the
3 adopted comprehensive plan. At a minimum, such applicable regulations
4 or plans shall be determinative of the:

5 (a) Type of land use permitted at the site, including uses that may
6 be allowed under certain circumstances, such as planned unit
7 developments and conditional and special uses, if the criteria for
8 their approval have been satisfied;

9 (b) Density of residential development in urban growth areas; and

10 (c) Availability and adequacy of public facilities identified in
11 the comprehensive plan, if the plan or development regulations provide
12 for funding of these facilities as required by chapter 36.70A RCW.

13 (3) During project review, the local government or any subsequent
14 reviewing body shall not reexamine alternatives to or hear appeals on
15 the items identified in subsection (2) of this section, except for
16 issues of code interpretation. As part of its project review process,
17 a local government shall provide a procedure for obtaining a code
18 interpretation as provided in section 415 of this act.

19 (4) Pursuant to section 202 of this act, a local government may
20 determine that the requirements for environmental analysis and
21 mitigation measures in development regulations and other applicable
22 laws provide adequate mitigation for some or all of the project's
23 specific adverse environmental impacts to which the requirements apply.

24 (5) Nothing in this section limits the authority of a permitting
25 agency to approve, condition, or deny a project as provided in its
26 development regulations adopted under chapter 36.70A RCW and in its
27 policies adopted under RCW 43.21C.060. Project review shall be used to
28 identify specific project design and conditions relating to the
29 character of development, such as the details of site plans, curb cuts,
30 drainage swales, transportation demand management, the payment of
31 impact fees, or other measures to mitigate a proposal's probable
32 adverse environmental impacts, if applicable.

33 (6) Subsections (1) through (4) of this section apply only to local
34 governments planning under RCW 36.70A.040.

35 NEW SECTION. **Sec. 405.** (1) A proposed project's consistency with
36 a local government's development regulations adopted under chapter
37 36.70A RCW, or, in the absence of applicable development regulations,
38 the appropriate elements of the comprehensive plan or subarea plan

1 adopted under chapter 36.70A RCW shall be determined by consideration
2 of:

3 (a) The type of land use;

4 (b) The level of development, such as units per acre or other
5 measures of density;

6 (c) Infrastructure, including public facilities and services needed
7 to serve the development; and

8 (d) The character of the development, such as development
9 standards.

10 (2) In determining consistency, the determinations made pursuant to
11 section 404(2) of this act shall be controlling.

12 (3) For purposes of this section, the term "consistency" shall
13 include all terms used in this chapter and chapter 36.70A RCW to refer
14 to performance in accordance with this chapter and chapter 36.70A RCW,
15 including but not limited to compliance, conformity, and consistency.

16 (4) Nothing in this section requires documentation, dictates an
17 agency's procedures for considering consistency, or limits a unit of
18 government from asking more specific or related questions with respect
19 to any of the four main categories listed in subsection (1) (a) through
20 (d) of this section.

21 NEW SECTION. **Sec. 406.** Not later than March 31, 1996, each local
22 government shall provide by ordinance or resolution for review of
23 project permit applications to achieve the following objectives:

24 (1) Combine the environmental review process, both procedural and
25 substantive, with the procedure for review of project permits; and

26 (2) Except for the appeal of a determination of significance as
27 provided in RCW 43.21C.075, provide for no more than one open record
28 hearing and one closed record appeal.

29 NEW SECTION. **Sec. 407.** Not later than March 31, 1996, each local
30 government planning under RCW 36.70A.040 shall establish by ordinance
31 or resolution an integrated and consolidated project permit process
32 that may be included in its development regulations. In addition to
33 the elements required by section 406 of this act, the process shall
34 include the following elements:

35 (1) A determination of completeness to the applicant as required by
36 RCW 36.70A.440 (as recodified by this act);

1 (2) A notice of application to the public and agencies with
2 jurisdiction as required by section 415 of this act;

3 (3) Except as provided in section 418 of this act, an optional
4 consolidated project permit review process as provided in section 416
5 of this act. The review process shall provide for no more than one
6 consolidated open record hearing and one closed record appeal. If an
7 open record predecision hearing is provided prior to the decision on a
8 project permit, the process shall not allow a subsequent open record
9 appeal hearing;

10 (4) Provision allowing for any public meeting or required open
11 record hearing to be combined with any public meeting or open record
12 hearing that may be held on the project by another local, state,
13 regional, federal, or other agency, in accordance with provisions of
14 sections 413 and 415 of this act;

15 (5) A single report stating all the decisions made as of the date
16 of the report on all project permits included in the consolidated
17 permit process that do not require an open record predecision hearing
18 and any recommendations on project permits that do not require an open
19 record predecision hearing. The report shall state any mitigation
20 required or proposed under the development regulations or the agency's
21 authority under RCW 43.21C.060. The report may be the local permit.
22 If a threshold determination other than a determination of significance
23 has not been issued previously by the local government, the report
24 shall include or append this determination.

25 (6) Except for the appeal of a determination of significance as
26 provided in RCW 43.21C.075, if a local government elects to provide an
27 appeal of its threshold determinations or project permit decisions, the
28 local government shall provide for no more than one consolidated open
29 record hearing on such appeal. The local government need not provide
30 for any further appeal and may provide an appeal for some but not all
31 project permit decisions. If an appeal is provided after the open
32 record hearing, it shall be a closed record appeal before a single
33 decision-making body or officer;

34 (7) A notice of decision as required by section 417 of this act and
35 issued within the time period provided in RCW 36.70A.065 (as recodified
36 by this act) and section 413 of this act;

37 (8) Completion of project review by the local government, including
38 environmental review and public review and any appeals to the local

1 government, within any applicable time periods under section 413 of
2 this act; and

3 (9) Any other provisions not inconsistent with the requirements of
4 this chapter or chapter 43.21C RCW.

5 **Sec. 408.** RCW 36.70A.440 and 1994 c 257 s 4 are each amended to
6 read as follows:

7 ~~((Each city and county))~~ (1) Within twenty-eight days after
8 receiving a project permit application, a local government planning
9 pursuant to RCW 36.70A.040 shall~~((, within twenty working days of~~
10 ~~receiving a development permit application as defined in RCW~~
11 ~~36.70A.030(7),))~~ mail or provide in person a written ~~((notice))~~
12 determination to the applicant, stating either:

13 (a) That the application is complete; or

14 (b) That the application is incomplete and what is necessary to
15 make the application complete.

16 To the extent known by the ~~((city or county))~~ local government, the
17 ~~((notice))~~ local government shall identify other agencies of local,
18 state, or federal governments that may have jurisdiction over some
19 aspect of the application.

20 (2) A project permit application is complete for purposes of this
21 section when it meets the procedural submission requirements of the
22 local government and is sufficient for continued processing even though
23 additional information may be required or project modifications may be
24 undertaken subsequently. The determination of completeness shall not
25 preclude the local government from requesting additional information or
26 studies either at the time of the notice of completeness or
27 subsequently if new information is required or substantial changes in
28 the proposed action occur.

29 (3) The determination of completeness may include the following as
30 optional information:

31 (a) A preliminary determination of those development regulations
32 that will be used for project mitigation;

33 (b) A preliminary determination of consistency, as provided under
34 section 405 of this act; or

35 (c) Other information the local government chooses to include.

36 (4)(a) An application shall be deemed complete under this section
37 if the local government does not provide a written determination to the

1 applicant that the application is incomplete as provided in subsection
2 (1)(b) of this section.

3 (b) Within fourteen days after an applicant has submitted to a
4 local government additional information identified by the local
5 government as being necessary for a complete application, the local
6 government shall notify the applicant whether the application is
7 complete or what additional information is necessary.

8 **Sec. 409.** RCW 36.70A.065 and 1994 c 257 s 3 are each amended to
9 read as follows:

10 Development regulations adopted pursuant to RCW 36.70A.040 shall
11 establish time periods consistent with section 413 of this act for
12 local government actions on specific ~~((development))~~ project permit
13 applications and provide timely and predictable procedures to determine
14 whether a completed ~~((development))~~ project permit application meets
15 the requirements of those development regulations. Such development
16 regulations shall specify the contents of a completed ~~((development))~~
17 project permit application necessary for the application of such time
18 periods and procedures.

19 **Sec. 410.** RCW 36.70A.065 and 1994 c 257 s 3 are each amended to
20 read as follows:

21 Development regulations adopted pursuant to RCW 36.70A.040 shall
22 establish time periods for local government actions on specific
23 ~~((development))~~ project permit applications and provide timely and
24 predictable procedures to determine whether a completed ~~((development))~~
25 project permit application meets the requirements of those development
26 regulations. Such development regulations shall specify the contents
27 of a completed ~~((development))~~ project permit application necessary for
28 the application of such time periods and procedures.

29 NEW SECTION. **Sec. 411.** The amendments to RCW 36.70A.065 contained
30 in section 409 of this act shall expire July 1, 1998.

31 NEW SECTION. **Sec. 412.** Section 410 of this act shall take effect
32 July 1, 1998.

33 NEW SECTION. **Sec. 413.** (1) Except as otherwise provided in
34 subsection (2) of this section, a local government planning under RCW

1 36.70A.040 shall issue its notice of final decision on a project permit
2 application within one hundred twenty days after the local government
3 notifies the applicant that the application is complete, as provided in
4 RCW 36.70A.440 (as recodified by this act). In determining the number
5 of days that have elapsed after the local government has notified the
6 applicant that the application is complete, the following periods shall
7 be excluded:

8 (a)(i) Any period during which the applicant has been requested by
9 the local government to correct plans, perform required studies, or
10 provide additional required information. The period shall be
11 calculated from the date the local government notifies the applicant of
12 the need for additional information until the earlier of the date the
13 local government determines whether the additional information
14 satisfies the request for information or fourteen days after the date
15 the information has been provided to the local government.

16 (ii) If the local government determines that the information
17 submitted by the applicant under (a)(i) of this subsection is
18 insufficient, it shall notify the applicant of the deficiencies and the
19 procedures under (a)(i) of this subsection shall apply as if a new
20 request for studies had been made;

21 (b) Any period during which an environmental impact statement is
22 being prepared following a determination of significance pursuant to
23 chapter 43.21C RCW, if the local government by ordinance or resolution
24 has established time periods for completion of environmental impact
25 statements, or if the local government and the applicant in writing
26 agree to a time period for completion of an environmental impact
27 statement;

28 (c) Any period for administrative appeals of project permits, if an
29 open record appeal hearing or a closed record appeal, or both, are
30 allowed. The local government by ordinance or resolution shall
31 establish a time period to consider and decide such appeals. The time
32 period shall not exceed: (i) Ninety days for an open record appeal
33 hearing; and (ii) sixty days for a closed record appeal. The parties
34 to an appeal may agree to extend these time periods; and

35 (d) Any extension of time mutually agreed upon by the applicant and
36 the local government.

