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SECOND SUBSTITUTE SENATE BILL 5687

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State of Washington

61st Legislature

2009 Regular Session

**By** Senate Ways & Means (originally sponsored by Senators Marr, Pridemore, McDermott, Regala, Franklin, Kohl-Welles, Murray, Fairley, Jacobsen, Kauffman, McAuliffe, and Kline)

READ FIRST TIME 03/02/09.

1 AN ACT Relating to reducing greenhouse gas emissions through land  
2 use and transportation requirements; amending RCW 36.70A.020,  
3 36.70A.070, 36.70A.100, 36.70A.108, 36.70A.200, 36.70A.490, 36.70A.500,  
4 47.80.030, 43.21C.240, and 82.14.0455; adding a new section to chapter  
5 36.70A RCW; adding a new section to chapter 43.21C RCW; creating a new  
6 section; and providing an effective date.

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

8 **Sec. 1.** RCW 36.70A.020 and 2002 c 154 s 1 are each amended to read  
9 as follows:

10 The following goals are adopted to guide the development and  
11 adoption of comprehensive plans and development regulations of those  
12 counties and cities that are required or choose to plan under RCW  
13 36.70A.040. The following goals are not listed in order of priority  
14 and shall be used exclusively for the purpose of guiding the  
15 development of comprehensive plans and development regulations:

16 (1) Urban growth. Encourage development in urban areas where  
17 adequate public facilities and services exist or can be provided in an  
18 efficient manner.

1 (2) Reduce sprawl. Reduce the inappropriate conversion of  
2 undeveloped land into sprawling, low-density development.

3 (3) Transportation. Encourage efficient multimodal transportation  
4 systems that are based on regional priorities and coordinated with  
5 county and city comprehensive plans.

6 (4) Housing. Encourage the availability of affordable housing to  
7 all economic segments of the population of this state, promote a  
8 variety of residential densities and housing types, and encourage  
9 preservation of existing housing stock.

10 (5) Economic development. Encourage economic development  
11 throughout the state that is consistent with adopted comprehensive  
12 plans, promote economic opportunity for all citizens of this state,  
13 especially for unemployed and for disadvantaged persons, promote the  
14 retention and expansion of existing businesses and recruitment of new  
15 businesses, recognize regional differences impacting economic  
16 development opportunities, and encourage growth in areas experiencing  
17 insufficient economic growth, all within the capacities of the state's  
18 natural resources, public services, and public facilities.

19 (6) Property rights. Private property shall not be taken for  
20 public use without just compensation having been made. The property  
21 rights of landowners shall be protected from arbitrary and  
22 discriminatory actions.

23 (7) Permits. Applications for both state and local government  
24 permits should be processed in a timely and fair manner to ensure  
25 predictability.

26 (8) Natural resource industries. Maintain and enhance natural  
27 resource-based industries, including productive timber, agricultural,  
28 and fisheries industries. Encourage the conservation of productive  
29 forest lands and productive agricultural lands, and discourage  
30 incompatible uses.

31 (9) Open space and recreation. Retain open space, enhance  
32 recreational opportunities, conserve fish and wildlife habitat,  
33 increase access to natural resource lands and water, and develop parks  
34 and recreation facilities.

35 (10) Environment. Protect the environment and enhance the state's  
36 high quality of life, including air and water quality, and the  
37 availability of water. Establish land use and transportation patterns

1 that, at a minimum, support state greenhouse gas emissions reduction  
2 requirements.

3 (11) Citizen participation and coordination. Encourage the  
4 involvement of citizens in the planning process and ensure coordination  
5 between communities and jurisdictions to reconcile conflicts.

6 (12) Public facilities and services. Ensure that those public  
7 facilities and services necessary to support development shall be  
8 adequate to serve the development at the time the development is  
9 available for occupancy and use without decreasing current service  
10 levels below locally established minimum standards.

11 (13) Historic preservation. Identify and encourage the  
12 preservation of lands, sites, and structures, that have historical or  
13 archaeological significance.

