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HOUSE BILL 2766

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State of Washington

65th Legislature

2018 Regular Session

By Representatives Stanford, Sawyer, and Pollet

1 AN ACT Relating to the certification and evidence of adequate and  
2 available water; amending RCW 19.27.097 and 90.44.450; reenacting and  
3 amending RCW 36.70A.070; adding a new section to chapter 90.44 RCW;  
4 adding a new section to chapter 36.70A RCW; adding new sections to  
5 chapter 90.54 RCW; creating new sections; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** In the 1990 growth management act, the  
8 legislature directed that local governments include measures to  
9 protect water resources in comprehensive land use plans and  
10 development regulations and also required evidence of water supply  
11 availability when issuing building permits and approving  
12 subdivisions. Recently, the Washington state supreme court has  
13 affirmed that under these provisions the water supply to serve any  
14 building or subdivision must be both physically available and legally  
15 available, meaning that the withdrawal of the supply will not impair  
16 senior water rights, including senior instream flow rights  
17 established by rule, or violate closures established by state rule,  
18 and would not otherwise harm fish or other aquatic life or their  
19 habitat unless otherwise mitigated under this act. Therefore, it is  
20 the intent of this act to provide effective and timely mechanisms for  
21 counties and the department of ecology to implement these

1 requirements, develop a means to mitigate for the withdrawal of  
2 permit exempt well water, and to require state assistance in  
3 providing technical and financial assistance as well as administering  
4 the trust.

5 **PART 1**

6 **CERTIFICATION AND EVIDENCE OF ADEQUATE AND AVAILABLE WATER**

7 **Sec. 101.** RCW 19.27.097 and 2015 c 225 s 17 are each amended to  
8 read as follows:

9 (1) Each applicant for a building permit of a building  
10 necessitating potable water shall provide evidence of an adequate  
11 water supply for the intended use of the building. ~~((Evidence may be  
12 in the form of a water right permit from the department of ecology, a  
13 letter from an approved water purveyor stating the ability to provide  
14 water, or another form sufficient to verify the existence of an  
15 adequate water supply. In addition to other authorities, the county  
16 or city may impose conditions on building permits requiring  
17 connection to an existing public water system where the existing  
18 system is willing and able to provide safe and reliable potable water  
19 to the applicant with reasonable economy and efficiency. An  
20 application for a water right shall not be sufficient proof of an  
21 adequate water supply.~~

22 ~~(2) Within counties not required or not choosing to plan pursuant  
23 to RCW 36.70A.040, the county and the state may mutually determine  
24 those areas in the county in which the requirements of subsection (1)  
25 of this section shall not apply. The departments of health and  
26 ecology shall coordinate on the implementation of this section.  
27 Should the county and the state fail to mutually determine those  
28 areas to be designated pursuant to this subsection, the county may  
29 petition the department of enterprise services to mediate or, if  
30 necessary, make the determination.~~

31 ~~(3) Buildings that do not need potable water facilities are  
32 exempt from the provisions of this section. The department of  
33 ecology, after consultation with local governments, may adopt rules  
34 to implement this section, which may recognize differences between  
35 high-growth and low-growth counties.)~~ However, no permit may be  
36 issued that will operate to impair senior water rights, including  
37 senior instream flow rights established by rule and would not

1 otherwise harm fish or other aquatic life or their habitat unless  
2 otherwise mitigated under this act.

3 (2)(a) Subject to and in addition to these conditions, evidence  
4 may be in the form of:

5 (i) A water right permit or certificate from the department of  
6 ecology. An application for a water right is not sufficient proof of  
7 an adequate water supply; or

8 (ii) A letter from an approved water purveyor stating the ability  
9 to provide water.

