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HOUSE BILL 1371

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State of Washington

64th Legislature

2015 Regular Session

By Representatives Taylor, Shea, G. Hunt, Young, Griffey, Scott, Condotta, and Wilson

Read first time 01/19/15. Referred to Committee on State Government.

1 AN ACT Relating to administrative procedures to promote  
2 accountability and economic relief; amending RCW 34.05.310,  
3 34.05.313, 34.05.320, 34.05.570, 28A.300.040, 41.50.050, 43.06A.030,  
4 43.19.011, 43.21A.064, 43.24.016, 43.27A.090, 43.30.215, 43.31C.060,  
5 43.33.040, 43.33A.110, 43.59.070, 43.61.040, 43.63A.475, 43.70.580,  
6 43.101.085, 43.115.040, 43.117.050, 43.155.040, 43.160.050,  
7 43.163.100, 43.180.040, 43.200.070, 43.210.060, 43.250.090,  
8 43.320.040, 43.330.040, 47.01.071, 48.02.060, 48.44.050, 48.46.200,  
9 66.08.0501, 77.04.055, 80.01.040, 70.94.181, 76.09.060, 77.55.021,  
10 78.44.081, 86.16.025, 70.95.205, 15.54.820, 43.21C.033, 77.115.040,  
11 16.65.030, 70.119A.110, 90.03.350, 90.03.370, 90.58.140, 70.118B.030,  
12 and 36.70B.030; reenacting and amending RCW 34.05.328; adding new  
13 sections to chapter 34.05 RCW; adding a new section to chapter 43.17  
14 RCW; adding a new section to chapter 77.12 RCW; adding a new section  
15 to chapter 79.02 RCW; adding a new section to chapter 79A.05 RCW;  
16 adding a new section to chapter 35.21 RCW; adding a new section to  
17 chapter 35A.21 RCW; adding a new section to chapter 36.01 RCW; adding  
18 a new section to chapter 70.94 RCW; adding a new section to chapter  
19 90.48 RCW; adding a new section to chapter 90.76 RCW; adding a new  
20 section to chapter 18.104 RCW; adding a new section to chapter 69.30  
21 RCW; adding a new section to chapter 90.64 RCW; adding a new section  
22 to chapter 15.58 RCW; adding a new section to chapter 17.21 RCW;  
23 adding a new section to chapter 70.95J RCW; adding a new section to

1 chapter 90.66 RCW; adding new sections to chapter 36.70A RCW; adding  
2 a new section to chapter 43.21H RCW; adding a new chapter to Title 1  
3 RCW; adding a new chapter to Title 36 RCW; adding a new chapter to  
4 Title 34 RCW; creating new sections; prescribing penalties; and  
5 declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 34.05  
8 RCW to read as follows:

9 This act may be known and cited as the regulatory freedom and  
10 accountability act.

11 **PART I**

12 NEW SECTION. **Sec. 101.** A new section is added to chapter 34.05  
13 RCW to read as follows:

14 The legislature finds that Washington families, workers, and  
15 employers continue to struggle to make ends meet. As families and  
16 employers have streamlined their budgets and services, so should  
17 state government. Government continues to increase the burden on  
18 citizens and employers through perpetual alteration and expansion of  
19 rules. During 2012, an estimated 1,129 new sections to the Washington  
20 Administrative Code were permanently adopted, 2,211 sections were  
21 permanently amended, 393 emergency rule filings were made, and 961  
22 sections were permanently repealed. A total of 5,511 pages of  
23 permanent rule changes were made and 2,398 pages of emergency rules  
24 were adopted. The constant changing of rules provides uncertainty to  
25 citizens and employers and adds additional costs to taxpayers as  
26 agencies hold public meetings and telephone conferences, and  
27 employees spend untold hours working on drafts for rules.  
28 Furthermore, continual proposal of new rules distracts employers from  
29 being productive in their respective enterprises due to a need to  
30 comment against these proposed rules. Most agencies do not track the  
31 number of hours employees spend on rule making nor do they track the  
32 cost to the agency to do this task. One way to reduce millions of  
33 dollars in employee and administrative costs is to impose a  
34 moratorium on formal and informal rule making by state agencies  
35 except in certain specified instances. This moratorium is to last for

1 three years or until the state is no longer facing financial  
2 deficits.

3 NEW SECTION. **Sec. 102.** A new section is added to chapter 34.05  
4 RCW to read as follows:

5 (1) Agency rule making is suspended until the later of July 1,  
6 2018, or such time as the economic and revenue forecast council  
7 reports for three consecutive quarters that state revenue collections  
8 have increased above the official forecast adopted pursuant to RCW  
9 82.33.010 on or before February 20th in an even-numbered year or  
10 March 20th in an odd-numbered year, except in the following cases:

11 (a) A rule is needed to implement a federal law and the rule is  
12 not more stringent than federal law;

13 (b) A rule is needed to implement the terms of a governor-  
14 declared state of emergency;

15 (c) A rule is needed by the department of health to respond to a  
16 public health emergency;

17 (d) A rule is needed to set the times for the taking of wildlife,  
18 fish, or shellfish pursuant to RCW 77.12.047(1) or 77.04.055(2); or

19 (e) Legislation enacted after January 1, 2013, specifically  
20 directs that rule making be undertaken. Rules adopted under this  
21 subsection (1)(e) must be approved by the legislature in the ensuing  
22 legislative session before the rule may take effect.

23 (2) This section does not prohibit an agency from repealing  
24 rules.

25 **Sec. 103.** RCW 34.05.310 and 2011 c 298 s 20 are each amended to  
26 read as follows:

27 (1) The provisions of this section are subject to section 102 of  
28 this act.

29 (2)(a) To meet the intent of providing greater public access to  
30 administrative rule making and to promote consensus among interested  
31 parties, agencies must solicit comments from the public on a subject  
32 of possible rule making before filing with the code reviser a notice  
33 of proposed rule making under RCW 34.05.320. The agency must prepare  
34 a statement of inquiry that:

35 (i) Identifies the specific statute or statutes authorizing the  
36 agency to adopt rules on this subject;

37 (ii) Discusses why rules on this subject may be needed and what  
38 they might accomplish;

1 (iii) Identifies other federal and state agencies that regulate  
2 this subject, and describes the process whereby the agency would  
3 coordinate the contemplated rule with these agencies;

4 (iv) Discusses the process by which the rule might be developed,  
5 including, but not limited to, negotiated rule making, pilot rule  
6 making, or agency study;

7 (v) Specifies the process by which interested parties can  
8 effectively participate in the decision to adopt a new rule and  
9 formulation of a proposed rule before its publication.

10 (b) The statement of inquiry must be filed with the code reviser  
11 for publication in the state register at least thirty days before the  
12 date the agency files notice of proposed rule making under RCW  
13 34.05.320 and the statement, or a summary of the information  
14 contained in that statement, must be sent to any party that has  
15 requested receipt of the agency's statements of inquiry.

16 ((+2)) (3) Agencies are encouraged to develop and use new  
17 procedures for reaching agreement among interested parties before  
18 publication of notice and the adoption hearing on a proposed rule.  
19 Examples of new procedures include, but are not limited to:

20 (a) Negotiated rule making by which representatives of an agency  
21 and of the interests that are affected by a subject of rule making,  
22 including, where appropriate, county and city representatives, seek  
23 to reach consensus on the terms of the proposed rule and on the  
24 process by which it is negotiated; and

25 (b) Pilot rule making which includes testing the feasibility of  
26 complying with or administering draft new rules or draft amendments  
27 to existing rules through the use of volunteer pilot groups in  
28 various areas and circumstances, as provided in RCW 34.05.313 or as  
29 otherwise provided by the agency.

30 ((+3)) (4)(a) An agency must make a determination whether  
31 negotiated rule making, pilot rule making, or another process for  
32 generating participation from interested parties prior to development  
33 of the rule is appropriate.

34 (b) An agency must include a written justification in the rule-  
35 making file if an opportunity for interested parties to participate  
36 in the rule-making process prior to publication of the proposed rule  
37 has not been provided.

38 ((+4)) (5) This section does not apply to:

39 (a) Emergency rules adopted under RCW 34.05.350;

1 (b) Rules relating only to internal governmental operations that  
2 are not subject to violation by a nongovernment party;

3 (c) Rules adopting or incorporating by reference without material  
4 change federal statutes or regulations, Washington state statutes,  
5 rules of other Washington state agencies, shoreline master programs  
6 other than those programs governing shorelines of statewide  
7 significance, or, as referenced by Washington state law, national  
8 consensus codes that generally establish industry standards, if the  
9 material adopted or incorporated regulates the same subject matter  
10 and conduct as the adopting or incorporating rule;

11 (d) Rules that only correct typographical errors, make address or  
12 name changes, or clarify language of a rule without changing its  
13 effect;

14 (e) Rules the content of which is explicitly and specifically  
15 dictated by statute;

16 (f) Rules that set or adjust fees under the authority of RCW  
17 19.02.075 or that set or adjust fees or rates pursuant to legislative  
18 standards, including fees set or adjusted under the authority of RCW  
19 19.80.045; or

20 (g) Rules that adopt, amend, or repeal:

21 (i) A procedure, practice, or requirement relating to agency  
22 hearings; or

23 (ii) A filing or related process requirement for applying to an  
24 agency for a license or permit.

25 **Sec. 104.** RCW 34.05.313 and 1995 c 403 s 303 are each amended to  
26 read as follows:

27 (1) The provisions of this section are subject to section 102 of  
28 this act.

29 (2) During the development of a rule or after its adoption, an  
30 agency may develop methods for measuring or testing the feasibility  
31 of complying with or administering the rule and for identifying  
32 simple, efficient, and economical alternatives for achieving the goal  
33 of the rule. A pilot project shall include public notice,  
34 participation by volunteers who are or will be subject to the rule, a  
35 high level of involvement from agency management, reasonable  
36 completion dates, and a process by which one or more parties may  
37 withdraw from the process or the process may be terminated.  
38 Volunteers who agree to test a rule and attempt to meet the  
39 requirements of the draft rule, to report periodically to the

1 proposing agency on the extent of their ability to meet the  
2 requirements of the draft rule, and to make recommendations for  
3 improving the draft rule shall not be obligated to comply fully with  
4 the rule being tested nor be subject to any enforcement action or  
5 other sanction for failing to comply with the requirements of the  
6 draft rule.

7 ~~((+2))~~ (3) An agency conducting a pilot rule project authorized  
8 under subsection ~~((+1))~~ (2) of this section may waive one or more  
9 provisions of agency rules otherwise applicable to participants in  
10 such a pilot project if the agency first determines that such a  
11 waiver is in the public interest and necessary to conduct the  
12 project. Such a waiver may be only for a stated period of time, not  
13 to exceed the duration of the project.

14 ~~((+3))~~ (4) The findings of the pilot project should be widely  
15 shared and, where appropriate, adopted as amendments to the rule.

16 ~~((+4))~~ (5) If an agency conducts a pilot rule project in lieu of  
17 meeting the requirements of the regulatory fairness act, chapter  
18 19.85 RCW, the agency shall ensure the following conditions are met:

19 (a) If over ten small businesses are affected, there shall be at  
20 least ten small businesses in the test group and at least one-half of  
21 the volunteers participating in the pilot test group shall be small  
22 businesses.

23 (b)(i) If there are at least one hundred businesses affected, the  
24 participation by small businesses in the test group shall be as  
25 follows:

26 (A) Not less than twenty percent of the small businesses must  
27 employ twenty-six to fifty employees;

28 (B) Not less than twenty percent of the small businesses must  
29 employ eleven to twenty-six employees; and

30 (C) Not less than twenty percent of the small businesses must  
31 employ zero to ten employees.

32 (ii) If there do not exist a sufficient number of small  
33 businesses in each size category set forth in (b)(i) of this  
34 subsection willing to participate in the pilot project to meet the  
35 minimum requirements of that subsection, then the agency must comply  
36 with this section to the maximum extent practicable.

37 (c) The agency may not terminate the pilot project before  
38 completion.

1 (d) Before filing the notice of proposed rule making pursuant to  
2 RCW 34.05.320, the agency must prepare a report of the pilot rule  
3 project that includes:

4 (i) A description of the difficulties small businesses had in  
5 complying with the pilot rule;

6 (ii) A list of the recommended revisions to the rule to make  
7 compliance with the rule easier or to reduce the cost of compliance  
8 with the rule by the small businesses participating in the pilot rule  
9 project;

10 (iii) A written statement explaining the options it considered to  
11 resolve each of the difficulties described and a statement explaining  
12 its reasons for not including a recommendation by the pilot test  
13 group to revise the rule; and

14 (iv) If the agency was unable to meet the requirements set forth  
15 in (b)(i) of this subsection, a written explanation of why it was  
16 unable to do so and the steps the agency took to include small  
17 businesses in the pilot project.

18 **Sec. 105.** RCW 34.05.320 and 2012 c 210 s 2 are each amended to  
19 read as follows:

20 (1) The provisions of this section are subject to section 102 of  
21 this act.

22 (2) At least twenty days before the rule-making hearing at which  
23 the agency receives public comment regarding adoption of a rule, the  
24 agency shall cause notice of the hearing to be published in the state  
25 register. The publication constitutes the proposal of a rule. The  
26 notice shall include all of the following:

27 (a) A title, a description of the rule's purpose, and any other  
28 information which may be of assistance in identifying the rule or its  
29 purpose;

30 (b) Citations of the statutory authority for adopting the rule  
31 and the specific statute the rule is intended to implement;

32 (c) A short explanation of the rule, its purpose, and anticipated  
33 effects, including in the case of a proposal that would modify  
34 existing rules, a short description of the changes the proposal would  
35 make, and a statement of the reasons supporting the proposed action;

36 (d) The agency personnel, with their office location and  
37 telephone number, who are responsible for the drafting,  
38 implementation, and enforcement of the rule;

1 (e) The name of the person or organization, whether private,  
2 public, or governmental, proposing the rule;

3 (f) Agency comments or recommendations, if any, regarding  
4 statutory language, implementation, enforcement, and fiscal matters  
5 pertaining to the rule;

6 (g) Whether the rule is necessary as the result of federal law or  
7 federal or state court action, and if so, a citation to such law or  
8 court decision;

9 (h) When, where, and how persons may present their views on the  
10 proposed rule;

11 (i) The date on which the agency intends to adopt the rule;

12 (j) A copy of the small business economic impact statement  
13 prepared under chapter 19.85 RCW, or a copy of the school district  
14 fiscal impact statement under RCW 28A.305.135 in the case of the  
15 state board of education, or an explanation for why the agency did  
16 not prepare the statement;

17 (k) A statement indicating whether RCW 34.05.328 applies to the  
18 rule adoption; and

19 (l) If RCW 34.05.328 does apply, a statement indicating that a  
20 copy of the preliminary cost-benefit analysis described in RCW  
21 34.05.328(~~(1)~~) (2)(c) is available.

22 (~~(2)~~) (3)(a) Upon filing notice of the proposed rule with the  
23 code reviser, the adopting agency shall have copies of the notice on  
24 file and available for public inspection. Except as provided in (b)  
25 of this subsection, the agency shall forward three copies of the  
26 notice to the rules review committee.

27 (b) A pilot of at least ten agencies, including the departments  
28 of labor and industries, fish and wildlife, revenue, ecology,  
29 retirement systems, and health, shall file the copies required under  
30 this subsection, as well as under RCW 34.05.350 and 34.05.353, with  
31 the rules review committee electronically for a period of four years  
32 from June 10, 2004. The office of regulatory assistance shall  
33 negotiate the details of the pilot among the agencies, the  
34 legislature, and the code reviser.

35 (~~(3)~~) (4) No later than three days after its publication in the  
36 state register, the agency shall cause either a copy of the notice of  
37 proposed rule adoption, or a summary of the information contained on  
38 the notice, to be mailed to each person, city, and county that has  
39 made a request to the agency for a mailed copy of such notices. An

1 agency may charge for the actual cost of providing a requesting party  
2 mailed copies of these notices.

3 ~~((4))~~ (5) In addition to the notice required by subsections  
4 ~~((1) and)~~ (2) and (3) of this section, an institution of higher  
5 education shall cause the notice to be published in the campus or  
6 standard newspaper of the institution at least seven days before the  
7 rule-making hearing.

8 **Sec. 106.** RCW 34.05.328 and 2011 c 298 s 21 and 2011 c 149 s 1  
9 are each reenacted and amended to read as follows:

10 (1) The provisions of this section are subject to section 102 of  
11 this act.

12 (2) Before adopting a rule described in subsection ~~((5))~~ (7) of  
13 this section, an agency must:

14 (a) Clearly state in detail the general goals and specific  
15 objectives of the statute that the rule implements;

16 (b) Determine that the rule is needed to achieve the general  
17 goals and specific objectives stated under (a) of this subsection,  
18 and analyze alternatives to rule making and the consequences of not  
19 adopting the rule;

20 (c) Provide notification in the notice of proposed rule making  
21 under RCW 34.05.320 that a preliminary cost-benefit analysis is  
22 available. The preliminary cost-benefit analysis must fulfill the  
23 requirements of the cost-benefit analysis under (d) of this  
24 subsection. If the agency files a supplemental notice under RCW  
25 34.05.340, the supplemental notice must include notification that a  
26 revised preliminary cost-benefit analysis is available. A final cost-  
27 benefit analysis must be available when the rule is adopted under RCW  
28 34.05.360;

29 (d) Determine that the probable benefits of the rule are greater  
30 than its probable costs, taking into account both the qualitative and  
31 quantitative benefits and costs and the specific directives of the  
32 statute being implemented;

33 (e) Determine, after considering alternative versions of the rule  
34 and the analysis required under (b), (c), and (d) of this subsection,  
35 that the rule being adopted is the least burdensome alternative for  
36 those required to comply with it that will achieve the general goals  
37 and specific objectives stated under (a) of this subsection;

1 (f) Determine that the rule does not require those to whom it  
2 applies to take an action that violates requirements of another  
3 federal or state law;

4 (g) Determine that the rule does not impose more stringent  
5 performance requirements on private entities than on public entities  
6 unless required to do so by federal or state law;

7 (h) Determine if the rule differs from any federal regulation or  
8 statute applicable to the same activity or subject matter and, if so,  
9 determine that the difference is justified by the following:

10 (i) A state statute that explicitly allows the agency to differ  
11 from federal standards; or

12 (ii) Substantial evidence that the difference is necessary to  
13 achieve the general goals and specific objectives stated under (a) of  
14 this subsection; (~~and~~)

15 (i) Coordinate the rule, to the maximum extent practicable, with  
16 other federal, state, and local laws applicable to the same activity  
17 or subject matter; and

18 (j) Receive the governor's signature on the final rule.

19 (~~(+2)~~) (3) In making its determinations pursuant to subsection  
20 (~~(+1)~~) (2)(b) through (h) of this section, the agency must place in  
21 the rule-making file documentation of sufficient quantity and quality  
22 so as to persuade a reasonable person that the determinations are  
23 justified.

24 (~~(+3)~~) (4) Before adopting rules described in subsection (~~(+5)~~)  
25 (7) of this section, an agency must place in the rule-making file a  
26 rule implementation plan for rules filed under each adopting order.  
27 The plan must describe how the agency intends to:

28 (a) Implement and enforce the rule, including a description of  
29 the resources the agency intends to use;

30 (b) Inform and educate affected persons about the rule;

31 (c) Promote and assist voluntary compliance; and

32 (d) Evaluate whether the rule achieves the purpose for which it  
33 was adopted, including, to the maximum extent practicable, the use of  
34 interim milestones to assess progress and the use of objectively  
35 measurable outcomes.

36 (~~(+4)~~) (5) The adoption of rules described in subsection (7) of  
37 this section must be made before December 1st of any year, and the  
38 rules may not take effect before the end of the regular legislative  
39 session in the next year.

1        (6) After adopting a rule described in subsection ~~((+5+))~~ (7) of  
2 this section regulating the same activity or subject matter as  
3 another provision of federal or state law, an agency must do all of  
4 the following:

5        (a) Coordinate implementation and enforcement of the rule with  
6 the other federal and state entities regulating the same activity or  
7 subject matter by making every effort to do one or more of the  
8 following:

9            (i) Deferring to the other entity;

10          (ii) Designating a lead agency; or

11          (iii) Entering into an agreement with the other entities  
12 specifying how the agency and entities will coordinate implementation  
13 and enforcement.

14        If the agency is unable to comply with this subsection ~~((+4+))~~  
15 (6)(a), the agency must report to the legislature pursuant to (b) of  
16 this subsection;

17        (b) Report to the joint administrative rules review committee:

18            (i) The existence of any overlap or duplication of other federal  
19 or state laws, any differences from federal law, and any known  
20 overlap, duplication, or conflict with local laws; and

21            (ii) Make recommendations for any legislation that may be  
22 necessary to eliminate or mitigate any adverse effects of such  
23 overlap, duplication, or difference.

24        ~~((+5+))~~ (7)(a) Except as provided in (b) of this subsection, this  
25 section applies to:

26            (i) Significant legislative rules of the departments of ecology,  
27 labor and industries, health, revenue, social and health services,  
28 and natural resources, the employment security department, the forest  
29 practices board, the office of the insurance commissioner, and to the  
30 legislative rules of the department of fish and wildlife implementing  
31 chapter 77.55 RCW; and

32            (ii) Any rule of any agency, if this section is voluntarily made  
33 applicable to the rule by the agency, or is made applicable to the  
34 rule by a majority vote of the joint administrative rules review  
35 committee within forty-five days of receiving the notice of proposed  
36 rule making under RCW 34.05.320.

37        (b) This section does not apply to:

38            (i) Emergency rules adopted under RCW 34.05.350;

39            (ii) Rules relating only to internal governmental operations that  
40 are not subject to violation by a nongovernment party;

1 (iii) Rules adopting or incorporating by reference without  
2 material change federal statutes or regulations, Washington state  
3 statutes, rules of other Washington state agencies, shoreline master  
4 programs other than those programs governing shorelines of statewide  
5 significance, or, as referenced by Washington state law, national  
6 consensus codes that generally establish industry standards, if the  
7 material adopted or incorporated regulates the same subject matter  
8 and conduct as the adopting or incorporating rule;

9 (iv) Rules that only correct typographical errors, make address  
10 or name changes, or clarify language of a rule without changing its  
11 effect;

12 (v) Rules the content of which is explicitly and specifically  
13 dictated by statute;

14 (vi) Rules that set or adjust fees under the authority of RCW  
15 19.02.075 or that set or adjust fees or rates pursuant to legislative  
16 standards, including fees set or adjusted under the authority of RCW  
17 19.80.045;

18 (vii) Rules of the department of social and health services  
19 relating only to client medical or financial eligibility and rules  
20 concerning liability for care of dependents; or

21 (viii) Rules of the department of revenue that adopt a uniform  
22 expiration date for reseller permits as authorized in RCW 82.32.780  
23 and 82.32.783.

24 (c) For purposes of this subsection:

25 (i) A "procedural rule" is a rule that adopts, amends, or repeals  
26 (A) any procedure, practice, or requirement relating to any agency  
27 hearings; (B) any filing or related process requirement for making  
28 application to an agency for a license or permit; or (C) any policy  
29 statement pertaining to the consistent internal operations of an  
30 agency.

31 (ii) An "interpretive rule" is a rule, the violation of which  
32 does not subject a person to a penalty or sanction, that sets forth  
33 the agency's interpretation of statutory provisions it administers.

34 (iii) A "significant legislative rule" is a rule other than a  
35 procedural or interpretive rule that (A) adopts substantive  
36 provisions of law pursuant to delegated legislative authority, the  
37 violation of which subjects a violator of such rule to a penalty or  
38 sanction; (B) establishes, alters, or revokes any qualification or  
39 standard for the issuance, suspension, or revocation of a license or

1 permit; or (C) adopts a new, or makes significant amendments to, a  
2 policy or regulatory program.

3 (d) In the notice of proposed rule making under RCW 34.05.320, an  
4 agency must state whether this section applies to the proposed rule  
5 pursuant to (a)(i) of this subsection, or if the agency will apply  
6 this section voluntarily.

7 ((+6+)) (8) By January 31, 1996, and by January 31st of each  
8 even-numbered year thereafter, the office of regulatory assistance,  
9 after consulting with state agencies, counties, and cities, and  
10 business, labor, and environmental organizations, must report to the  
11 governor and the legislature regarding the effects of this section on  
12 the regulatory system in this state. The report must document:

13 (a) The rules proposed to which this section applied and to the  
14 extent possible, how compliance with this section affected the  
15 substance of the rule, if any, that the agency ultimately adopted;

16 (b) The costs incurred by state agencies in complying with this  
17 section;

18 (c) Any legal action maintained based upon the alleged failure of  
19 any agency to comply with this section, the costs to the state of  
20 such action, and the result;

21 (d) The extent to which this section has adversely affected the  
22 capacity of agencies to fulfill their legislatively prescribed  
23 mission;

24 (e) The extent to which this section has improved the  
25 acceptability of state rules to those regulated; and

26 (f) Any other information considered by the office of financial  
27 management to be useful in evaluating the effect of this section.

28 **PART II**

29 NEW SECTION. **Sec. 201.** The legislature finds that many  
30 citizens, employers, and local governments are struggling with  
31 nonemergency regulatory burdens resulting in the loss of time,  
32 resources, employees, and the ability to create job growth. At a time  
33 when state agencies should be looking for ways to reduce the negative  
34 impacts of nonemergency rules, they continue to produce a flow of new  
35 and unnecessary changes to the Washington Administrative Code that  
36 are stunting economic recovery in Washington state.