14 **Sec. 2.** RCW 36.70A.070 and 2005 c 360 s 2 are each amended to read  
15 as follows:

16 The comprehensive plan of a county or city that is required or  
17 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,  
18 and descriptive text covering objectives, principles, and standards  
19 used to develop the comprehensive plan. The plan shall be an  
20 internally consistent document and all elements shall be consistent  
21 with the future land use map. A comprehensive plan shall be adopted  
22 and amended with public participation as provided in RCW 36.70A.140.

23 Each comprehensive plan shall include a plan, scheme, or design for  
24 each of the following:

25 (1) A land use element designating the proposed general  
26 distribution and general location and extent of the uses of land, where  
27 appropriate, for agriculture, timber production, housing, commerce,  
28 industry, recreation, open spaces, general aviation airports, public  
29 utilities, public facilities, and other land uses. The land use  
30 element shall include population densities, building intensities, and  
31 estimates of future population growth. The land use element shall  
32 provide for protection of the quality and quantity of groundwater used  
33 for public water supplies. Wherever possible, the land use element  
34 should consider utilizing urban planning approaches that promote  
35 physical activity. Where applicable, the land use element shall review  
36 drainage, flooding, and storm water run-off in the area and nearby

1 jurisdictions and provide guidance for corrective actions to mitigate  
2 or cleanse those discharges that pollute waters of the state, including  
3 Puget Sound or waters entering Puget Sound.

4 (2) A housing element ensuring the vitality and character of  
5 established residential neighborhoods that: (a) Includes an inventory  
6 and analysis of existing and projected housing needs that identifies  
7 the number of housing units necessary to manage projected growth; (b)  
8 includes a statement of goals, policies, objectives, and mandatory  
9 provisions for the preservation, improvement, and development of  
10 housing, including single-family residences; (c) identifies sufficient  
11 land for housing, including, but not limited to, government-assisted  
12 housing, housing for low-income families, manufactured housing,  
13 multifamily housing, and group homes and foster care facilities; and  
14 (d) makes adequate provisions for existing and projected needs of all  
15 economic segments of the community.

16 (3) A capital facilities plan element consisting of: (a) An  
17 inventory of existing capital facilities owned by public entities,  
18 showing the locations and capacities of the capital facilities; (b) a  
19 forecast of the future needs for such capital facilities; (c) the  
20 proposed locations and capacities of expanded or new capital  
21 facilities; (d) at least a six-year plan that will finance such capital  
22 facilities within projected funding capacities and clearly identifies  
23 sources of public money for such purposes; and (e) a requirement to  
24 reassess the land use element if probable funding falls short of  
25 meeting existing needs and to ensure that the land use element, capital  
26 facilities plan element, and financing plan within the capital  
27 facilities plan element are coordinated and consistent. Park and  
28 recreation facilities shall be included in the capital facilities plan  
29 element.

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

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

1 (a) Growth management act goals and local circumstances. Because  
2 circumstances vary from county to county, in establishing patterns of  
3 rural densities and uses, a county may consider local circumstances,  
4 but shall develop a written record explaining how the rural element  
5 harmonizes the planning goals in RCW 36.70A.020 and meets the  
6 requirements of this chapter.

7 (b) Rural development. The rural element shall permit rural  
8 development, forestry, and agriculture in rural areas. The rural  
9 element shall provide for a variety of rural densities, uses, essential  
10 public facilities, and rural governmental services needed to serve the  
11 permitted densities and uses. To achieve a variety of rural densities  
12 and uses, counties may provide for clustering, density transfer, design  
13 guidelines, conservation easements, and other innovative techniques  
14 that will accommodate appropriate rural densities and uses that are not  
15 characterized by urban growth and that are consistent with rural  
16 character.