10 (b) If either of these two forms of proof are not provided, then  
11 evidence of an adequate water supply for the intended use of the  
12 building must be in the form of the following:

13 (i) A water well report consistent with the requirements of  
14 chapter 18.104 RCW from a groundwater withdrawal exempt from  
15 permitting pursuant to RCW 90.44.050; and

16 (ii) Proof that a meter has been or will be installed, with such  
17 metered use to be recorded by the county; and

18 (iii) Proof that water is legally and physically available in the  
19 form of a mitigation certification stating that both the department  
20 of ecology and the county have determined that water is legally  
21 available and physically available and where the water use is fully  
22 mitigated under this act; or

23 (iv) Another form sufficient to verify the physical and legal  
24 existence of an adequate water supply, such as from an alternative  
25 water supply.

26 NEW SECTION. Sec. 102. A new section is added to chapter 90.44  
27 RCW to read as follows:

28 (1) A groundwater withdrawal exempt from permitting under RCW  
29 90.44.050 may receive a building permit provided that the  
30 requirements of RCW 19.27.097 and section 202 of this act are met and  
31 if the quantity of water use is limited to water for domestic use up  
32 to three hundred fifty gallons per day. Withdrawals from all permit  
33 exempt wells under RCW 90.44.050 must be metered, measured, and  
34 reported to the county and the department. This information is a  
35 matter of public record.

36 (2) In water resource inventory areas where rules have not been  
37 adopted under chapter 90.22 or 90.54 RCW, proof of an adequate water  
38 supply must be by certification and use under the requirements of RCW  
39 19.27.097 and section 202 of this act.

1 (3) In water resource inventory areas where rules have been  
2 adopted under chapter 90.22 or 90.54 RCW after 2000 or where a  
3 federal or state administered adjudication exists or has occurred and  
4 if those rules, consent decrees, or court orders specify mitigation  
5 requirements, the proof of an adequate water supply must meet the  
6 mitigation requirements specified in the applicable rule, consent  
7 decree, or court order. If mitigation requirements have been met  
8 under the applicable rule, consent decree, or court order, additional  
9 withdrawals of water that exceed those requirements must follow the  
10 requirements of this act.

11 (4) In water resource inventory areas where rules have been  
12 adopted under chapter 90.22 or 90.54 RCW before 2000, mitigation must  
13 follow the requirements of this act.

14 **Sec. 103.** RCW 90.44.450 and 1989 c 348 s 7 are each amended to  
15 read as follows:

16 The department of ecology (~~may~~) shall require withdrawals of  
17 groundwater to be metered, or measured by other approved methods, as  
18 a condition for a new water right permit. The department (~~may~~)  
19 shall also require, as a condition for such permits, reports  
20 regarding such withdrawals as to the amount of water being withdrawn.  
21 These reports shall be in a form prescribed by the department.

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

24 (1) In addition to other authorities, the county or city:

25 (a) Shall impose conditions on building permits requiring  
26 connection to an existing public water system where the existing  
27 system is willing and able to provide safe and reliable potable water  
28 to the applicant if the new uses are within five hundred feet of an  
29 existing public water supply delivery system.

30 (b) May require additional information from an applicant needed  
31 to determine that adequate potable water is available.

32 (2) Appropriate provisions for water supply for a subdivision,  
33 dedication, or short subdivision under this chapter must be  
34 consistent with applicable laws and rules adopted pursuant to  
35 chapters 90.03, 90.22, 90.44, and 90.54 RCW.

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**PART 2**

**MITIGATION AND CERTIFICATES**

1        NEW SECTION.    **Sec. 201.**    A new section is added to chapter 90.54  
2    RCW to read as follows:

3        (1) Unless mitigation requirements are otherwise specified in an  
4    applicable rule adopted after 2000, any new domestic or industrial  
5    groundwater withdrawal exempt from permitting under RCW 90.44.050 is  
6    entitled to receive a mitigation certificate by complying with the  
7    mitigation requirements established in section 202 of this act.

8        (2) A mitigation certificate to withdraw water under this section  
9    may only be issued if the water withdrawal would not cause,  
10   individually or cumulatively, an impairment to senior water rights,  
11   including senior instream flow rights, established by rule and would  
12   not otherwise harm fish or other aquatic life or their habitat unless  
13   mitigated under this act.

14       (3) Impairment or harm means any reduction in flow whether  
15   measured or modeled, that will impair a senior water right, including  
16   senior instream flow rights, established by rule and would not  
17   otherwise harm fish or other aquatic life or their habitat unless  
18   mitigated under this act.