37 The citizens of Washington state elect state lawmakers to  
38 represent them and, in turn, hold them accountable for their actions

1 and the outcomes of state government. If state agencies are placing  
2 costly nonemergency regulatory burdens on citizens, it is the duty of  
3 state lawmakers to address these problems directly within the  
4 legislative process.

5 State agencies currently must provide economic impact statements  
6 in a select few instances under the regulatory fairness act. In 2012,  
7 an estimated forty-one statements were filed with the code reviser's  
8 office despite the fact that there were thousands of changes to  
9 rules. The system is set up so that even if there are economic and  
10 time burdens placed on citizens, employers, or local governments,  
11 state agencies may still go forward and enact the rules. This is  
12 detrimental to the economic growth of Washington state.

13 The legislature intends to prevent regulatory bodies from having  
14 the authority to place costly burdens on citizens, employers, and  
15 local governments that will further damage Washington state's  
16 economy.

17 NEW SECTION. **Sec. 202.** A new section is added to chapter 34.05  
18 RCW to read as follows:

19 (1) Before adoption of a rule, an agency must determine whether  
20 compliance with the rule will result in a specified economic impact.  
21 If the agency determines that a rule will result in a specified  
22 economic impact, the agency must provide notification and may not  
23 enforce the rule until the rule is enacted into law by the  
24 legislature.

25 (2) Not later than one hundred eighty days after the effective  
26 date of this section, and annually thereafter, each agency shall  
27 determine whether any of its rules has resulted in a specified  
28 economic impact in the preceding year. If such a determination is  
29 made, the agency must provide notification, and may no longer enforce  
30 the rule until the rule is enacted into law by the legislature.

31 (3)(a) For purposes of this section, "provide notification" means  
32 transmit the proposed or existing rule determined to result in a  
33 specified economic impact and the findings supporting such a  
34 determination, including relevant public comments in the case of a  
35 proposed rule, to the code reviser for publication in the state  
36 register and to the appropriate committees of the senate and the  
37 house of representatives.

38 (b) For purposes of this section, "specified economic impact"  
39 means any of the following:

1 (i) Costs to any individual of one thousand dollars or more in a  
2 year; or  
3 (ii) Costs to any business, partnership, corporation,  
4 association, or public or private organization, but not including  
5 state government, of five thousand dollars or more in a year.  
6 (4) Any person may commence an action in the superior court  
7 either for an injunction or writ of mandamus for compliance of this  
8 section.

9 **PART III**

10 NEW SECTION. **Sec. 301.** The legislature finds that there have  
11 been instances where regulatory agencies discovered actions by a  
12 regulated entity that are in error after reports have been accepted  
13 and approved or inspections have been conducted and approved.  
14 Retroactively applying fines after governmental approval creates an  
15 unfriendly business environment and can place unexpected financial  
16 burdens on businesses. Businesses should be able to rely on  
17 government approval and acceptance of reports and inspections and not  
18 risk penalties when mistakes are made by government personnel or  
19 contractors. It is the intent of the legislature that regulated  
20 parties who have received acceptance and approval by the regulating  
21 government authority should not be subsequently fined or penalized,  
22 but should be encouraged to correct action that is deemed in error or  
23 violates reporting or inspection requirements during the next  
24 reporting period. The regulating authority should notify the  
25 regulated party of the violation to prevent future violations.

26 NEW SECTION. **Sec. 302.** A new section is added to chapter 34.05  
27 RCW to read as follows:

28 (1) An agency may not issue a fine or impose a penalty on a  
29 person if:

30 (a) An inspection is approved by an official of the agency  
31 requiring the inspection and a subsequent reevaluation of the  
32 approved inspection by the regulating agency identifies a violation  
33 by the regulated party; or

34 (b) Documentation required under an agency's reporting  
35 requirements is submitted to the agency by a regulated party and is  
36 accepted and approved by the regulating agency and a subsequent

1 reevaluation of the approved documentation identifies a violation  
2 based on failure to provide required documentation or information.

3 (2) A rule adopted under this chapter may not authorize the  
4 imposition of a civil fine on a person based on the following  
5 circumstances if:

6 (a) An inspection is approved by an official of the agency  
7 requiring the inspection and a subsequent reevaluation of the  
8 approved inspection by the regulating agency identifies a violation  
9 by the regulated party; or

10 (b) Documentation required under an agency's reporting  
11 requirements is submitted to the agency by a regulated party and is  
12 accepted and approved by the regulating agency and a subsequent  
13 reevaluation of the approved documentation identifies a violation  
14 based on failure to provide required documentation or information.

15 (3) Violations identified after an inspection or documentation  
16 has been approved may be remedied through technical assistance  
17 provided to the regulated party allowing correction of the  
18 circumstances of the violation for future reporting periods or  
19 inspections.

20 **PART IV**

21 **Sec. 401.** RCW 34.05.570 and 2004 c 30 s 1 are each amended to  
22 read as follows:

23 (1) Generally. Except to the extent that this chapter or another  
24 statute provides otherwise:

25 (a) The burden of demonstrating the invalidity of agency action  
26 is on the party asserting invalidity;

27 (b) The validity of agency action shall be determined in  
28 accordance with the standards of review provided in this section, as  
29 applied to the agency action at the time it was taken;

30 (c) The court shall make a separate and distinct ruling on each  
31 material issue on which the court's decision is based; and

32 (d) The court shall grant relief only if it determines that a  
33 person seeking judicial relief has been substantially prejudiced by  
34 the action complained of.

35 (2) Review of rules. (a) A rule may be reviewed by petition for  
36 declaratory judgment filed pursuant to this subsection or in the  
37 context of any other review proceeding under this section. In an

1 action challenging the validity of a rule, the agency shall be made a  
2 party to the proceeding.

3 (b)(i) The validity of any rule may be determined upon petition  
4 for a declaratory judgment addressed to the superior court of  
5 Thurston county, when it appears that the rule, or its threatened  
6 application, interferes with or impairs or immediately threatens to  
7 interfere with or impair the legal rights or privileges of the  
8 petitioner. The declaratory judgment order may be entered whether or  
9 not the petitioner has first requested the agency to pass upon the  
10 validity of the rule in question.

11 (ii) (~~From June 10, 2004, until July 1, 2008:~~)

12 (A) If the petitioner's residence or principal place of business  
13 is within the geographical boundaries of the third division of the  
14 court of appeals as defined by RCW 2.06.020(3), the petition may be  
15 filed in the superior court of Spokane, Yakima, or Thurston county;  
16 and

17 (B) If the petitioner's residence or principal place of business  
18 is within the geographical boundaries of district three of the first  
19 division of the court of appeals as defined by RCW 2.06.020(1), the  
20 petition may be filed in the superior court of Whatcom or Thurston  
21 county.

22 (c) In a proceeding involving review of a rule, the court shall  
23 declare the rule invalid only if it finds that: The rule violates  
24 constitutional provisions; the rule exceeds the statutory authority  
25 of the agency; the rule was adopted without compliance with statutory  
26 rule-making procedures; or the rule is arbitrary and capricious. For  
27 purposes of this subsection, in determining whether a rule exceeds  
28 the agency's statutory authority, the court must also consider  
29 whether the rule exceeds the limited delegation under section 437 of  
30 this act.

31 (3) Review of agency orders in adjudicative proceedings. The  
32 court shall grant relief from an agency order in an adjudicative  
33 proceeding only if it determines that:

34 (a) The order, or the statute or rule on which the order is  
35 based, is in violation of constitutional provisions on its face or as  
36 applied;

37 (b) The order is outside the statutory authority or jurisdiction  
38 of the agency conferred by any provision of law;

39 (c) The agency has engaged in unlawful procedure or decision-  
40 making process, or has failed to follow a prescribed procedure;

1 (d) The agency has erroneously interpreted or applied the law;  
2 (e) The order is not supported by evidence that is substantial  
3 when viewed in light of the whole record before the court, which  
4 includes the agency record for judicial review, supplemented by any  
5 additional evidence received by the court under this chapter;  
6 (f) The agency has not decided all issues requiring resolution by  
7 the agency;  
8 (g) A motion for disqualification under RCW 34.05.425 or  
9 34.12.050 was made and was improperly denied or, if no motion was  
10 made, facts are shown to support the grant of such a motion that were  
11 not known and were not reasonably discoverable by the challenging  
12 party at the appropriate time for making such a motion;  
13 (h) The order is inconsistent with a rule of the agency unless  
14 the agency explains the inconsistency by stating facts and reasons to  
15 demonstrate a rational basis for inconsistency; or  
16 (i) The order is arbitrary or capricious.  
17 (4) Review of other agency action.  
18 (a) All agency action not reviewable under subsection (2) or (3)  
19 of this section shall be reviewed under this subsection.  
20 (b) A person whose rights are violated by an agency's failure to  
21 perform a duty that is required by law to be performed may file a  
22 petition for review pursuant to RCW 34.05.514, seeking an order  
23 pursuant to this subsection requiring performance. Within twenty days  
24 after service of the petition for review, the agency shall file and  
25 serve an answer to the petition, made in the same manner as an answer  
26 to a complaint in a civil action. The court may hear evidence,  
27 pursuant to RCW 34.05.562, on material issues of fact raised by the  
28 petition and answer.  
29 (c) Relief for persons aggrieved by the performance of an agency  
30 action, including the exercise of discretion, or an action under (b)  
31 of this subsection can be granted only if the court determines that  
32 the action is:  
33 (i) Unconstitutional;  
34 (ii) Outside the statutory authority of the agency or the  
35 authority conferred by a provision of law;  
36 (iii) Arbitrary or capricious; or  
37 (iv) Taken by persons who were not properly constituted as agency  
38 officials lawfully entitled to take such action.

1       **Sec. 402.** RCW 28A.300.040 and 2011 1st sp.s. c 43 s 302 are each  
2 amended to read as follows:

3       (1) In addition to any other powers and duties as provided by  
4 law, the powers and duties of the superintendent of public  
5 instruction shall be:

6       ~~((1))~~ (a) To have supervision over all matters pertaining to  
7 the public schools of the state;

8       ~~((2))~~ (b) To report to the governor and the legislature such  
9 information and data as may be required for the management and  
10 improvement of the schools;

11       ~~((3))~~ (c) To prepare and have printed such forms, registers,  
12 courses of study, rules for the government of the common schools, and  
13 such other material and books as may be necessary for the discharge  
14 of the duties of teachers and officials charged with the  
15 administration of the laws relating to the common schools, and to  
16 distribute the same to educational service district superintendents;

17       ~~((4))~~ (d) To travel, without neglecting his or her other  
18 official duties as superintendent of public instruction, for the  
19 purpose of attending educational meetings or conventions, of visiting  
20 schools, and of consulting educational service district  
21 superintendents or other school officials;

22       ~~((5))~~ (e) To prepare and from time to time to revise a manual  
23 of the Washington state common school code, copies of which shall be  
24 made available online and which shall be sold at approximate actual  
25 cost of publication and distribution per volume to public and  
26 nonpublic agencies or individuals, said manual to contain Titles 28A  
27 and 28C RCW, rules related to the common schools, and such other  
28 matter as the state superintendent or the state board of education  
29 shall determine;

30       ~~((6))~~ (f) To file all papers, reports and public documents  
31 transmitted to the superintendent by the school officials of the  
32 several counties or districts of the state, each year separately.  
33 Copies of all papers filed in the superintendent's office, and the  
34 superintendent's official acts, may, or upon request, shall be  
35 certified by the superintendent and attested by the superintendent's  
36 official seal, and when so certified shall be evidence of the papers  
37 or acts so certified to;

38       ~~((7))~~ (g) To require annually, on or before the 15th day of  
39 August, of the president, manager, or principal of every educational  
40 institution in this state, a report as required by the superintendent

1 of public instruction; and it is the duty of every president,  
2 manager, or principal, to complete and return such forms within such  
3 time as the superintendent of public instruction shall direct;

4 ~~((+8))~~ (h) To keep in the superintendent's office a record of  
5 all teachers receiving certificates to teach in the common schools of  
6 this state;

7 ~~((+9))~~ (i) To issue certificates as provided by law;

8 ~~((+10))~~ (j) To keep in the superintendent's office at the  
9 capital of the state, all books and papers pertaining to the business  
10 of the superintendent's office, and to keep and preserve in the  
11 superintendent's office a complete record of statistics, as well as a  
12 record of the meetings of the state board of education;

13 ~~((+11))~~ (k) With the assistance of the office of the attorney  
14 general, to decide all points of law which may be submitted to the  
15 superintendent in writing by any educational service district  
16 superintendent, or that may be submitted to the superintendent by any  
17 other person, upon appeal from the decision of any educational  
18 service district superintendent; and the superintendent shall publish  
19 his or her rulings and decisions from time to time for the  
20 information of school officials and teachers; and the  
21 superintendent's decision shall be final unless set aside by a court  
22 of competent jurisdiction;

23 ~~((+12))~~ (l) To administer oaths and affirmations in the  
24 discharge of the superintendent's official duties;

25 ~~((+13))~~ (m) To deliver to his or her successor, at the  
26 expiration of the superintendent's term of office, all records,  
27 books, maps, documents and papers of whatever kind belonging to the  
28 superintendent's office or which may have been received by the  
29 superintendent's for the use of the superintendent's office;

30 ~~((+14))~~ (n) To administer family services and programs to  
31 promote the state's policy as provided in RCW 74.14A.025;

32 ~~((+15))~~ (o) To promote the adoption of school-based curricula  
33 and policies that provide quality, daily physical education for all  
34 students, and to encourage policies that provide all students with  
35 opportunities for physical activity outside of formal physical  
36 education classes;

37 ~~((+16))~~ (p) To perform such other duties as may be required by  
38 law.

39 (2) For rules adopted under the provisions of this chapter after  
40 August 1, 2015, the superintendent of public instruction may adopt

1 only rules derived from a specific grant of legislative authority.  
2 The rules must include the specific statutory section or sections  
3 from which the grant of authority is derived, and may not rely solely  
4 on a section of law stating a statute's intent or purpose or the  
5 general enabling provisions establishing the office of the  
6 superintendent of public instruction.

7 **Sec. 403.** RCW 41.50.050 and 1995 c 239 s 317 are each amended to  
8 read as follows:

9 The director shall:

10 (1) Have the authority to organize the department into not more  
11 than four divisions, each headed by an assistant director;

12 (2) Have free access to all files and records of various funds  
13 assigned to the department and inspect and audit the files and  
14 records as deemed necessary;

15 (3) Employ personnel to carry out the general administration of  
16 the department;

17 (4) Submit an annual written report of the activities of the  
18 department to the governor and the chairs of the appropriate  
19 legislative committees with one copy to the staff of each of the  
20 committees, including recommendations for statutory changes the  
21 director believes to be desirable;

22 (5) Adopt (~~such~~) rules (~~and regulations~~) as are necessary to  
23 carry out the powers, duties, and functions of the department  
24 pursuant to the provisions of chapter 34.05 RCW. For rules adopted  
25 under the provisions of this chapter after August 1, 2015, the  
26 director may adopt only rules derived from a specific grant of  
27 legislative authority. The rules must include the specific statutory  
28 section or sections from which the grant of authority is derived, and  
29 may not rely solely on a section of law stating a statute's intent or  
30 purpose or the general enabling provisions establishing the  
31 department.

32 **Sec. 404.** RCW 43.06A.030 and 2013 c 23 s 73 are each amended to  
33 read as follows:

34 The ombuds shall perform the following duties:

35 (1) Provide information as appropriate on the rights and  
36 responsibilities of individuals receiving family and children's  
37 services, and on the procedures for providing these services;

1 (2) Investigate, upon his or her own initiative or upon receipt  
2 of a complaint, an administrative act alleged to be contrary to law,  
3 rule, or policy, imposed without an adequate statement of reason, or  
4 based on irrelevant, immaterial, or erroneous grounds; however, the  
5 ombuds may decline to investigate any complaint as provided by rules  
6 adopted under this chapter;

7 (3) Monitor the procedures as established, implemented, and  
8 practiced by the department to carry out its responsibilities in  
9 delivering family and children's services with a view toward  
10 appropriate preservation of families and ensuring children's health  
11 and safety;

12 (4) Review periodically the facilities and procedures of state  
13 institutions serving children, and state-licensed facilities or  
14 residences;

15 (5) Recommend changes in the procedures for addressing the needs  
16 of families and children;

17 (6) Submit annually to the committee and to the governor by  
18 November 1st a report analyzing the work of the office, including  
19 recommendations;

20 (7) Grant the committee access to all relevant records in the  
21 possession of the ombuds unless prohibited by law; and

22 (8) Adopt rules necessary to implement this chapter. For rules  
23 adopted under the provisions of this chapter after August 1, 2015,  
24 the ombuds may adopt only rules derived from a specific grant of  
25 legislative authority. The rules must include the specific statutory  
26 section or sections from which the grant of authority is derived, and  
27 may not rely solely on a section of law stating a statute's intent or  
28 purpose or the general enabling provisions establishing the office of  
29 the ombuds.

30 NEW SECTION. Sec. 405. A new section is added to chapter 43.17  
31 RCW to read as follows:

32 For rules adopted under the provisions of this chapter after  
33 August 1, 2015, the director of each department may adopt only rules  
34 derived from a specific grant of legislative authority. The rules  
35 must include the specific statutory section or sections from which  
36 the grant of authority is derived, and may not rely solely on a  
37 section of law stating a statute's intent or purpose or the general  
38 enabling provisions establishing each department.

1       **Sec. 406.** RCW 43.19.011 and 2011 1st sp.s. c 43 s 201 are each  
2 amended to read as follows:

3       (1) The director of enterprise services shall supervise and  
4 administer the activities of the department of enterprise services  
5 and shall advise the governor and the legislature with respect to  
6 matters under the jurisdiction of the department.

7       (2) In addition to other powers and duties granted to the  
8 director, the director shall have the following powers and duties:

9       (a) Enter into contracts on behalf of the state to carry out the  
10 purposes of this chapter;

11       (b) Accept and expend gifts and grants that are related to the  
12 purposes of this chapter, whether such grants be of federal or other  
13 funds;

14       (c) Appoint deputy and assistant directors and such other special  
15 assistants as may be needed to administer the department. These  
16 employees are exempt from the provisions of chapter 41.06 RCW;

17       (d) Adopt rules in accordance with chapter 34.05 RCW and perform  
18 all other functions necessary and proper to carry out the purposes of  
19 this chapter. For rules adopted under the provisions of this chapter  
20 after August 1, 2015, the director may adopt only rules derived from  
21 a specific grant of legislative authority. The rules must include the  
22 specific statutory section or sections from which the grant of  
23 authority is derived, and may not rely solely on a section of law  
24 stating a statute's intent or purpose or the general enabling  
25 provisions establishing the department;

26       (e) Delegate powers, duties, and functions as the director deems  
27 necessary for efficient administration, but the director shall be  
28 responsible for the official acts of the officers and employees of  
29 the department;

30       (f) Apply for grants from public and private entities, and  
31 receive and administer any grant funding received for the purpose and  
32 intent of this chapter; and

33       (g) Perform other duties as are necessary and consistent with  
34 law.

35       (3) The director may establish additional advisory groups as may  
36 be necessary to carry out the purposes of this chapter.

37       **Sec. 407.** RCW 43.21A.064 and 1997 c 443 s 2 are each amended to  
38 read as follows:

1 Subject to RCW 43.21A.068, the director of the department of  
2 ecology shall have the following powers and duties:

3 (1) The supervision of public waters within the state and their  
4 appropriation, diversion, and use, and of the various officers  
5 connected therewith;

6 (2) Insofar as may be necessary to (~~assure~~) ensure safety to  
7 life or property, the director shall inspect the construction of all  
8 dams, canals, ditches, irrigation systems, hydraulic power plants,  
9 and all other works, systems, and plants pertaining to the use of  
10 water, and may require such necessary changes in the construction or  
11 maintenance of said works, to be made from time to time, as will  
12 reasonably secure safety to life and property;

13 (3) The director shall regulate and control the diversion of  
14 water in accordance with the rights thereto;

15 (4) The director shall determine the discharge of streams and  
16 springs and other sources of water supply, and the capacities of  
17 lakes and of reservoirs whose waters are being or may be utilized for  
18 beneficial purposes;

19 (5) The director shall, if requested, provide assistance to an  
20 applicant for a water right in obtaining or developing an adequate  
21 and appropriate supply of water consistent with the land use  
22 permitted for the area in which the water is to be used and the  
23 population forecast for the area under RCW 43.62.035. If the  
24 applicant is a public water supply system, the supply being sought  
25 must be used in a manner consistent with applicable land use,  
26 watershed and water system plans, and the population forecast for  
27 that area provided under RCW 43.62.035;

28 (6) The director shall keep such records as may be necessary for  
29 the recording of the financial transactions and statistical data  
30 thereof, and shall procure all necessary documents, forms, and  
31 blanks. The director shall keep a seal of the office, and all  
32 certificates covering any of the director's acts or the acts of the  
33 director's office, or the records and files of that office, under  
34 such seal, shall be taken as evidence thereof in all courts;

35 (7) The director shall render when required by the governor, a  
36 full written report of the office's work with such recommendations  
37 for legislation as the director deems advisable for the better  
38 control and development of the water resources of the state;

39 (8) The director and duly authorized deputies may administer  
40 oaths;

1 (9) The director shall establish and (~~promulgate~~) adopt rules  
2 governing the administration of chapter 90.03 RCW. For rules adopted  
3 under the provisions of this chapter after August 1, 2015, the  
4 director may adopt only rules derived from a specific grant of  
5 legislative authority. The rules must include the specific statutory  
6 section or sections from which the grant of authority is derived, and  
7 may not rely solely on a section of law stating a statute's intent or  
8 purpose or the general enabling provisions establishing the  
9 department;

10 (10) The director shall perform such other duties as may be  
11 prescribed by law.

12 **Sec. 408.** RCW 43.24.016 and 1999 c 240 s 4 are each amended to  
13 read as follows:

14 (1) The director of licensing shall supervise and administer the  
15 activities of the department of licensing and shall advise the  
16 governor and the legislature with respect to matters under the  
17 jurisdiction of the department.

18 (2) In addition to other powers and duties granted to the  
19 director, the director has the following powers and duties:

20 (a) Enter into contracts on behalf of the state to carry out the  
21 responsibilities of the department;

22 (b) Accept and expend gifts and grants, whether such grants be of  
23 federal or other funds;

24 (c) Appoint a deputy director and such assistant directors,  
25 special assistants, and administrators as may be needed to administer  
26 the department. These employees are exempt from the provisions of  
27 chapter 41.06 RCW;

28 (d) Adopt rules in accordance with chapter 34.05 RCW and perform  
29 all other functions necessary to carry out the responsibilities of  
30 the department. For rules adopted under the provisions of this  
31 chapter after August 1, 2015, the director may adopt only rules  
32 derived from a specific grant of legislative authority. The rules  
33 must include the specific statutory section or sections from which  
34 the grant of authority is derived, and may not rely solely on a  
35 section of law stating a statute's intent or purpose or the general  
36 enabling provisions establishing the department;

37 (e) Delegate powers, duties, and functions as the director deems  
38 necessary for efficient administration, but the director is

1 responsible for the official acts of the officers and employees of  
2 the department; and

3 (f) Perform other duties as are necessary and consistent with  
4 law.

5 (3) The director may establish advisory groups as may be  
6 necessary to carry out the responsibilities of the department.

7 (4) The internal affairs of the department shall be under the  
8 control of the director in order that the director may manage the  
9 department in a flexible and intelligent manner as dictated by  
10 changing contemporary circumstances. Unless specifically limited by  
11 law, the director shall have complete charge and supervisory powers  
12 over the department. The director may create such administrative  
13 structures as the director deems appropriate, except as otherwise  
14 specified by law, and the director may employ such personnel as may  
15 be necessary in accordance with chapter 41.06 RCW, except as  
16 otherwise provided by law.

17 **Sec. 409.** RCW 43.27A.090 and 1988 c 127 s 25 are each amended to  
18 read as follows:

19 The department shall be empowered as follows:

20 (1) To represent the state at, and fully participate in, the  
21 activities of any basin or regional commission, interagency  
22 committee, or any other joint interstate or federal-state agency,  
23 committee or commission, or publicly financed entity engaged in the  
24 planning, development, administration, management, conservation or  
25 preservation of the water resources of the state.

26 (2) To prepare the views and recommendations of the state of  
27 Washington on any project, plan or program relating to the planning,  
28 development, administration, management, conservation and  
29 preservation of any waters located in or affecting the state of  
30 Washington, including any federal permit or license proposal, and  
31 appear on behalf of, and present views and recommendations of the  
32 state at any proceeding, negotiation or hearing conducted by the  
33 federal government, interstate agency, state or other agency.

34 (3) To cooperate with, assist, advise and coordinate plans with  
35 the federal government and its officers and agencies, and serve as a  
36 state liaison agency with the federal government in matters relating  
37 to the use, conservation, preservation, quality, disposal or control  
38 of water and activities related thereto.

1 (4) To cooperate with appropriate agencies of the federal  
2 government and/or agencies of other states, to enter into contracts,  
3 and to make appropriate contributions to federal or interstate  
4 projects and programs and governmental bodies to carry out the  
5 provisions of this chapter.