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

20 (i) Containing or otherwise controlling rural development;

21 (ii) Assuring visual compatibility of rural development with the  
22 surrounding rural area;

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

25 (iv) Protecting critical areas, as provided in RCW 36.70A.060, and  
26 surface water and groundwater resources; and

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

29 (d) Limited areas of more intensive rural development. Subject to  
30 the requirements of this subsection and except as otherwise  
31 specifically provided in this subsection (5)(d), the rural element may  
32 allow for limited areas of more intensive rural development, including  
33 necessary public facilities and public services to serve the limited  
34 area as follows:

35 (i) Rural development consisting of the infill, development, or  
36 redevelopment of existing commercial, industrial, residential, or  
37 mixed-use areas, whether characterized as shoreline development,  
38 villages, hamlets, rural activity centers, or crossroads developments.

1 (A) A commercial, industrial, residential, shoreline, or mixed-use  
2 area shall be subject to the requirements of (d)(iv) of this  
3 subsection, but shall not be subject to the requirements of (c)(ii) and  
4 (iii) of this subsection.

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

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

14 (ii) The intensification of development on lots containing, or new  
15 development of, small-scale recreational or tourist uses, including  
16 commercial facilities to serve those recreational or tourist uses, that  
17 rely on a rural location and setting, but that do not include new  
18 residential development. A small-scale recreation or tourist use is  
19 not required to be principally designed to serve the existing and  
20 projected rural population. Public services and public facilities  
21 shall be limited to those necessary to serve the recreation or tourist  
22 use and shall be provided in a manner that does not permit low-density  
23 sprawl;

24 (iii) The intensification of development on lots containing  
25 isolated nonresidential uses or new development of isolated cottage  
26 industries and isolated small-scale businesses that are not principally  
27 designed to serve the existing and projected rural population and  
28 nonresidential uses, but do provide job opportunities for rural  
29 residents. Rural counties may allow the expansion of small-scale  
30 businesses as long as those small-scale businesses conform with the  
31 rural character of the area as defined by the local government  
32 according to RCW 36.70A.030(~~((+14))~~) (15). Rural counties may also  
33 allow new small-scale businesses to utilize a site previously occupied  
34 by an existing business as long as the new small-scale business  
35 conforms to the rural character of the area as defined by the local  
36 government according to RCW 36.70A.030(~~((+14))~~) (15). Public services  
37 and public facilities shall be limited to those necessary to serve the

1 isolated nonresidential use and shall be provided in a manner that does  
2 not permit low-density sprawl;

3 (iv) A county shall adopt measures to minimize and contain the  
4 existing areas or uses of more intensive rural development, as  
5 appropriate, authorized under this subsection. Lands included in such  
6 existing areas or uses shall not extend beyond the logical outer  
7 boundary of the existing area or use, thereby allowing a new pattern of  
8 low-density sprawl. Existing areas are those that are clearly  
9 identifiable and contained and where there is a logical boundary  
10 delineated predominately by the built environment, but that may also  
11 include undeveloped lands if limited as provided in this subsection.  
12 The county shall establish the logical outer boundary of an area of  
13 more intensive rural development. In establishing the logical outer  
14 boundary the county shall address (A) the need to preserve the  
15 character of existing natural neighborhoods and communities, (B)  
16 physical boundaries such as bodies of water, streets and highways, and  
17 land forms and contours, (C) the prevention of abnormally irregular  
18 boundaries, and (D) the ability to provide public facilities and public  
19 services in a manner that does not permit low-density sprawl;

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

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

24 (B) On the date the county adopted a resolution under RCW  
25 36.70A.040(2), in a county that is planning under all of the provisions  
26 of this chapter under RCW 36.70A.040(2); or

27 (C) On the date the office of financial management certifies the  
28 county's population as provided in RCW 36.70A.040(5), in a county that  
29 is planning under all of the provisions of this chapter pursuant to RCW  
30 36.70A.040(5).

31 (e) Exception. This subsection shall not be interpreted to permit  
32 in the rural area a major industrial development or a master planned  
33 resort unless otherwise specifically permitted under RCW 36.70A.360 and  
34 36.70A.365.