19       (4) A mitigation certificate may only be issued once mitigation  
20   has been implemented as agreed upon by the government entities and as  
21   provided in section 202 of this act.

22       (5) Appeals of the department's issuance of all mitigation  
23   certificates, and the pollution control hearings board review  
24   thereof, are subject to de novo review by a superior court.

25       NEW SECTION.    **Sec. 202.**    A new section is added to chapter 90.54  
26   RCW to read as follows:

27       (1) Mitigation certificates may be provided to applicants by the  
28   department for projects developed through the collaboration and  
29   mutual agreement of the following government entities: The county,  
30   the department of ecology, the department of fish and wildlife, and  
31   any federally recognized tribe or tribes whose reservation, usual and  
32   accustomed fishing areas, or areas that support tribal treaty  
33   fisheries may be impaired by the withdrawal. An applicant may provide  
34   additional methods for mitigation if mutually approved by the  
35   government entities.

36       (2) Mitigation projects must be completed before withdrawal or  
37   after withdrawal by the mutual agreement of the government entities  
38   identified in subsection (1) of this section.

1 (3) Mitigation certificates may only be issued once the  
2 department has certified that the applicant has achieved one hundred  
3 percent mitigation for the total annual increased consumptive uses of  
4 proposed withdrawals and if other requirements of this section are  
5 met, unless other mitigation is approved by the governmental entities  
6 as prescribed in this section.

7 **PART 3**

8 **ELEMENTS OF COMPREHENSIVE PLANS**

9 **Sec. 301.** RCW 36.70A.070 and 2017 3rd sp.s. c 18 s 4 and 2017  
10 3rd sp.s. c 16 s 4 are each reenacted and amended to read as follows:

11 The comprehensive plan of a county or city that is required or  
12 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,  
13 and descriptive text covering objectives, principles, and standards  
14 used to develop the comprehensive plan. The plan shall be an  
15 internally consistent document and all elements shall be consistent  
16 with the future land use map. A comprehensive plan shall be adopted  
17 and amended with public participation as provided in RCW 36.70A.140.  
18 Each comprehensive plan shall include a plan, scheme, or design for  
19 each of the following:

20 (1) A land use element designating the proposed general  
21 distribution and general location and extent of the uses of land,  
22 where appropriate, for agriculture, timber production, housing,  
23 commerce, industry, recreation, open spaces, general aviation  
24 airports, public utilities, public facilities, and other land uses.  
25 The land use element shall include population densities, building  
26 intensities, and estimates of future population growth. The land use  
27 element shall provide for protection of the quality and quantity of  
28 groundwater used for public water supplies. In providing for the  
29 protection of the quantity of groundwater used for public water  
30 supplies, a county or city must ensure stream flow monitoring,  
31 measuring, and reporting in all subbasins where mitigation or new  
32 permit exempt wells are proposed. Local governments may, at their  
33 discretion, work with the department of ecology to fulfill these  
34 requirements. Additionally, in providing for the protection of the  
35 quantity of groundwater used for public water supplies, a county or  
36 city must require physical and legal water availability be determined  
37 and be consistent with best available science and applicable laws and  
38 rules adopted pursuant to chapters 90.03, 90.22, 90.44, and 90.54

1 RCW, provided that the portions of such rules that were adopted  
2 before 2000 that purport to exempt certain consumptive uses shall not  
3 be relied upon by counties or cities, and scientifically supportable  
4 water resource data, including water quantity, water quality, and  
5 instream flow assessments, to evaluate water resource impacts from  
6 projected growth. This information must include groundwater modeling  
7 representing recent conditions. Wherever possible, the land use  
8 element should consider utilizing urban planning approaches that  
9 promote physical activity. Where applicable, the land use element  
10 shall review drainage, flooding, and storm water run-off in the area  
11 and nearby jurisdictions and provide guidance for corrective actions  
12 to mitigate or cleanse those discharges that pollute waters of the  
13 state, including Puget Sound or waters entering Puget Sound.