6 (5) To apply for, accept, administer and expend grants, gifts and  
7 loans from the federal government or any other entity to carry out  
8 the purposes of this chapter and make contracts and do such other  
9 acts as are necessary insofar as they are not inconsistent with other  
10 provisions hereof.

11 (6) To develop and maintain a coordinated and comprehensive state  
12 water and water resources related development plan, and adopt, with  
13 regard to such plan, such policies as are necessary to (~~insure~~)  
14 ensure that the waters of the state are used, conserved and preserved  
15 for the best interest of the state. There shall be included in the  
16 state plan a description of developmental objectives and a statement  
17 of the recommended means of accomplishing these objectives. To the  
18 extent the director deems desirable, the plan shall integrate into  
19 the state plan, the plans, programs, reports, research and studies of  
20 other state agencies.

21 (7) To assemble and correlate information relating to water  
22 supply, power development, irrigation, watersheds, water use, future  
23 possibilities of water use and prospective demands for all purposes  
24 served through or affected by water resources development.

25 (8) To assemble and correlate state, local and federal laws,  
26 regulations, plans, programs and policies affecting the beneficial  
27 use, disposal, pollution, control or conservation of water, river  
28 basin development, flood prevention, parks, reservations, forests,  
29 wildlife refuges, drainage and sanitary systems, waste disposal,  
30 waterworks, watershed protection and development, soil conservation,  
31 power facilities and area and municipal water supply needs, and  
32 recommend suitable legislation or other action to the legislature,  
33 the congress of the United States, or any city, municipality, or to  
34 responsible state, local or federal executive departments or  
35 agencies.

36 (9) To cooperate with federal, state, regional, interstate and  
37 local public and private agencies in the making of plans for  
38 drainage, flood control, use, conservation, allocation and  
39 distribution of existing water supplies and the development of new  
40 water resource projects.

1 (10) To encourage, assist and advise regional, and city and  
2 municipal agencies, officials or bodies responsible for planning in  
3 relation to water aspects of their programs, and coordinate local  
4 water resources activities, programs, and plans.

5 (11) To (~~promulgate such~~) adopt rules (~~and regulations~~) as  
6 are necessary to carry out the purposes of this chapter. For rules  
7 adopted under the provisions of this chapter after August 1, 2015,  
8 the department may adopt only rules derived from a specific grant of  
9 legislative authority. The rules must include the specific statutory  
10 section or sections from which the grant of authority is derived, and  
11 may not rely solely on a section of law stating a statute's intent or  
12 purpose or the general enabling provisions establishing the  
13 department.

14 (12) To hold public hearings, and make such investigations,  
15 studies and surveys as are necessary to carry out the purposes of the  
16 chapter.

17 (13) To subpoena witnesses, compel their attendance, administer  
18 oaths, take the testimony of any person under oath and require the  
19 production of any books or papers when the department deems such  
20 measures necessary in the exercise of its rule-making power or in  
21 determining whether or not any license, certificate, or permit shall  
22 be granted or extended.

23 **Sec. 410.** RCW 43.30.215 and 2011 c 355 s 1 are each amended to  
24 read as follows:

25 The board shall:

26 (1) Perform duties relating to appraisal, appeal, approval, and  
27 hearing functions as provided by law;

28 (2) Establish policies to ensure that the acquisition,  
29 management, and disposition of all lands and resources within the  
30 department's jurisdiction are based on sound principles designed to  
31 achieve the maximum effective development and use of such lands and  
32 resources consistent with laws applicable thereto;

33 (3) Constitute the board of appraisers provided for in Article  
34 16, section 2 of the state Constitution;

35 (4) Constitute the commission on harbor lines provided for in  
36 Article 15, section 1 of the state Constitution as amended;

37 (5) Constitute the board on geographic names as provided for in  
38 RCW 43.30.291 through 43.30.295; and

1 (6) Adopt and enforce rules as may be deemed necessary and proper  
2 for carrying out the powers, duties, and functions imposed upon it by  
3 this chapter. For rules adopted under the provisions of this chapter  
4 after August 1, 2015, the board may adopt only rules derived from a  
5 specific grant of legislative authority. The rules must include the  
6 specific statutory section or sections from which the grant of  
7 authority is derived, and may not rely solely on a section of law  
8 stating a statute's intent or purpose or the general enabling  
9 provisions establishing the board or the department.

10 **Sec. 411.** RCW 43.31C.060 and 2000 c 212 s 7 are each amended to  
11 read as follows:

12 The department must administer this chapter and has the following  
13 powers and duties:

14 (1) To monitor the implementation of chapter 212, Laws of 2000  
15 and submit reports evaluating the effectiveness of the program and  
16 any suggestions for legislative changes to the governor and  
17 legislature by December 1, 2000;

18 (2) To develop evaluation and performance measures for local  
19 governments to measure the effectiveness of the program at the local  
20 level on meeting the objectives of this chapter;

21 (3) To provide information and appropriate assistance to persons  
22 desiring to locate and operate a business in a community empowerment  
23 zone;

24 (4) To work with appropriate state agencies to coordinate the  
25 delivery of programs, including but not limited to housing, community  
26 and economic development, small business assistance, social service,  
27 and employment and training programs which are carried on in a  
28 community empowerment zone; and

29 (5) To develop rules necessary for the administration of this  
30 chapter. For rules adopted under the provisions of this chapter after  
31 August 1, 2015, the department may adopt only rules derived from a  
32 specific grant of legislative authority. The rules must include the  
33 specific statutory section or sections from which the grant of  
34 authority is derived, and may not rely solely on a section of law  
35 stating a statute's intent or purpose or the general enabling  
36 provisions establishing the department.

37 **Sec. 412.** RCW 43.33.040 and 2009 c 549 s 5112 are each amended  
38 to read as follows:

1 The state finance committee may (~~make~~) adopt appropriate rules  
2 (~~and regulations~~) for the performance of its duties. The state  
3 treasurer shall act as chair of the committee. For rules adopted  
4 under the provisions of this chapter after August 1, 2015, the state  
5 finance committee may adopt only rules derived from a specific grant  
6 of legislative authority. The rules must include the specific  
7 statutory section or sections from which the grant of authority is  
8 derived, and may not rely solely on a section of law stating a  
9 statute's intent or purpose or the general enabling provisions  
10 establishing the state finance committee.

11 **Sec. 413.** RCW 43.33A.110 and 1994 c 154 s 310 are each amended  
12 to read as follows:

13 The state investment board may (~~make~~) adopt appropriate rules  
14 (~~and regulations~~) for the performance of its duties. The board  
15 shall establish investment policies and procedures designed  
16 exclusively to maximize return at a prudent level of risk. However,  
17 in the case of the department of labor and industries' accident,  
18 medical aid, and reserve funds, the board shall establish investment  
19 policies and procedures designed to attempt to limit fluctuations in  
20 industrial insurance premiums and, subject to this purpose, to  
21 maximize return at a prudent level of risk. The board shall adopt  
22 rules to ensure that its members perform their functions in  
23 compliance with chapter 42.52 RCW. Rules adopted by the board shall  
24 be adopted pursuant to chapter 34.05 RCW.

25 For rules adopted under the provisions of this chapter after  
26 August 1, 2015, the state investment board may adopt only rules  
27 derived from a specific grant of legislative authority. The rules  
28 must include the specific statutory section or sections from which  
29 the grant of authority is derived, and may not rely solely on a  
30 section of law stating a statute's intent or purpose or the general  
31 enabling provisions establishing the state investment board.

32 **Sec. 414.** RCW 43.59.070 and 1967 ex.s. c 147 s 8 are each  
33 amended to read as follows:

34 The director shall be secretary of the commission and shall be  
35 responsible for carrying into effect the commission's orders and  
36 rules (~~and regulations promulgated~~) adopted by the commission. The  
37 director shall also be authorized to employ such staff as is  
38 necessary pursuant to the provisions of chapter 41.06 RCW. The

1 commission shall adopt (~~such~~) rules (~~and regulations~~) as shall be  
2 necessary to carry into effect the purposes of this chapter.

3 For rules adopted under the provisions of this chapter after  
4 August 1, 2015, the Washington state traffic safety commission may  
5 adopt only rules derived from a specific grant of legislative  
6 authority. The rules must include the specific statutory section or  
7 sections from which the grant of authority is derived, and may not  
8 rely solely on a section of law stating a statute's intent or purpose  
9 or the general enabling provisions establishing the commission.

10 **Sec. 415.** RCW 43.61.040 and 1977 c 75 s 60 are each amended to  
11 read as follows:

12 The director of veterans affairs shall (~~make such~~) adopt rules  
13 (~~and regulations~~) as may be necessary to carry out the purposes of  
14 this chapter. For rules adopted under the provisions of this chapter  
15 after August 1, 2015, the director of veterans affairs may adopt only  
16 rules derived from a specific grant of legislative authority. The  
17 rules must include the specific statutory section or sections from  
18 which the grant of authority is derived, and may not rely solely on a  
19 section of law stating a statute's intent or purpose or the general  
20 enabling provisions establishing the department of veterans affairs.  
21 The department shall furnish information, advice, and assistance to  
22 veterans and coordinate all programs and services in the field of  
23 veterans' claims service, education, health, vocational guidance and  
24 placement, and services not provided by some other agency of the  
25 state or by the federal government. The director shall submit a  
26 report of the departments' activities hereunder each year to the  
27 governor.

28 **Sec. 416.** RCW 43.63A.475 and 1993 c 124 s 2 are each amended to  
29 read as follows:

30 The department shall adopt all rules under chapter 34.05 RCW  
31 necessary to implement chapter 124, Laws of 1993, giving due  
32 consideration to standards and regulations adopted by the secretary  
33 of housing and urban development under the National Manufactured  
34 Housing Construction and Safety Standards Act of 1974 (800 Stat. 700;  
35 42 U.S.C. Secs. 5401-5426) for manufactured housing construction and  
36 safety standards. For rules adopted under the provisions of this  
37 chapter after August 1, 2015, the department of commerce may adopt  
38 only rules derived from a specific grant of legislative authority.

1 The rules must include the specific statutory section or sections  
2 from which the grant of authority is derived, and may not rely solely  
3 on a section of law stating a statute's intent or purpose or the  
4 general enabling provisions establishing the department of commerce.

5 **Sec. 417.** RCW 43.70.580 and 1995 c 43 s 3 are each amended to  
6 read as follows:

7 The primary responsibility of the public health system, is to  
8 take those actions necessary to protect, promote, and improve the  
9 health of the population. In order to accomplish this, the department  
10 shall:

11 (1) Identify, as part of the public health improvement plan, the  
12 key health outcomes sought for the population and the capacity needed  
13 by the public health system to fulfill its responsibilities in  
14 improving health outcomes.

15 (2)(a) Distribute state funds that, in conjunction with local  
16 revenues, are intended to improve the capacity of the public health  
17 system. The distribution methodology shall encourage system-wide  
18 effectiveness and efficiency and provide local health jurisdictions  
19 with the flexibility both to determine governance structures and  
20 address their unique needs.

21 (b) Enter into with each local health jurisdiction performance-  
22 based contracts that establish clear measures of the degree to which  
23 the local health jurisdiction is attaining the capacity necessary to  
24 improve health outcomes. The contracts negotiated between the local  
25 health jurisdictions and the department of health must identify the  
26 specific measurable progress that local health jurisdictions will  
27 make toward achieving health outcomes. A community assessment  
28 conducted by the local health jurisdiction according to the public  
29 health improvement plan, which shall include the results of the  
30 comprehensive plan prepared according to RCW 70.190.130, will be used  
31 as the basis for identifying the health outcomes. The contracts shall  
32 include provisions to encourage collaboration among local health  
33 jurisdictions. State funds shall be used solely to expand and  
34 complement, but not to supplant city and county government support  
35 for public health programs.

36 (3) Develop criteria to assess the degree to which capacity is  
37 being achieved and ensure compliance by public health jurisdictions.

38 (4) Adopt rules necessary to carry out the purposes of chapter  
39 43, Laws of 1995. For rules adopted under the provisions of this

1 chapter after August 1, 2015, the department may adopt only rules  
2 derived from a specific grant of legislative authority. The rules  
3 must include the specific statutory section or sections from which  
4 the grant of authority is derived, and may not rely solely on a  
5 section of law stating a statute's intent or purpose or the general  
6 enabling provisions establishing the department.

7 (5) Biennially, within the public health improvement plan,  
8 evaluate the effectiveness of the public health system, assess the  
9 degree to which the public health system is attaining the capacity to  
10 improve the status of the public's health, and report progress made  
11 by each local health jurisdiction toward improving health outcomes.

12 **Sec. 418.** RCW 43.101.085 and 2006 c 22 s 1 are each amended to  
13 read as follows:

14 In addition to its other powers granted under this chapter, the  
15 commission has authority and power to:

16 (1) Adopt, amend, or repeal rules as necessary to carry out this  
17 chapter. For rules adopted under the provisions of this chapter after  
18 August 1, 2015, the commission may adopt only rules derived from a  
19 specific grant of legislative authority. The rules must include the  
20 specific statutory section or sections from which the grant of  
21 authority is derived, and may not rely solely on a section of law  
22 stating a statute's intent or purpose or the general enabling  
23 provisions establishing the commission;

24 (2) Issue subpoenas and administer oaths in connection with  
25 investigations, hearings, or other proceedings held under this  
26 chapter;

27 (3) Take or cause to be taken depositions and other discovery  
28 procedures as needed in investigations, hearings, and other  
29 proceedings held under this chapter;

30 (4) Appoint members of a hearings board as provided under RCW  
31 43.101.380;

32 (5) Enter into contracts for professional services determined by  
33 the commission to be necessary for adequate enforcement of this  
34 chapter;

35 (6) Grant, deny, or revoke certification of peace officers under  
36 the provisions of this chapter;

37 (7) Designate individuals authorized to sign subpoenas and  
38 statements of charges under the provisions of this chapter;

1 (8) Employ such investigative, administrative, and clerical staff  
2 as necessary for the enforcement of this chapter; and

3 (9) ~~((Tø))~~ Grant, deny, or revoke certification of tribal police  
4 officers whose tribal governments have agreed to participate in the  
5 tribal police officer certification process.

6 **Sec. 419.** RCW 43.115.040 and 2009 c 549 s 5170 are each amended  
7 to read as follows:

8 The commission shall have the following powers and duties:

9 (1) Elect one of its members to serve as chair;

10 (2) Adopt rules ~~((and regulations))~~ pursuant to chapter 34.05  
11 RCW. For rules adopted under the provisions of this chapter after  
12 August 1, 2015, the commission may adopt only rules derived from a  
13 specific grant of legislative authority. The rules must include the  
14 specific statutory section or sections from which the grant of  
15 authority is derived, and may not rely solely on a section of law  
16 stating a statute's intent or purpose or the general enabling  
17 provisions establishing the commission;

18 (3) Examine and define issues pertaining to the rights and needs  
19 of Hispanics, and make recommendations to the governor and state  
20 agencies for changes in programs and laws;

21 (4) Advise the governor and state agencies on the development and  
22 implementation of policies, plans, and programs that relate to the  
23 special needs of Hispanics;

24 (5) Advise the legislature on issues of concern to the Hispanic  
25 community;

26 (6) Establish relationships with state agencies, local  
27 governments, and private sector organizations that promote equal  
28 opportunity and benefits for Hispanics; and

29 (7) Receive gifts, grants, and endowments from public or private  
30 sources that are made for the use or benefit of the commission and  
31 expend, without appropriation, the same or any income from the gifts,  
32 grants, or endowments according to their terms.

33 **Sec. 420.** RCW 43.117.050 and 2009 c 549 s 5172 are each amended  
34 to read as follows:

35 The commission shall:

36 (1) Elect one of its members to serve as chair; and also such  
37 other officers as necessary to form an executive committee;

1 (2) Adopt rules ((and regulations)) pursuant to chapter 34.05  
2 RCW. For rules adopted under the provisions of this chapter after  
3 August 1, 2015, the commission may adopt only rules derived from a  
4 specific grant of legislative authority. The rules must include the  
5 specific statutory section or sections from which the grant of  
6 authority is derived, and may not rely solely on a section of law  
7 stating a statute's intent or purpose or the general enabling  
8 provisions establishing the commission;

9 (3) Meet at the call of the chair or the call of a majority of  
10 its members, but in no case less often than once during any three  
11 month period;

12 (4) Be authorized to appoint such citizen task force as it deems  
13 appropriate.

14 **Sec. 421.** RCW 43.155.040 and 1985 c 446 s 10 are each amended to  
15 read as follows:

16 The board may:

17 (1) Accept from any state or federal agency, loans or grants for  
18 the planning or financing of any public works project and enter into  
19 agreements with any such agency concerning the loans or grants;

20 (2) Provide technical assistance to local governments;

21 (3) Accept any gifts, grants, or loans of funds, property, or  
22 financial or other aid in any form from any other source on any terms  
23 and conditions which are not in conflict with this chapter;

24 (4) Adopt rules under chapter 34.05 RCW as necessary to carry out  
25 the purposes of this chapter. For rules adopted under the provisions  
26 of this chapter after August 1, 2015, the board may adopt only rules  
27 derived from a specific grant of legislative authority. The rules  
28 must include the specific statutory section or sections from which  
29 the grant of authority is derived, and may not rely solely on a  
30 section of law stating a statute's intent or purpose or the general  
31 enabling provisions establishing the board;

32 (5) Do all acts and things necessary or convenient to carry out  
33 the powers expressly granted or implied under this chapter.

34 **Sec. 422.** RCW 43.160.050 and 2008 c 327 s 4 are each amended to  
35 read as follows:

36 The board may:

37 (1) Adopt bylaws for the regulation of its affairs and the  
38 conduct of its business.

1 (2) Adopt an official seal and alter the seal at its pleasure.

2 (3) Utilize the services of other governmental agencies.

3 (4) Accept from any federal agency loans or grants for the  
4 planning or financing of any project and enter into an agreement with  
5 the agency respecting the loans or grants.

6 (5) Conduct examinations and investigations and take testimony at  
7 public hearings of any matter material for its information that will  
8 assist in determinations related to the exercise of the board's  
9 lawful powers.

10 (6) Accept any gifts, grants, or loans of funds, property, or  
11 financial or other aid in any form from any other source on any terms  
12 and conditions which are not in conflict with this chapter.

13 (7) Enter into agreements or other transactions with and accept  
14 grants and the cooperation of any governmental agency in furtherance  
15 of this chapter.

16 (8) Adopt rules under chapter 34.05 RCW as necessary to carry out  
17 the purposes of this chapter. For rules adopted under the provisions  
18 of this chapter after August 1, 2015, the board may adopt only rules  
19 derived from a specific grant of legislative authority. The rules  
20 must include the specific statutory section or sections from which  
21 the grant of authority is derived, and may not rely solely on a  
22 section of law stating a statute's intent or purpose or the general  
23 enabling provisions establishing the board.

24 (9) Do all acts and things necessary or convenient to carry out  
25 the powers expressly granted or implied under this chapter.

26 **Sec. 423.** RCW 43.163.100 and 1990 c 53 s 6 are each amended to  
27 read as follows:

28 In addition to accomplishing the economic development finance  
29 programs specifically authorized in this chapter, the authority may:

30 (1) Maintain an office or offices;

31 (2) Sue and be sued in its own name, and plead and be impleaded;

32 (3) Engage consultants, agents, attorneys, and advisers, contract  
33 with federal, state, and local governmental entities for services,  
34 and hire such employees, agents and other personnel as the authority  
35 deems necessary, useful, or convenient to accomplish its purposes;

36 (4) Make and execute all manner of contracts, agreements and  
37 instruments and financing documents with public and private parties  
38 as the authority deems necessary, useful, or convenient to accomplish  
39 its purposes;

1 (5) Acquire and hold real or personal property, or any interest  
2 therein, in the name of the authority, and to sell, assign, lease,  
3 encumber, mortgage, or otherwise dispose of the same in such manner  
4 as the authority deems necessary, useful, or convenient to accomplish  
5 its purposes;

6 (6) Open and maintain accounts in qualified public depositories  
7 and otherwise provide for the investment of any funds not required  
8 for immediate disbursement, and provide for the selection of  
9 investments;

10 (7) Appear in its own behalf before boards, commissions,  
11 departments, or agencies of federal, state, or local government;

12 (8) Procure such insurance in such amounts and from such insurers  
13 as the authority deems desirable, including, but not limited to,  
14 insurance against any loss or damage to its property or other assets,  
15 public liability insurance for injuries to persons or property, and  
16 directors and officers liability insurance;

17 (9) Apply for and accept subventions, grants, loans, advances,  
18 and contributions from any source of money, property, labor, or other  
19 things of value, to be held, used and applied as the authority deems  
20 necessary, useful, or convenient to accomplish its purposes;

21 (10) Establish guidelines for the participation by eligible  
22 banking organizations in programs conducted by the authority under  
23 this chapter;

24 (11) Act as an agent, by agreement, for federal, state, or local  
25 governmental entities to carry out the programs authorized in this  
26 chapter;

27 (12) Establish, revise, and collect such fees and charges as the  
28 authority deems necessary, useful, or convenient to accomplish its  
29 purposes;

30 (13) Make such expenditures as are appropriate for paying the  
31 administrative costs and expenses of the authority in carrying out  
32 the provisions of this chapter: PROVIDED, That expenditures with  
33 respect to the economic development financing programs of the  
34 authority shall not be made from funds of the state;

35 (14) Establish such reserves and special funds, and controls on  
36 deposits to and disbursements from them, as the authority deems  
37 necessary, useful, or convenient to accomplish its purposes;

38 (15) Give assistance to public bodies by providing information,  
39 guidelines, forms, and procedures for implementing their financing  
40 programs;

1 (16) Prepare, publish and distribute, with or without charge,  
2 such studies, reports, bulletins, and other material as the authority  
3 deems necessary, useful, or convenient to accomplish its purposes;

4 (17) Delegate any of its powers and duties if consistent with the  
5 purposes of this chapter;

6 (18) Adopt rules concerning its exercise of the powers authorized  
7 by this chapter. For rules adopted under the provisions of this  
8 chapter after August 1, 2015, the authority may adopt only rules  
9 derived from a specific grant of legislative authority. The rules  
10 must include the specific statutory section or sections from which  
11 the grant of authority is derived, and may not rely solely on a  
12 section of law stating a statute's intent or purpose or the general  
13 enabling provisions establishing the authority; and

14 (19) Exercise any other power the authority deems necessary,  
15 useful, or convenient to accomplish its purposes and exercise the  
16 powers expressly granted in this chapter.

17 **Sec. 424.** RCW 43.180.040 and 1995 c 399 s 98 are each amended to  
18 read as follows:

19 (1) There is ((~~hereby~~)) established a public body corporate and  
20 politic, with perpetual corporate succession, to be known as the  
21 Washington state housing finance commission. The commission is an  
22 instrumentality of the state exercising essential government  
23 functions and, for purposes of the code, acts as a constituted  
24 authority on behalf of the state when it issues bonds pursuant to  
25 this chapter. The commission is a "public body" within the meaning of  
26 RCW 39.53.010.

27 (2) The commission shall consist of the following voting members:

28 (a) The state treasurer, ex officio;

29 (b) The director of ((~~community, trade, and economic~~  
30 ~~development~~)) commerce, ex officio;

31 (c) An elected local government official, ex officio, with  
32 experience in local housing programs, who shall be appointed by the  
33 governor with the consent of the senate;

34 (d) A representative of housing consumer interests, appointed by  
35 the governor with the consent of the senate;

36 (e) A representative of labor interests, appointed by the  
37 governor, with the consent of the senate, after consultation with  
38 representatives of organized labor;

1 (f) A representative of low-income persons, appointed by the  
2 governor with the consent of the senate;

3 (g) Five members of the public appointed by the governor, with  
4 the consent of the senate, on the basis of geographic distribution  
5 and their expertise in housing, real estate, finance, energy  
6 efficiency, or construction, one of whom shall be appointed by the  
7 governor as chair of the commission and who shall serve on the  
8 commission and as chair of the commission at the pleasure of the  
9 governor.

10 The term of the persons appointed by the governor, other than the  
11 chair, shall be four years from the date of their appointment, except  
12 that the terms of three of the initial appointees shall be for two  
13 years from the date of their appointment. The governor shall  
14 designate the appointees who will serve the two-year terms. An  
15 appointee may be removed by the governor for cause pursuant to RCW  
16 43.06.070 and 43.06.080. The governor shall fill any vacancy in an  
17 appointed position by appointment for the remainder of the unexpired  
18 term. If the department of (~~community development~~) commerce is  
19 abolished, the resulting vacancy shall be filled by a state official  
20 who shall be appointed to the commission by the governor. If this  
21 official occupies an office or position for which senate confirmation  
22 is not required, then his or her appointment to the commission shall  
23 be subject to the consent of the senate. The members of the  
24 commission shall be compensated in accordance with RCW 43.03.240 and  
25 may be reimbursed, solely from the funds of the commission, for  
26 expenses incurred in the discharge of their duties under this  
27 chapter, subject to the provisions of RCW 43.03.050 and 43.03.060. A  
28 majority of the commission constitutes a quorum. Designees shall be  
29 appointed in such manner and shall exercise such powers as are  
30 specified by the rules of the commission.