37 (2) The time limits established by subsection (1) of this section
38 do not apply if a project permit application:

1 (a) Requires an amendment to the comprehensive plan or a
2 development regulation;

3 (b) Requires approval of a new fully contained community as
4 provided in RCW 36.70A.350, a master planned resort as provided in RCW
5 36.70A.360, or the siting of an essential public facility as provided
6 in RCW 36.70A.200; or

7 (c) Is substantially revised by the applicant, in which case the
8 time period shall start from the date at which the revised project
9 application is determined to be complete under RCW 36.70A.440 (as
10 recodified by this act).

11 (3) If the local government is unable to issue its final decision
12 within the time limits provided for in this section, it shall provide
13 written notice of this fact to the project applicant. The notice shall
14 include a statement of reasons why the time limits have not been met
15 and an estimated date for issuance of the notice of final decision.

16 (4) This section shall apply to project permit applications filed
17 on or after April 1, 1996.

18 NEW SECTION. **Sec. 414.** A local government may require the
19 applicant for a project permit to designate a single person or entity
20 to receive determinations and notices required by this chapter.

21 NEW SECTION. **Sec. 415.** (1) Not later than April 1, 1996, a local
22 government planning under RCW 36.70A.040 shall provide a notice of
23 application to the public and the departments and agencies with
24 jurisdiction as provided in this section. If a local government has
25 made a determination of significance under chapter 43.21C RCW
26 concurrently with the notice of application, the notice of application
27 shall be combined with the determination of significance and scoping
28 notice. Nothing in this section prevents a determination of
29 significance and scoping notice from being issued prior to the notice
30 of application.

31 (2) The notice of application shall be provided within fourteen
32 days after the determination of completeness as provided in RCW
33 36.70A.440 (as recodified by this act) and include the following in
34 whatever sequence or format the local government deems appropriate:

35 (a) The date of application, the date of the notice of completion
36 for the application, and the date of the notice of application;

1 (b) A description of the proposed project action and a list of the
2 project permits included in the application and, if applicable, a list
3 of any studies requested under RCW 36.70A.440 (as recodified by this
4 act) or section 413 of this act;

5 (c) The identification of other permits not included in the
6 application to the extent known by the local government;

7 (d) The identification of existing environmental documents that
8 evaluate the proposed project, and, if not otherwise stated on the
9 document providing the notice of application, such as a city land use
10 bulletin, the location where the application and any studies can be
11 reviewed;

12 (e) A statement of the public comment period, which shall be not
13 less than fourteen nor more than thirty days following the date of
14 notice of application, and statements of the right of any person to
15 comment on the application, receive notice of and participate in any
16 hearings, request a copy of the decision once made, and any appeal
17 rights. A local government may accept public comments at any time
18 prior to the closing of the record of an open record predecision
19 hearing, if any, or, if no open record predecision hearing is provided,
20 prior to the decision on the project permit;

21 (f) The date, time, place, and type of hearing, if applicable and
22 scheduled at the date of notice of the application;

23 (g) A statement of the preliminary determination, if one has been
24 made at the time of notice, of those development regulations that will
25 be used for project mitigation and of consistency as provided in
26 section 405 of this act; and

27 (h) Any other information determined appropriate by the local
28 government.

29 (3) If an open record predecision hearing is required for the
30 requested project permits, the notice of application shall be provided
31 at least fifteen days prior to the open record hearing.

32 (4) A local government shall use reasonable methods to give the
33 notice of application to the public and agencies with jurisdiction and
34 may use its existing notice procedures. A local government may use
35 different types of notice for different categories of project permits
36 or types of project actions. If a local government by resolution or
37 ordinance does not specify its method of public notice, the local
38 government shall use the methods provided for in (a) and (b) of this
39 subsection. Examples of reasonable methods to inform the public are:

1 (a) Posting the property for site-specific proposals;

2 (b) Publishing notice, including at least the project location,
3 description, type of permit(s) required, comment period dates, and
4 location where the complete application may be reviewed, in the
5 newspaper of general circulation in the general area where the proposal
6 is located or in a local land use newsletter published by the local
7 government;

8 (c) Notifying public or private groups with known interest in a
9 certain proposal or in the type of proposal being considered;

10 (d) Notifying the news media;

11 (e) Placing notices in appropriate regional or neighborhood
12 newspapers or trade journals;

13 (f) Publishing notice in agency newsletters or sending notice to
14 agency mailing lists, either general lists or lists for specific
15 proposals or subject areas; and

16 (g) Mailing to neighboring property owners.

17 (5) A notice of application shall not be required for project
18 permits that are categorically exempt under chapter 43.21C RCW, unless
19 a public comment period or an open record predecision hearing is
20 required.

21 (6) A local government shall integrate the permit procedures in
22 this section with environmental review under chapter 43.21C RCW as
23 follows:

24 (a) Except for a determination of significance, the local
25 government may not issue its threshold determination, or issue a
26 decision or a recommendation on a project permit until the expiration
27 of the public comment period on the notice of application.

28 (b) If an open record predecision hearing is required and the local
29 government's threshold determination requires public notice under
30 chapter 43.21C RCW, the local government shall issue its threshold
31 determination at least fifteen days prior to the open record
32 predecision hearing.

33 (c) Comments shall be as specific as possible.

34 (7) A local government may combine any hearing on a project permit
35 with any hearing that may be held by another local, state, regional,
36 federal, or other agency provided that the hearing is held within the
37 geographic boundary of the local government. Hearings shall be
38 combined if requested by an applicant, as long as the joint hearing can
39 be held within the time periods specified in section 413 of this act or

1 the applicant agrees to the schedule in the event that additional time
2 is needed in order to combine the hearings. All agencies of the state
3 of Washington, including municipal corporations and counties
4 participating in a combined hearing, are hereby authorized to issue
5 joint hearing notices and develop a joint format, select a mutually
6 acceptable hearing body or officer, and take such other actions as may
7 be necessary to hold joint hearings consistent with each of their
8 respective statutory obligations.

9 (8) All state and local agencies shall cooperate to the fullest
10 extent possible with the local government in holding a joint hearing if
11 requested to do so, as long as:

12 (a) The agency is not expressly prohibited by statute from doing
13 so;

14 (b) Sufficient notice of the hearing is given to meet each of the
15 agencies' adopted notice requirements as set forth in statute,
16 ordinance, or rule; and

17 (c) The agency has received the necessary information about the
18 proposed project from the applicant to hold its hearing at the same
19 time as the local government hearing.

20 (9) A local government is not required to provide for
21 administrative appeals. If provided, an administrative appeal of the
22 project decision, combined with any environmental determinations, shall
23 be filed within fourteen days after the notice of the decision or after
24 other notice that the decision has been made and is appealable. The
25 local government shall extend the appeal period for an additional seven
26 days, if state or local rules adopted pursuant to chapter 43.21C RCW
27 allow public comment on a determination of nonsignificance issued as
28 part of the appealable project permit decision.

29 (10) The applicant for a project permit is deemed to be a
30 participant in any comment period, open record hearing, or closed
31 record appeal.

32 (11) Each local government planning under RCW 36.70A.040 shall
33 adopt procedures for administrative interpretation of its development
34 regulations.

35 NEW SECTION. **Sec. 416.** (1) Each local government planning under
36 RCW 36.70A.040 shall establish a permit review process that provides
37 for the integrated and consolidated review and decision on two or more
38 project permits relating to a proposed project action, including a

1 single application review and approval process covering all project
2 permits requested by an applicant for all or part of a project action
3 and a designated permit coordinator. If an applicant elects the
4 consolidated permit review process, the determination of completeness,
5 notice of application, and notice of final decision must include all
6 project permits being reviewed through the consolidated permit review
7 process.

8 (2) Consolidated permit review may provide different procedures for
9 different categories of project permits, but if a project action
10 requires project permits from more than one category, the local
11 government shall provide for consolidated permit review with a single
12 open record hearing and no more than one closed record appeal as
13 provided in section 407 of this act. Each local government shall
14 determine which project permits are subject to an open record hearing
15 and a closed record appeal. Examples of categories of project permits
16 include but are not limited to:

17 (a) Proposals that are categorically exempt from chapter 43.21C
18 RCW, such as construction permits, that do not require environmental
19 review or public notice;

20 (b) Permits that require environmental review, but no open record
21 predecision hearing; and

22 (c) Permits that require a threshold determination and an open
23 record predecision hearing and may provide for a closed record appeal
24 to a hearing body or officer or to the local government legislative
25 body.

26 (3) A local government may provide by ordinance or resolution for
27 the same or a different decision maker or hearing body or officer for
28 different categories of project permits. In the case of consolidated
29 project permit review, the local government shall specify which
30 decision makers shall make the decision or recommendation, conduct the
31 hearing, or decide the appeal to ensure that consolidated permit review
32 occurs as provided in this section. The consolidated permit review may
33 combine an open record predecision hearing on one or more permits with
34 an open record appeal hearing on other permits. In such cases, the
35 local government by ordinance or resolution shall specify which project
36 permits, if any, shall be subject to a closed record appeal.

37 NEW SECTION. **Sec. 417.** A local government planning under RCW
38 36.70A.040 shall provide a notice of decision that also includes a

1 statement of any threshold determination made under chapter 43.21C RCW
2 and the procedures for administrative appeal, if any. The notice of
3 decision may be a copy of the report or decision on the project permit
4 application. The notice shall be provided to the applicant and to any
5 person who, prior to the rendering of the decision, requested notice of
6 the decision or submitted substantive comments on the application. The
7 local government shall provide for notice of its decision as provided
8 in section 415(4) of this act.

9 NEW SECTION. **Sec. 418.** (1) A local government by ordinance or
10 resolution may exclude the following project permits from the
11 provisions of RCW 36.70A.440 (as recodified by this act), 36.70A.065
12 (as recodified by this act), and sections 407, 413, and 415 through 417
13 of this act: Landmark designations, street vacations, or other
14 approvals relating to the use of public areas or facilities, or other
15 project permits, whether administrative or quasi-judicial, that the
16 local government by ordinance or resolution has determined present
17 special circumstances that warrant a review process different from that
18 provided in RCW 36.70A.440 (as recodified by this act), 36.70A.065 (as
19 recodified by this act), and sections 407, 413, and 415 through 417 of
20 this act.