14 (2) A housing element ensuring the vitality and character of  
15 established residential neighborhoods that: (a) Includes an inventory  
16 and analysis of existing and projected housing needs that identifies  
17 the number of housing units necessary to manage projected growth; (b)  
18 includes a statement of goals, policies, objectives, and mandatory  
19 provisions for the preservation, improvement, and development of  
20 housing, including single-family residences; (c) identifies  
21 sufficient land for housing, including, but not limited to,  
22 government-assisted housing, housing for low-income families,  
23 manufactured housing, multifamily housing, and group homes and foster  
24 care facilities; and (d) makes adequate provisions for existing and  
25 projected needs of all economic segments of the community. In  
26 counties and cities subject to the review and evaluation requirements  
27 of RCW 36.70A.215, any revision to the housing element shall include  
28 consideration of prior review and evaluation reports and any  
29 reasonable measures identified.

30 (3) A capital facilities plan element consisting of: (a) An  
31 inventory of existing capital facilities owned by public entities,  
32 showing the locations and capacities of the capital facilities; (b) a  
33 forecast of the future needs for such capital facilities; (c) the  
34 proposed locations and capacities of expanded or new capital  
35 facilities; (d) at least a six-year plan that will finance such  
36 capital facilities within projected funding capacities and clearly  
37 identifies sources of public money for such purposes; and (e) a  
38 requirement to reassess the land use element if probable funding  
39 falls short of meeting existing needs and to ensure that the land use  
40 element, capital facilities plan element, and financing plan within

1 the capital facilities plan element are coordinated and consistent.  
2 Park and recreation facilities shall be included in the capital  
3 facilities plan element.

4 (4) A utilities element consisting of the general location,  
5 proposed location, and capacity of all existing and proposed  
6 utilities, including, but not limited to, electrical lines,  
7 telecommunication lines, and natural gas lines.

8 (5) Rural element. Counties shall include a rural element  
9 including lands that are not designated for urban growth,  
10 agriculture, forest, or mineral resources. The following provisions  
11 shall apply to the rural element:

12 (a) Growth management act goals and local circumstances. Because  
13 circumstances vary from county to county, in establishing patterns of  
14 rural densities and uses, a county may consider local circumstances,  
15 but shall develop a written record explaining how the rural element  
16 harmonizes the planning goals in RCW 36.70A.020 and meets the  
17 requirements of this chapter.

18 (b) Rural development. The rural element shall permit rural  
19 development, forestry, and agriculture in rural areas. The rural  
20 element shall provide for a variety of rural densities, uses,  
21 essential public facilities, and rural governmental services needed  
22 to serve the permitted densities and uses. To achieve a variety of  
23 rural densities and uses, counties may provide for clustering,  
24 density transfer, design guidelines, conservation easements, and  
25 other innovative techniques that will accommodate appropriate rural  
26 economic advancement, densities, and uses that are not characterized  
27 by urban growth and that are consistent with rural character.

28 (c) Measures governing rural development. The rural element shall  
29 include measures that apply to rural development and protect the  
30 rural character of the area, as established by the county, by:

31 (i) Containing or otherwise controlling rural development;

32 (ii) Assuring visual compatibility of rural development with the  
33 surrounding rural area;

34 (iii) Reducing the inappropriate conversion of undeveloped land  
35 into sprawling, low-density development in the rural area;

36 (iv) Protecting critical areas, as provided in RCW 36.70A.060,  
37 and surface water and groundwater resources in a manner that must be  
38 consistent with applicable laws, applicable rules adopted pursuant to  
39 chapters 90.03, 90.22, 90.44, and 90.54 RCW, although the portions of  
40 such rules that were adopted before 2000 that purport to exempt



1 certain consumptive uses shall not be relied upon by counties or  
2 cites, and scientifically supportable water resource data, including  
3 water quantity, water quality, and instream flow assessments, using  
4 best available science to evaluate water resource impacts from  
5 projected growth; and

6 (v) Protecting against conflicts with the use of agricultural,  
7 forest, and mineral resource lands designated under RCW 36.70A.170.