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

37 (a) The transportation element shall include the following  
38 subelements:

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

2 (ii) Estimated traffic impacts to state-owned transportation  
3 facilities resulting from land use assumptions to assist the department  
4 of transportation in monitoring the performance of state facilities, to  
5 plan improvements for the facilities, and to assess the impact of land-  
6 use decisions on state-owned transportation facilities;

7 (iii) Facilities and services needs, including:

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

14 (B) Level of service standards for all locally owned arterials and  
15 transit routes to serve as a gauge to judge performance of the system.  
16 These standards should be regionally coordinated and must consider all  
17 transportation modes in meeting regional transportation demands. In  
18 adopting level of service standards required under this subsection  
19 (6)(a)(iii)(B), jurisdictions must also consider adopting multimodal  
20 level of service standards;

21 (C) For state-owned transportation facilities, level of service  
22 standards for highways, as prescribed in chapters 47.06 and 47.80 RCW,  
23 to gauge the performance of the system. The purposes of reflecting  
24 level of service standards for state highways in the local  
25 comprehensive plan are to monitor the performance of the system, to  
26 evaluate improvement strategies, and to facilitate coordination between  
27 the county's or city's six-year street, road, or transit program and  
28 the ~~((department of transportation's six-year))~~ office of financial  
29 management's ten-year investment program(~~(.——The concurrency~~  
30 ~~requirements of (b) of this subsection do not apply to transportation~~  
31 ~~facilities and services of statewide significance except for counties~~  
32 ~~consisting of islands whose only connection to the mainland are state~~  
33 ~~highways or ferry routes. In these island counties, state highways and~~  
34 ~~ferry route capacity must be a factor in meeting the concurrency~~  
35 ~~requirements in (b) of this subsection));~~

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



1 (E) Forecasts of (~~traffic~~) travel demand for at least ten years  
2 based on the adopted land use plan to provide information on the  
3 location, timing, and capacity needs of future growth;

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

8 (iv) Finance, including:

9 (A) An analysis of funding capability to judge needs against  
10 probable funding resources;

11 (B) A multiyear financing plan based on the needs identified in the  
12 comprehensive plan, the appropriate parts of which shall serve as the  
13 basis for the six-year street, road, or transit program required by RCW  
14 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795  
15 for public transportation systems. The multiyear financing plan should  
16 be coordinated with the (~~six-year improvement~~) ten-year investment  
17 program developed by the (~~department of transportation~~) office of  
18 financial management as required by RCW 47.05.030;

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

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

26 (vi) Demand-management strategies;

27 (vii) Pedestrian and bicycle component to include collaborative  
28 efforts to identify and designate planned improvements for pedestrian  
29 and bicycle facilities and corridors that address and encourage  
30 enhanced community access (~~and promote~~), connections between land  
31 uses and transportation modes, and the promotion of healthy lifestyles.

32 (b)(i) After adoption of the comprehensive plan by jurisdictions  
33 required to plan or who choose to plan under RCW 36.70A.040, local  
34 jurisdictions must adopt and enforce ordinances which prohibit  
35 development approval if the development causes the level of service on  
36 a locally owned transportation facility to decline below the standards  
37 adopted in the transportation element of the comprehensive plan, unless  
38 transportation improvements or strategies to accommodate the impacts of

1 development are made concurrent with the development. These strategies  
2 must consider multimodal improvements or strategies, examples of which  
3 may include increased public transportation service, ride sharing  
4 programs, demand management, and other transportation systems  
5 management strategies.

6 (ii) For the purposes of this subsection (6), "concurrent with the  
7 development" (~~shall mean~~) means that improvements or strategies are  
8 in place at the time of development, or that a financial commitment is  
9 in place to complete the improvements or strategies within six years.