21 (2) A local government by ordinance or resolution also may exclude
22 the following project permits from the provisions of sections 407 and
23 415 through 417 of this act: Lot line or boundary adjustments and
24 building and other construction permits, or similar administrative
25 approvals, categorically exempt from environmental review under chapter
26 43.21C RCW, or for which environmental review has been completed in
27 connection with other project permits.

28 NEW SECTION. **Sec. 419.** A local government not planning under RCW
29 36.70A.040 may incorporate some or all of the provisions of sections
30 407, 413, and 415 through 417 of this act and RCW 36.70A.065 and
31 36.70A.440 (as recodified by this act) into its procedures for review
32 of project permits or other project actions.

33 NEW SECTION. **Sec. 420.** (1) Each local government is encouraged to
34 adopt further project review provisions to provide prompt, coordinated
35 review and ensure accountability to applicants and the public,
36 including expedited review for project permit applications for projects

1 that are consistent with adopted development regulations and within the
2 capacity of system-wide infrastructure improvements.

3 (2) Nothing in this chapter is intended or shall be construed to
4 prevent a local government from requiring a preapplication conference
5 or a public meeting by rule, ordinance, or resolution.

6 (3) Each local government shall adopt procedures to monitor and
7 enforce permit decisions and conditions.

8 (4) Nothing in this chapter modifies any independent statutory
9 authority for a government agency to appeal a project permit issued by
10 a local government.

11 NEW SECTION. **Sec. 421.** A new section is added to chapter 64.40
12 RCW to read as follows:

13 A local government is not liable for damages under this chapter due
14 to the local government s failure to make a final decision within the
15 time limits established in section 413 of this act.

16 **Sec. 422.** RCW 43.21C.033 and 1992 c 208 s 1 are each amended to
17 read as follows:

18 (1) Except as provided in subsection (2) of this section, the
19 responsible official shall make a threshold determination on a
20 completed application within ninety days after the application and
21 supporting documentation are complete. The applicant may request an
22 additional thirty days for the threshold determination. The
23 governmental entity responsible for making the threshold determination
24 shall by rule, resolution, or ordinance adopt standards, consistent
25 with rules adopted by the department to implement this chapter, for
26 determining when an application and supporting documentation are
27 complete.

28 (2) This section shall not apply to a city, town, or county that:

29 (a) By ordinance adopted prior to April 1, 1992, has adopted
30 procedures to integrate permit and land use decisions with the
31 requirements of this chapter; or

32 (b) Is planning under RCW 36.70A.040 and is subject to the
33 requirements of section 413 of this act.

34 **Sec. 423.** RCW 35.63.130 and 1994 c 257 s 8 are each amended to
35 read as follows:

1 (1) As an alternative to those provisions of this chapter relating
2 to powers or duties of the planning commission to hear and report on
3 any proposal to amend a zoning ordinance, the legislative body of a
4 city or county may adopt a hearing examiner system under which a
5 hearing examiner or hearing examiners may hear and decide applications
6 for amending the zoning ordinance when the amendment which is applied
7 for is not of general applicability. In addition, the legislative body
8 may vest in a hearing examiner the power to hear and decide those
9 issues it believes should be reviewed and decided by a hearing
10 examiner, including but not limited to:

11 (a) Applications for conditional uses, variances, subdivisions,
12 shoreline permits, or any other class of applications for or pertaining
13 to development of land or land use((s which the legislative body
14 believes should be reviewed and decided by a hearing examiner));

15 (b) Appeals of administrative decisions or determinations; and

16 (c) Appeals of administrative decisions or determinations pursuant
17 to chapter 43.21C RCW.

18 The legislative body shall prescribe procedures to be followed by
19 the hearing examiner.

20 (2) Each city or county legislative body electing to use a hearing
21 examiner pursuant to this section shall by ordinance specify the legal
22 effect of the decisions made by the examiner. ~~((Except as provided in~~
23 ~~subsection (2) of this section,)) The legal effect of such decisions
24 may vary for the different classes of applications decided by the
25 examiner but shall include one of the following:~~

26 (a) The decision may be given the effect of a recommendation to the
27 legislative body;

28 (b) The decision may be given the effect of an administrative
29 decision appealable within a specified time limit to the legislative
30 body(~~-~~

31 ~~(2) The legislative body may specify the legal effect of a hearing~~
32 ~~examiner's procedural determination under the state environmental~~
33 ~~policy act, as defined in RCW 43.21C.075(3)(a). It may have the effect~~
34 ~~under subsection (1) (a) or (b) of this section, or)); or~~

35 (c) Except in the case of a rezone, the decision may be given the
36 effect of a final decision of the legislative body.

37 (3) Each final decision of a hearing examiner shall be in writing
38 and shall include findings and conclusions, based on the record, to
39 support the decision. Such findings and conclusions shall also set

1 forth the manner in which the decision would carry out and conform to
2 the city's or county's comprehensive plan and the city's or county's
3 development regulations. Each final decision of a hearing examiner,
4 unless a longer period is mutually agreed to in writing by the
5 applicant and the hearing examiner, shall be rendered within ten
6 working days following conclusion of all testimony and hearings.

7 **Sec. 424.** RCW 35A.63.170 and 1994 c 257 s 7 are each amended to
8 read as follows:

9 (1) As an alternative to those provisions of this chapter relating
10 to powers or duties of the planning commission to hear and report on
11 any proposal to amend a zoning ordinance, the legislative body of a
12 city may adopt a hearing examiner system under which a hearing examiner
13 or hearing examiners may hear and decide applications for amending the
14 zoning ordinance when the amendment which is applied for is not of
15 general applicability. In addition, the legislative body may vest in
16 a hearing examiner the power to hear and decide those issues it
17 believes should be reviewed and decided by a hearing examiner,
18 including but not limited to:

19 (a) Applications for conditional uses, variances, subdivisions,
20 shoreline permits, or any other class of applications for or pertaining
21 to development of land or land use((s which the legislative body
22 believes should be reviewed and decided by a hearing examiner));

23 (b) Appeals of administrative decisions or determinations; and

24 (c) Appeals of administrative decisions or determinations pursuant
25 to chapter 43.21C RCW.

26 The legislative body shall prescribe procedures to be followed by
27 a hearing examiner. If the legislative authority vests in a hearing
28 examiner the authority to hear and decide variances, then the
29 provisions of RCW 35A.63.110 shall not apply to the city.

30 (2) Each city legislative body electing to use a hearing examiner
31 pursuant to this section shall by ordinance specify the legal effect of
32 the decisions made by the examiner. (~~Except as provided in subsection~~
33 ~~(2) of this section,~~) The legal effect of such decisions may vary for
34 the different classes of applications decided by the examiner but shall
35 include one of the following:

36 (a) The decision may be given the effect of a recommendation to the
37 legislative body;

1 (b) The decision may be given the effect of an administrative
2 decision appealable within a specified time limit to the legislative
3 body((-

4 ~~(2) The legislative body shall specify the legal effect of a~~
5 ~~hearing examiner's procedural determination under the state~~
6 ~~environmental policy act, as defined in RCW 43.21C.075(3)(a). It may~~
7 ~~have the effect under subsection (1) (a) or (b) of this section, or))i~~
8 or

9 (c) Except in the case of a rezone, the decision may be given the
10 effect of a final decision of the legislative body.

11 (3) Each final decision of a hearing examiner shall be in writing
12 and shall include findings and conclusions, based on the record, to
13 support the decision. Such findings and conclusions shall also set
14 forth the manner in which the decision would carry out and conform to
15 the city's comprehensive plan and the city's development regulations.
16 Each final decision of a hearing examiner, unless a longer period is
17 mutually agreed to in writing by the applicant and the hearing
18 examiner, shall be rendered within ten working days following
19 conclusion of all testimony and hearings.

20 **Sec. 425.** RCW 36.70.970 and 1994 c 257 s 9 are each amended to
21 read as follows:

22 (1) As an alternative to those provisions of this chapter relating
23 to powers or duties of the planning commission to hear and issue
24 recommendations on applications for plat approval and applications for
25 amendments to the zoning ordinance, the county legislative authority
26 may adopt a hearing examiner system under which a hearing examiner or
27 hearing examiners may hear and issue decisions on proposals for plat
28 approval and for amendments to the zoning ordinance when the amendment
29 which is applied for is not of general applicability. In addition, the
30 legislative authority may vest in a hearing examiner the power to hear
31 and decide those issues it believes should be reviewed and decided by
32 a hearing examiner, including but not limited to:

33 (a) Applications for conditional uses ((applications)), variances
34 ((applications)), ((applications for)) shoreline permits, or any other
35 class of applications for or pertaining to development of land or land
36 use((s))i

37 (b) Appeals of administrative decisions or determinations; and

1 (c) Appeals of administrative decisions or determinations pursuant
2 to chapter 43.21C RCW.

3 The legislative authority shall prescribe procedures to be followed
4 by a hearing examiner.

5 Any county which vests in a hearing examiner the authority to hear
6 and decide conditional uses and variances shall not be required to have
7 a zoning adjuster or board of adjustment.

8 (2) Each county legislative authority electing to use a hearing
9 examiner pursuant to this section shall by ordinance specify the legal
10 effect of the decisions made by the examiner. ~~((Except as provided in~~
11 ~~subsection (2) of this section,)) Such legal effect may vary for the
12 different classes of applications decided by the examiner but shall
13 include one of the following:~~

14 (a) The decision may be given the effect of a recommendation to the
15 legislative authority;

16 (b) The decision may be given the effect of an administrative
17 decision appealable within a specified time limit to the legislative
18 authority(~~(-~~

19 ~~(2) The legislative authority may specify the legal effect of a~~
20 ~~hearing examiner's procedural determination under the state~~
21 ~~environmental policy act, as defined in RCW 43.21C.075(3)(a). It may~~
22 ~~have the effect under subsection (1) (a) or (b) of this section, or))i~~
23 or

24 (c) Except in the case of a rezone, the decision may be given the
25 effect of a final decision of the legislative authority.

26 (3) Each final decision of a hearing examiner shall be in writing
27 and shall include findings and conclusions, based on the record, to
28 support the decision. Such findings and conclusions shall also set
29 forth the manner in which the decision would carry out and conform to
30 the county's comprehensive plan and the county's development
31 regulations. Each final decision of a hearing examiner, unless a
32 longer period is mutually agreed to in writing by the applicant and the
33 hearing examiner, shall be rendered within ten working days following
34 conclusion of all testimony and hearings.