31 (3) The commission may adopt an official seal and may select from  
32 its membership a vice chair, a secretary, and a treasurer. The  
33 commission shall establish rules concerning its exercise of the  
34 powers authorized by this chapter. The rules shall be adopted in  
35 conformance with chapter 34.05 RCW. For rules adopted under the  
36 provisions of this chapter after August 1, 2015, the commission may  
37 adopt only rules derived from a specific grant of legislative  
38 authority. The rules must include the specific statutory section or  
39 sections from which the grant of authority is derived, and may not

1 rely solely on a section of law stating a statute's intent or purpose  
2 or the general enabling provisions establishing the commission.

3 **Sec. 425.** RCW 43.200.070 and 1989 c 322 s 5 are each amended to  
4 read as follows:

5 The department of ecology shall adopt such rules as are necessary  
6 to carry out responsibilities under this chapter. The department of  
7 ecology is authorized to adopt such rules as are necessary to carry  
8 out its responsibilities under chapter 43.145 RCW. For rules adopted  
9 under the provisions of this chapter after August 1, 2015, the  
10 department of ecology may adopt only rules derived from a specific  
11 grant of legislative authority. The rules must include the specific  
12 statutory section or sections from which the grant of authority is  
13 derived, and may not rely solely on a section of law stating a  
14 statute's intent or purpose or the general enabling provisions  
15 establishing the department of ecology.

16 **Sec. 426.** RCW 43.210.060 and 1995 c 399 s 108 are each amended  
17 to read as follows:

18 The department of (~~community, trade, and economic development or~~  
19 ~~its statutory successor~~) commerce shall adopt rules under chapter  
20 34.05 RCW as necessary to carry out the purposes of this chapter. For  
21 rules adopted under the provisions of this chapter after August 1,  
22 2015, the department of commerce may adopt only rules derived from a  
23 specific grant of legislative authority. The rules must include the  
24 specific statutory section or sections from which the grant of  
25 authority is derived, and may not rely solely on a section of law  
26 stating a statute's intent or purpose or the general enabling  
27 provisions establishing the department of commerce.

28 **Sec. 427.** RCW 43.250.090 and 1986 c 294 s 9 are each amended to  
29 read as follows:

30 The state finance committee shall administer this chapter and  
31 adopt appropriate rules. For rules adopted under the provisions of  
32 this chapter after August 1, 2015, the state finance committee may  
33 adopt only rules derived from a specific grant of legislative  
34 authority. The rules must include the specific statutory section or  
35 sections from which the grant of authority is derived, and may not  
36 rely solely on a section of law stating a statute's intent or purpose

1 or the general enabling provisions establishing the state finance  
2 committee.

3 **Sec. 428.** RCW 43.320.040 and 1993 c 472 s 5 are each amended to  
4 read as follows:

5 The director of financial institutions may adopt any rules, under  
6 chapter 34.05 RCW, necessary to implement the powers and duties of  
7 the director under this chapter. For rules adopted under the  
8 provisions of this chapter after August 1, 2015, the director of  
9 financial institutions may adopt only rules derived from a specific  
10 grant of legislative authority. The rules must include the specific  
11 statutory section or sections from which the grant of authority is  
12 derived, and may not rely solely on a section of law stating a  
13 statute's intent or purpose or the general enabling provisions  
14 establishing the department of financial institutions.

15 **Sec. 429.** RCW 43.330.040 and 1993 c 280 s 6 are each amended to  
16 read as follows:

17 (1) The director shall supervise and administer the activities of  
18 the department and shall advise the governor and the legislature with  
19 respect to community and economic development matters affecting the  
20 state.

21 (2) In addition to other powers and duties granted to the  
22 director, the director shall have the following powers and duties:

23 (a) Enter into contracts on behalf of the state to carry out the  
24 purposes of this chapter;

25 (b) Act for the state in the initiation of or participation in  
26 any multigovernmental program relative to the purpose of this  
27 chapter;

28 (c) Accept and expend gifts and grants, whether such grants be of  
29 federal or other funds;

30 (d) Appoint such deputy directors, assistant directors, and up to  
31 seven special assistants as may be needed to administer the  
32 department. These employees are exempt from the provisions of chapter  
33 41.06 RCW;

34 (e) Prepare and submit budgets for the department for executive  
35 and legislative action;

36 (f) Submit recommendations for legislative actions as are deemed  
37 necessary to further the purposes of this chapter;

1 (g) Adopt rules in accordance with chapter 34.05 RCW and perform  
2 all other functions necessary and proper to carry out the purposes of  
3 this chapter. For rules adopted under the provisions of this chapter  
4 after August 1, 2015, the director may adopt only rules derived from  
5 a specific grant of legislative authority. The rules must include the  
6 specific statutory section or sections from which the grant of  
7 authority is derived, and may not rely solely on a section of law  
8 stating a statute's intent or purpose or the general enabling  
9 provisions establishing the department;

10 (h) Delegate powers, duties, and functions as the director deems  
11 necessary for efficient administration, but the director shall be  
12 responsible for the official acts of the officers and employees of  
13 the department; and

14 (i) Perform other duties as are necessary and consistent with  
15 law.

16 (3) When federal or other funds are received by the department,  
17 they shall be promptly transferred to the state treasurer and  
18 thereafter expended only upon the approval of the director.

19 (4) The director may request information and assistance from all  
20 other agencies, departments, and officials of the state, and may  
21 reimburse such agencies, departments, or officials if such a request  
22 imposes any additional expenses upon any such agency, department, or  
23 official.

24 (5) The director shall, in carrying out the responsibilities of  
25 office, consult with governmental officials, private groups, and  
26 individuals and with officials of other states. All state agencies  
27 and their officials and the officials of any political subdivision of  
28 the state shall cooperate with and give such assistance to the  
29 department, including the submission of requested information, to  
30 allow the department to carry out its purposes under this chapter.

31 (6) The director may establish additional advisory or  
32 coordinating groups with the legislature, within state government,  
33 with state and other governmental units, with the private sector and  
34 nonprofit entities or in specialized subject areas as may be  
35 necessary to carry out the purposes of this chapter.

36 (7) The internal affairs of the department shall be under the  
37 control of the director in order that the director may manage the  
38 department in a flexible and intelligent manner as dictated by  
39 changing contemporary circumstances. Unless specifically limited by  
40 law, the director shall have complete charge and supervisory powers

1 over the department. The director may create such administrative  
2 structures as the director deems appropriate, except as otherwise  
3 specified by law, and the director may employ such personnel as may  
4 be necessary in accordance with chapter 41.06 RCW, except as  
5 otherwise provided by law.

6 **Sec. 430.** RCW 47.01.071 and 2007 c 516 s 4 are each amended to  
7 read as follows:

8 The transportation commission shall have the following functions,  
9 powers, and duties:

10 (1) To propose policies to be adopted by the governor and the  
11 legislature designed to assure the development and maintenance of a  
12 comprehensive and balanced statewide transportation system which will  
13 meet the needs of the people of this state for safe and efficient  
14 transportation services. Wherever appropriate, the policies shall  
15 provide for the use of integrated, intermodal transportation systems.  
16 The policies must be aligned with the goals established in RCW  
17 47.04.280. To this end the commission shall:

18 (a) Develop transportation policies which are based on the  
19 policies, goals, and objectives expressed and inherent in existing  
20 state laws;

21 (b) Inventory the adopted policies, goals, and objectives of the  
22 local and area-wide governmental bodies of the state and define the  
23 role of the state, regional, and local governments in determining  
24 transportation policies, in transportation planning, and in  
25 implementing the state transportation plan;

26 (c) Establish a procedure for review and revision of the state  
27 transportation policy and for submission of proposed changes to the  
28 governor and the legislature; and

29 (d) Integrate the statewide transportation plan with the needs of  
30 the elderly and persons with disabilities, and coordinate federal and  
31 state programs directed at assisting local governments to answer such  
32 needs;

33 (2) To provide for the effective coordination of state  
34 transportation planning with national transportation policy, state  
35 and local land use policies, and local and regional transportation  
36 plans and programs;

37 (3) In conjunction with the provisions under RCW 47.01.075, to  
38 provide for public involvement in transportation designed to elicit  
39 the public's views both with respect to adequate transportation

1 services and appropriate means of minimizing adverse social,  
2 economic, environmental, and energy impact of transportation  
3 programs;

4 (4) By December 2010, to prepare a comprehensive and balanced  
5 statewide transportation plan consistent with the state's growth  
6 management goals and based on the transportation policy goals  
7 provided under RCW 47.04.280 and applicable state and federal laws.  
8 The plan must reflect the priorities of government developed by the  
9 office of financial management and address regional needs, including  
10 multimodal transportation planning. The plan must, at a minimum: (a)  
11 Establish a vision for the development of the statewide  
12 transportation system; (b) identify significant statewide  
13 transportation policy issues; and (c) recommend statewide  
14 transportation policies and strategies to the legislature to fulfill  
15 the requirements of subsection (1) of this section. The plan must be  
16 the product of an ongoing process that involves representatives of  
17 significant transportation interests and the general public from  
18 across the state. Every four years, the plan shall be reviewed and  
19 revised, and submitted to the governor and the house of  
20 representatives and senate standing committees on transportation.

21 The plan shall take into account federal law and regulations  
22 relating to the planning, construction, and operation of  
23 transportation facilities;

24 (5) By December 2007, the office of financial management shall  
25 submit a baseline report on the progress toward attaining the policy  
26 goals under RCW 47.04.280 in the 2005-2007 fiscal biennium. By  
27 October 1, 2008, beginning with the development of the 2009-2011  
28 biennial transportation budget, and by October 1st biennially  
29 thereafter, the office of financial management shall submit to the  
30 legislature and the governor a report on the progress toward the  
31 attainment by state transportation agencies of the state  
32 transportation policy goals and objectives prescribed by statute,  
33 appropriation, and governor directive. The report must, at a minimum,  
34 include the degree to which state transportation programs have  
35 progressed toward the attainment of the policy goals established  
36 under RCW 47.04.280, as measured by the objectives and performance  
37 measures established by the office of financial management under RCW  
38 47.04.280;

39 (6) To propose to the governor and the legislature prior to the  
40 convening of each regular session held in an odd-numbered year a

1 recommended budget for the operations of the commission as required  
2 by RCW 47.01.061;

3 (7) To adopt (~~such~~) rules as may be necessary to carry out  
4 reasonably and properly those functions expressly vested in the  
5 commission by statute. For rules adopted under the provisions of this  
6 chapter after August 1, 2015, the commission may adopt only rules  
7 derived from a specific grant of legislative authority. The rules  
8 must include the specific statutory section or sections from which  
9 the grant of authority is derived, and may not rely solely on a  
10 section of law stating a statute's intent or purpose or the general  
11 enabling provisions establishing the department;

12 (8) To contract with the office of financial management or other  
13 appropriate state agencies for administrative support, accounting  
14 services, computer services, and other support services necessary to  
15 carry out its other statutory duties;

16 (9) To conduct transportation-related studies and policy analysis  
17 to the extent directed by the legislature or governor in the biennial  
18 transportation budget act, or as otherwise provided in law, and  
19 subject to the availability of amounts appropriated for this specific  
20 purpose; and

21 (10) To exercise such other specific powers and duties as may be  
22 vested in the transportation commission by this or any other  
23 provision of law.

24 **Sec. 431.** RCW 48.02.060 and 2010 c 27 s 1 are each amended to  
25 read as follows:

26 (1) The commissioner has the authority expressly conferred upon  
27 him or her by or reasonably implied from the provisions of this code.

28 (2) The commissioner must execute his or her duties and must  
29 enforce the provisions of this code.

30 (3) The commissioner may:

31 (a) (~~Make~~) Adopt reasonable rules for effectuating any  
32 provision of this code, except those relating to his or her election,  
33 qualifications, or compensation. Rules are not effective prior to  
34 their being filed for public inspection in the commissioner's office.  
35 For rules adopted under the provisions of this chapter after August  
36 1, 2015, the commissioner may adopt only rules derived from a  
37 specific grant of legislative authority. The rules must include the  
38 specific statutory section or sections from which the grant of  
39 authority is derived, and may not rely solely on a section of law

1 stating a statute's intent or purpose or the general enabling  
2 provisions establishing the office of the insurance commissioner.

3 (b) Conduct investigations to determine whether any person has  
4 violated any provision of this code.

5 (c) Conduct examinations, investigations, hearings, in addition  
6 to those specifically provided for, useful and proper for the  
7 efficient administration of any provision of this code.

8 (4) When the governor proclaims a state of emergency under RCW  
9 43.06.010(12), the commissioner may issue an order that addresses any  
10 or all of the following matters related to insurance policies issued  
11 in this state:

12 (a) Reporting requirements for claims;

13 (b) Grace periods for payment of insurance premiums and  
14 performance of other duties by insureds;

15 (c) Temporary postponement of cancellations and nonrenewals; and

16 (d) Medical coverage to ensure access to care.

17 (5) An order by the commissioner under subsection (4) of this  
18 section may remain effective for not more than sixty days unless the  
19 commissioner extends the termination date for the order for an  
20 additional period of not more than thirty days. The commissioner may  
21 extend the order if, in the commissioner's judgment, the  
22 circumstances warrant an extension. An order of the commissioner  
23 under subsection (4) of this section is not effective after the  
24 related state of emergency is terminated by proclamation of the  
25 governor under RCW 43.06.210. The order must specify, by line of  
26 insurance:

27 (a) The geographic areas in which the order applies, which must  
28 be within but may be less extensive than the geographic area  
29 specified in the governor's proclamation of a state of emergency and  
30 must be specific according to an appropriate means of delineation,  
31 such as the United States postal service zip codes or other  
32 appropriate means; and

33 (b) The date on which the order becomes effective and the date on  
34 which the order terminates.

35 (6) The commissioner may adopt rules that establish general  
36 criteria for orders issued under subsection (4) of this section and  
37 may adopt emergency rules applicable to a specific proclamation of a  
38 state of emergency by the governor.

1 (7) The rule-making authority set forth in subsection (6) of this  
2 section does not limit or affect the rule-making authority otherwise  
3 granted to the commissioner by law.

4 **Sec. 432.** RCW 48.44.050 and 1947 c 268 s 5 are each amended to  
5 read as follows:

6 The insurance commissioner shall ~~((make))~~ adopt reasonable  
7 ~~((regulations))~~ rules in aid of the administration of this chapter  
8 which may include~~((τ))~~ but shall not be limited to ~~((regulations))~~  
9 rules concerning the maintenance of adequate insurance, bonds, or  
10 cash deposits, information required of registrants, and methods of  
11 expediting speedy and fair payments to claimants. For rules adopted  
12 under the provisions of this chapter after August 1, 2015, the  
13 insurance commissioner may adopt only rules derived from a specific  
14 grant of legislative authority. The rules must include the specific  
15 statutory section or sections from which the grant of authority is  
16 derived, and may not rely solely on a section of law stating a  
17 statute's intent or purpose or the general enabling provisions  
18 establishing the office of the insurance commissioner.

19 **Sec. 433.** RCW 48.46.200 and 2009 c 549 s 7153 are each amended  
20 to read as follows:

21 The commissioner may, in accordance with the provisions of the  
22 administrative procedure act, chapter 34.05 RCW, ~~((promulgate))~~ adopt  
23 rules ~~((and regulations))~~ as necessary or proper to carry out the  
24 provisions of this chapter. For rules adopted under the provisions of  
25 this chapter after August 1, 2015, the commissioner may adopt only  
26 rules derived from a specific grant of legislative authority. The  
27 rules must include the specific statutory section or sections from  
28 which the grant of authority is derived, and may not rely solely on a  
29 section of law stating a statute's intent or purpose or the general  
30 enabling provisions establishing the office of the insurance  
31 commissioner. Nothing in this chapter shall be construed to prohibit  
32 the commissioner from requiring changes in procedures previously  
33 approved by him or her.

34 **Sec. 434.** RCW 66.08.0501 and 1997 c 321 s 56 are each amended to  
35 read as follows:

36 The liquor control board may adopt appropriate rules pursuant to  
37 chapter 34.05 RCW for the purpose of carrying out the provisions of

1 chapter 321, Laws of 1997. For rules adopted under the provisions of  
2 this chapter after August 1, 2015, the liquor control board may adopt  
3 only rules derived from a specific grant of legislative authority.  
4 The rules must include the specific statutory section or sections  
5 from which the grant of authority is derived, and may not rely solely  
6 on a section of law stating a statute's intent or purpose or the  
7 general enabling provisions establishing the liquor control board.

8       **Sec. 435.** RCW 77.04.055 and 2000 c 107 s 204 are each amended to  
9 read as follows:

10       (1) In establishing policies to preserve, protect, and perpetuate  
11 wildlife, fish, and wildlife and fish habitat, the commission shall  
12 meet annually with the governor to:

13       (a) Review and prescribe basic goals and objectives related to  
14 those policies; and

15       (b) Review the performance of the department in implementing fish  
16 and wildlife policies.

17       The commission shall maximize fishing, hunting, and outdoor  
18 recreational opportunities compatible with healthy and diverse fish  
19 and wildlife populations.

20       (2) The commission shall establish hunting, trapping, and fishing  
21 seasons and prescribe the time, place, manner, and methods that may  
22 be used to harvest or enjoy game fish and wildlife.

23       (3) The commission shall establish provisions regulating food  
24 fish and shellfish as provided in RCW 77.12.047.

25       (4) The commission shall have final approval authority for  
26 tribal, interstate, international, and any other department  
27 agreements relating to fish and wildlife.

28       (5) The commission shall adopt rules to implement the state's  
29 fish and wildlife laws. For rules adopted under the provisions of  
30 this chapter after August 1, 2015, the commission may adopt only  
31 rules derived from a specific grant of legislative authority. The  
32 rules must include the specific statutory section or sections from  
33 which the grant of authority is derived, and may not rely solely on a  
34 section of law stating a statute's intent or purpose or the general  
35 enabling provisions establishing the commission or the department.

36       (6) The commission shall have final approval authority for the  
37 department's budget proposals.

1 (7) The commission shall select its own staff and shall appoint  
2 the director of the department. The director and commission staff  
3 shall serve at the pleasure of the commission.

4 **Sec. 436.** RCW 80.01.040 and 2007 c 234 s 1 are each amended to  
5 read as follows:

6 The utilities and transportation commission shall:

7 (1) Exercise all the powers and perform all the duties prescribed  
8 by this title and by Title 81 RCW, or by any other law.

9 (2) Regulate in the public interest, as provided by the public  
10 service laws, all persons engaging in the transportation of persons  
11 or property within this state for compensation.

12 (3) Regulate in the public interest, as provided by the public  
13 service laws, the rates, services, facilities, and practices of all  
14 persons engaging within this state in the business of supplying any  
15 utility service or commodity to the public for compensation.

16 (4) ~~((Make))~~ Adopt rules ~~((and regulations))~~ necessary to carry  
17 out its other powers and duties. For rules adopted under the  
18 provisions of this chapter after August 1, 2015, the commission may  
19 adopt only rules derived from a specific grant of legislative  
20 authority. The rules must include the specific statutory section or  
21 sections from which the grant of authority is derived, and may not  
22 rely solely on a section of law stating a statute's intent or purpose  
23 or the general enabling provisions establishing the commission.

24 NEW SECTION. **Sec. 437.** A new section is added to chapter 34.05  
25 RCW to read as follows:

26 When delegating authority to an agency through legislation, the  
27 legislature, unless it specifically states otherwise, limits its  
28 delegation of authority to:

29 (1) The minimum delegation necessary to administer the  
30 legislation's clear and unambiguous directives; and

31 (2) The administration of circumstances and behaviors foreseeable  
32 at the time of the legislation's enactment.

33 **PART V**

34 NEW SECTION. **Sec. 501.** The legislature finds that this nation  
35 and this state were founded as constitutional republican forms of  
36 government with democratically elected representatives enacting and

1 implementing laws consistent with those constitutions to promote the  
2 general welfare of all the people. All elected officials take an oath  
3 to uphold the constitutions. The role of government was intended to  
4 remain as limited as possible in order to expand the liberties of the  
5 people as far as possible. Over the past few decades, legislative and  
6 executive branches have gone far beyond their original purposes and  
7 powers, and have grown to the extent that the economic and regulatory  
8 burdens placed upon the people is becoming unbearable and is  
9 infringing on the rights of law-abiding citizens to enjoy their  
10 property, their freedoms, and the fruits of their labors. The  
11 legislature further finds that the United States congress has  
12 frequently ignored its own House rule XIII 3(d) which requires "Each  
13 report of a committee on a public bill or public joint resolution  
14 shall contain the following: (1) A statement citing the specific  
15 powers granted to congress in the Constitution to enact the law  
16 proposed by the bill or resolution." The legislature intends by this  
17 chapter to ensure that all laws and rules adopted by the federal and  
18 state governments are firmly grounded in their respective  
19 constitutions so that those governments might return to their proper  
20 realms and focus on the essential services that best strike the  
21 balance between the need for government and the need for people to be  
22 free.

23 NEW SECTION. **Sec. 502.** (1) Every bill, act, ordinance,  
24 resolution, or rule adopted or enacted by a legislative or executive  
25 body, or the people, shall include the citation of the express  
26 language from the federal or state Constitution that provides the  
27 specific authority for the provisions included in the bill, act,  
28 ordinance, resolution, or rule.

29 (2) Every bill, act, ordinance, resolution, or rule adopted or  
30 enacted by a legislative or executive body, or the people, shall  
31 limit the provisions of the bill, act, ordinance, resolution, or rule  
32 to the express language included in the citation from the federal or  
33 state Constitution that provides the specific authority such  
34 provisions.

35 (3) Every bill, act, ordinance, resolution, or rule adopted or  
36 enacted by a legislative or executive body, or the people, shall  
37 include a brief rationale as how the provisions of the bill, act,  
38 ordinance, resolution, or rule are provided specific authority in the  
39 express language of the federal or state Constitution cited,

1 including the language of the text itself, a reasonable construction  
2 and extension of the text, the intent as best can be ascertained of  
3 those who adopted the text, and the historical understanding and  
4 context in which the text was adopted.

5 **PART VI**

6 NEW SECTION. **Sec. 601.** The legislature finds that:

7 (1) The public interest will be best served if lands throughout  
8 the state and their resources are subject to the coordinated  
9 management efforts of the state and local governments;

10 (2) The federal government requires its agencies to coordinate  
11 and provide meaningful involvement of state and local government  
12 officials in the development and revisions of federal land use plans,  
13 guidelines, and regulations as explained in 43 U.S.C. Sec. 1712  
14 (c)(9);

15 (3) Many local governments have extensive plans for the lands  
16 within their jurisdiction as required by various state laws,  
17 including but not limited to Titles 35, 35A, and 36 RCW; and

18 (4) The citizens of Washington directly benefit when state  
19 agencies coordinate their activities with local government officials  
20 regarding land use administration, management, and planning.

21 NEW SECTION. **Sec. 602.** A new section is added to chapter 77.12  
22 RCW to read as follows:

23 (1)(a) The department shall coordinate with all applicable  
24 affected local government officials during the development, revision,  
25 and implementation of any public land use plan under the control or  
26 authority of the department.

27 (b) Implementation of this section requires the department to, at  
28 a minimum:

29 (i) Keep itself apprised of all relevant local and tribal land  
30 use plans and ordinances;

31 (ii) Ensure that consideration is given to local and tribal plans  
32 that are germane in the development of land use activities for the  
33 department and strive to make corresponding state policies, plans, or  
34 actions consistent with local policies, plans, or actions;

35 (iii) Assist in resolving inconsistencies between department land  
36 management and local and tribal plans and ordinances;

1 (iv) Provide for meaningful public involvement of other local  
2 government officials, both elected and appointed, in the development  
3 of land use programs, land use policies, land use rules, and land use  
4 decisions for department lands; and

5 (v) Provide local government officials early notification of all  
6 land use actions or plans of the department that will affect the unit  
7 of local government directly or indirectly.

8 (2) If, after consulting with an affected local government, the  
9 department finds that the statutory limitations of the department  
10 make compliance with a particular locally adopted land use plan or  
11 ordinance unlawful, the department shall report this finding to the  
12 appropriate committees of the legislature along with specific  
13 information relating to the statute or statutes limiting the  
14 department from complying with local plans or ordinances.

15 (3) The director must make available a formal channel through  
16 which local government officials may provide direct feedback and  
17 other communications regarding proposed actions by the department  
18 relating to the purchase and sale of land, the development or  
19 revision of land use plans, land use guidelines, land use policies,  
20 and land use rules for department lands within the local jurisdiction  
21 and with respect to other land use matters as deemed relevant to a  
22 local official.

23 NEW SECTION. **Sec. 603.** A new section is added to chapter 79.02  
24 RCW to read as follows:

25 (1)(a) The department shall coordinate with all applicable  
26 affected local government officials during the development, revision,  
27 and implementation of any public land use plan under the control or  
28 authority of the department.

29 (b) Implementation of this section requires the department to, at  
30 a minimum:

31 (i) Keep itself apprised of all relevant local and tribal land  
32 use plans and ordinances;

33 (ii) Ensure that consideration is given to local and tribal plans  
34 that are germane in the development of land use activities for the  
35 department and strive to make corresponding state policies, plans, or  
36 actions consistent with local policies, plans, or actions;

37 (iii) Assist in resolving inconsistencies between department land  
38 management and local and tribal plans and ordinances;

1 (iv) Provide for meaningful public involvement of other local  
2 government officials, both elected and appointed, in the development  
3 of land use programs, land use policies, land use rules, and land use  
4 decisions for public lands; and

5 (v) Provide local government officials early notification of all  
6 land use actions or plans of the department that will affect the unit  
7 of local government directly or indirectly.