8 (d) Limited areas of more intensive rural development. Subject to  
9 the requirements of this subsection and except as otherwise  
10 specifically provided in this subsection (5)(d), the rural element  
11 may allow for limited areas of more intensive rural development,  
12 including necessary public facilities and public services to serve  
13 the limited area as follows:

14 (i) Rural development consisting of the infill, development, or  
15 redevelopment of existing commercial, industrial, residential, or  
16 mixed-use areas, whether characterized as shoreline development,  
17 villages, hamlets, rural activity centers, or crossroads  
18 developments.

19 (A) A commercial, industrial, residential, shoreline, or mixed-  
20 use area are subject to the requirements of (d)(iv) of this  
21 subsection, but are not subject to the requirements of (c)(ii) and  
22 (iii) of this subsection.

23 (B) Any development or redevelopment other than an industrial  
24 area or an industrial use within a mixed-use area or an industrial  
25 area under this subsection (5)(d)(i) must be principally designed to  
26 serve the existing and projected rural population.

27 (C) Any development or redevelopment in terms of building size,  
28 scale, use, or intensity shall be consistent with the character of  
29 the existing areas. Development and redevelopment may include changes  
30 in use from vacant land or a previously existing use so long as the  
31 new use conforms to the requirements of this subsection (5);

32 (ii) The intensification of development on lots containing, or  
33 new development of, small-scale recreational or tourist uses,  
34 including commercial facilities to serve those recreational or  
35 tourist uses, that rely on a rural location and setting, but that do  
36 not include new residential development. A small-scale recreation or  
37 tourist use is not required to be principally designed to serve the  
38 existing and projected rural population. Public services and public  
39 facilities shall be limited to those necessary to serve the

1 recreation or tourist use and shall be provided in a manner that does  
2 not permit low-density sprawl;

3 (iii) The intensification of development on lots containing  
4 isolated nonresidential uses or new development of isolated cottage  
5 industries and isolated small-scale businesses that are not  
6 principally designed to serve the existing and projected rural  
7 population and nonresidential uses, but do provide job opportunities  
8 for rural residents. Rural counties may allow the expansion of small-  
9 scale businesses as long as those small-scale businesses conform with  
10 the rural character of the area as defined by the local government  
11 according to RCW 36.70A.030(16). Rural counties may also allow new  
12 small-scale businesses to utilize a site previously occupied by an  
13 existing business as long as the new small-scale business conforms to  
14 the rural character of the area as defined by the local government  
15 according to RCW 36.70A.030(16). Public services and public  
16 facilities shall be limited to those necessary to serve the isolated  
17 nonresidential use and shall be provided in a manner that does not  
18 permit low-density sprawl;

19 (iv) A county shall adopt measures to minimize and contain the  
20 existing areas or uses of more intensive rural development, as  
21 appropriate, authorized under this subsection. Lands included in such  
22 existing areas or uses shall not extend beyond the logical outer  
23 boundary of the existing area or use, thereby allowing a new pattern  
24 of low-density sprawl. Existing areas are those that are clearly  
25 identifiable and contained and where there is a logical boundary  
26 delineated predominately by the built environment, but that may also  
27 include undeveloped lands if limited as provided in this subsection.  
28 The county shall establish the logical outer boundary of an area of  
29 more intensive rural development. In establishing the logical outer  
30 boundary, the county shall address (A) the need to preserve the  
31 character of existing natural neighborhoods and communities, (B)  
32 physical boundaries, such as bodies of water, streets and highways,  
33 and land forms and contours, (C) the prevention of abnormally  
34 irregular boundaries, and (D) the ability to provide public  
35 facilities and public services in a manner that does not permit low-  
36 density sprawl;

37 (v) For purposes of (d) of this subsection, an existing area or  
38 existing use is one that was in existence:

39 (A) On July 1, 1990, in a county that was initially required to  
40 plan under all of the provisions of this chapter;

1 (B) On the date the county adopted a resolution under RCW  
2 36.70A.040(2), in a county that is planning under all of the  
3 provisions of this chapter under RCW 36.70A.040(2); or

4 (C) On the date the office of financial management certifies the  
5 county's population as provided in RCW 36.70A.040(5), in a county  
6 that is planning under all of the provisions of this chapter pursuant  
7 to RCW 36.70A.040(5).