35 **Sec. 426.** RCW 58.17.090 and 1981 c 293 s 5 are each amended to
36 read as follows:

37 (1) Upon receipt of an application for preliminary plat approval
38 the administrative officer charged by ordinance with responsibility for

1 administration of regulations pertaining to platting and subdivisions
2 shall provide public notice and set a date for a public hearing.
3 Except as provided in section 415 of this act, at a minimum, notice of
4 the hearing shall be given in the following manner:

5 ~~((1))~~ (a) Notice shall be published not less than ten days prior
6 to the hearing in a newspaper of general circulation within the county
7 and a newspaper of general circulation in the area where the real
8 property which is proposed to be subdivided is located; and

9 ~~((2))~~ (b) Special notice of the hearing shall be given to
10 adjacent landowners by any other reasonable method local authorities
11 deem necessary. Adjacent landowners are the owners of real property,
12 as shown by the records of the county assessor, located within three
13 hundred feet of any portion of the boundary of the proposed
14 subdivision. If the owner of the real property which is proposed to be
15 subdivided owns another parcel or parcels of real property which lie
16 adjacent to the real property proposed to be subdivided, notice under
17 this subsection (1)(b) shall be given to owners of real property
18 located within three hundred feet of any portion of the boundaries of
19 such adjacently located parcels of real property owned by the owner of
20 the real property proposed to be subdivided.

21 (2) All hearings shall be public. All hearing notices shall
22 include a description of the location of the proposed subdivision. The
23 description may be in the form of either a vicinity location sketch or
24 a written description other than a legal description.

25 **Sec. 427.** RCW 58.17.092 and 1988 c 168 s 12 are each amended to
26 read as follows:

27 Any notice made under chapter 58.17 or 36.-- (the new chapter
28 created in section 431 of this act) RCW that identifies affected
29 property may identify this affected property without using a legal
30 description of the property including, but not limited to,
31 identification by an address, written description, vicinity sketch, or
32 other reasonable means.

33 **Sec. 428.** RCW 58.17.100 and 1981 c 293 s 6 are each amended to
34 read as follows:

35 If a city, town or county has established a planning commission or
36 planning agency in accordance with state law or local charter, such
37 commission or agency shall review all preliminary plats and make

1 recommendations thereon to the city, town or county legislative body to
2 assure conformance of the proposed subdivision to the general purposes
3 of the comprehensive plan and to planning standards and specifications
4 as adopted by the city, town or county. Reports of the planning
5 commission or agency shall be advisory only: PROVIDED, That the
6 legislative body of the city, town or county may, by ordinance, assign
7 to such commission or agency, or any department official or group of
8 officials, such administrative functions, powers and duties as may be
9 appropriate, including the holding of hearings, and recommendations for
10 approval or disapproval of preliminary plats of proposed subdivisions.

11 Such recommendation shall be submitted to the legislative body not
12 later than fourteen days following action by the hearing body. Upon
13 receipt of the recommendation on any preliminary plat the legislative
14 body shall at its next public meeting set the date for the public
15 meeting where it shall consider the recommendations of the hearing body
16 and may adopt or reject the recommendations of such hearing body based
17 on the record established at the public hearing. If, after considering
18 the matter at a public meeting, the legislative body deems a change in
19 the planning commission's or planning agency's recommendation approving
20 or disapproving any preliminary plat is necessary, (~~the change of the~~
21 ~~recommendation shall not be made until~~) the legislative body shall
22 (~~conduct a public hearing and thereupon~~) adopt its own
23 recommendations and approve or disapprove the preliminary plat. (~~Such~~
24 ~~public hearing may be held before a committee constituting a majority~~
25 ~~of the legislative body. If the hearing is before a committee, the~~
26 ~~committee shall report its recommendations on the matter to the~~
27 ~~legislative body for final action.))~~

28 Every decision or recommendation made under this section shall be
29 in writing and shall include findings of fact and conclusions to
30 support the decision or recommendation.

31 A record of all public meetings and public hearings shall be kept
32 by the appropriate city, town or county authority and shall be open to
33 public inspection.

34 Sole authority to approve final plats, and to adopt or amend
35 platting ordinances shall reside in the legislative bodies.

36 **Sec. 429.** RCW 58.17.330 and 1994 c 257 s 6 are each amended to
37 read as follows:

1 (1) As an alternative to those provisions of this chapter requiring
2 a planning commission to hear and issue recommendations for plat
3 approval, the county or city legislative body may adopt a hearing
4 examiner system and shall specify by ordinance the legal effect of the
5 decisions made by the examiner. (~~Except as provided in subsection (2)~~
6 ~~of this section,~~) The legal effect of such decisions shall include one
7 of the following:

8 (a) The decision may be given the effect of a recommendation to the
9 legislative body;

10 (b) The decision may be given the effect of an administrative
11 decision appealable within a specified time limit to the legislative
12 body; or

13 (c) The decision may be given the effect of a final decision of the
14 legislative body.

15 The legislative authority shall prescribe procedures to be followed by
16 a hearing examiner.

17 (2) (~~The legislative body shall specify the legal effect of a~~
18 ~~hearing examiner's procedural determination under the state~~
19 ~~environmental policy act, as defined in RCW 43.21C.075(3)(a). It may~~
20 ~~have the effect under subsection (1) (a) or (b) of this section, or may~~
21 ~~be given the effect of a final decision of the legislative body.~~

22 (3)) Each final decision of a hearing examiner shall be in writing
23 and shall include findings and conclusions, based on the record, to
24 support the decision. Each final decision of a hearing examiner,
25 unless a longer period is mutually agreed to by the applicant and the
26 hearing examiner, shall be rendered within ten working days following
27 conclusion of all testimony and hearings.

28 NEW SECTION. Sec. 430. The department of community, trade, and
29 economic development shall provide training and technical assistance to
30 counties and cities to assist them in fulfilling the requirements of
31 chapter 36.-- RCW (the new chapter created in section 431 of this act).

32 NEW SECTION. Sec. 431. Sections 401, 402, 404 through 407, 413
33 through 420, and 502 through 506 of this act shall constitute a new
34 chapter in Title 36 RCW.

1 the agreement. A development agreement shall be consistent with
2 applicable development regulations adopted by a local government
3 planning under chapter 36.70A RCW.

4 (2) Sections 501 through 504 of this act do not affect the validity
5 of a contract rezone, concomitant agreement, annexation agreement, or
6 other agreement in existence on the effective date of sections 501
7 through 504 of this act, or adopted under separate authority, that
8 includes some or all of the development standards provided in
9 subsection (3) of this section.

10 (3) For the purposes of this section, "development standards"
11 includes, but is not limited to:

12 (a) Project elements such as permitted uses, residential densities,
13 and nonresidential densities and intensities or building sizes;

14 (b) The amount and payment of impact fees imposed or agreed to in
15 accordance with any applicable provisions of state law, any
16 reimbursement provisions, other financial contributions by the property
17 owner, inspection fees, or dedications;

18 (c) Mitigation measures, development conditions, and other
19 requirements under chapter 43.21C RCW;

20 (d) Design standards such as maximum heights, setbacks, drainage
21 and water quality requirements, landscaping, and other development
22 features;

23 (e) Affordable housing;

24 (f) Parks and open space preservation;

25 (g) Phasing;

26 (h) Review procedures and standards for implementing decisions;

27 (i) A build-out or vesting period for applicable standards; and

28 (j) Any other appropriate development requirement or procedure.

29 (4) The execution of a development agreement is a proper exercise
30 of county and city police power and contract authority. A development
31 agreement may obligate a party to fund or provide services,
32 infrastructure, or other facilities. A development agreement shall
33 reserve authority to impose new or different regulations to the extent
34 required by a serious threat to public health and safety.

35 NEW SECTION. **Sec. 503.** Unless amended or terminated, a
36 development agreement is enforceable during its term by a party to the
37 agreement. A development agreement and the development standards in
38 the agreement govern during the term of the agreement, or for all or

1 that part of the build-out period specified in the agreement, and may
2 not be subject to an amendment to a zoning ordinance or development
3 standard or regulation or a new zoning ordinance or development
4 standard or regulation adopted after the effective date of the
5 agreement. A permit or approval issued by the county or city after the
6 execution of the development agreement must be consistent with the
7 development agreement.

8 NEW SECTION. **Sec. 504.** A development agreement shall be recorded
9 with the real property records of the county in which the property is
10 located. During the term of the development agreement, the agreement
11 is binding on the parties and their successors, including a city that
12 assumes jurisdiction through incorporation or annexation of the area
13 covering the property covered by the development agreement.

14 NEW SECTION. **Sec. 505.** A county or city shall only approve a
15 development agreement by ordinance or resolution after a public
16 hearing. The county or city legislative body or a planning commission,
17 hearing examiner, or other body designated by the legislative body to
18 conduct the public hearing may conduct the hearing. If the development
19 agreement relates to a project permit application, the provisions of
20 chapter 36.-- RCW (sections 701 through 715 of this act) shall apply to
21 the appeal of the decision on the development agreement.

22 NEW SECTION. **Sec. 506.** Nothing in sections 501 through 505 of
23 this act is intended to authorize local governments to impose impact
24 fees, inspection fees, or dedications or to require any other financial
25 contributions or mitigation measures except as expressly authorized by
26 other applicable provisions of state law.

27 **PART VI - STATE PERMIT COORDINATION**

28 NEW SECTION. **Sec. 601.** The legislature hereby finds and declares:
29 (1) Washington's environmental protection programs have established
30 strict standards to reduce pollution and protect the public health and
31 safety and the environment. The single-purpose programs instituted to
32 achieve these standards have been successful in many respects, and have
33 produced significant gains in protecting Washington's environment in
34 the face of substantial population growth.

1 (2) Continued progress to achieve the environmental standards in
2 the face of continued population growth will require greater
3 coordination between the single-purpose environmental programs and more
4 efficient operation of these programs overall. Pollution must be
5 prevented and controlled and not simply transferred to another media or
6 another place. This goal can only be achieved by maintaining the
7 current environmental protection standards and by greater integration
8 of the existing programs.

9 (3) As the number of environmental laws and regulations have grown
10 in Washington, so have the number of permits required of business and
11 government. This regulatory burden has significantly added to the cost
12 and time needed to obtain essential permits in Washington. The
13 increasing number of individual permits and permit authorities has
14 generated the continuing potential for conflict, overlap, and
15 duplication between the various state, local, and federal permits.

16 (4) The purpose of this chapter is to institute new, efficient
17 procedures that will assist businesses and public agencies in complying
18 with the environmental quality laws in an expedited fashion, without
19 reducing protection of public health and safety and the environment.