8 (2) If, after consulting with an affected local government, the  
9 department finds that the statutory limitations of the department  
10 make compliance with a particular locally adopted land use plan or  
11 ordinance unlawful, the department shall report this finding to the  
12 appropriate committees of the legislature along with specific  
13 information relating to the statute or statutes limiting the  
14 department from complying with local plans or ordinances.

15 (3) The commissioner of public lands must make available a formal  
16 channel through which local government officials may provide direct  
17 feedback and other communications regarding proposed actions by the  
18 department relating to the purchase and sale of land, the development  
19 or revision of land use plans, land use guidelines, land use  
20 policies, and land use rules for public lands within the local  
21 jurisdiction and with respect to other land use matters as deemed  
22 relevant to a local official.

23 NEW SECTION. **Sec. 604.** A new section is added to chapter 79A.05  
24 RCW to read as follows:

25 (1)(a) The commission shall coordinate with all applicable  
26 affected local government officials during the development, revision,  
27 and implementation of any public land use plan under the control or  
28 authority of the commission.

29 (b) Implementation of this section requires the commission to, at  
30 a minimum:

31 (i) Keep itself apprised of all relevant local and tribal land  
32 use plans and ordinances;

33 (ii) Ensure that consideration is given to local and tribal plans  
34 that are germane in the development of land use activities for the  
35 commission and strive to make corresponding commission policies,  
36 plans, or actions consistent with local policies, plans, or actions;

37 (iii) Assist in resolving inconsistencies between commission land  
38 management and local and tribal plans and ordinances;

1 (iv) Provide for meaningful public involvement of other local  
2 government officials, both elected and appointed, in the development  
3 of land use programs, land use policies, land use rules, and land use  
4 decisions for commission lands; and

5 (v) Provide local government officials early notification of all  
6 land use actions or plans of the commission that will affect the unit  
7 of local government directly or indirectly.

8 (2) If, after consulting with an affected local government, the  
9 commission finds that the statutory limitations of the commission  
10 make compliance with a particular locally adopted land use plan or  
11 ordinance unlawful, the commission shall report this finding to the  
12 appropriate committees of the legislature along with specific  
13 information relating to the statute or statutes limiting the  
14 commission from complying with local plans or ordinances.

15 (3) The director must make available a formal channel through  
16 which local government officials may provide direct feedback and  
17 other communications regarding proposed actions by the commission  
18 relating to the purchase and sale of land, the development or  
19 revision of land use plans, land use guidelines, land use policies,  
20 and land use rules for commission lands within the local jurisdiction  
21 and with respect to other land use matters as deemed relevant to a  
22 local official.

23 NEW SECTION. **Sec. 605.** A new section is added to chapter 35.21  
24 RCW to read as follows:

25 (1) If the ordinances, regulations, plans, or policies of a city  
26 are less restrictive than applicable federal or state laws or  
27 requirements, the city must demand, by any lawful means, that the  
28 federal or state government coordinate with the city before the  
29 federal or state government implements, enforces, expands, or extends  
30 the federal or state law or requirement within the jurisdictional  
31 boundary of the city. The coordination demand required by this  
32 subsection may be waived through a resolution adopted by a majority  
33 of the city legislative body.

34 (2) If the federal or state government fails to coordinate in  
35 good faith with the city, the legislative body of the city must hold  
36 two or more public hearings, consider the evidence, and vote on  
37 whether to authorize litigation to enforce the coordination rights of  
38 the city.

1 (3) If a person who resides or conducts business in the state  
2 serves each member of the legislative body of the city with a written  
3 demand that the city comply with this section, and if within sixty  
4 days after service of the demand, the legislative body fails to  
5 comply with this section in a manner that causes injury to the  
6 person, the person may submit a written demand for a response.  
7 Written response demands under this subsection must specify the city  
8 ordinance, regulation, plan, or policy with which the federal or  
9 state government failed to coordinate. Within thirty days after  
10 receiving the written demand for a response under this subsection,  
11 the legislative body of the city must hold a public hearing to  
12 present information on the decision to not demand coordination.

13 (4) The definitions in this subsection apply throughout this  
14 section unless the context requires otherwise.

15 (a) "City" means an incorporated city or town.

16 (b) "Coordinate" means the action necessary to achieve  
17 coordination.

18 (c) "Coordination" means the process by which the federal or  
19 state government seeks in good faith to reach consistency between a  
20 federal or state law or requirement and a city ordinance, regulation,  
21 plan, or policy.

22 (d) "Less restrictive" means a city ordinance, regulation, plan,  
23 or policy imposes, or would impose, less of a burden on the exercise  
24 of rights, privileges, or immunities enjoyed by individuals,  
25 organizations, and businesses within the jurisdictional boundaries of  
26 the city.

27 NEW SECTION. **Sec. 606.** A new section is added to chapter 35A.21  
28 RCW to read as follows:

29 (1) If the ordinances, regulations, plans, or policies of a city  
30 are less restrictive than applicable federal or state laws or  
31 requirements, the city must demand, by any lawful means, that the  
32 federal or state government coordinate with the city before the  
33 federal or state government implements, enforces, expands, or extends  
34 the federal or state law or requirement within the jurisdictional  
35 boundary of the city. The coordination demand required by this  
36 subsection may be waived through a resolution adopted by a majority  
37 of the city legislative body.

38 (2) If the federal or state government fails to coordinate in  
39 good faith with the city, the legislative body of the city must hold

1 two or more public hearings, consider the evidence, and vote on  
2 whether to authorize litigation to enforce the coordination rights of  
3 the city.

4 (3) If a person who resides or conducts business in the state  
5 serves each member of the legislative body of the city with a written  
6 demand that the city comply with this section, and if within sixty  
7 days after service of the demand, the legislative body fails to  
8 comply with this section in a manner that causes injury to the  
9 person, the person may submit a written demand for a response.  
10 Written response demands under this subsection must specify the city  
11 ordinance, regulation, plan, or policy with which the federal or  
12 state government failed to coordinate. Within thirty days after  
13 receiving the written demand for a response under this subsection,  
14 the legislative body of the city must hold a public hearing to  
15 present information on the decision to not demand coordination.

16 (4) The definitions in this subsection apply throughout this  
17 section unless the context requires otherwise.

18 (a) "City" means any noncharter code city or charter code city.

19 (b) "Coordinate" means the action necessary to achieve  
20 coordination.

21 (c) "Coordination" means the process by which the federal or  
22 state government seeks in good faith to reach consistency between a  
23 federal or state law or requirement and a city ordinance, regulation,  
24 plan, or policy.

25 (d) "Less restrictive" means a city ordinance, regulation, plan,  
26 or policy imposes, or would impose, less of a burden on the exercise  
27 of rights, privileges, or immunities enjoyed by individuals,  
28 organizations, and businesses within the jurisdictional boundaries of  
29 the city.

30 NEW SECTION. **Sec. 607.** A new section is added to chapter 36.01  
31 RCW to read as follows:

32 (1) If the ordinances, regulations, plans, or policies of a  
33 county are less restrictive than applicable federal or state laws or  
34 requirements, the county must demand, by any lawful means, that the  
35 federal or state government coordinate with the county before the  
36 federal or state government implements, enforces, expands, or extends  
37 the federal or state law or requirement within the jurisdictional  
38 boundary of the county. The coordination demand required by this

1 subsection may be waived through a resolution adopted by a majority  
2 of the county legislative body.

3 (2) If the federal or state government fails to coordinate in  
4 good faith with the county, the legislative body of the county must  
5 hold two or more public hearings, consider the evidence, and vote on  
6 whether to authorize litigation to enforce the coordination rights of  
7 the county.

8 (3) If a person who resides or conducts business in the state  
9 serves each member of the legislative body of the county with a  
10 written demand that the county comply with this section, and if  
11 within sixty days after service of the demand, the legislative body  
12 fails to comply with this section in a manner that causes injury to  
13 the person, the person may submit a written demand for a response.  
14 Written response demands under this subsection must specify the  
15 county ordinance, regulation, plan, or policy with which the federal  
16 or state government failed to coordinate. Within thirty days after  
17 receiving the written demand for a response under this subsection,  
18 the legislative body of the county must hold a public hearing to  
19 present information on the decision to not demand coordination.

20 (4) The definitions in this subsection apply throughout this  
21 section unless the context requires otherwise.

22 (a) "Coordinate" means the action necessary to achieve  
23 coordination.

24 (b) "Coordination" means the process by which the federal or  
25 state government seeks in good faith to reach consistency between a  
26 federal or state law or requirement and a county ordinance,  
27 regulation, plan, or policy.

28 (c) "Less restrictive" means a county ordinance, regulation,  
29 plan, or policy imposes, or would impose, less of a burden on the  
30 exercise of rights, privileges, or immunities enjoyed by individuals,  
31 organizations, and businesses within the jurisdictional boundaries of  
32 the county.

33 NEW SECTION. **Sec. 608.** This chapter applies to any special  
34 purpose district. For the purposes of this chapter, "special purpose  
35 district" means any statutorily created unit of local government that  
36 is not a county or city.

37 NEW SECTION. **Sec. 609.** (1) If the ordinances, regulations,  
38 plans, or policies of a special purpose district are less restrictive

1 than applicable federal or state laws or requirements, the special  
2 purpose district must demand, by any lawful means, that the federal  
3 or state government coordinate with the special purpose district  
4 before the federal or state government implements, enforces, expands,  
5 or extends the federal or state law or requirement within the  
6 jurisdictional boundary of the special purpose district. The  
7 coordination demand required by this subsection may be waived through  
8 a resolution adopted by a majority of the special purpose district  
9 legislative body.

10 (2) If the federal or state government fails to coordinate in  
11 good faith with the special purpose district, the legislative body of  
12 the special purpose district must hold two or more public hearings,  
13 consider the evidence, and vote on whether to authorize litigation to  
14 enforce the coordination rights of the special purpose district.

15 (3) If a person who resides or conducts business in the state  
16 serves each member of the legislative body of the special purpose  
17 district with a written demand that the special purpose district  
18 comply with this section, and if within sixty days after service of  
19 the demand, the legislative body fails to comply with this section in  
20 a manner that causes injury to the person, the person may submit a  
21 written demand for a response. Written response demands under this  
22 subsection must specify the special purpose district ordinance,  
23 regulation, plan, or policy with which the federal or state  
24 government failed to coordinate. Within thirty days after receiving  
25 the written demand for a response under this subsection, the  
26 legislative body of the special purpose district must hold a public  
27 hearing to present information on the decision to not demand  
28 coordination.

29 (4) The definitions in this subsection apply throughout this  
30 section unless the context requires otherwise.

31 (a) "Coordinate" means the action necessary to achieve  
32 coordination.

33 (b) "Coordination" means the process by which the federal or  
34 state government seeks in good faith to reach consistency between a  
35 federal or state law or requirement and a special purpose district  
36 ordinance, regulation, plan, or policy.

37 (d) "Less restrictive" means a special purpose district  
38 ordinance, regulation, plan, or policy imposes, or would impose, less  
39 of a burden on the exercise of rights, privileges, or immunities

1 enjoyed by individuals, organizations, and businesses within the  
2 jurisdictional boundaries of the special purpose district.

3 **PART VII**

4 NEW SECTION. **Sec. 701.** A new section is added to chapter 70.94  
5 RCW to read as follows:

6 (1) All decisions on applications under this chapter must be  
7 completed and the decision returned to the applicant within ninety  
8 days of submitting the application. If the ninety-day deadline is not  
9 satisfied, the applicant may file a motion in the appropriate  
10 superior court requesting court approval of the application.

11 (2) If the application is denied either within or after the  
12 ninety-day decision period, the applicant may file a motion in the  
13 appropriate superior court requesting the court to overturn the  
14 decision. This subsection applies notwithstanding, and as an  
15 alternative to, any other provision of law establishing appeal  
16 procedures. Applicants choosing to utilize this appeal authority are  
17 deemed to have satisfied all administrative remedies.

18 **Sec. 702.** RCW 70.94.181 and 1991 c 199 s 306 are each amended to  
19 read as follows:

20 (1) Any person who owns or is in control of any plant, building,  
21 structure, establishment, process or equipment may apply to the  
22 department (~~(of ecology)~~) or appropriate local authority board for a  
23 variance from rules (~~(or regulations)~~) governing the quality, nature,  
24 duration or extent of discharges of air contaminants. The application  
25 shall be accompanied by such information and data as the department  
26 (~~(of ecology)~~) or board may require. The department (~~(of ecology)~~) or  
27 board may grant such variance, provided that variances to state rules  
28 shall require the department's approval prior to being issued by a  
29 local authority board. The total time period for a variance and  
30 renewal of such variance shall not exceed one year. Variances may be  
31 issued by either the department or a local board but only after  
32 public hearing or due notice, if the department or board finds that:

33 (a) The emissions occurring or proposed to occur do not endanger  
34 public health or safety or the environment; and

35 (b) Compliance with the rules (~~(or regulations)~~) from which  
36 variance is sought would produce serious hardship without equal or  
37 greater benefits to the public.

1 (2) No variance shall be granted pursuant to this section until  
2 the department ((~~ef-ecology~~)) or board has considered the relative  
3 interests of the applicant, other owners of property likely to be  
4 affected by the discharges, and the general public.

5 (3) Any variance or renewal thereof shall be granted within the  
6 requirements of subsection (1) of this section and under conditions  
7 consistent with the reasons therefor, and within the following  
8 limitations:

9 (a) If the variance is granted on the ground that there is no  
10 practicable means known or available for the adequate prevention,  
11 abatement, or control of the pollution involved, it shall be only  
12 until the necessary means for prevention, abatement, or control  
13 become known and available, and subject to the taking of any  
14 substitute or alternate measures that the department ((~~ef-ecology~~))  
15 or board may prescribe.

16 (b) If the variance is granted on the ground that compliance with  
17 the particular requirement or requirements from which variance is  
18 sought will require the taking of measures which, because of their  
19 extent or cost, must be spread over a considerable period of time, it  
20 shall be for a period not to exceed such reasonable time as, in the  
21 view of the department ((~~ef-ecology~~)) or board is requisite for the  
22 taking of the necessary measures. A variance granted on the ground  
23 specified herein shall contain a timetable for the taking of action  
24 in an expeditious manner and shall be conditioned on adherence to  
25 such timetable.

26 (c) If the variance is granted on the ground that it is justified  
27 to relieve or prevent hardship of a kind other than that provided for  
28 in (a) and (b) of this subsection, it shall be for not more than one  
29 year.

30 (4) Any variance granted pursuant to this section may be renewed  
31 on terms and conditions and for periods which would be appropriate on  
32 initial granting of a variance. If complaint is made to the  
33 department ((~~ef-ecology~~)) or board on account of the variance, no  
34 renewal thereof shall be granted unless following a public hearing on  
35 the complaint on due notice the department or board finds that  
36 renewal is justified. No renewal shall be granted except on  
37 application therefor. Any such application shall be made at least  
38 sixty days prior to the expiration of the variance. Immediately upon  
39 receipt of an application for renewal, the department ((~~ef-ecology~~))

1 or board shall give public notice of such application in accordance  
2 with rules of the department ((~~ef-ecology~~)) or board.

3 (5) A variance or renewal shall not be a right of the applicant  
4 or holder thereof but shall be granted at the discretion of the  
5 department ((~~ef-ecology~~)) or board. However, any applicant adversely  
6 affected by the denial or the terms and conditions of the granting of  
7 an application for a variance or renewal of a variance by the  
8 department ((~~ef-ecology~~)) or board may obtain judicial review thereof  
9 under the provisions of chapter 34.05 RCW as now or hereafter  
10 amended.

11 (6) Nothing in this section and no variance or renewal granted  
12 pursuant hereto shall be construed to prevent or limit the  
13 application of the emergency provisions and procedures of RCW  
14 70.94.710 through 70.94.730 to any person or his or her property.

15 (7) An application for a variance, or for the renewal thereof,  
16 submitted to the department ((~~ef-ecology~~)) or board pursuant to this  
17 section shall be approved or disapproved by the department or board  
18 within sixty-five days of receipt unless the applicant and the  
19 department ((~~ef-ecology~~)) or board agree to a continuance.

20 (8) Variances approved under this section shall not be included  
21 in orders or permits provided for in RCW 70.94.161 or 70.94.152 until  
22 such time as the variance has been accepted by the United States  
23 environmental protection agency as part of an approved state  
24 implementation plan.

25 (9)(a) All decisions on variances under this section must be  
26 completed and the decision returned to the applicant within ninety  
27 days of submitting the application. If the ninety-day deadline is not  
28 satisfied, the applicant may file a motion in the appropriate  
29 superior court requesting court approval of the application.

30 (b) If the application is denied either within or after the  
31 ninety-day decision period, the applicant may file a motion in the  
32 appropriate superior court requesting the court to overturn the  
33 decision. This subsection applies notwithstanding, and as an  
34 alternative to, any other provision of law establishing appeal  
35 procedures. Applicants choosing to utilize this appeal authority are  
36 deemed to have satisfied all administrative remedies.

37 **Sec. 703.** RCW 76.09.060 and 2012 1st sp.s. c 1 s 206 are each  
38 amended to read as follows:

1 (1) The department shall prescribe the form and contents of the  
2 notification and application. The forest practices rules shall  
3 specify by whom and under what conditions the notification and  
4 application shall be signed or otherwise certified as acceptable.  
5 Activities conducted by the department or a contractor under the  
6 direction of the department under the provisions of RCW 76.04.660,  
7 shall be exempt from the landowner signature requirement on any  
8 forest practices application required to be filed. The application or  
9 notification shall be delivered in person to the department, sent by  
10 first-class mail to the department or electronically filed in a form  
11 defined by the department. The form for electronic filing shall be  
12 readily convertible to a paper copy, which shall be available to the  
13 public pursuant to chapter 42.56 RCW. The information required may  
14 include, but is not limited to:

15 (a) Name and address of the forest landowner, timber owner, and  
16 operator;

17 (b) Description of the proposed forest practice or practices to  
18 be conducted;

19 (c) Legal description and tax parcel identification numbers of  
20 the land on which the forest practices are to be conducted;

21 (d) Planimetric and topographic maps showing location and size of  
22 all lakes and streams and other public waters in and immediately  
23 adjacent to the operating area and showing all existing and proposed  
24 roads and major tractor roads;

25 (e) Description of the silvicultural, harvesting, or other forest  
26 practice methods to be used, including the type of equipment to be  
27 used and materials to be applied;

28 (f) For an application or notification submitted on or after July  
29 10, 2012, that includes a forest practices hydraulic project, plans  
30 and specifications for the forest practices hydraulic project to  
31 ensure the proper protection of fish life;

32 (g) Proposed plan for reforestation and for any revegetation  
33 necessary to reduce erosion potential from roadsides and yarding  
34 roads, as required by the forest practices rules;

35 (h) Soil, geological, and hydrological data with respect to  
36 forest practices;

37 (i) The expected dates of commencement and completion of all  
38 forest practices specified in the application;

1 (j) Provisions for continuing maintenance of roads and other  
2 construction or other measures necessary to afford protection to  
3 public resources;

4 (k) An affirmation that the statements contained in the  
5 notification or application are true; and

6 (1) All necessary application or notification fees.

7 (2) Long range plans may be submitted to the department for  
8 review and consultation.

9 (3) The application for a forest practice or the notification of  
10 a forest practice is subject to the reforestation requirement of RCW  
11 76.09.070.

12 (a) If the application states that any land will be or is  
13 intended to be converted:

14 (i) The reforestation requirements of this chapter and of the  
15 forest practices rules shall not apply if the land is in fact  
16 converted unless applicable alternatives or limitations are provided  
17 in forest practices rules issued under RCW 76.09.070;

18 (ii) Completion of such forest practice operations shall be  
19 deemed conversion of the lands to another use for purposes of  
20 chapters 84.33 and 84.34 RCW unless the conversion is to a use  
21 permitted under a current use tax agreement permitted under chapter  
22 84.34 RCW;

23 (iii) The forest practices described in the application are  
24 subject to applicable county, city, town, and regional governmental  
25 authority permitted under RCW 76.09.240 as well as the forest  
26 practices rules.

27 (b) Except as provided elsewhere in this section, if the  
28 landowner harvests without an approved application or notification or  
29 the landowner does not state that any land covered by the application  
30 or notification will be or is intended to be converted, and the  
31 department or the county, city, town, or regional governmental entity  
32 becomes aware of conversion activities to a use other than commercial  
33 timber operations, as that term is defined in RCW 76.09.020, then the  
34 department shall send to the department of ecology and the  
35 appropriate county, city, town, and regional governmental entities  
36 the following documents:

37 (i) A notice of a conversion to nonforestry use;

38 (ii) A copy of the applicable forest practices application or  
39 notification, if any; and

1 (iii) Copies of any applicable outstanding final orders or  
2 decisions issued by the department related to the forest practices  
3 application or notification.

4 (c) Failure to comply with the reforestation requirements  
5 contained in any final order or decision shall constitute a removal  
6 of designation under the provisions of RCW 84.33.140, and a change of  
7 use under the provisions of RCW 84.34.080, and, if applicable, shall  
8 subject such lands to the payments and/or penalties resulting from  
9 such removals or changes.

10 (d) Conversion to a use other than commercial forest product  
11 operations within six years after approval of the forest practices  
12 application or notification without the consent of the county, city,  
13 or town shall constitute a violation of each of the county, municipal  
14 city, town, and regional authorities to which the forest practice  
15 operations would have been subject if the application had stated an  
16 intent to convert.

17 (e) Land that is the subject of a notice of conversion to a  
18 nonforestry use produced by the department and sent to the department  
19 of ecology and a local government under this subsection is subject to  
20 the development prohibition and conditions provided in RCW 76.09.460.

21 (f) Landowners who have not stated an intent to convert the land  
22 covered by an application or notification and who decide to convert  
23 the land to a nonforestry use within six years of receiving an  
24 approved application or notification must do so in a manner  
25 consistent with RCW 76.09.470.

26 (g) The application or notification must include a statement  
27 requiring an acknowledgment by the forest landowner of his or her  
28 intent with respect to conversion and acknowledging that he or she is  
29 familiar with the effects of this subsection.

30 (4) Whenever an approved application authorizes a forest practice  
31 which, because of soil condition, proximity to a water course or  
32 other unusual factor, has a potential for causing material damage to  
33 a public resource, as determined by the department, the applicant  
34 shall, when requested on the approved application, notify the  
35 department two days before the commencement of actual operations.

36 (5) Before the operator commences any forest practice in a manner  
37 or to an extent significantly different from that described in a  
38 previously approved application or notification, there shall be  
39 submitted to the department a new application or notification form in  
40 the manner set forth in this section.

1 (6)(a) Except as provided in RCW 76.09.350(4), the notification  
2 to or the approval given by the department to an application to  
3 conduct a forest practice shall be effective for a term of three  
4 years from the date of approval or notification.

5 (b) A notification or application may be renewed for an  
6 additional three-year term by the filing and approval of a  
7 notification or application, as applicable, prior to the expiration  
8 of the original application or notification. A renewal application or  
9 notification is subject to the forest practices rules in effect at  
10 the time the renewal application or notification is filed. Nothing in  
11 this section precludes the applicant from applying for a new  
12 application or notification after the renewal period has lapsed.

13 (c) At the option of the applicant, an application or  
14 notification may be submitted to cover a single forest practice or a  
15 number of forest practices within reasonable geographic or political  
16 boundaries as specified by the department. An application or  
17 notification that covers more than one forest practice may have an  
18 effective term of more than three years.

19 (d) The board shall adopt rules that establish standards and  
20 procedures for approving an application or notification that has an  
21 effective term of more than three years. Such rules shall include  
22 extended time periods for application or notification approval or  
23 disapproval. The department may require the applicant to provide  
24 advance notice before commencing operations on an approved  
25 application or notification.

26 (7) Notwithstanding any other provision of this section, no prior  
27 application or notification shall be required for any emergency  
28 forest practice necessitated by fire, flood, windstorm, earthquake,  
29 or other emergency as defined by the board, but the operator shall  
30 submit an application or notification, whichever is applicable, to  
31 the department within forty-eight hours after commencement of such  
32 practice or as required by local regulations.

33 (8) Forest practices applications or notifications are not  
34 required for forest practices conducted to control exotic forest  
35 insect or disease outbreaks, when conducted by or under the direction  
36 of the department of agriculture in carrying out an order of the  
37 governor or director of the department of agriculture to implement  
38 pest control measures as authorized under chapter 17.24 RCW, and are  
39 not required when conducted by or under the direction of the  
40 department in carrying out emergency measures under a forest health

1 emergency declaration by the commissioner of public lands as provided  
2 in RCW 76.06.130.

3 (a) For the purposes of this subsection, exotic forest insect or  
4 disease has the same meaning as defined in RCW 76.06.020.

5 (b) In order to minimize adverse impacts to public resources,  
6 control measures must be based on integrated pest management, as  
7 defined in RCW 17.15.010, and must follow forest practices rules  
8 relating to road construction and maintenance, timber harvest, and  
9 forest chemicals, to the extent possible without compromising control  
10 objectives.