8 (e) Exception. This subsection shall not be interpreted to permit  
9 in the rural area a major industrial development or a master planned  
10 resort unless otherwise specifically permitted under RCW 36.70A.360  
11 and 36.70A.365.

12 (6) A transportation element that implements, and is consistent  
13 with, the land use element.

14 (a) The transportation element shall include the following  
15 subelements:

16 (i) Land use assumptions used in estimating travel;

17 (ii) Estimated traffic impacts to state-owned transportation  
18 facilities resulting from land use assumptions to assist the  
19 department of transportation in monitoring the performance of state  
20 facilities, to plan improvements for the facilities, and to assess  
21 the impact of land-use decisions on state-owned transportation  
22 facilities;

23 (iii) Facilities and services needs, including:

24 (A) An inventory of air, water, and ground transportation  
25 facilities and services, including transit alignments and general  
26 aviation airport facilities, to define existing capital facilities  
27 and travel levels as a basis for future planning. This inventory must  
28 include state-owned transportation facilities within the city or  
29 county's jurisdictional boundaries;

30 (B) Level of service standards for all locally owned arterials  
31 and transit routes to serve as a gauge to judge performance of the  
32 system. These standards should be regionally coordinated;

33 (C) For state-owned transportation facilities, level of service  
34 standards for highways, as prescribed in chapters 47.06 and 47.80  
35 RCW, to gauge the performance of the system. The purposes of  
36 reflecting level of service standards for state highways in the local  
37 comprehensive plan are to monitor the performance of the system, to  
38 evaluate improvement strategies, and to facilitate coordination  
39 between the county's or city's six-year street, road, or transit  
40 program and the office of financial management's ten-year investment

1 program. The concurrency requirements of (b) of this subsection do  
2 not apply to transportation facilities and services of statewide  
3 significance except for counties consisting of islands whose only  
4 connection to the mainland are state highways or ferry routes. In  
5 these island counties, state highways and ferry route capacity must  
6 be a factor in meeting the concurrency requirements in (b) of this  
7 subsection;

8 (D) Specific actions and requirements for bringing into  
9 compliance locally owned transportation facilities or services that  
10 are below an established level of service standard;

11 (E) Forecasts of traffic for at least ten years based on the  
12 adopted land use plan to provide information on the location, timing,  
13 and capacity needs of future growth;

14 (F) Identification of state and local system needs to meet  
15 current and future demands. Identified needs on state-owned  
16 transportation facilities must be consistent with the statewide  
17 multimodal transportation plan required under chapter 47.06 RCW;

18 (iv) Finance, including:

19 (A) An analysis of funding capability to judge needs against  
20 probable funding resources;

21 (B) A multiyear financing plan based on the needs identified in  
22 the comprehensive plan, the appropriate parts of which shall serve as  
23 the basis for the six-year street, road, or transit program required  
24 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW  
25 35.58.2795 for public transportation systems. The multiyear financing  
26 plan should be coordinated with the ten-year investment program  
27 developed by the office of financial management as required by RCW  
28 47.05.030;

29 (C) If probable funding falls short of meeting identified needs,  
30 a discussion of how additional funding will be raised, or how land  
31 use assumptions will be reassessed to ensure that level of service  
32 standards will be met;

33 (v) Intergovernmental coordination efforts, including an  
34 assessment of the impacts of the transportation plan and land use  
35 assumptions on the transportation systems of adjacent jurisdictions;

36 (vi) Demand-management strategies;

37 (vii) Pedestrian and bicycle component to include collaborative  
38 efforts to identify and designate planned improvements for pedestrian  
39 and bicycle facilities and corridors that address and encourage  
40 enhanced community access and promote healthy lifestyles.