20 (5) Those procedures need to provide a permit process that promotes
21 effective dialogue and ensures ease in the transfer and clarification
22 of technical information, while preventing duplication. It is
23 necessary that the procedures establish a process for preliminary and
24 ongoing meetings between the applicant, the coordinating permit agency,
25 and the participating permit agencies, but do not preclude the
26 applicant or participating permit agencies from individually
27 coordinating with each other.

28 (6) It is necessary, to the maximum extent practicable, that the
29 procedures established in this chapter ensure that the coordinated
30 permit agency process and applicable permit requirements and criteria
31 are integrated and run concurrently, rather than consecutively.

32 (7) It is necessary to provide a reliable and consolidated source
33 of information concerning federal, state, and local environmental and
34 land use laws and procedures that apply to any given proposal.

35 (8) It is the intent of this chapter to provide an optional process
36 by which a project proponent may obtain active coordination of all
37 applicable regulatory and land-use permitting procedures. This process
38 is not to replace individual laws, or diminish the substantive
39 decision-making role of individual jurisdictions. Rather it is to

1 provide predictability, administrative consolidation, and, where
2 possible, consolidation of appeal processes.

3 (9) It is also the intent of this chapter to provide consolidated,
4 effective, and easier opportunities for members of the public to
5 receive information and present their views about proposed projects.

6 NEW SECTION. **Sec. 602.** Unless the context clearly requires
7 otherwise, the definitions in this section apply throughout this
8 chapter.

9 (1) "Center" means the permit assistance center established in the
10 commission by section 603 of this act.

11 (2) "Coordinating permit agency" means the permit agency that has
12 the greatest overall jurisdiction over a project.

13 (3) "Department" means the department of ecology.

14 (4) "Participating permit agency" means a permit agency, other than
15 the coordinating permit agency, that is responsible for the issuance of
16 a permit for a project.

17 (5) "Permit" means any license, certificate, registration, permit,
18 or other form of authorization required by a permit agency to engage in
19 a particular activity.

20 (6) "Permit agency" means:

21 (a) The department of ecology, an air pollution control authority,
22 the department of natural resources, the department of fish and
23 wildlife, and the department of health; and

24 (b) Any other state or federal agency or county, city, or town that
25 participates at the request of the permit applicant and upon the
26 agency's agreement to be subject to this chapter.

27 (7) "Project" means an activity, the conduct of which requires
28 permits from one or more permit agencies.

29 NEW SECTION. **Sec. 603.** The permit assistance center is
30 established within the department. The center shall:

31 (1) Publish and keep current one or more handbooks containing lists
32 and explanations of all permit laws. The center shall coordinate with
33 the business assistance center in providing and maintaining this
34 information to applicants and others. To the extent possible, the
35 handbook shall include relevant federal and tribal laws. A state
36 agency or local government shall provide a reasonable number of copies
37 of application forms, statutes, ordinances, rules, handbooks, and other

1 informational material requested by the center and shall otherwise
2 fully cooperate with the center. The center shall seek the cooperation
3 of relevant federal agencies and tribal governments;

4 (2) Establish, and make known, a point of contact for distribution
5 of the handbook and advice to the public as to its interpretation in
6 any given case;

7 (3) Work closely and cooperatively with the business license center
8 and the business assistance center in providing efficient and
9 nonduplicative service to the public;

10 (4) Seek the assignment of employees from the permit agencies
11 listed under section 602(6)(a) of this act to serve on a rotating basis
12 in staffing the center; and

13 (5) Provide an annual report to the legislature on potential
14 conflicts and perceived inconsistencies among existing statutes. The
15 first report shall be submitted to the appropriate standing committees
16 of the house of representatives and senate by December 1, 1996.

17 NEW SECTION. **Sec. 604.** (1) Not later than January 1, 1996, the
18 center shall establish by rule an administrative process for the
19 designation of a coordinating permit agency for a project.

20 (2) The administrative process shall consist of the establishment
21 of guidelines for designating the coordinating permit agency for a
22 project. If a permit agency is the lead agency for purposes of chapter
23 43.21C RCW, that permit agency shall be the coordinating permit agency.
24 In other cases, the guidelines shall require that at least the
25 following factors be considered in determining which permit agency has
26 the greatest overall jurisdiction over the project:

27 (a) The types of facilities or activities that make up the project;

28 (b) The types of public health and safety and environmental
29 concerns that should be considered in issuing permits for the project;

30 (c) The environmental medium that may be affected by the project,
31 the extent of those potential effects, and the environmental protection
32 measures that may be taken to prevent the occurrence of, or to
33 mitigate, those potential effects;

34 (d) The regulatory activity that is of greatest importance in
35 preventing or mitigating the effects that the project may have on
36 public health and safety or the environment; and

37 (e) The statutory and regulatory requirements that apply to the
38 project and the complexity of those requirements.

1 NEW SECTION. **Sec. 605.** Upon the request of a project applicant,
2 the center shall appoint a project facilitator to assist the applicant
3 in determining which regulatory requirements, processes, and permits
4 may be required for development and operation of the proposed project.
5 The project facilitator shall provide the information to the applicant
6 and explain the options available to the applicant in obtaining the
7 required permits. If the applicant requests, the center shall
8 designate a coordinating permit agency as provided in section 606 of
9 this act.

10 NEW SECTION. **Sec. 606.** (1) A permit applicant who requests the
11 designation of a coordinating permit agency shall provide the center
12 with a description of the project, a preliminary list of the permits
13 that the project may require, the identity of any public agency that
14 has been designated the lead agency for the project pursuant to chapter
15 43.21C RCW, and the identity of the participating permit agencies. The
16 center may request any information from the permit applicant that is
17 necessary to make the designation under this section, and may convene
18 a scoping meeting of the likely coordinating permit agency and
19 participating permit agencies in order to make that designation.

20 (2) The coordinating permit agency shall serve as the main point of
21 contact for the permit applicant with regard to the coordinated permit
22 process for the project and shall manage the procedural aspects of that
23 processing consistent with existing laws governing the coordinating
24 permit agency and participating permit agencies, and with the
25 procedures agreed to by those agencies in accordance with section 607
26 of this act. In carrying out these responsibilities, the coordinating
27 permit agency shall ensure that the permit applicant has all the
28 information needed to apply for all the component permits that are
29 incorporated in the coordinated permit process for the project,
30 coordinate the review of those permits by the respective participating
31 permit agencies, ensure that timely permit decisions are made by the
32 participating permit agencies, and assist in resolving any conflict or
33 inconsistency among the permit requirements and conditions that are to
34 be imposed by the participating permit agencies with regard to the
35 project. The coordinating permit agency shall keep in contact with the
36 applicant as well as other permit agencies in order to assure that the
37 process is progressing as scheduled. The coordinating permit agency
38 shall also make contact, at least once, with any local jurisdiction

1 that is responsible for issuing a permit for the project if the local
2 jurisdiction has not agreed to be a participating permit agency as
3 provided in section 602(6) of this act.

4 (3) This chapter shall not be construed to limit or abridge the
5 powers and duties granted to a participating permit agency under the
6 law that authorizes or requires the agency to issue a permit for a
7 project. Each participating permit agency shall retain its authority
8 to make all decisions on all nonprocedural matters with regard to the
9 respective component permit that is within its scope of its
10 responsibility, including, but not limited to, the determination of
11 permit application completeness, permit approval or approval with
12 conditions, or permit denial. The coordinating permit agency may not
13 substitute its judgment for that of a participating permit agency on
14 any such nonprocedural matters.

15 NEW SECTION. **Sec. 607.** (1) Within twenty-one days of the date
16 that the coordinating permit agency is designated, it shall convene a
17 meeting with the permit applicant for the project and the participating
18 permit agencies. The meeting agenda shall include at least all of the
19 following matters:

20 (a) A determination of the permits that are required for the
21 project;

22 (b) A review of the permit application forms and other application
23 requirements of the agencies that are participating in the coordinated
24 permit process;

25 (c)(i) A determination of the timelines that will be used by the
26 coordinating permit agency and each participating permit agency to make
27 permit decisions, including the time periods required to determine if
28 the permit applications are complete, to review the application or
29 applications, and to process the component permits. In the development
30 of this timeline, full attention shall be given to achieving the
31 maximum efficiencies possible through concurrent studies, consolidated
32 applications, hearings, and comment periods. Except as provided in
33 (c)(ii) of this subsection, the timelines established under this
34 subsection, with the assent of the coordinating permit agency and each
35 participating permit agency, shall commit the coordinating permit
36 agency and each participating permit agency to act on the component
37 permit within time periods that are different than those required by
38 other applicable provisions of law.

1 (ii) An accelerated time period for the consideration of a permit
2 application may not be set if that accelerated time period would be
3 inconsistent with, or in conflict with, any time period or series of
4 time periods set by statute for that consideration, or with any
5 statute, rule, or regulation, or adopted state policy, standard, or
6 guideline that requires any of the following:

7 (A) Other agencies, interested persons, federally recognized Indian
8 tribes, or the public to be given adequate notice of the application;

9 (B) Other agencies to be given a role in, or be allowed to
10 participate in, the decision to approve or disapprove the application;
11 or

12 (C) Interested persons or the public to be provided the opportunity
13 to challenge, comment on, or otherwise voice their concerns regarding
14 the application;

15 (d) The scheduling of any public hearings that are required to
16 issue permits for the project and a determination of the feasibility of
17 coordinating or consolidating any of those required public hearings;
18 and

19 (e) A discussion of fee arrangements for the coordinated permit
20 process, including an estimate of the costs allowed under section 610
21 of this act and the billing schedule.

22 (2) Each agency shall send at least one representative qualified to
23 make decisions concerning the applicability and timelines associated
24 with all permits administered by that jurisdiction. At the request of
25 the applicant, the coordinating permit agency shall notify any relevant
26 federal agency or federally recognized tribe of the date of the meeting
27 and invite that agency's participation in the process.

28 (3) If a permit agency or the applicant foresees, at any time, that
29 it will be unable to meet its obligations under the agreement, it shall
30 notify the coordinating permit agency of the problem. The coordinating
31 permit agency shall notify the participating permit agencies and the
32 applicant and, upon agreement of all parties, adjust the schedule, or,
33 if necessary, schedule another work plan meeting.

34 (4) The coordinating permit agency may request any information from
35 the applicant that is necessary to comply with its obligations under
36 this section, consistent with the timelines set pursuant to this
37 section.

1 (5) A summary of the decisions made under this section shall be
2 made available for public review upon the filing of the coordinated
3 permit process application or permit applications.