11 (c) Agencies conducting or directing control efforts must provide  
12 advance notice to the appropriate regulatory staff of the department  
13 of the operations that would be subject to exemption from forest  
14 practices application or notification requirements.

15 (d) When the appropriate regulatory staff of the department are  
16 notified under (c) of this subsection, they must consult with the  
17 landowner, interested agencies, and affected tribes, and assist the  
18 notifying agencies in the development of integrated pest management  
19 plans that comply with forest practices rules as required under (b)  
20 of this subsection.

21 (e) Nothing under this subsection relieves agencies conducting or  
22 directing control efforts from requirements of the federal clean  
23 water act as administered by the department of ecology under RCW  
24 90.48.260.

25 (f) Forest lands where trees have been cut as part of an exotic  
26 forest insect or disease control effort under this subsection are  
27 subject to reforestation requirements under RCW 76.09.070.

28 (g) The exemption from obtaining approved forest practices  
29 applications or notifications does not apply to forest practices  
30 conducted after the governor, the director of the department of  
31 agriculture, or the commissioner of public lands have declared that  
32 an emergency no longer exists because control objectives have been  
33 met, that there is no longer an imminent threat, or that there is no  
34 longer a good likelihood of control.

35 (9)(a) All decisions on applications or notifications under this  
36 section must be completed and the decision returned to the applicant  
37 within ninety days of submitting the application. If the ninety-day  
38 deadline is not satisfied, the applicant may file a motion in the  
39 appropriate superior court requesting court approval of the  
40 application.

1       (b) If the application is denied either within or after the  
2 ninety-day decision period, the applicant may file a motion in the  
3 appropriate superior court requesting the court to overturn the  
4 decision. This subsection applies notwithstanding, and as an  
5 alternative to, any other provision of law establishing appeal  
6 procedures. Applicants choosing to utilize this appeal authority are  
7 deemed to have satisfied all administrative remedies.

8       **NEW SECTION. Sec. 704.** A new section is added to chapter 90.48  
9 RCW to read as follows:

10       (1) All decisions on applications under this chapter must be  
11 completed and the decision returned to the applicant within ninety  
12 days of submitting the application. If the ninety-day deadline is not  
13 satisfied, the applicant may file a motion in the appropriate  
14 superior court requesting court approval of the application.

15       (2) If the application is denied either within or after the  
16 ninety-day decision period, the applicant may file a motion in the  
17 appropriate superior court requesting the court to overturn the  
18 decision. This subsection applies notwithstanding, and as an  
19 alternative to, any other provision of law establishing appeal  
20 procedures. Applicants choosing to utilize this appeal authority are  
21 deemed to have satisfied all administrative remedies.

22       **Sec. 705.** RCW 77.55.021 and 2012 1st sp.s. c 1 s 102 are each  
23 amended to read as follows:

24       (1) Except as provided in RCW 77.55.031, 77.55.051, 77.55.041,  
25 and 77.55.361, in the event that any person or government agency  
26 desires to undertake a hydraulic project, the person or government  
27 agency shall, before commencing work thereon, secure the approval of  
28 the department in the form of a permit as to the adequacy of the  
29 means proposed for the protection of fish life.

30       (2) A complete written application for a permit may be submitted  
31 in person or by registered mail and must contain the following:

32       (a) General plans for the overall project;

33       (b) Complete plans and specifications of the proposed  
34 construction or work within the mean higher high water line in  
35 saltwater or within the ordinary high water line in freshwater;

36       (c) Complete plans and specifications for the proper protection  
37 of fish life;

1 (d) Notice of compliance with any applicable requirements of the  
2 state environmental policy act, unless otherwise provided for in this  
3 chapter; and

4 (e) Payment of all applicable application fees charged by the  
5 department under RCW 77.55.321.

6 (3) The department may establish direct billing accounts or other  
7 funds transfer methods with permit applicants to satisfy the fee  
8 payment requirements of RCW 77.55.321.

9 (4) The department may accept complete, written applications as  
10 provided in this section for multiple site permits and may issue  
11 these permits. For multiple site permits, each specific location must  
12 be identified.

13 (5) With the exception of emergency permits as provided in  
14 subsection (~~((12))~~) (13) of this section, applications for permits  
15 must be submitted to the department's headquarters office in Olympia.  
16 Requests for emergency permits as provided in subsection (~~((12))~~)  
17 (13) of this section may be made to the permitting biologist assigned  
18 to the location in which the emergency occurs, to the department's  
19 regional office in which the emergency occurs, or to the department's  
20 headquarters office.

21 (6) Except as provided for emergency permits in subsection  
22 (~~((12))~~) (13) of this section, the department may not proceed with  
23 permit review until all fees are paid in full as required in RCW  
24 77.55.321.

25 (7)(a) Protection of fish life is the only ground upon which  
26 approval of a permit may be denied or conditioned. Approval of a  
27 permit may not be unreasonably withheld or unreasonably conditioned.

28 (b) Except as provided in this subsection and subsections (~~((12)~~  
29 ~~through~~~~(14))~~) (13), (15), and (16) of this section, the department  
30 has forty-five calendar days upon receipt of a complete application  
31 to grant or deny approval of a permit. The forty-five day requirement  
32 is suspended if:

33 (i) After ten working days of receipt of the application, the  
34 applicant remains unavailable or unable to arrange for a timely field  
35 evaluation of the proposed project;

36 (ii) The site is physically inaccessible for inspection;

37 (iii) The applicant requests a delay; or

38 (iv) The department is issuing a permit for a storm water  
39 discharge and is complying with the requirements of RCW  
40 77.55.161(3)(b).

1 (c) Immediately upon determination that the forty-five day period  
2 is suspended under (b) of this subsection, the department shall  
3 notify the applicant in writing of the reasons for the delay.

4 (d) The period of forty-five calendar days may be extended if the  
5 permit is part of a multiagency permit streamlining effort and all  
6 participating permitting agencies and the permit applicant agree to  
7 an extended timeline longer than forty-five calendar days.

8 (8) If the department denies approval of a permit, the department  
9 shall provide the applicant a written statement of the specific  
10 reasons why and how the proposed project would adversely affect fish  
11 life.

12 (a) Except as provided in (b) of this subsection, issuance,  
13 denial, conditioning, or modification of a permit shall be appealable  
14 to the board within thirty days from the date of receipt of the  
15 decision as provided in RCW 43.21B.230.

16 (b) Issuance, denial, conditioning, or modification of a permit  
17 may be informally appealed to the department within thirty days from  
18 the date of receipt of the decision. Requests for informal appeals  
19 must be filed in the form and manner prescribed by the department by  
20 rule. A permit decision that has been informally appealed to the  
21 department is appealable to the board within thirty days from the  
22 date of receipt of the department's decision on the informal appeal.

23 (9)(a) Notwithstanding the forty-five day decision timeline  
24 required in this section, all decisions on applications under this  
25 section must be completed and the decision returned to the applicant  
26 no longer than ninety days of submitting the application. If the  
27 ninety-day deadline is not satisfied, the applicant may file a motion  
28 in the appropriate superior court requesting court approval of the  
29 application.

30 (b) If the application is denied either within or after the  
31 ninety-day decision period, the applicant may file a motion in the  
32 appropriate superior court requesting the court to overturn the  
33 decision. This subsection applies notwithstanding, and as an  
34 alternative to, any other provision of law establishing appeal  
35 procedures. Applicants choosing to utilize this appeal authority are  
36 deemed to have satisfied all administrative remedies.

37 (10)(a) The permittee must demonstrate substantial progress on  
38 construction of that portion of the project relating to the permit  
39 within two years of the date of issuance.

1 (b) Approval of a permit is valid for up to five years from the  
2 date of issuance, except as provided in (c) of this subsection and in  
3 RCW 77.55.151.

4 (c) A permit remains in effect without need for periodic renewal  
5 for hydraulic projects that divert water for agricultural irrigation  
6 or stock watering purposes and that involve seasonal construction or  
7 other work. A permit for stream bank stabilization projects to  
8 protect farm and agricultural land as defined in RCW 84.34.020  
9 remains in effect without need for periodic renewal if the problem  
10 causing the need for the stream bank stabilization occurs on an  
11 annual or more frequent basis. The permittee must notify the  
12 appropriate agency before commencing the construction or other work  
13 within the area covered by the permit.

14 (~~(10)~~) (11) The department may, after consultation with the  
15 permittee, modify a permit due to changed conditions. A modification  
16 under this subsection is not subject to the fees provided under RCW  
17 77.55.321. The modification is appealable as provided in subsection  
18 (8) of this section. For a hydraulic project that diverts water for  
19 agricultural irrigation or stock watering purposes, when the  
20 hydraulic project or other work is associated with stream bank  
21 stabilization to protect farm and agricultural land as defined in RCW  
22 84.34.020, the burden is on the department to show that changed  
23 conditions warrant the modification in order to protect fish life.

24 (~~(11)~~) (12) A permittee may request modification of a permit  
25 due to changed conditions. The request must be processed within  
26 forty-five calendar days of receipt of the written request and  
27 payment of applicable fees under RCW 77.55.321. A decision by the  
28 department is appealable as provided in subsection (8) of this  
29 section. For a hydraulic project that diverts water for agricultural  
30 irrigation or stock watering purposes, when the hydraulic project or  
31 other work is associated with stream bank stabilization to protect  
32 farm and agricultural land as defined in RCW 84.34.020, the burden is  
33 on the permittee to show that changed conditions warrant the  
34 requested modification and that such a modification will not impair  
35 fish life.

36 (~~(12)~~) (13)(a) The department, the county legislative  
37 authority, or the governor may declare and continue an emergency. If  
38 the county legislative authority declares an emergency under this  
39 subsection, it shall immediately notify the department. A declared

1 state of emergency by the governor under RCW 43.06.010 shall  
2 constitute a declaration under this subsection.

3 (b) The department, through its authorized representatives, shall  
4 issue immediately, upon request, verbal approval for a stream  
5 crossing, or work to remove any obstructions, repair existing  
6 structures, restore stream banks, protect fish life, or protect  
7 property threatened by the stream or a change in the streamflow  
8 without the necessity of obtaining a written permit prior to  
9 commencing work. Conditions of the emergency verbal permit must be  
10 reduced to writing within thirty days and complied with as provided  
11 for in this chapter.

12 (c) The department may not require the provisions of the state  
13 environmental policy act, chapter 43.21C RCW, to be met as a  
14 condition of issuing a permit under this subsection.

15 (d) The department may not charge a person requesting an  
16 emergency permit any of the fees authorized by RCW 77.55.321 until  
17 after the emergency permit is issued and reduced to writing.

18 ~~((+13+))~~ (14) All state and local agencies with authority under  
19 this chapter to issue permits or other authorizations in connection  
20 with emergency water withdrawals and facilities authorized under RCW  
21 43.83B.410 shall expedite the processing of such permits or  
22 authorizations in keeping with the emergency nature of such requests  
23 and shall provide a decision to the applicant within fifteen calendar  
24 days of the date of application.

25 ~~((+14+))~~ (15) The department or the county legislative authority  
26 may determine an imminent danger exists. The county legislative  
27 authority shall notify the department, in writing, if it determines  
28 that an imminent danger exists. In cases of imminent danger, the  
29 department shall issue an expedited written permit, upon request, for  
30 work to remove any obstructions, repair existing structures, restore  
31 banks, protect fish resources, or protect property. Expedited permit  
32 requests require a complete written application as provided in  
33 subsection (2) of this section and must be issued within fifteen  
34 calendar days of the receipt of a complete written application.  
35 Approval of an expedited permit is valid for up to sixty days from  
36 the date of issuance. The department may not require the provisions  
37 of the state environmental policy act, chapter 43.21C RCW, to be met  
38 as a condition of issuing a permit under this subsection.

39 ~~((+15+))~~ (16)(a) For any property, except for property located on  
40 a marine shoreline, that has experienced at least two consecutive

1 years of flooding or erosion that has damaged or has threatened to  
2 damage a major structure, water supply system, septic system, or  
3 access to any road or highway, the county legislative authority may  
4 determine that a chronic danger exists. The county legislative  
5 authority shall notify the department, in writing, when it determines  
6 that a chronic danger exists. In cases of chronic danger, the  
7 department shall issue a permit, upon request, for work necessary to  
8 abate the chronic danger by removing any obstructions, repairing  
9 existing structures, restoring banks, restoring road or highway  
10 access, protecting fish resources, or protecting property. Permit  
11 requests must be made and processed in accordance with subsections  
12 (2) and (7) of this section.

13 (b) Any projects proposed to address a chronic danger identified  
14 under (a) of this subsection that satisfies the project description  
15 identified in RCW 77.55.181(1)(a)(ii) are not subject to the  
16 provisions of the state environmental policy act, chapter 43.21C RCW.  
17 However, the project is subject to the review process established in  
18 RCW 77.55.181(3) as if it were a fish habitat improvement project.

19 ~~((16))~~ (17) The department may issue an expedited written  
20 permit in those instances where normal permit processing would result  
21 in significant hardship for the applicant or unacceptable damage to  
22 the environment. Expedited permit requests require a complete written  
23 application as provided in subsection (2) of this section and must be  
24 issued within fifteen calendar days of the receipt of a complete  
25 written application. Approval of an expedited permit is valid for up  
26 to sixty days from the date of issuance. The department may not  
27 require the provisions of the state environmental policy act, chapter  
28 43.21C RCW, to be met as a condition of issuing a permit under this  
29 subsection.

30 NEW SECTION. **Sec. 706.** A new section is added to chapter 90.76  
31 RCW to read as follows:

32 (1) All decisions on license applications under this chapter must  
33 be completed and the decision returned to the applicant within ninety  
34 days of submitting the application. If the ninety-day deadline is not  
35 satisfied, the applicant may file a motion in the appropriate  
36 superior court requesting court approval of the application.

37 (2) If the license application is denied either within or after  
38 the ninety-day decision period, the applicant may file a motion in  
39 the appropriate superior court requesting the court to overturn the

1 decision. This subsection applies notwithstanding, and as an  
2 alternative to, any other provision of law establishing appeal  
3 procedures. Applicants choosing to utilize this appeal authority are  
4 deemed to have satisfied all administrative remedies.

5 **Sec. 707.** RCW 78.44.081 and 1997 c 192 s 1 are each amended to  
6 read as follows:

7 (1) After July 1, 1993, no miner or permit holder may engage in  
8 surface mining without having first obtained a reclamation permit  
9 from the department. Operating permits issued by the department  
10 between January 1, 1971, and June 30, 1993, shall be considered  
11 reclamation permits. A separate permit shall be required for each  
12 noncontiguous surface mine. The reclamation permit shall consist of  
13 the permit forms and any exhibits attached thereto. The permit holder  
14 shall comply with the provisions of the reclamation permit unless  
15 waived and explained in writing by the department.

16 (2) Prior to receiving a reclamation permit, an applicant must  
17 submit an application on forms provided by the department that shall  
18 contain the following information and shall be considered part of the  
19 reclamation permit:

20 ~~((1))~~ (a) Name and address of the legal landowner, or purchaser  
21 of the land under a real estate contract;

22 ~~((2))~~ (b) The name of the applicant and, if the applicants are  
23 corporations or other business entities, the names and addresses of  
24 their principal officers and resident agent for service of process;

25 ~~((3))~~ (c) A reasonably accurate description of the minerals to  
26 be surface mined;

27 ~~((4))~~ (d) Type of surface mining to be performed;

28 ~~((5))~~ (e) Estimated starting date, date of completion, and date  
29 of completed reclamation of surface mining;

30 ~~((6))~~ (f) Size and legal description of the permit area and  
31 maximum lateral and vertical extent of the disturbed area;

32 ~~((7))~~ (g) Expected area to be disturbed by surface mining  
33 during ~~((a))~~ (i) the next twelve months, and ~~((b))~~ (ii) the  
34 following twenty-four months;

35 ~~((8))~~ (h) Any applicable SEPA documents; and

36 ~~((9))~~ (i) Other pertinent data as required by the department.

37 (3) The reclamation permit shall be granted for the period  
38 required to deplete essentially all minerals identified in the  
39 reclamation permit on the land covered by the reclamation plan. The

1 reclamation permit shall be valid until the reclamation is complete  
2 unless the permit is canceled by the department.

3 (4)(a) All decisions on applications under this chapter must be  
4 completed and the decision returned to the applicant within ninety  
5 days of submitting the application. If the ninety-day deadline is not  
6 satisfied, the applicant may file a motion in the appropriate  
7 superior court requesting court approval of the application.

8 (b) If the application is denied either within or after the  
9 ninety-day decision period, the applicant may file a motion in the  
10 appropriate superior court requesting the court to overturn the  
11 decision. This subsection applies notwithstanding, and as an  
12 alternative to, any other provision of law establishing appeal  
13 procedures. Applicants choosing to utilize this appeal authority are  
14 deemed to have satisfied all administrative remedies.

15 NEW SECTION. Sec. 708. A new section is added to chapter 18.104  
16 RCW to read as follows:

17 (1) All decisions on applications under this chapter must be  
18 completed and the decision returned to the applicant within ninety  
19 days of submitting the application. If the ninety-day deadline is not  
20 satisfied, the applicant may file a motion in the appropriate  
21 superior court requesting court approval of the application.

22 (2) If the application is denied either within or after the  
23 ninety-day decision period, the applicant may file a motion in the  
24 appropriate superior court requesting the court to overturn the  
25 decision. This subsection applies notwithstanding, and as an  
26 alternative to, any other provision of law establishing appeal  
27 procedures. Applicants choosing to utilize this appeal authority are  
28 deemed to have satisfied all administrative remedies.

29 **Sec. 709.** RCW 86.16.025 and 1995 c 8 s 4 are each amended to  
30 read as follows:

31 (1) Subject to RCW 43.21A.068, with respect to such features as  
32 may affect flood conditions, the department shall have authority to  
33 examine, approve, or reject designs and plans for any structure or  
34 works, public or private, to be erected or built or to be  
35 reconstructed or modified upon the banks or in or over the channel or  
36 over and across the floodway of any stream or body of water in this  
37 state.

1       (2)(a) All decisions on applications under this chapter must be  
2 completed and the decision returned to the applicant within ninety  
3 days of submitting the application. If the ninety-day deadline is not  
4 satisfied, the applicant may file a motion in the appropriate  
5 superior court requesting court approval of the application.

6       (b) If the application is denied either within or after the  
7 ninety-day decision period, the applicant may file a motion in the  
8 appropriate superior court requesting the court to overturn the  
9 decision. This subsection applies notwithstanding, and as an  
10 alternative to, any other provision of law establishing appeal  
11 procedures. Applicants choosing to utilize this appeal authority are  
12 deemed to have satisfied all administrative remedies.

13       **Sec. 710.** RCW 70.95.205 and 1998 c 36 s 18 are each amended to  
14 read as follows:

15       (1) Waste-derived soil amendments that meet the standards and  
16 criteria in this section may apply for exemption from solid waste  
17 permitting as required under RCW 70.95.170. The application shall be  
18 submitted to the department in a format determined by the department  
19 or an equivalent format. The application shall include:

20       (a) Analytical data showing that the waste-derived soil  
21 amendments meet standards established under RCW 15.54.800; and

22       (b) Other information deemed appropriate by the department to  
23 protect human health and the environment.

24       (2) After receipt of an application, the department shall review  
25 it to determine whether the application is complete, and forward a  
26 copy of the complete application to all interested jurisdictional  
27 health departments for review and comment. Within forty-five days,  
28 the jurisdictional health departments shall forward their comments  
29 and any other information they deem relevant to the department, which  
30 shall then give final approval or disapproval of the application.  
31 Every complete application shall be approved or disapproved by the  
32 department within ninety days after receipt. If the ninety-day  
33 deadline is not satisfied, the applicant may file a motion in the  
34 appropriate superior court requesting court approval of the  
35 application. If the application is denied either within or after the  
36 ninety-day decision period, the applicant may file a motion in the  
37 appropriate superior court requesting the court to overturn the  
38 decision. This subsection applies notwithstanding, and as an  
39 alternative to, any other provision of law establishing appeal

1 procedures. Applicants choosing to utilize this appeal authority are  
2 deemed to have satisfied all administrative remedies.

3 (3) The department, after providing opportunity for comments from  
4 the jurisdictional health departments, may at any time revoke an  
5 exemption granted under this section if the quality or use of the  
6 waste-derived soil amendment changes or the management, storage, or  
7 end use of the waste-derived soil amendment constitutes a threat to  
8 human health or the environment.

9 (4) Any aggrieved party may appeal the determination by the  
10 department in subsection (2) or (3) of this section to the pollution  
11 control hearings board.

12 **Sec. 711.** RCW 15.54.820 and 1998 c 36 s 16 are each amended to  
13 read as follows:

14 (1) After receipt from the department of the completed  
15 application required by RCW 15.54.325, the department of ecology  
16 shall evaluate whether the use of the proposed waste-derived  
17 fertilizer or the micronutrient fertilizer as defined in RCW  
18 15.54.270 is consistent with the following:

- 19 (a) Chapter 70.95 RCW, the solid waste management act;  
20 (b) Chapter 70.105 RCW, the hazardous waste management act; and  
21 (c) 42 U.S.C. Sec. 6901 et seq., the resource conservation and  
22 recovery act.

23 (2) The department of ecology shall apply the standards adopted  
24 in RCW 15.54.800. If more stringent standards apply under chapter  
25 173-303 WAC for the same constituents, the department of ecology must  
26 use the more stringent standards.

27 (3) Within sixty days of receiving the completed application, the  
28 department of ecology shall advise the department as to whether the  
29 application complies with the requirements of subsections (1) and (2)  
30 of this section. In making a determination, the department of ecology  
31 shall consult with the department of health and the department of  
32 labor and industries.

33 (4) A party aggrieved by a decision of the department of ecology  
34 to issue a written approval under this section or to deny the  
35 issuance of such an approval may appeal the decision to the pollution  
36 control hearings board within thirty days of the decision. Review of  
37 such a decision shall be conducted in accordance with either  
38 subsection (5) of this section or with chapter 43.21B RCW((-)), with

1 any subsequent appeal of a decision of the hearings board (~~shall~~  
2 be)) obtained in accordance with RCW 43.21B.180.

3 (5)(a) All decisions on applications under this chapter must be  
4 completed and the decision returned to the applicant within ninety  
5 days of submitting the application. If the ninety-day deadline is not  
6 satisfied, the applicant may file a motion in the appropriate  
7 superior court requesting court approval of the application.

8 (b) If the application is denied either within or after the  
9 ninety-day decision period, the applicant may file a motion in the  
10 appropriate superior court requesting the court to overturn the  
11 decision. This subsection applies notwithstanding, and as an  
12 alternative to, any other provision of law establishing appeal  
13 procedures. Applicants choosing to utilize this appeal authority are  
14 deemed to have satisfied all administrative remedies.

15 **Sec. 712.** RCW 43.21C.033 and 1995 c 347 s 422 are each amended  
16 to read as follows:

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

27 (b) If the ninety-day deadline is not satisfied, the applicant  
28 may file a motion in the appropriate superior court requesting court  
29 approval of the application. If the application is denied either  
30 within or after the ninety-day decision period, the applicant may  
31 file a motion in the appropriate superior court requesting the court  
32 to overturn the decision. This subsection applies notwithstanding,  
33 and as an alternative to, any other provision of law establishing  
34 appeal procedures. Applicants choosing to utilize this appeal  
35 authority are deemed to have satisfied all administrative remedies.

36 (2) Subsection (1)(a) of this section shall not apply to a city,  
37 town, or county that:

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

4 (b) Is planning under RCW 36.70A.040 (~~and is subject to the~~  
5 ~~requirements of RCW 36.70B.090~~)).

6 **Sec. 713.** RCW 77.115.040 and 2011 c 339 s 37 are each amended to  
7 read as follows:

8 (1) All aquatic farmers, as defined in RCW 15.85.020, shall  
9 register with the department. The application fee is one hundred five  
10 dollars. The director shall assign each aquatic farm a unique  
11 registration number and develop and maintain in an electronic  
12 database a registration list of all aquaculture farms. The department  
13 shall establish procedures to annually update the aquatic farmer  
14 information contained in the registration list. The department shall  
15 coordinate with the department of health using shellfish growing area  
16 certification data when updating the registration list.

17 (2)(a) All decisions on registrations under this chapter must be  
18 completed and the decision returned to the applicant within ninety  
19 days of submitting the registrations. If the ninety-day deadline is  
20 not satisfied, the applicant may file a motion in the appropriate  
21 superior court requesting court approval of the application.

22 (b) If the application is denied either within or after the  
23 ninety-day decision period, the applicant may file a motion in the  
24 appropriate superior court requesting the court to overturn the  
25 decision. This subsection applies notwithstanding, and as an  
26 alternative to, any other provision of law establishing appeal  
27 procedures. Applicants choosing to utilize this appeal authority are  
28 deemed to have satisfied all administrative remedies.

29 (3) Registered aquaculture farms shall provide the department  
30 with the following information:

31 (a) The name of the aquatic farmer;

32 (b) The address of the aquatic farmer;

33 (c) Contact information such as telephone, fax, web site, and e-  
34 mail address, if available;

35 (d) The number and location of acres under cultivation, including  
36 a map displaying the location of the cultivated acres;

37 (e) The name of the landowner of the property being cultivated or  
38 otherwise used in the aquatic farming operation;

- 1 (f) The private sector cultured aquatic product being propagated,  
2 farmed, or cultivated; and  
3 (g) Statistical production data.  
4 (~~(3)~~) (4) The state veterinarian shall be provided with  
5 registration and statistical data by the department.