10 (iii) The concurrency requirements of this subsection (6)(b) do not  
11 apply to transportation facilities and services of statewide  
12 significance except for counties consisting of islands whose only  
13 connection to the mainland are state highways or ferry routes. In  
14 these island counties, state highway and ferry route capacity must be  
15 a factor in meeting the concurrency requirements of this subsection  
16 (6)(b).

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

22 (7) An economic development element establishing local goals,  
23 policies, objectives, and provisions for economic growth and vitality  
24 and a high quality of life. The element shall include: (a) A summary  
25 of the local economy such as population, employment, payroll, sectors,  
26 businesses, sales, and other information as appropriate; (b) a summary  
27 of the strengths and weaknesses of the local economy defined as the  
28 commercial and industrial sectors and supporting factors such as land  
29 use, transportation, utilities, education, workforce, housing, and  
30 natural/cultural resources; and (c) an identification of policies,  
31 programs, and projects to foster economic growth and development and to  
32 address future needs. A city that has chosen to be a residential  
33 community is exempt from the economic development element requirement  
34 of this subsection.

35 (8) A park and recreation element that implements, and is  
36 consistent with, the capital facilities plan element as it relates to  
37 park and recreation facilities. The element shall include: (a)  
38 Estimates of park and recreation demand for at least a ten-year period;

1 (b) an evaluation of facilities and service needs; and (c) an  
2 evaluation of intergovernmental coordination opportunities to provide  
3 regional approaches for meeting park and recreational demand.

4 (9) It is the intent that new or amended elements required after  
5 January 1, 2002, be adopted concurrent with the scheduled update  
6 provided in RCW 36.70A.130. Requirements to incorporate any such new  
7 or amended elements shall be null and void until funds sufficient to  
8 cover applicable local government costs are appropriated and  
9 distributed by the state at least two years before local government  
10 must update comprehensive plans as required in RCW 36.70A.130.

11 **Sec. 3.** RCW 36.70A.100 and 1990 1st ex.s. c 17 s 10 are each  
12 amended to read as follows:

13 The comprehensive plan of each county or city (~~(that is)~~) adopted  
14 pursuant to RCW 36.70A.040 shall be:

15 (1) Coordinated with, and consistent with, the comprehensive plans  
16 adopted pursuant to RCW 36.70A.040 of other counties or cities with  
17 which the county or city has, in part, common borders or related  
18 regional issues; and

19 (2) Consistent with the regional transportation plans required  
20 under RCW 47.80.030 for the region within which the county or city is  
21 located.

22 **Sec. 4.** RCW 36.70A.108 and 2005 c 328 s 1 are each amended to read  
23 as follows:

24 (1) The transportation element required by RCW 36.70A.070 may  
25 include, in addition to improvements or strategies to accommodate the  
26 impacts of development authorized under RCW 36.70A.070(6)(b),  
27 multimodal transportation improvements or strategies that are made  
28 concurrent with the development. These transportation improvements or  
29 strategies may include, but are not limited to, measures implementing  
30 or evaluating:

31 (a) Multiple modes of transportation with peak and nonpeak hour  
32 capacity performance standards for locally owned transportation  
33 facilities; (~~and~~)

34 (b) Modal performance standards meeting the peak and nonpeak hour  
35 capacity performance standards; and

1 (c) Transit-oriented development or other compact development  
2 strategies. For purposes of this subsection (1)(c) the following  
3 definitions apply:

4 (i) "Compact development" means an area designated for mixed-use,  
5 higher density development patterns that encourage walking, bicycling,  
6 and plans for a multimodal network that may include transit services  
7 and facilities; and

8 (ii) "Transit-oriented development" means a type of compact  
9 development that provides compact, walkable communities with densities  
10 that support transit service and have convenient access to transit  
11 systems with frequent peak travel period service.

12 (2) Nothing in this section or RCW 36.70A.070(6)(b) shall be  
13 construed as prohibiting a county or city planning under RCW 36.70A.040  
14 from exercising existing authority to develop multimodal improvements  
15 or strategies to satisfy the concurrency requirements of this chapter.