1 (b) After adoption of the comprehensive plan by jurisdictions  
2 required to plan or who choose to plan under RCW 36.70A.040, local  
3 jurisdictions must adopt and enforce ordinances which prohibit  
4 development approval if the development causes the level of service  
5 on a locally owned transportation facility to decline below the  
6 standards adopted in the transportation element of the comprehensive  
7 plan, unless transportation improvements or strategies to accommodate  
8 the impacts of development are made concurrent with the development.  
9 These strategies may include increased public transportation service,  
10 ride-sharing programs, demand management, and other transportation  
11 systems management strategies. For the purposes of this subsection  
12 (6), "concurrent with the development" means that improvements or  
13 strategies are in place at the time of development, or that a  
14 financial commitment is in place to complete the improvements or  
15 strategies within six years. If the collection of impact fees is  
16 delayed under RCW 82.02.050(3), the six-year period required by this  
17 subsection (6)(b) must begin after full payment of all impact fees is  
18 due to the county or city.

19 (c) The transportation element described in this subsection (6),  
20 the six-year plans required by RCW 35.77.010 for cities, RCW  
21 36.81.121 for counties, and RCW 35.58.2795 for public transportation  
22 systems, and the ten-year investment program required by RCW  
23 47.05.030 for the state, must be consistent.

24 (7) An economic development element establishing local goals,  
25 policies, objectives, and provisions for economic growth and vitality  
26 and a high quality of life. A city that has chosen to be a  
27 residential community is exempt from the economic development element  
28 requirement of this subsection.

29 (8) A park and recreation element that implements, and is  
30 consistent with, the capital facilities plan element as it relates to  
31 park and recreation facilities. The element shall include: (a)  
32 Estimates of park and recreation demand for at least a ten-year  
33 period; (b) an evaluation of facilities and service needs; and (c) an  
34 evaluation of intergovernmental coordination opportunities to provide  
35 regional approaches for meeting park and recreational demand.

36 (9) It is the intent that new or amended elements required after  
37 January 1, 2002, be adopted concurrent with the scheduled update  
38 provided in RCW 36.70A.130. Requirements to incorporate any such new  
39 or amended elements shall be null and void until funds sufficient to  
40 cover applicable local government costs are appropriated and

1 distributed by the state at least two years before local government  
2 must update comprehensive plans as required in RCW 36.70A.130.

3 **PART 4**

4 **WATERSHED RESTORATION ACCOUNT**

5 NEW SECTION. **Sec. 401.** A new section is added to chapter 90.54  
6 RCW to read as follows:

7 The watershed restoration account is created in the custody of  
8 the state treasurer. The account may receive such moneys as may be  
9 appropriated by the legislature for the purpose of funding water  
10 availability assessment and mitigation projects as approved by  
11 governmental entities listed in section 202 of this act. Expenditures  
12 from the account may be used only for the costs of administering this  
13 act, including implementing mitigation projects as developed by  
14 governmental entities listed in section 202 of this act, and  
15 collecting data and completing studies necessary to develop,  
16 implement, and evaluate mitigation projects under this act. Only the  
17 director of the department or the director's designee may authorize  
18 expenditures from the account. Fees or any additional appropriated  
19 revenues must be used exclusively within the water resource inventory  
20 area in which the withdrawals and the agreed upon mitigation  
21 originated. Moneys appropriated may not supplant state and federally  
22 appropriated salmon recovery moneys. The account is subject to the  
23 allotment procedures under chapter 43.88 RCW, but an appropriation is  
24 not required for expenditures.

25 NEW SECTION. **Sec. 402.** This act does not apply in the Yakima  
26 basin, water resource inventory areas 37, 38, and 39, those portions  
27 of water resource inventory areas 3 and 4 located in the Skagit river  
28 basin, or the Methow basin, water resource inventory area 48.

29 NEW SECTION. **Sec. 403.** A new section is added to chapter 90.54  
30 RCW to read as follows:

31 Nothing in this chapter affects the ability of any person to  
32 pursue a cause of action for the protection of any water right.

33 NEW SECTION. **Sec. 404.** This act is necessary for the immediate  
34 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes  
2 effect immediately.

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