4 NEW SECTION. **Sec. 608.** (1) The permit applicant may withdraw from
5 the coordinated permit process by submitting to the coordinating permit
6 agency a written request that the process be terminated. Upon receipt
7 of the request, the coordinating permit agency shall notify the center
8 and each participating permit agency that a coordinated permit process
9 is no longer applicable to the project.

10 (2) The permit applicant may submit a written request to the
11 coordinating permit agency that the permit applicant wishes a
12 participating permit agency to withdraw from participation on the basis
13 of a reasonable belief that the issuance of the coordinated permit
14 process would be accelerated if the participating permit agency
15 withdraws. In that event, the participating permit agency shall
16 withdraw from participation if the coordinating permit agency approves
17 the request.

18 NEW SECTION. **Sec. 609.** The coordinating permit agency shall
19 ensure that the participating permit agencies make all the permit
20 decisions that are necessary for the incorporation of the permits into
21 the coordinated permit process and act on the component permits within
22 the time periods established pursuant to section 607 of this act.

23 NEW SECTION. **Sec. 610.** (1) The coordinating permit agency may
24 enter into a written agreement with the applicant to recover from the
25 applicant the reasonable costs incurred by the coordinating permit
26 agency in carrying out the requirements of this chapter.

27 (2) The coordinating permit agency may recover only the costs of
28 performing those coordinated permit services and shall be negotiated
29 with the permit applicant in the meeting required pursuant to section
30 607 of this act. The billing process shall provide for accurate time
31 and cost accounting and may include a billing cycle that provides for
32 progress payments.

33 NEW SECTION. **Sec. 611.** A petition by the permit applicant for
34 review of an agency action in issuing, denying, or amending a permit,
35 or any portion of a coordinating permit agency permit, shall be

1 submitted by the permit applicant to the coordinating permit agency or
2 the participating permit agency having jurisdiction over that permit
3 and shall be processed in accordance with the procedures of that permit
4 agency. Within thirty days of receiving the petition, the coordinating
5 permit agency shall notify the other environmental agencies
6 participating in the original coordinated permit process.

7 NEW SECTION. **Sec. 612.** If an applicant petitions for a
8 significant amendment or modification to a coordinated permit process
9 application or any of its component permit applications, the
10 coordinating permit agency shall reconvene a meeting of the
11 participating permit agencies, conducted in accordance with section 607
12 of this act.

13 NEW SECTION. **Sec. 613.** If an applicant fails to provide
14 information required for the processing of the component permit
15 applications for a coordinated permit process or for the designation of
16 a coordinating permit agency, the time requirements of this chapter
17 shall be held in abeyance until such time as the information is
18 provided.

19 NEW SECTION. **Sec. 614.** (1) The center, by rule, shall establish
20 an expedited appeals process by which a petitioner or applicant may
21 appeal any failure by a permit agency to take timely action on the
22 issuance or denial of a permit in accordance with the time limits
23 established under this chapter.

24 (2) If the center finds that the time limits under appeal have been
25 violated without good cause, it shall establish a date certain by which
26 the permit agency shall act on the permit application with adequate
27 provision for the requirements of section 607(1)(c)(ii) (A) through (C)
28 of this act, and provide for the full reimbursement of any filing or
29 permit processing fees paid by the applicant to the permit agency for
30 the permit application under appeal.

31 NEW SECTION. **Sec. 615.** Nothing in this chapter affects the
32 jurisdiction of the energy facility site evaluation council as provided
33 in chapter 80.50 RCW.

1 NEW SECTION. **Sec. 616.** By December 1, 1997, the center shall
2 submit a report to the appropriate committees of both houses of the
3 legislature detailing the following information:

4 (1) The number of instances in which a coordinating permit agency
5 has been requested and used, and the disposition of those cases;

6 (2) The amount of time elapsed between an initial request by a
7 permit applicant for a coordinated permit process and the ultimate
8 approval or disapproval of the permits included in the process; and

9 (3) The number of instances in which the expedited appeals process
10 was requested, and the disposition of those cases.

11 NEW SECTION. **Sec. 617.** A new section is added to chapter 43.131
12 RCW to read as follows:

13 The permit assistance center and its powers and duties shall be
14 terminated June 30, 1999, as provided in section 618 of this act.

15 NEW SECTION. **Sec. 618.** A new section is added to chapter 43.131
16 RCW to read as follows:

17 The following acts or parts of acts, as now existing or hereafter
18 amended, are each repealed, effective June 30, 2000:

19 (1) RCW 90.---.--- and 1995 c -- s 601 (section 601 of this act);

20 (2) RCW 90.---.--- and 1995 c -- s 602 (section 602 of this act);

21 (3) RCW 90.---.--- and 1995 c -- s 603 (section 603 of this act);

22 (4) RCW 90.---.--- and 1995 c -- s 604 (section 604 of this act);

23 (5) RCW 90.---.--- and 1995 c -- s 605 (section 605 of this act);

24 (6) RCW 90.---.--- and 1995 c -- s 606 (section 606 of this act);

25 (7) RCW 90.---.--- and 1995 c -- s 607 (section 607 of this act);

26 (8) RCW 90.---.--- and 1995 c -- s 608 (section 608 of this act);

27 (9) RCW 90.---.--- and 1995 c -- s 609 (section 609 of this act);

28 (10) RCW 90.---.--- and 1995 c -- s 610 (section 610 of this act);

29 (11) RCW 90.---.--- and 1995 c -- s 611 (section 611 of this act);

30 (12) RCW 90.---.--- and 1995 c -- s 612 (section 612 of this act);

31 (13) RCW 90.---.--- and 1995 c -- s 613 (section 613 of this act);

32 (14) RCW 90.---.--- and 1995 c -- s 614 (section 614 of this act);

33 (15) RCW 90.---.--- and 1995 c -- s 615 (section 615 of this act);

34 and

35 (16) RCW 90.---.--- and 1995 c -- s 616 (section 616 of this act).

1 uniform criteria for reviewing such decisions, in order to provide
2 consistent, predictable, and timely judicial review.

3 NEW SECTION. **Sec. 703.** Unless the context clearly requires
4 otherwise, the definitions in this section apply throughout this
5 chapter.

6 (1) "Land use decision" means a final determination by a local
7 jurisdiction's body or officer with the highest level of authority to
8 make the determination, including those with authority to hear appeals,
9 on:

10 (a) An application for a project permit or other governmental
11 approval required by law before real property may be improved,
12 developed, modified, sold, transferred, or used, but excluding
13 applications for permits or approvals to use, vacate, or transfer
14 streets, parks, and similar types of public property; excluding
15 applications for legislative approvals such as area-wide rezones and
16 annexations; and excluding applications for business licenses;

17 (b) An interpretative or declaratory decision regarding the
18 application to a specific property of zoning or other ordinances or
19 rules regulating the improvement, development, modification,
20 maintenance, or use of real property; and

21 (c) The enforcement by a local jurisdiction of ordinances
22 regulating the improvement, development, modification, maintenance, or
23 use of real property. However, when a local jurisdiction is required
24 by law to enforce the ordinances in a court of limited jurisdiction, a
25 petition may not be brought under this chapter.

26 (2) "Local jurisdiction" means a county, city, or incorporated
27 town.

28 (3) "Person" means an individual, partnership, corporation,
29 association, public or private organization, or governmental entity or
30 agency.

31 NEW SECTION. **Sec. 704.** (1) This chapter replaces the writ of
32 certiorari for appeal of land use decisions and shall be the exclusive
33 means of judicial review of land use decisions, except that this
34 chapter does not apply to:

35 (a) Judicial review of:

36 (i) Land use decisions made by bodies that are not part of a local
37 jurisdiction;

1 (ii) Land use decisions of a local jurisdiction that are subject to
2 review by a quasi-judicial body created by state law, such as the
3 shorelines hearings board or the growth management hearings board;

4 (b) Judicial review of applications for a writ of mandamus or
5 prohibition; or

6 (c) Claims provided by any law for monetary damages or
7 compensation. If one or more claims for damages or compensation are
8 set forth in the same complaint with a land use petition brought under
9 this chapter, the claims are not subject to the procedures and
10 standards, including deadlines, provided in this chapter for review of
11 the petition. The judge who hears the land use petition may, if
12 appropriate, preside at a trial for damages or compensation.

13 (2) The superior court civil rules govern procedural matters under
14 this chapter to the extent that the rules are consistent with this
15 chapter.

16 NEW SECTION. **Sec. 705.** (1) Proceedings for review under this
17 chapter shall be commenced by filing a land use petition in superior
18 court.

19 (2) A land use petition is barred, and the court may not grant
20 review, unless the petition is timely filed with the court and timely
21 served on the following persons who shall be parties to the review of
22 the land use petition:

23 (a) The local jurisdiction, which for purposes of the petition
24 shall be the jurisdiction's corporate entity and not an individual
25 decision maker or department;

26 (b) Each of the following persons if the person is not the
27 petitioner:

28 (i) Each person identified by name and address in the local
29 jurisdiction's written decision as an applicant for the permit or
30 approval at issue; and

31 (ii) Each person identified by name and address in the local
32 jurisdiction's written decision as an owner of the property at issue;

33 (c) If no person is identified in a written decision as provided in
34 (b) of this subsection, each person identified by name and address as
35 a taxpayer for the property at issue in the records of the county
36 assessor, based upon the description of the property in the
37 application; and

1 (d) Each person named in the written decision who filed an appeal
2 to a local jurisdiction quasi-judicial decision maker regarding the
3 land use decision at issue, unless the person has abandoned the appeal
4 or the person's claims were dismissed before the quasi-judicial
5 decision was rendered. Persons who later intervened or joined in the
6 appeal are not required to be made parties under this subsection.

7 (3) The petition is timely if it is filed and served on all parties
8 listed in subsection (2) of this section within twenty-one days of the
9 issuance of the land use decision.

10 (4) For the purposes of this section, the date on which a land use
11 decision is issued is:

12 (a) Three days after a written decision is mailed by the local
13 jurisdiction or, if not mailed, the date on which the local
14 jurisdiction provides notice that a written decision is publicly
15 available;

16 (b) If the land use decision is made by ordinance or resolution by
17 a legislative body sitting in a quasi-judicial capacity, the date the
18 body passes the ordinance or resolution; or

19 (c) If neither (a) nor (b) of this subsection applies, the date the
20 decision is entered into the public record.