16 (3) Nothing in this section is intended to affect or otherwise  
17 modify the authority of jurisdictions planning under RCW 36.70A.040.

18 **Sec. 5.** RCW 36.70A.200 and 2002 c 68 s 2 are each amended to read  
19 as follows:

20 (1) The comprehensive plan of each county and city that is planning  
21 under RCW 36.70A.040 shall include a process for identifying and siting  
22 essential public facilities. Essential public facilities include those  
23 facilities that are typically difficult to site, such as airports,  
24 state education facilities and state or regional transportation  
25 facilities as defined in RCW 47.06.140, regional transit authority  
26 facilities as defined in RCW 81.112.020, state and local correctional  
27 facilities, solid waste handling facilities, and in-patient facilities  
28 including substance abuse facilities, mental health facilities, group  
29 homes, and secure community transition facilities as defined in RCW  
30 71.09.020.

31 (2) Each county and city planning under RCW 36.70A.040 shall, not  
32 later than September 1, 2002, establish a process, or amend its  
33 existing process, for identifying and siting essential public  
34 facilities and adopt or amend its development regulations as necessary  
35 to provide for the siting of secure community transition facilities  
36 consistent with statutory requirements applicable to these facilities.

1 (3) Any city or county not planning under RCW 36.70A.040 shall, not  
2 later than September 1, 2002, establish a process for siting secure  
3 community transition facilities and adopt or amend its development  
4 regulations as necessary to provide for the siting of such facilities  
5 consistent with statutory requirements applicable to these facilities.

6 (4) The office of financial management shall maintain a list of  
7 those essential state public facilities that are required or likely to  
8 be built within the next six years. The office of financial management  
9 may at any time add facilities to the list.

10 (5) No local comprehensive plan or development regulation may  
11 preclude the siting of essential public facilities.

12 (6) No person may bring a cause of action for civil damages based  
13 on the good faith actions of any county or city to provide for the  
14 siting of secure community transition facilities in accordance with  
15 this section and with the requirements of chapter 12, Laws of 2001 2nd  
16 sp. sess. For purposes of this subsection, "person" includes, but is  
17 not limited to, any individual, agency as defined in RCW 42.17.020,  
18 corporation, partnership, association, and limited liability entity.

19 (7) Counties or cities siting facilities pursuant to subsection (2)  
20 or (3) of this section shall comply with RCW 71.09.341.

21 (8) The failure of a county or city to act by the deadlines  
22 established in subsections (2) and (3) of this section is not:

23 (a) A condition that would disqualify the county or city for  
24 grants, loans, or pledges under RCW 43.155.070 or 70.146.070;

25 (b) A consideration for grants or loans provided under RCW  
26 43.17.250(2); or

27 (c) A basis for any petition under RCW 36.70A.280 or for any  
28 private cause of action.

29 **Sec. 6.** RCW 36.70A.490 and 1995 c 347 s 115 are each amended to  
30 read as follows:

31 The growth management planning and environmental review fund is  
32 hereby established in the state treasury. Moneys may be placed in the  
33 fund from the proceeds of bond sales, tax revenues, budget transfers,  
34 federal appropriations, gifts, or any other lawful source. Moneys in  
35 the fund may be spent only after appropriation. Moneys in the fund  
36 shall be used to make grants and loans to local governments for the  
37 purposes set forth in RCW 43.21C.240, 43.21C.031, or 36.70A.500.

1           **Sec. 7.** RCW 36.70A.500 and 1997 c 429 s 28 are each amended to  
2 read as follows:

3           (1) The department (~~(of community, trade, and economic~~  
4 ~~development))~~) shall provide management services for the fund created by  
5 RCW 36.70A.490. The department shall establish procedures and a  
6 program for fund management. The department shall encourage  
7 participation in the (~~grant~~) program by other public agencies. The  
8 department shall develop (~~the~~) grant and loan criteria, monitor the  
9 (~~grant~~) program, and select (~~grant~~) recipients in consultation with  
10 state agencies participating in the (~~grant~~) program through the  
11 provision of (~~grant~~) funds or technical assistance.