6 NEW SECTION. Sec. 714. A new section is added to chapter 69.30  
7 RCW to read as follows:

8 (1) All decisions on applications under this chapter must be  
9 completed and the decision returned to the applicant within ninety  
10 days of submitting the application. If the ninety-day deadline is not  
11 satisfied, the applicant may file a motion in the appropriate  
12 superior court requesting court approval of the application.

13 (2) If the application is denied either within or after the  
14 ninety-day decision period, the applicant may file a motion in the  
15 appropriate superior court requesting the court to overturn the  
16 decision. This subsection applies notwithstanding, and as an  
17 alternative to, any other provision of law establishing appeal  
18 procedures. Applicants choosing to utilize this appeal authority are  
19 deemed to have satisfied all administrative remedies.

20 NEW SECTION. Sec. 715. A new section is added to chapter 90.64  
21 RCW to read as follows:

22 (1) All decisions on applications under this chapter must be  
23 completed and the decision returned to the applicant within ninety  
24 days of submitting the application. If the ninety-day deadline is not  
25 satisfied, the applicant may file a motion in the appropriate  
26 superior court requesting court approval of the application.

27 (2) If the application is denied either within or after the  
28 ninety-day decision period, the applicant may file a motion in the  
29 appropriate superior court requesting the court to overturn the  
30 decision. This subsection applies notwithstanding, and as an  
31 alternative to, any other provision of law establishing appeal  
32 procedures. Applicants choosing to utilize this appeal authority are  
33 deemed to have satisfied all administrative remedies.

34 NEW SECTION. Sec. 716. A new section is added to chapter 15.58  
35 RCW to read as follows:

36 (1) All decisions on applications under this chapter must be  
37 completed and the decision returned to the applicant within ninety

1 days of submitting the application. If the ninety-day deadline is not  
2 satisfied, the applicant may file a motion in the appropriate  
3 superior court requesting court approval of the application.

4 (2) If the application is denied either within or after the  
5 ninety-day decision period, the applicant may file a motion in the  
6 appropriate superior court requesting the court to overturn the  
7 decision. This subsection applies notwithstanding, and as an  
8 alternative to, any other provision of law establishing appeal  
9 procedures. Applicants choosing to utilize this appeal authority are  
10 deemed to have satisfied all administrative remedies.

11 NEW SECTION. **Sec. 717.** A new section is added to chapter 17.21  
12 RCW to read as follows:

13 (1) All decisions on applications under this chapter must be  
14 completed and the decision returned to the applicant within ninety  
15 days of submitting the application. If the ninety-day deadline is not  
16 satisfied, the applicant may file a motion in the appropriate  
17 superior court requesting court approval of the application.

18 (2) If the application is denied either within or after the  
19 ninety-day decision period, the applicant may file a motion in the  
20 appropriate superior court requesting the court to overturn the  
21 decision. This subsection applies notwithstanding, and as an  
22 alternative to, any other provision of law establishing appeal  
23 procedures. Applicants choosing to utilize this appeal authority are  
24 deemed to have satisfied all administrative remedies.

25 **Sec. 718.** RCW 16.65.030 and 2003 c 326 s 65 are each amended to  
26 read as follows:

27 (1) No person shall operate a public livestock market without  
28 first having obtained a license from the director. Application for a  
29 license shall be in writing on forms prescribed by the director, and  
30 shall include the following:

31 (a) A nonrefundable original license application fee of two  
32 thousand dollars.

33 (b) A legal description of the property upon which the public  
34 livestock market shall be located.

35 (c) A complete description and blueprints or plans of the public  
36 livestock market physical plant, yards, pens, and all facilities the  
37 applicant proposes to use in the operation of such public livestock  
38 market.

1 (d) A financial statement, audited by a certified or licensed  
2 public accountant, to determine whether or not the applicant meets  
3 the minimum net worth requirements, established by the director by  
4 rule, to construct and/or operate a public livestock market. If the  
5 applicant is a subsidiary of a larger company, corporation, society,  
6 or cooperative association, both the parent company and the  
7 subsidiary company must submit a financial statement to determine  
8 whether or not the applicant meets the minimum net worth  
9 requirements. All financial statement information required by this  
10 subsection is confidential information and not subject to public  
11 disclosure.

12 (e) The schedule of rates and charges the applicant proposes to  
13 impose on the owners of livestock for services rendered in the  
14 operation of such livestock market.

15 (f) The weekly or monthly sales day or days on which the  
16 applicant proposes to operate his or her public livestock market  
17 sales and the class of livestock that may be sold on these days.

18 (g) Projected source and quantity of livestock anticipated to be  
19 handled.

20 (h) Projected gross dollar volume of business to be carried on,  
21 at, or through the public livestock market during the first year's  
22 operation.

23 (i) Facts upon which is based the conclusion that the trade area  
24 and the livestock industry will benefit because of the proposed  
25 market.

26 (j) Other information as the director may require by rule.

27 (2) If the director determines that the applicant meets all the  
28 requirements of subsection (1) of this section, the director shall  
29 conduct a public hearing as provided by chapter 34.05 RCW, and shall  
30 grant or deny an application for original license for a public  
31 livestock market after considering evidence and testimony relating to  
32 the requirements of this section and giving reasonable consideration  
33 to:

34 (a) Benefits to the livestock industry to be derived from the  
35 establishment and operation of the public livestock market proposed  
36 in the application;

37 (b) The geographical area that will be affected;

38 (c) The conflict, if any, with sales days already allocated in  
39 the area;

1 (d) The amount and class of livestock available for marketing in  
2 the area;

3 (e) Buyers available to the proposed market; and

4 (f) Any other conditions affecting the orderly marketing of  
5 livestock.

6 (3) Before a license is issued to operate a public livestock  
7 market, the applicant must:

8 (a) Execute and deliver to the director a surety bond as required  
9 under RCW 16.65.200;

10 (b) Provide evidence of a custodial account, as required under  
11 RCW 16.65.140, for the consignor's proceeds;

12 (c) Pay the appropriate license fee; and

13 (d) Provide other information required under this chapter and  
14 rules adopted under this chapter.

15 (4)(a) All decisions under this section must be completed and the  
16 decision returned to the applicant within ninety days of submitting  
17 the registrations. If the ninety-day deadline is not satisfied, the  
18 applicant may file a motion in the appropriate superior court  
19 requesting court approval of the application.

20 (b) If the application is denied either within or after the  
21 ninety-day decision period, the applicant may file a motion in the  
22 appropriate superior court requesting the court to overturn the  
23 decision. This subsection applies notwithstanding, and as an  
24 alternative to, any other provision of law establishing appeal  
25 procedures. Applicants choosing to utilize this appeal authority are  
26 deemed to have satisfied all administrative remedies.

27 NEW SECTION. Sec. 719. A new section is added to chapter 70.95J  
28 RCW to read as follows:

29 (1) All decisions on applications under this chapter must be  
30 completed and the decision returned to the applicant within ninety  
31 days of submitting the application. If the ninety-day deadline is not  
32 satisfied, the applicant may file a motion in the appropriate  
33 superior court requesting court approval of the application.

34 (2) If the application is denied either within or after the  
35 ninety-day decision period, the applicant may file a motion in the  
36 appropriate superior court requesting the court to overturn the  
37 decision. This subsection applies notwithstanding, and as an  
38 alternative to, any other provision of law establishing appeal

1 procedures. Applicants choosing to utilize this appeal authority are  
2 deemed to have satisfied all administrative remedies.

3 **Sec. 720.** RCW 70.119A.110 and 2011 c 102 s 1 are each amended to  
4 read as follows:

5 (1) No person may operate a group A public water system unless  
6 the person first submits an application to the department and  
7 receives an operating permit as provided in this section. A new  
8 application must be submitted upon any change in ownership of the  
9 system.

10 (2) The department may require that each application include the  
11 information that is reasonable and necessary to determine that the  
12 system complies with applicable standards and requirements of the  
13 federal safe drinking water act, state law, and rules adopted by the  
14 department or by the state board of health.

15 (3)(a) Following its review of the application, its supporting  
16 material, and any information received by the department in its  
17 investigation of the application, the department shall issue or deny  
18 the operating permit. The department shall act on initial permit  
19 applications as expeditiously as possible, and shall in all cases  
20 either grant or deny the application within (~~one hundred twenty~~)  
21 ninety days of receipt of the application or of any supplemental  
22 information required to complete the application.

23 (b) The applicant for a permit shall be entitled to two different  
24 appeals pathways:

25 (i) The applicant may file an appeal in accordance with chapter  
26 34.05 RCW if the department denies the initial or subsequent  
27 applications or imposes conditions or requirements upon the operator.  
28 Any operator of a public water system that requests a hearing may  
29 continue to operate the system until a decision is issued after the  
30 hearing.

31 (ii) In the alternative, if the ninety-day deadline is not  
32 satisfied, the applicant may file a motion in the appropriate  
33 superior court requesting court approval of the application. If the  
34 application is denied either within or after the ninety-day decision  
35 period, the applicant may file a motion in the appropriate superior  
36 court requesting the court to overturn the decision. This subsection  
37 applies notwithstanding, and as an alternative to, any other  
38 provision of law establishing appeal procedures. Applicants choosing

1 to utilize this appeal authority are deemed to have satisfied all  
2 administrative remedies.

3 (4) At the time of initial permit application or at the time of  
4 permit renewal the department may impose such permit conditions,  
5 requirements for system improvements, and compliance schedules as it  
6 determines are reasonable and necessary to ensure that the system  
7 will provide a safe and reliable water supply to its users.

8 (5) Operating permits shall be issued for a term of one year, and  
9 shall be renewed annually, unless the operator fails to apply for a  
10 new permit or the department finds good cause to deny the application  
11 for renewal.

12 (6) Each application shall be accompanied by an annual fee.

13 (7) The department shall adopt rules, in accordance with chapter  
14 34.05 RCW, necessary to implement this section.

15 (8) The department shall establish by rule categories of annual  
16 operating permit fees based on system size, complexity, and number of  
17 service connections. Fees charged must be sufficient to cover, but  
18 may not exceed, the costs to the department of administering a  
19 program for safe and reliable drinking water. The department shall  
20 use operating permit fees to monitor and enforce compliance by group  
21 A public water systems with state and federal laws that govern  
22 planning, water use efficiency, design, construction, operation,  
23 maintenance, financing, management, and emergency response.

24 (9) The annual per-connection fee may not exceed one dollar and  
25 fifty cents. The department shall phase-in implementation of any  
26 annual fee increase greater than ten percent, and shall establish the  
27 schedule for implementation by rule. Rules established by the  
28 department prior to 2020 must limit the annual operating permit fee  
29 for any public water system to no greater than one hundred thousand  
30 dollars.

31 (10) The department shall notify existing public water systems of  
32 the requirements of RCW 70.119A.030, 70.119A.060, and this section at  
33 least one hundred twenty days prior to the date that an application  
34 for a permit is required pursuant to RCW 70.119A.030, 70.119A.060,  
35 and this section.

36 (11) The department shall issue one operating permit to any  
37 approved satellite system management agency. Operating permit fees  
38 for approved satellite system management agencies must be established  
39 by the department by rule. Rules established by the department must

1 set a single fee based on the total number of connections for all  
2 group A public water systems owned by a satellite management agency.

3 (12) For purposes of this section, "group A public water system"  
4 and "system" mean those water systems with fifteen or more service  
5 connections, regardless of the number of people; or a system serving  
6 an average of twenty-five or more people per day for sixty or more  
7 days within a calendar year, regardless of the number of service  
8 connections.

9 **Sec. 721.** RCW 90.03.350 and 1995 c 8 s 6 are each amended to  
10 read as follows:

11 (1) Except as provided in RCW 43.21A.068, any person, corporation  
12 or association intending to construct or modify any dam or  
13 controlling works for the storage of ten acre feet or more of water,  
14 shall before beginning said construction or modification, submit  
15 plans and specifications of the same to the department for  
16 examination and approval as to its safety. Such plans and  
17 specifications shall be submitted in duplicate, one copy of which  
18 shall be retained as a public record, by the department, and the  
19 other returned with its approval or rejection endorsed thereon. No  
20 such dam or controlling works shall be constructed or modified until  
21 the same or any modification thereof shall have been approved as to  
22 its safety by the department. Any such dam or controlling works  
23 constructed or modified in any manner other than in accordance with  
24 plans and specifications approved by the department or which shall  
25 not be maintained in accordance with the order of the department  
26 shall be presumed to be a public nuisance and may be abated in the  
27 manner provided by law, and it shall be the duty of the attorney  
28 general or prosecuting attorney of the county wherein such dam or  
29 controlling works, or the major portion thereof, is situated to  
30 institute abatement proceedings against the owner or owners of such  
31 dam or controlling works, whenever he or she is requested to do so by  
32 the department.

33 (2) A metals mining and milling operation regulated under chapter  
34 232, Laws of 1994 is subject to additional dam safety inspection  
35 requirements due to the special hazards associated with failure of a  
36 tailings pond impoundment. The department shall inspect these  
37 impoundments at least quarterly during the project's operation and at  
38 least annually thereafter for the postclosure monitoring period in  
39 order to ensure the safety of the dam or controlling works. The

1 department shall conduct additional inspections as needed during the  
2 construction phase of the mining operation in order to ensure the  
3 safe construction of the tailings impoundment.

4 (3)(a) All decisions on plan applications under this section must  
5 be completed and the decision returned to the applicant within ninety  
6 days of submitting the application. If the ninety-day deadline is not  
7 satisfied, the applicant may file a motion in the appropriate  
8 superior court requesting court approval of the application.

9 (b) If the application is denied either within or after the  
10 ninety-day decision period, the applicant may file a motion in the  
11 appropriate superior court requesting the court to overturn the  
12 decision. This subsection applies notwithstanding, and as an  
13 alternative to, any other provision of law establishing appeal  
14 procedures. Applicants choosing to utilize this appeal authority are  
15 deemed to have satisfied all administrative remedies.

16 **Sec. 722.** RCW 90.03.370 and 2003 c 329 s 1 are each amended to  
17 read as follows:

18 (1)(a) All applications for reservoir permits are subject to the  
19 provisions of RCW 90.03.250 through 90.03.320. But the party or  
20 parties proposing to apply to a beneficial use the water stored in  
21 any such reservoir shall also file an application for a permit, to be  
22 known as the secondary permit, which shall be in compliance with the  
23 provisions of RCW 90.03.250 through 90.03.320. Such secondary  
24 application shall refer to such reservoir as its source of water  
25 supply and shall show documentary evidence that an agreement has been  
26 entered into with the owners of the reservoir for a permanent and  
27 sufficient interest in said reservoir to impound enough water for the  
28 purposes set forth in said application. When the beneficial use has  
29 been completed and perfected under the secondary permit, the  
30 department shall take the proof of the water users under such permit  
31 and the final certificate of appropriation shall refer to both the  
32 ditch and works described in the secondary permit and the reservoir  
33 described in the primary permit. The department may accept for  
34 processing a single application form covering both a proposed  
35 reservoir and a proposed secondary permit or permits for use of water  
36 from that reservoir.

37 (b) The department shall expedite processing applications for the  
38 following types of storage proposals:

1 (i) Development of storage facilities that will not require a new  
2 water right for diversion or withdrawal of the water to be stored;

3 (ii) Adding or changing one or more purposes of use of stored  
4 water;

5 (iii) Adding to the storage capacity of an existing storage  
6 facility; and

7 (iv) Applications for secondary permits to secure use from  
8 existing storage facilities.

9 (c) A secondary permit for the beneficial use of water shall not  
10 be required for use of water stored in a reservoir where the water  
11 right for the source of the stored water authorizes the beneficial  
12 use.

13 (2)(a) All decisions on applications under this section must be  
14 completed and the decision returned to the applicant within ninety  
15 days of submitting the application. If the ninety-day deadline is not  
16 satisfied, the applicant may file a motion in the appropriate  
17 superior court requesting court approval of the application.

18 (b) If the application is denied either within or after the  
19 ninety-day decision period, the applicant may file a motion in the  
20 appropriate superior court requesting the court to overturn the  
21 decision. This subsection applies notwithstanding, and as an  
22 alternative to, any other provision of law establishing appeal  
23 procedures. Applicants choosing to utilize this appeal authority are  
24 deemed to have satisfied all administrative remedies.

25 (3)(a) For the purposes of this section, "reservoir" includes, in  
26 addition to any surface reservoir, any naturally occurring  
27 underground geological formation where water is collected and stored  
28 for subsequent use as part of an underground artificial storage and  
29 recovery project. To qualify for issuance of a reservoir permit an  
30 underground geological formation must meet standards for review and  
31 mitigation of adverse impacts identified, for the following issues:

32 (i) Aquifer vulnerability and hydraulic continuity;

33 (ii) Potential impairment of existing water rights;

34 (iii) Geotechnical impacts and aquifer boundaries and  
35 characteristics;

36 (iv) Chemical compatibility of surface waters and groundwater;

37 (v) Recharge and recovery treatment requirements;

38 (vi) System operation;

39 (vii) Water rights and ownership of water stored for recovery;

40 and

1 (viii) Environmental impacts.

2 (b) Standards for review and standards for mitigation of adverse  
3 impacts for an underground artificial storage and recovery project  
4 shall be established by the department by rule. Notwithstanding the  
5 provisions of RCW 90.03.250 through 90.03.320, analysis of each  
6 underground artificial storage and recovery project and each  
7 underground geological formation for which an applicant seeks the  
8 status of a reservoir shall be through applicant-initiated studies  
9 reviewed by the department.

10 ~~((3))~~ (4) For the purposes of this section, "underground  
11 artificial storage and recovery project" means any project in which  
12 it is intended to artificially store water in the ground through  
13 injection, surface spreading and infiltration, or other department-  
14 approved method, and to make subsequent use of the stored water.  
15 However, (a) this subsection does not apply to irrigation return  
16 flow, or to operational and seepage losses that occur during the  
17 irrigation of land, or to water that is artificially stored due to  
18 the construction, operation, or maintenance of an irrigation district  
19 project, or to projects involving water reclaimed in accordance with  
20 chapter 90.46 RCW; and (b) RCW 90.44.130 applies to those instances  
21 of claimed artificial recharge occurring due to the construction,  
22 operation, or maintenance of an irrigation district project or  
23 operational and seepage losses that occur during the irrigation of  
24 land, as well as other forms of claimed artificial recharge already  
25 existing at the time a groundwater subarea is established.

26 ~~((4))~~ (5) Nothing in chapter 98, Laws of 2000 changes the  
27 requirements of existing law governing issuance of permits to  
28 appropriate or withdraw the waters of the state.

29 ~~((5))~~ (6) The department shall report to the legislature by  
30 December 31, 2001, on the standards for review and standards for  
31 mitigation developed under subsection ~~((3))~~ (4) of this section and  
32 on the status of any applications that have been filed with the  
33 department for underground artificial storage and recovery projects  
34 by that date.

35 ~~((6))~~ (7) Where needed to ensure that existing storage capacity  
36 is effectively and efficiently used to meet multiple purposes, the  
37 department may authorize reservoirs to be filled more than once per  
38 year or more than once per season of use.

39 ~~((7))~~ (8) This section does not apply to facilities to  
40 recapture and reuse return flow from irrigation operations serving a

1 single farm under an existing water right as long as the acreage  
2 irrigated is not increased beyond the acreage allowed to be irrigated  
3 under the water right.

4 ~~((+8))~~ (9) In addition to the facilities exempted under  
5 subsection ~~((+7))~~ (8) of this section, this section does not apply  
6 to small irrigation impoundments. For purposes of this section,  
7 "small irrigation impoundments" means lined surface storage ponds  
8 less than ten acre feet in volume used to impound irrigation water  
9 under an existing water right where use of the impoundment: (a)(i)  
10 Facilitates efficient use of water; or (ii) promotes compliance with  
11 an approved recovery plan for endangered or threatened species; and  
12 (b) does not expand the number of acres irrigated or the annual  
13 consumptive quantity of water used. Such ponds must be lined unless a  
14 licensed engineer determines that a liner is not needed to retain  
15 water in the pond and to prevent groundwater contamination. Although  
16 it may also be composed of other materials, a properly maintained  
17 liner may be composed of bentonite. Water remaining in a small  
18 irrigation impoundment at the end of an irrigation season may be  
19 carried over for use in the next season. However, the limitations of  
20 this subsection ~~((+8))~~ (9) apply. Development and use of a small  
21 irrigation impoundment does not constitute a change or amendment for  
22 purposes of RCW 90.03.380 or 90.44.055.

23 **Sec. 723.** RCW 90.58.140 and 2012 c 84 s 2 are each amended to  
24 read as follows:

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

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

33 A permit shall be granted:

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

1 (b) After adoption or approval, as appropriate, by the department  
2 of an applicable master program, only when the development proposed  
3 is consistent with the applicable master program and this chapter.

4 (3) The local government shall establish a program, consistent  
5 with rules adopted by the department, for the administration and  
6 enforcement of the permit system provided in this section. The  
7 administration of the system so established shall be performed  
8 exclusively by the local government.

9 (4) Except as otherwise specifically provided in subsection (11)  
10 of this section, the local government shall require notification of  
11 the public of all applications for permits governed by any permit  
12 system established pursuant to subsection (3) of this section by  
13 ensuring that notice of the application is given by at least one of  
14 the following methods:

15 (a) Mailing of the notice to the latest recorded real property  
16 owners as shown by the records of the county assessor within at least  
17 three hundred feet of the boundary of the property upon which the  
18 substantial development is proposed;

19 (b) Posting of the notice in a conspicuous manner on the property  
20 upon which the project is to be constructed; or

21 (c) Any other manner deemed appropriate by local authorities to  
22 accomplish the objectives of reasonable notice to adjacent landowners  
23 and the public.

24 The notices shall include a statement that any person desiring to  
25 submit written comments concerning an application, or desiring to  
26 receive notification of the final decision concerning an application  
27 as expeditiously as possible after the issuance of the decision, may  
28 submit the comments or requests for decisions to the local government  
29 within thirty days of the last date the notice is to be published  
30 pursuant to this subsection. The local government shall forward, in a  
31 timely manner following the issuance of a decision, a copy of the  
32 decision to each person who submits a request for the decision.

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

36 (5) The system shall include provisions to assure that  
37 construction pursuant to a permit will not begin or be authorized  
38 until twenty-one days from the date the permit decision was filed as  
39 provided in subsection (6) of this section; or until all review  
40 proceedings are terminated if the proceedings were initiated within

1 twenty-one days from the date of filing as defined in subsection (6)  
2 of this section except as follows:

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

8 (b)(i) In the case of any permit or decision to issue any permit  
9 to the state of Washington, department of transportation, for the  
10 replacement of the floating bridge and landings of the state route  
11 number 520 Evergreen Point bridge on or adjacent to Lake Washington,  
12 the construction may begin twenty-one days from the date of filing.  
13 Any substantial development permit granted for the floating bridge  
14 and landings is deemed to have been granted on the date that the  
15 local government's decision to grant the permit is issued. This  
16 authorization to construct is limited to only those elements of the  
17 floating bridge and landings that do not preclude the department of  
18 transportation's selection of a four-lane alternative for state route  
19 number 520 between Interstate 5 and Medina. Additionally, the  
20 Washington state department of transportation shall not engage in or  
21 contract for any construction on any portion of state route number  
22 520 between Interstate 5 and the western landing of the floating  
23 bridge until the legislature has authorized the imposition of tolls  
24 on the Interstate 90 floating bridge and/or other funding sufficient  
25 to complete construction of the state route number 520 bridge  
26 replacement and HOV program. For the purposes of this subsection  
27 (5)(b), the "western landing of the floating bridge" means the least  
28 amount of new construction necessary to connect the new floating  
29 bridge to the existing state route number 520 and anchor the west end  
30 of the new floating bridge;

31 (ii) Nothing in this subsection (5)(b) precludes the shorelines  
32 hearings board from concluding that the project or any element of the  
33 project is inconsistent with the goals and policies of the shoreline  
34 management act or the local shoreline master program;

35 (iii) This subsection (5)(b) applies retroactively to any appeals  
36 filed after January 1, 2012, and to any appeals filed on or after  
37 March 23, 2012, and expires June 30, 2014.

38 (c) Except as authorized in (b) of this subsection, construction  
39 may be commenced no sooner than thirty days after the date of the  
40 appeal of the board's decision is filed if a permit is granted by the

1 local government and (i) the granting of the permit is appealed to  
2 the shorelines hearings board within twenty-one days of the date of  
3 filing, (ii) the hearings board approves the granting of the permit  
4 by the local government or approves a portion of the substantial  
5 development for which the local government issued the permit, and  
6 (iii) an appeal for judicial review of the hearings board decision is  
7 filed pursuant to chapter 34.05 RCW. The appellant may request,  
8 within ten days of the filing of the appeal with the court, a hearing  
9 before the court to determine whether construction pursuant to the  
10 permit approved by the hearings board or to a revised permit issued  
11 pursuant to the order of the hearings board should not commence. If,  
12 at the conclusion of the hearing, the court finds that construction  
13 pursuant to such a permit would involve a significant, irreversible  
14 damaging of the environment, the court shall prohibit the permittee  
15 from commencing the construction pursuant to the approved or revised  
16 permit until all review proceedings are final. Construction pursuant  
17 to a permit revised at the direction of the hearings board may begin  
18 only on that portion of the substantial development for which the  
19 local government had originally issued the permit, and construction  
20 pursuant to such a revised permit on other portions of the  
21 substantial development may not begin until after all review  
22 proceedings are terminated. In such a hearing before the court, the  
23 burden of proving whether the construction may involve significant  
24 irreversible damage to the environment and demonstrating whether such  
25 construction would or would not be appropriate is on the appellant;

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

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

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

3 (6) Any decision on an application for a permit under the  
4 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.  
7 This shall be accomplished by return receipt requested mail. A  
8 petition for review of such a decision must be commenced within  
9 twenty-one days from the date of filing of the decision.