21 (5) Service on the local jurisdiction must be by delivery of a copy
22 of the petition to the persons identified by or pursuant to RCW
23 4.28.080 to receive service of process. Service on other parties must
24 be in accordance with the superior court civil rules or by first class
25 mail to:

26 (a) The address stated in the written decision of the local
27 jurisdiction for each person made a party under subsection (2)(b) of
28 this section;

29 (b) The address stated in the records of the county assessor for
30 each person made a party under subsection (2)(c) of this section; and

31 (c) The address stated in the appeal to the quasi-judicial decision
32 maker for each person made a party under subsection (2)(d) of this
33 section.

34 (6) Service by mail is effective on the date of mailing and proof
35 of service shall be by affidavit or declaration under penalty of
36 perjury.

37 NEW SECTION. **Sec. 706.** If the applicant for the land use approval
38 is not the owner of the real property at issue, and if the owner is not

1 accurately identified in the records referred to in section 705(2) (b)
2 and (c) of this act, the applicant shall be responsible for promptly
3 securing the joinder of the owners. In addition, within fourteen days
4 after service each party initially named by the petitioner shall
5 disclose to the other parties the name and address of any person whom
6 such party knows may be needed for just adjudication of the petition,
7 and the petitioner shall promptly name and serve any such person whom
8 the petitioner agrees may be needed for just adjudication. If such a
9 person is named and served before the initial hearing, leave of court
10 for the joinder is not required, and the petitioner shall provide the
11 newly joined party with copies of the pleadings filed before the
12 party's joinder. Failure by the petitioner to name or serve, within
13 the time required by section 705(3) of this act, persons who are needed
14 for just adjudication but who are not identified in the records
15 referred to in section 705(2)(b) of this act, or in section 705(2)(c)
16 of this act if applicable, shall not deprive the court of jurisdiction
17 to hear the land use petition.

18 NEW SECTION. **Sec. 707.** Standing to bring a land use petition
19 under this chapter is limited to the following persons:

20 (1) The applicant and the owner of property to which the land use
21 decision is directed;

22 (2) Another person aggrieved or adversely affected by the land use
23 decision, or who would be aggrieved or adversely affected by a reversal
24 or modification of the land use decision. A person is aggrieved or
25 adversely affected within the meaning of this section only when all of
26 the following conditions are present:

27 (a) The land use decision has prejudiced or is likely to prejudice
28 that person;

29 (b) That person's asserted interests are among those that the local
30 jurisdiction was required to consider when it made the land use
31 decision;

32 (c) A judgment in favor of that person would substantially
33 eliminate or redress the prejudice to that person caused or likely to
34 be caused by the land use decision; and

35 (d) The petitioner has exhausted his or her administrative remedies
36 to the extent required by law.

37 NEW SECTION. **Sec. 708.** A land use petition must set forth:

- 1 (1) The name and mailing address of the petitioner;
- 2 (2) The name and mailing address of the petitioner's attorney, if
3 any;
- 4 (3) The name and mailing address of the local jurisdiction whose
5 land use decision is at issue;
- 6 (4) Identification of the decision-making body or officer, together
7 with a duplicate copy of the decision, or, if not a written decision,
8 a summary or brief description of it;
- 9 (5) Identification of each person to be made a party under section
10 705(2) (b) through (d) of this act;
- 11 (6) Facts demonstrating that the petitioner has standing to seek
12 judicial review under section 707 of this act;
- 13 (7) A separate and concise statement of each error alleged to have
14 been committed;
- 15 (8) A concise statement of facts upon which the petitioner relies
16 to sustain the statement of error; and
- 17 (9) A request for relief, specifying the type and extent of relief
18 requested.

19 NEW SECTION. **Sec. 709.** (1) Within seven days after the petition
20 is served on the parties identified in section 705(2) of this act, the
21 petitioner shall note, according to the local rules of superior court,
22 an initial hearing on jurisdictional and preliminary matters. This
23 initial hearing shall be set no sooner than thirty-five days and no
24 later than fifty days after the petition is served on the parties
25 identified in section 705(2) of this act.

26 (2) The parties shall note all motions on jurisdictional and
27 procedural issues for resolution at the initial hearing, except that a
28 motion to allow discovery may be brought sooner. Where confirmation of
29 motions is required, each party shall be responsible for confirming its
30 own motions.

31 (3) The defenses of lack of standing, untimely filing or service of
32 the petition, and failure to join persons needed for just adjudication
33 are waived if not raised by timely motion noted to be heard at the
34 initial hearing, unless the court allows discovery on such issues.

35 (4) The petitioner shall move the court for an order at the initial
36 hearing that sets the date on which the record must be submitted, sets
37 a briefing schedule, sets a discovery schedule if discovery is to be
38 allowed, and sets a date for the hearing or trial on the merits.

1 (5) The parties may waive the initial hearing by scheduling with
2 the court a date for the hearing or trial on the merits and filing a
3 stipulated order that resolves the jurisdictional and procedural issues
4 raised by the petition, including the issues identified in subsections
5 (3) and (4) of this section.

6 (6) A party need not file an answer to the petition.

7 NEW SECTION. **Sec. 710.** The court shall provide expedited review
8 of petitions filed under this chapter. The matter must be set for
9 hearing within sixty days of the date set for submitting the local
10 jurisdiction's record, absent a showing of good cause for a different
11 date or a stipulation of the parties.

12 NEW SECTION. **Sec. 711.** (1) A petitioner or other party may
13 request the court to stay or suspend an action by the local
14 jurisdiction or another party to implement the decision under review.
15 The request must set forth a statement of grounds for the stay and the
16 factual basis for the request.

17 (2) A court may grant a stay only if the court finds that:

18 (a) The party requesting the stay is likely to prevail on the
19 merits;

20 (b) Without the stay the party requesting it will suffer
21 irreparable harm;

22 (c) The grant of a stay will not substantially harm other parties
23 to the proceedings; and

24 (d) The request for the stay is timely in light of the
25 circumstances of the case.

26 (3) The court may grant the request for a stay upon such terms and
27 conditions, including the filing of security, as are necessary to
28 prevent harm to other parties by the stay.

29 NEW SECTION. **Sec. 712.** (1) Within forty-five days after entry of
30 an order to submit the record, or within such a further time as the
31 court allows or as the parties agree, the local jurisdiction shall
32 submit to the court a certified copy of the record for judicial review
33 of the land use decision, except that the petitioner shall prepare at
34 the petitioner's expense and submit a verbatim transcript of any
35 hearings held on the matter.

1 (2) If the parties agree, or upon order of the court, the record
2 shall be shortened or summarized to avoid reproduction and
3 transcription of portions of the record that are duplicative or not
4 relevant to the issues to be reviewed by the court.

5 (3) The petitioner shall pay the local jurisdiction the cost of
6 preparing the record before the local jurisdiction submits the record
7 to the court. Failure by the petitioner to timely pay the local
8 jurisdiction relieves the local jurisdiction of responsibility to
9 submit the record and is grounds for dismissal of the petition.

10 (4) If the relief sought by the petitioner is granted in whole or
11 in part the court shall equitably assess the cost of preparing the
12 record among the parties. In assessing costs the court shall take into
13 account the extent to which each party prevailed and the reasonableness
14 of the parties' conduct in agreeing or not agreeing to shorten or
15 summarize the record under subsection (2) of this section.

16 NEW SECTION. **Sec. 713.** (1) When the land use decision being
17 reviewed was made by a quasi-judicial body or officer who made factual
18 determinations in support of the decision and the parties to the quasi-
19 judicial proceeding had an opportunity consistent with due process to
20 make a record on the factual issues, judicial review of factual issues
21 and the conclusions drawn from the factual issues shall be confined to
22 the record created by the quasi-judicial body or officer, except as
23 provided in subsections (2) through (4) of this section.

24 (2) For decisions described in subsection (1) of this section, the
25 record may be supplemented by additional evidence only if the
26 additional evidence relates to:

27 (a) Grounds for disqualification of a member of the body or of the
28 officer that made the land use decision, when such grounds were unknown
29 by the petitioner at the time the record was created;

30 (b) Matters that were improperly excluded from the record after
31 being offered by a party to the quasi-judicial proceeding; or

32 (c) Matters that were outside the jurisdiction of the body or
33 officer that made the land use decision.

34 (3) For land use decisions other than those described in subsection
35 (1) of this section, the record for judicial review may be supplemented
36 by evidence of material facts that were not made part of the local
37 jurisdiction's record.

1 (4) The court may require or permit corrections of ministerial
2 errors or inadvertent omissions in the preparation of the record.

3 (5) The parties may not conduct pretrial discovery except with the
4 prior permission of the court, which may be sought by motion at any
5 time after service of the petition. The court shall not grant
6 permission unless the party requesting it makes a prima facie showing
7 of need. The court shall strictly limit discovery to what is necessary
8 for equitable and timely review of the issues that are raised under
9 subsections (2) and (3) of this section. If the court allows the
10 record to be supplemented, the court shall require the parties to
11 disclose before the hearing or trial on the merits the specific
12 evidence they intend to offer. If any party, or anyone acting on
13 behalf of any party, requests records under chapter 42.17 RCW relating
14 to the matters at issue, a copy of the request shall simultaneously be
15 given to all other parties and the court shall take such request into
16 account in fashioning an equitable discovery order under this section.

17 NEW SECTION. **Sec. 714.** (1) The superior court, acting without a
18 jury, shall review the record and such supplemental evidence as is
19 permitted under section 713 of this act. The court may grant relief
20 only if the party seeking relief has carried the burden of establishing
21 that one of the standards set forth in (a) through (f) of this
22 subsection has been met. The standards are:

23 (a) The body or officer that made the land use decision engaged in
24 unlawful procedure or failed to follow a prescribed process, unless the
25 error was harmless;

26 (b) The land use decision is an erroneous interpretation of the
27 law, after allowing for such deference as is due the construction of a
28 law by a local jurisdiction with expertise;

29 (c) The land use decision is not supported by evidence that is
30 substantial when viewed in light of the whole record before the court;

31 (d) The land use decision is a clearly erroneous application of the
32 law to the facts;

33 (e) The land use decision is outside the authority or jurisdiction
34 of the body or officer making the decision; or

35 (f) The land use decision violates the constitutional rights of the
36 party seeking relief.

37 (2) In order to grant relief under this chapter, it is not
38 necessary for the court to find that the local jurisdiction engaged in

1 arbitrary and capricious conduct. A grant of relief by itself may not
2 be deemed to establish liability for monetary damages or compensation.

3 NEW SECTION. **Sec. 715.** The court may affirm or reverse the land
4 use decision under review or remand it for modification or further
5 proceedings. If the decision is remanded for modification or further
6 proceedings, the court may make such an order as it finds necessary to
7 preserve the interests of the parties and the public, pending further
8 proceedings or action by the local jurisdiction.

9 **Sec. 716.** RCW 7.16.360 and 1989 c 175 s 38 are each amended to
10 read as follows:

11 This chapter does not apply to state agency action reviewable under
12 chapter 34.05 RCW or to land use decisions of local jurisdictions
13 reviewable under chapter 36.-- RCW (sections 701 through 715 of this
14 act).

15 **Sec. 717.** RCW 58.17.180 and 1983 c 121 s 5 are each amended to
16 read as follows:

17 Any decision approving or disapproving any plat shall be reviewable
18 (~~for unlawful, arbitrary, capricious or corrupt action or nonaction by~~
19 ~~writ of review before the superior court of the county in which such~~
20 ~~matter is pending. Standing to bring the action is limited to the~~
21 ~~following parties:~~

22 ~~(1) The applicant or owner of the property on which the subdivision~~
23 ~~is proposed;~~

24 ~~(2) Any property owner entitled to special notice under RCW~~
25 ~~58.17.090;~~

26 ~~(3) Any property owner who deems himself aggrieved thereby and who~~
27 ~~will suffer direct and substantial impacts from the proposed~~
28 ~~subdivision.~~

29 ~~Application for a writ of review shall be made to the court within~~
30 ~~thirty days from any decision so to be reviewed. The cost of~~
31 ~~transcription of all records ordered certified by the court for such~~
32 ~~review shall be borne by the appellant)) under chapter 36.-- RCW
33 (sections 701 through 715 of this act).~~

34 NEW SECTION. **Sec. 718.** A new section is added to chapter 4.84 RCW
35 to read as follows:

1 (1) Notwithstanding any other provisions of this chapter,
2 reasonable attorneys fees and costs shall be awarded to the prevailing
3 party or substantially prevailing party on appeal before the court of
4 appeals or the supreme court of a decision by a county, city, or town
5 to issue, condition, or deny a development permit involving a site-
6 specific rezone, zoning, plat, conditional use, variance, shoreline
7 permit, building permit, site plan, or similar land use approval or
8 decision. The court shall award and determine the amount of reasonable
9 attorneys fees and costs under this section if:

10 (a) The prevailing party on appeal was the prevailing or
11 substantially prevailing party before the county, city, or town, or in
12 a decision involving a substantial development permit under chapter
13 90.58 RCW, the prevailing party on appeal was the prevailing party or
14 the substantially prevailing party before the shoreline hearings board;
15 and

16 (b) The prevailing party on appeal was the prevailing party or
17 substantially prevailing party in all prior judicial proceedings.

18 (2) In addition to the prevailing party under subsection (1) of
19 this section, the county, city, or town whose decision is on appeal is
20 considered a prevailing party if its decision is upheld at superior
21 court and on appeal.

22 NEW SECTION. **Sec. 719.** Sections 701 through 715 of this act shall
23 constitute a new chapter in Title 36 RCW.

24 **PART VIII - STUDY**

25 NEW SECTION. **Sec. 801.** The land use study commission is hereby
26 established. The commission's goal shall be the integration and
27 consolidation of the state's land use and environmental laws into a
28 single, manageable statute. In fulfilling its responsibilities, the
29 commission shall evaluate the effectiveness of the growth management
30 act, the state environmental policy act, the shoreline management act,
31 and other state land use, planning, environmental, and permitting
32 statutes in achieving their stated goals.

33 NEW SECTION. **Sec. 802.** The commission shall consist of not more
34 than fourteen members. Eleven members of the commission shall be
35 appointed by the governor. Membership shall reflect the interests of

1 business, agriculture, labor, the environment, neighborhood groups,
2 other citizens, the legislature, cities, counties, and federally
3 recognized Indian tribes. Members shall have substantial experience in
4 matters relating to land use and environmental planning and regulation,
5 and shall have the ability to work toward cooperative solutions among
6 diverse interests. The director of the department of community, trade,
7 and economic development, or the director's designee, shall be a member
8 and shall serve as chair of the commission. The director of the
9 department of ecology, or the director's designee, and the secretary of
10 the department of transportation, or the secretary's designee, shall
11 also be members of the commission. Staff for the commission shall be
12 provided by the department of community, trade, and economic
13 development, with additional staff to be provided by other state
14 agencies and the legislature, as may be required. State agencies shall
15 provide the commission with information and assistance as needed.

16 NEW SECTION. **Sec. 803.** The commission shall convene commencing
17 June 1, 1995, and shall complete its work by June 30, 1998. The
18 commission shall submit a report to the governor and the legislature
19 stating its findings, conclusions, and recommendations not later than
20 November 1 of each year. The commission shall submit its final report
21 to the governor and the legislature not later than November 1, 1997.

22 NEW SECTION. **Sec. 804.** The commission shall:

23 (1) Consider the effectiveness of state and local government
24 efforts to consolidate and integrate the growth management act, the
25 state environmental policy act, the shoreline management act, and other
26 land use, planning, environmental, and permitting laws.

27 (2) Identify the revisions and modifications needed in state land
28 use, planning, and environmental law and practice to adequately plan
29 for growth and achieve economically and environmentally sustainable
30 development, to adequately assess environmental impacts of
31 comprehensive plans, development regulations, and growth, and to reduce
32 the time and cost of obtaining project permits.

33 (3) Draft a consolidated land use procedure, following these
34 guidelines:

35 (a) Conduct land use planning through the comprehensive planning
36 process under chapter 36.70A RCW rather than through review of
37 individual projects;

1 (b) Involve diverse sectors of the public in the planning process.
2 Early and informal environmental analysis should be incorporated into
3 planning and decision making;

4 (c) Recognize that different questions need to be answered and
5 different levels of detail applied at each planning phase, from the
6 initial development of plan concepts or plan elements to implementation
7 programs;

8 (d) Integrate and combine to the fullest extent possible the
9 processes, analysis, and documents currently required under chapters
10 36.70A and 43.21C RCW, so that subsequent plan decisions and subsequent
11 implementation will incorporate measures to promote the environmental,
12 economic, and other goals and to mitigate undesirable or unintended
13 adverse impacts on a community's quality of life;

14 (e) Focus environmental review and the level of detail needed for
15 different stages of plan and project decisions on the environmental
16 considerations most relevant to that stage of the process;

17 (f) Avoid duplicating review that has occurred for plan decisions
18 when specific projects are proposed;

19 (g) Use environmental review on projects to: (i) Review and
20 document consistency with comprehensive plans and development
21 regulations; (ii) provide prompt and coordinated review by agencies,
22 tribes, and the public on compliance with applicable environmental laws
23 and plans, including mitigation for site specific project impacts that
24 have not been considered and addressed at the plan or development
25 regulation level; and (iii) ensure accountability by local government
26 to applicants and the public for requiring and implementing mitigation
27 measures;

28 (h) Maintain or improve the quality of environmental analysis both
29 for plan and for project decisions, while integrating these analyses
30 with improved state and local planning and permitting processes;

31 (i) Examine existing land use and environmental permits for
32 necessity and utility. To the extent possible, existing permits should
33 be combined into fewer permits, assuring that the values and principles
34 intended to be protected by those permits remain protected; and

35 (j) Consolidate local government appeal processes to allow a single
36 appeal of permits at local government levels, a single state level
37 administrative appeal, and a final judicial appeal.

38 (4) Monitor instances state-wide of the vesting of project permit
39 applications during the period that an appeal is pending before a

1 growth management hearings board, as authorized under RCW 36.70A.300.
2 The commission shall also review the extent to which such vesting
3 results in the approval of projects that are inconsistent with a
4 comprehensive plan or development regulation provision ultimately found
5 to be in compliance with a board's order or remand. The commission
6 shall analyze the impact of such approvals on ensuring the attainment
7 of the goals and policies of chapter 36.70A RCW, and make
8 recommendations to the governor and the legislature on statutory
9 changes to address any adverse impacts from the provisions of RCW
10 36.70A.300. The commission shall provide an initial report on its
11 findings and recommendations by November 1, 1995, and submit its
12 further findings and recommendations subsequently in the reports
13 required under section 803 of this act.

14 (5) Monitor local government consolidated permit procedures and the
15 effectiveness of the timelines established by section 413 of this act.
16 The commission shall include in its report submitted to the governor
17 and the legislature on November 1, 1997, its recommendation about what
18 timelines, if any, should be imposed on the local government
19 consolidated permit process required by chapter 36.-- RCW (the new
20 chapter created in section 431 of this act).

21 (6) Evaluate funding mechanisms that will enable local governments
22 to pay for and recover the costs of conducting integrated planning and
23 environmental analysis. The commission shall include its conclusions
24 in its first report to the legislature on November 1, 1995, and include
25 any recommended statutory changes.

26 (7) Study, in cooperation with the state board for registration of
27 professional engineers and the state building code council, ways in
28 which state agencies and local governments could authorize
29 professionals with appropriate qualifications to certify a project's
30 compliance with certain state and local land use and environmental
31 requirements. The commission shall report to the legislature on
32 measures necessary to implement such a system of professional
33 certification.

34 These guidelines are intended to guide the work of the commission,
35 without limiting its charge to integrate and consolidate Washington's
36 land use and environmental laws into a single, manageable statutory
37 framework.

1 streamlined procedures, encourages more efficient use of both private
2 and public resources, provides for better planning which leads to
3 greater certainty, and maintains and enhances the quality of life in
4 our state.

5 Sections 103 and 302 amend RCW 36.70A.030 and 90.58.030
6 respectively. These same sections are amended by Engrossed Senate Bill
7 No. 5776. The amendments to these sections in the Senate bill are
8 identical to the amendments included in Engrossed Substitute House Bill
9 No. 1724, with the exception that Engrossed Senate Bill No. 5776
10 includes an exemption for inadvertent wetlands created as a result of
11 road construction. The language included in Engrossed Senate Bill No.
12 5776 is preferable to and fully effectuates the changes included in
13 sections 103 and 302 of Engrossed Substitute House Bill No. 1724.

14 Section 903 provides that this bill will not become law if by June
15 30, 1995 the legislature fails to enact a budget and reference the bill
16 by number in that budget. Although I do not doubt the legislature will
17 adopt a budget and provide funding, such a provision places this
18 legislation at unnecessary risk.

19 For these reasons, I have vetoed sections 103, 302, and 903 of
20 Engrossed Substitute House Bill No. 1724.

21 With the exception of sections 103, 302, and 903, Engrossed
22 Substitute House Bill No. 1724 is approved."