10 (a) With regard to a permit other than a permit governed by  
11 subsection (10) of this section, "date of filing" as used in this  
12 section refers to the date of actual receipt by the department of the  
13 local government's decision.

14 (b) With regard to a permit for a variance or a conditional use  
15 governed by subsection (10) of this section, "date of filing" means  
16 the date the decision of the department is transmitted by the  
17 department to the local government.

18 (c) When a local government simultaneously transmits to the  
19 department its decision on a shoreline substantial development with  
20 its approval of either a shoreline conditional use permit or  
21 variance, or both, "date of filing" has the same meaning as defined  
22 in (b) of this subsection.

23 (d) The department shall notify in writing the local government  
24 and the applicant of the date of filing by telephone or electronic  
25 means, followed by written communication as necessary, to ensure that  
26 the applicant has received the full written decision.

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

33 (8) Any permit may, after a hearing with adequate notice to the  
34 permittee and the public, be rescinded by the issuing authority upon  
35 the finding that a permittee has not complied with conditions of a  
36 permit. If the department is of the opinion that noncompliance  
37 exists, the department shall provide written notice to the local  
38 government and the permittee. If the department is of the opinion  
39 that the noncompliance continues to exist thirty days after the date  
40 of the notice, and the local government has taken no action to

1 rescind the permit, the department may petition the hearings board  
2 for a rescission of the permit upon written notice of the petition to  
3 the local government and the permittee if the request by the  
4 department is made to the hearings board within fifteen days of the  
5 termination of the thirty-day notice to the local government.

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

9 (10) Any permit for a variance or a conditional use issued with  
10 approval by a local government under their approved master program  
11 must be submitted to the department for its approval or disapproval.

12 (11)(a) An application for a substantial development permit for a  
13 limited utility extension or for the construction of a bulkhead or  
14 other measures to protect a single-family residence and its  
15 appurtenant structures from shoreline erosion shall be subject to the  
16 following procedures:

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

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

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

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

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

34 (ii) Will serve an existing use in compliance with this chapter;  
35 and

36 (iii) Will not extend more than twenty-five hundred linear feet  
37 within the shorelines of the state.

38 (12)(a) All decisions on permits under this section must be  
39 completed and the decision returned to the applicant within ninety  
40 days of submitting the application. If the ninety-day deadline is not

1 satisfied, the applicant may file a motion in the appropriate  
2 superior court requesting court approval of the permit.

3 (b) If the permit is denied either within or after the ninety-day  
4 decision period, the applicant may file a motion in the appropriate  
5 superior court requesting the court to overturn the decision. This  
6 subsection applies notwithstanding, and as an alternative to, any  
7 other provision of law establishing appeal procedures. Applicants  
8 choosing to utilize this appeal authority are deemed to have  
9 satisfied all administrative remedies.

10 **Sec. 724.** RCW 70.118B.030 and 2007 c 343 s 4 are each amended to  
11 read as follows:

12 (1) A person may not install or operate a large on-site sewage  
13 system without an operating permit as provided in this chapter after  
14 July 1, 2009. The owner of the system is responsible for obtaining a  
15 permit.

16 (2) The department shall issue operating permits in accordance  
17 with the rules adopted under RCW 70.118B.040.

18 (3) The department shall ensure the system meets all applicable  
19 siting, design, construction, and installation requirements prior to  
20 issuing an initial operating permit. Prior to renewing an operating  
21 permit, the department may review the performance of the system to  
22 determine compliance with rules and any permit conditions.

23 (4) At the time of initial permit application or at the time of  
24 permit renewal the department shall impose those permit conditions,  
25 requirements for system improvements, and compliance schedules as it  
26 determines are reasonable and necessary to ensure that the system  
27 will be operated and maintained properly. Each application must be  
28 accompanied by a fee as established in rules adopted by the  
29 department.

30 (5) Operating permits shall be issued for a term of one year, and  
31 shall be renewed annually, unless the operator fails to apply for a  
32 new permit or the department finds good cause to deny the application  
33 for renewal.

34 (6) Each permit may be issued only for the site and owner named  
35 in the application. Permits are not transferable or assignable except  
36 with the written approval of the department.

37 (7) The department may deny an application for a permit or  
38 modify, suspend, or revoke a permit in any case in which it finds  
39 that the permit was obtained by fraud or there is or has been a

1 failure, refusal, or inability to comply with the requirements of  
2 this chapter or the standards or rules adopted under this chapter.  
3 RCW 43.70.115 governs notice of denial, revocation, suspension, or  
4 modification and provides the right to an adjudicative proceeding to  
5 the permit applicant or permittee.

6 (8) For systems with design flows of more than fourteen thousand  
7 five hundred gallons per day, the department shall adopt rules to  
8 ensure adequate public notice and opportunity for review and comment  
9 on initial large on-site sewage system permit applications and  
10 subsequent permit applications to increase the volume of waste  
11 disposal or change effluent characteristics. The rules must include  
12 provisions for notice of final decisions. Methods for providing  
13 notice may include electronic mail, posting on the department's  
14 internet site, publication in a local newspaper, press releases,  
15 mailings, or other means of notification the department determines  
16 appropriate.

17 (9) A person aggrieved by the issuance of an initial permit, or  
18 by the issuance of a subsequent permit to increase the volume of  
19 waste disposal or to change effluent characteristics, for systems  
20 with design flows of more than fourteen thousand five hundred gallons  
21 per day, has the right to an adjudicative proceeding. The application  
22 for an adjudicative proceeding must be in writing, state the basis  
23 for contesting the action, include a copy of the decision, be served  
24 on and received by the department within twenty-eight days of receipt  
25 of notice of the final decision, and be served in a manner that shows  
26 proof of receipt. An adjudicative proceeding conducted under this  
27 subsection is governed by chapter 34.05 RCW.

28 (10) Any permit issued by the department of ecology for a large  
29 on-site sewage system under chapter 90.48 RCW is valid until it first  
30 expires after July 22, 2007. The system owner shall apply for an  
31 operating permit at least one hundred twenty days prior to expiration  
32 of the department of ecology permit.

33 (11) Systems required to meet operator certification requirements  
34 under chapter 70.95B RCW must continue to meet those requirements as  
35 a condition of the department operating permit.

36 (12)(a) All decisions on permits under this section must be  
37 completed and the decision returned to the applicant within ninety  
38 days of submitting the application. If the ninety-day deadline is not  
39 satisfied, the applicant may file a motion in the appropriate  
40 superior court requesting court approval of the permit.



1 (b) The order is one to cease and desist an activity that  
2 violates a statute or rule protecting public health or safety, the  
3 environment, or would cause serious harm to the public interest;

4 (c) The violation involves a knowing or willful violation;

5 (d) The violation is of a requirement concerning the assessment,  
6 collection, or administration of any tax, tax program, debt, revenue,  
7 receipt, a regulated entity's financial filings, or insurance rate or  
8 form filing;

9 (e) The requirements in this section are in conflict with federal  
10 law or program requirements, federal requirements that are a  
11 prescribed condition to the allocation of federal funds to the state,  
12 or the requirements for eligibility of employers in this state for  
13 federal unemployment tax credits, as determined by the agency head;

14 (f) The business committing the violation previously violated the  
15 exact or substantially similar requirement; or

16 (g) The owner or operator of the business committing the  
17 violation owns or operates, or owned or operated a different business  
18 that previously violated a substantially similar requirement.

19 (3) This section does not prohibit an agency from waiving fines,  
20 civil penalties, or administrative sanctions incurred by a business  
21 for a violation.

22 (4) This section may be construed to diminish the responsibility  
23 for any citizen or business to apply for and obtain a permit,  
24 license, or authorizing document that is required to engage in a  
25 regulated activity, or otherwise comply with state or federal law.

26 (5) This section may not be construed to apply to businesses  
27 required to provide accurate and complete information and  
28 documentation in relation to any claim for payment of state or  
29 federal funds or who are licensed or certified to provide care and  
30 services to vulnerable adults or children.

31 (6) This section does not affect the attorney general's authority  
32 to impose fines, civil penalties, or administrative sanctions as  
33 otherwise authorized by law; nor does this section affect the  
34 attorney general's authority to enforce the consumer protection act,  
35 chapter 19.86 RCW.

36 **PART IX**

37 NEW SECTION. **Sec. 901.** The legislature finds that property  
38 owners are finding increasing restrictions placed on their property

1 in the name of the public good without just compensation. Many  
2 government agencies expect the property owner to pay for and accept  
3 the burdens placed on them by government statutes, ordinances,  
4 regulations, policies, and permitting requirements that provide a  
5 benefit to someone other than the property owner at the property  
6 owner's expense.

7 NEW SECTION. **Sec. 902.** A new section is added to chapter 36.70A  
8 RCW to read as follows:

9 (1) Government authorities must provide just compensation to  
10 property owners whenever land use ordinances, regulations, or  
11 policies adopted pursuant to requirements in this chapter or as part  
12 of a land use permitting decision require the property owner to:

13 (a) Place any form of signage on their property related to  
14 provisions in this chapter or ordinances adopted to comply with this  
15 chapter or associated regulations;

16 (b) Pay for and place fencing around critical areas, open space,  
17 habitat areas, riparian areas, or other property features;

18 (c) Record restrictive covenants, land use designations, or  
19 change any legal lot description on the property;

20 (d) Restore vegetation in a location where no vegetation existed  
21 during the time the property owner owned the property or vegetation  
22 degraded through natural causes;

23 (e) Make expenditures in furtherance of protecting the function  
24 and values of wetlands;

25 (f) Make any expenditure in furtherance of protecting the  
26 function and values of riparian areas; or

27 (g) Grant or set aside easements for public access on the  
28 property.

29 (2) Unless under the authority of a specific statutory  
30 requirement, a state agency may not adopt a rule or policy that  
31 results in any governmental authority being required to provide just  
32 compensation under this section.

33 **Sec. 903.** RCW 36.70B.030 and 1995 c 347 s 404 are each amended  
34 to read as follows:

35 (1) Fundamental land use planning choices made in adopted  
36 comprehensive plans and development regulations shall serve as the  
37 foundation for project review. The review of a proposed project's  
38 consistency with applicable development regulations, or in the

1 absence of applicable regulations the adopted comprehensive plan,  
2 under RCW 36.70B.040 shall incorporate the determinations under this  
3 section.

4 (2) During project review, a local government or any subsequent  
5 reviewing body shall determine whether the items listed in this  
6 subsection are defined in the development regulations applicable to  
7 the proposed project or, in the absence of applicable regulations the  
8 adopted comprehensive plan. At a minimum, such applicable regulations  
9 or plans shall be determinative of the:

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

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

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

19 (3) During project review, the local government or any subsequent  
20 reviewing body shall not reexamine alternatives to or hear appeals on  
21 the items identified in subsection (2) of this section, except for  
22 issues of code interpretation. As part of its project review process,  
23 a local government shall provide a procedure for obtaining a code  
24 interpretation as provided in RCW 36.70B.110.

25 (4)(a) Pursuant to RCW 43.21C.240, a local government may  
26 determine that the requirements for environmental analysis and  
27 mitigation measures in development regulations and other applicable  
28 laws provide adequate mitigation for some or all of the project's  
29 specific adverse environmental impacts to which the requirements  
30 apply.

31 (b) Local governments may not require without just compensation  
32 that property owners: (i) Place any form of signage on their  
33 property; (ii) pay for and place fencing around critical areas, open  
34 space, habitat areas, or other government designated property  
35 attributes; (iii) record restrictive covenants, land use  
36 designations, or change any legal lot description on the property;  
37 (iv) restore vegetation in locations where no vegetation existed  
38 during the time the property owner owned the land or the vegetation  
39 degraded due to natural causes; (v) make any expenditure in  
40 furtherance of protective measures for the function and values of

1 wetlands or riparian areas; or (vi) grant or set aside easements for  
2 public access on the property.

3 (5) Except under subsection (4)(b) of this section, nothing in  
4 this section limits the authority of a permitting agency to approve,  
5 condition, or deny a project as provided in its development  
6 regulations adopted under chapter 36.70A RCW and in its policies  
7 adopted under RCW 43.21C.060. Project review shall be used to  
8 identify specific project design and conditions relating to the  
9 character of development, such as the details of site plans, curb  
10 cuts, drainage swales, transportation demand management, the payment  
11 of impact fees, or other measures to mitigate a proposal's probable  
12 adverse environmental impacts, if applicable.

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

15 **PART X**

16 NEW SECTION. **Sec. 1001.** PURPOSE—INTENT. The purpose of this  
17 chapter is to establish as state law the basis and process for  
18 determining how proposed changes to resource management and land use  
19 policy, rules, regulation, and/or management affect customs, culture,  
20 economic stability, and private property rights in Washington state.  
21 Additionally, the purpose of this chapter is to establish how state  
22 and federal agencies are to coordinate and consult with local  
23 governmental agencies in actions affecting land and natural resource  
24 use.

25 This chapter is written to implement RCW 36.70A.103 of the growth  
26 management act, which requires state agencies to comply with local  
27 development regulations. In addition, this chapter implements chapter  
28 43.21H RCW, state economic policy.

29 This chapter is intended to address federal and state agency  
30 regulation of land and natural resource use directly and is intended  
31 to be used as a positive guide for federal and state agencies in  
32 their development and implementation of regulations affecting land  
33 and natural resources use in Washington state.

34 NEW SECTION. **Sec. 1002.** DEFINITIONS. Unless the context clearly  
35 requires otherwise, the definitions in this section apply throughout  
36 this chapter.

1 (1) "Agency" means all state agencies and all local agencies.  
2 "State agency" includes every state office, department, division,  
3 bureau, board, commission, or other state agency. "Local agency"  
4 includes every county, city, town, municipal corporation, quasi-  
5 municipal corporation, or special purpose district, or any office,  
6 department, division, bureau, board, commission, or agency thereof,  
7 or other local public agency.

8 (2) "Just compensation" means compensation equal to the full  
9 extent of a property owner's loss, including the fair market value of  
10 the private property taken and business losses arising from  
11 government action, whether the taking is by physical occupation or  
12 through regulation, exaction, or other means and includes compounded  
13 interest calculated from the date of the taking until the date  
14 payment is tendered.

15 (3) "Owner" means the owner or possessor of property or rights in  
16 property at the time the taking occurs, including when the statute,  
17 regulation, rule, order, guideline, policy, or action is passed or  
18 promulgated or the permit, license, authorization, or governmental  
19 permission is denied or suspended.

20 (4) "Private property" or "property" means all property protected  
21 under the fifth amendment to the United States Constitution and the  
22 third and sixteenth sections of the Declaration of Rights of the  
23 Washington state Constitution (Article I, sections 3 and 16 of the  
24 state Constitution), any applicable state law, or this chapter, and  
25 including but not limited to any of the following:

26 (a) Real property, whether vested or unvested, including estates  
27 in fee, life estates, estates for years, or otherwise; inchoate  
28 interests in real property such as remainders and future interests;  
29 personality that is affixed to or appurtenant to real property;  
30 easements; leaseholds; recorded liens; and contracts or other  
31 security interests in, or related to, real property;

32 (b) The right to use water or the right to receive water,  
33 including any recorded lines on such water right;

34 (c) Rents, issues, and profits of land, including minerals,  
35 timber, fodder, crops, oil and gas, coal, or geothermal energy;

36 (d) Property rights provided by, or memorialized in, a contract;

37 (e) Any interest defined as property under state law; and

38 (f) Any interest understood to be property based on custom,  
39 usage, common law, or mutually reinforcing understandings  
40 sufficiently well-grounded in law to back a claim of interest.

1 (5) "Taking of private property" or "taking" or "take" means any  
2 action whereby private property is directly taken by government  
3 action as to require compensation under the fifth amendment to the  
4 United States Constitution and the third and sixteenth sections of  
5 the Declaration of Rights of the Washington state Constitution  
6 (Article I, sections 3 and 16 of the state Constitution) or under  
7 this chapter, including by physical invasion, regulation, exaction,  
8 condition, or other means and does not include a condemnation action  
9 filed by government in an applicable court or an action filed by  
10 government relating to criminal forfeiture.

11 NEW SECTION. **Sec. 1003.** PRIVATE PROPERTY TAKING IMPACT  
12 ANALYSIS. (1) To the fullest extent possible, the policies,  
13 regulations, and public laws of the United States and the state of  
14 Washington shall be interpreted and administered by agencies in  
15 accordance with the policies under this chapter. All state agencies  
16 shall complete a private property taking impact analysis before  
17 issuing or promulgating any rule, policy, regulation, or related  
18 agency action which is likely to result in a taking of private  
19 property. The provisions of this subsection shall not apply to an  
20 action in which the power of eminent domain is formally exercised or  
21 a law enforcement action, including seizure of property for  
22 forfeiture or as evidence, for a violation of law.

23 (2) A private property taking impact analysis is a written  
24 statement that includes:

25 (a) The specific purpose of the rule, ordinance, policy,  
26 regulation, proposal, recommendation, or related agency action;

27 (b) An assessment of the likelihood that a taking of private  
28 property will occur under the rule, ordinance, policy, regulation,  
29 proposal, recommendation, or related agency action;

30 (c) An evaluation of whether the rule, ordinance, policy,  
31 regulation, proposal, recommendation, or related agency action is  
32 likely to require compensation to private property owners;

33 (d) Alternatives to the rule, policy, regulation, proposal,  
34 recommendation, or related agency action that would achieve the  
35 intended purposes of the agency action and lessen the likelihood that  
36 a taking of private property will occur;

37 (e) An estimate of the potential liability of the agency, if the  
38 agency is required to compensate a private property owner; and

1 (f) For state agencies, if the rule, policy, regulation,  
2 proposal, recommendation, or related agency action is in response to  
3 a federal mandate, the name of the federal agency responsible for the  
4 policy, regulation, proposal, recommendation, or related action.

5 (3) Each agency shall provide an analysis as part of any proposed  
6 rule, ordinance, policy, regulation, proposal, recommendation, or  
7 related agency action and submit the analysis to the board of county  
8 commissioners, in affected jurisdictions, in conjunction with a  
9 proposed rule, policy, regulation, proposal, recommendation, or  
10 related action prior to adoption.

11 (4) No final rule may be promulgated if enforcement of the rule  
12 could reasonably be construed to require an uncompensated taking of  
13 private property as defined by this chapter.

14 NEW SECTION. **Sec. 1004.** ECONOMIC IMPACT ANALYSIS. (1) All state  
15 agencies shall complete an economic impact analysis before issuing or  
16 promulgating any policy, regulation, proposed legislation, or related  
17 department action which may economically impact the citizens of  
18 Washington state.

19 (2) An economic impact analysis is a written statement that  
20 includes:

21 (a) The specific purpose of the rule, policy, regulation,  
22 legislative bill, proposal, recommendation, or related agency action;

23 (b) An assessment of the economic impacts likely to occur as a  
24 result of the rule, policy, regulation, proposal, legislative bill,  
25 recommendation, or related agency action. The economic assessment  
26 shall consider impacts to individual property owners, impacts to the  
27 affected jurisdictions economy and impacts to the state's general  
28 fund;

29 (c) Alternatives to the rule, policy, regulation, proposal,  
30 recommendation, or related agency action that would achieve the  
31 intended purpose and lessen the economic impacts that are likely to  
32 occur;

33 (d) For state agencies, if the rule, policy, regulation,  
34 proposal, recommendation, or related agency action is in response to  
35 a federal mandate, the name of the federal agency responsible for the  
36 policy, regulation, proposal, recommendation.

37 (3) State agencies shall provide an analysis as part of any  
38 proposed rule, policy, regulation, proposal, recommendation, or  
39 related agency action and submit the analysis to the board of county

1 commissioners, in affected jurisdictions, in conjunction with a  
2 proposed rule, policy, regulation, proposal, recommendation, or  
3 related action prior to adoption.

4 NEW SECTION. **Sec. 1005.** PUBLIC AVAILABILITY OF ANALYSIS. An  
5 agency shall make each private property taking impact analysis,  
6 economic impact analysis, or both, available to the public.

7 NEW SECTION. **Sec. 1006.** ENFORCEMENT. (1)(a) In addition to  
8 other remedies provided by law, any person likely to be aggrieved or  
9 adversely effected by the failure of an agency to perform a private  
10 property taking impact analysis or economic impact analysis under  
11 this section may apply to the superior court of the county where the  
12 agency is located or to the superior court of Thurston county if the  
13 defendant is a state agency. The superior court shall have  
14 jurisdiction to hold a prompt hearing where petitioners may show  
15 cause that the agency failed to adequately provide a private property  
16 taking impact analysis or economic impact analysis and is authorized  
17 to grant a temporary or permanent injunction restraining any person,  
18 agency, or all agencies from implementing or enforcing rules where  
19 the agency analysis was not done or was insufficient.

20 (b) A person is aggrieved or adversely affected within the  
21 meaning of this section if:

22 (i) The agency action has prejudiced or is likely to prejudice  
23 that person; and

24 (ii) That person's asserted interests are among those that the  
25 agency was required to consider when it engaged in the agency action  
26 challenged.

27 (c) An analysis is insufficient for purposes of this section if:

28 (i) The analysis is not supported by substantial evidence or  
29 evidence pertinent to Washington state; or

30 (ii) The facts presented by the petitioning party with regard to  
31 his or her property clearly indicate a mistake of law or fact was  
32 made and implementation or enforcement of the regulation would cause  
33 substantial injustice.

34 (2) An order restraining any person, agency, or all agencies may  
35 contain provision for the payment of pertinent court costs and  
36 reasonable attorneys' fees and administration expenses as is  
37 equitable and the court deems appropriate in the circumstances.

1 (3) If the court issues an order restraining the implementation  
2 or enforcement of a state agency regulation as it applies to  
3 individuals not parties to the litigation, the court must send the  
4 order to the code reviser's office to be published in the Washington  
5 State Register.

6 (4) The petitioner does not have to exhaust administrative  
7 remedies prior to seeking a court order under this section.

8 (5) Nothing in this section may be construed to limit any remedy  
9 that any person may have under the laws of the state of Washington or  
10 of the United States.

11 (6) Every agency, who under color of any law, statute, rule,  
12 ordinance, or regulation, subjects or causes to be subjected, any  
13 person within Washington state to the deprivation of any property  
14 rights secured by this chapter is liable to the person injured in an  
15 action at law, suit in equity or other legal proceeding for redress.

16 (7) Any agency employee, under the color of law, statute, rule,  
17 ordinance, regulation, policy, custom or omission, subjects any  
18 person in Washington state to the deprivation of any property rights  
19 secured or protected by this chapter, whether willfully or from  
20 negligence, is in violation of this chapter and may be fined up to  
21 one thousand dollars per occurrence of a violation.

22 NEW SECTION. **Sec. 1007.** A new section is added to chapter  
23 36.70A RCW to read as follows:

24 The provisions of chapter 34.--- RCW (the new chapter created in  
25 section 1103 of this act) apply to this chapter.

26 NEW SECTION. **Sec. 1008.** A new section is added to chapter  
27 43.21H RCW to read as follows:

28 The provisions of chapter 34.--- RCW (the new chapter created in  
29 section 1103 of this act) apply to this chapter.

30 **PART XI**

31 NEW SECTION. **Sec. 1101.** Sections 501 and 502 of this act  
32 constitute a new chapter in Title 1 RCW.

33 NEW SECTION. **Sec. 1102.** Sections 608 and 609 of this act  
34 constitute a new chapter in Title 36 RCW.

1        NEW SECTION.    **Sec. 1103.**    Sections 1001 through 1006 of this act  
2    constitute a new chapter in Title 34 RCW.

3        NEW SECTION.    **Sec. 1104.**    If any part of this act is found to be  
4    in conflict with federal requirements that are a prescribed condition  
5    to the allocation of federal funds to the state, the conflicting part  
6    of this act is inoperative solely to the extent of the conflict and  
7    with respect to the agencies directly affected, and this finding does  
8    not affect the operation of the remainder of this act in its  
9    application to the agencies concerned. Rules adopted under this act  
10   must meet federal requirements that are a necessary condition to the  
11   receipt of federal funds by the state.

12       NEW SECTION.    **Sec. 1105.**    If any provision of this act or its  
13   application to any person or circumstance is held invalid, the  
14   remainder of the act or the application of the provision to other  
15   persons or circumstances is not affected.

16       NEW SECTION.    **Sec. 1106.**    Sections 101 through 106 of this act  
17   are necessary for the immediate preservation of the public peace,  
18   health, or safety, or support of the state government and its  
19   existing public institutions, and take effect immediately.

--- END ---