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

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

22           (b) Encourages use of plans and information developed for purposes  
23 of complying with this chapter to satisfy requirements of other state  
24 programs.

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

27           (a) Demonstrate that it will prepare an environmental analysis  
28 pursuant to chapter 43.21C RCW and subsection (2) of this section that  
29 is integrated with a comprehensive plan, subarea plan, plan element,  
30 county-wide planning policy, development regulations, monitoring  
31 program, or other planning activity adopted under or implementing this  
32 chapter;

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

37           (c) Demonstrate that procedures for review of development permit

1 applications will be based on the integrated plans and environmental  
2 analysis;

3 (d) Include mechanisms to monitor the consequences of growth as it  
4 occurs in the plan area and to use the resulting data to update the  
5 plan, policy, or implementing mechanisms and associated environmental  
6 analysis;

7 (e) Demonstrate substantial progress towards compliance with the  
8 requirements of this chapter. A county or city that is more than six  
9 months out of compliance with a requirement of this chapter is deemed  
10 not to be making substantial progress towards compliance; and

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

13 (4) In awarding grants and loans, the department shall give  
14 preference to proposals that include one or more of the following  
15 elements:

16 (a) Furtherance of greenhouse gas emissions reduction requirements;

17 (b) Financial participation by the private sector, or a  
18 public/private partnering approach;

19 ~~((b))~~ (c) Identification and monitoring of system capacities for  
20 elements of the built environment, and to the extent appropriate, of  
21 the natural environment;

22 ~~((e))~~ (d) Coordination with state, federal, and tribal  
23 governments in project review;

24 ~~((d))~~ (e) Furtherance of important state objectives related to  
25 economic development, protection of areas of statewide significance,  
26 and siting of essential public facilities;

27 ~~((e))~~ (f) Programs to improve the efficiency and effectiveness of  
28 the permitting process by greater reliance on integrated plans and  
29 prospective environmental analysis;

30 ~~((f))~~ (g) Programs for effective citizen and neighborhood  
31 involvement that contribute to greater likelihood that planning  
32 decisions can be implemented with community support; and

33 ~~((g))~~ (h) Programs to identify environmental impacts and  
34 establish mitigation measures that provide effective means to satisfy  
35 concurrency requirements and establish project consistency with the  
36 plans.

37 (5) If the local funding includes funding provided by other state

1 functional planning programs, including open space planning and  
2 watershed or basin planning, the functional plan shall be integrated  
3 into and be consistent with the comprehensive plan.

4 (6) State agencies shall work with grant and loan recipients to  
5 facilitate state and local project review processes that will implement  
6 the projects receiving (~~(grants)~~) financial assistance under this  
7 section.

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

10 (1) Except as provided in subsections (8) and (9) of this section,  
11 comprehensive plans and development regulations adopted under this  
12 chapter must, after a major transit station is sited and funded,  
13 authorize transit-oriented development within one-half mile walking  
14 distance of a major transit station. Topography and permanent  
15 pedestrian barriers must be considered when determining walking mile  
16 distances under this section. The adopted plans and regulations also  
17 must:

18 (a) Include standards for streets, sidewalks, and buildings that  
19 encourage walking and bicycling, and a process to ensure progress  
20 toward meeting these standards;

21 (b) Prioritize for safe walking and bicycling connections to  
22 proximate major transit stations and transit centers;

23 (c) Plan for park, recreational spaces, and green infrastructure  
24 needed to serve those who live or work in the area;

25 (d) Provide for a net gain in housing units that are affordable to  
26 low and moderate-income households;

27 (e) Require one-for-one replacement of demolished or converted  
28 housing units that are affordable to the income level of the displaced  
29 residents. The replacement units are in addition to other affordable  
30 units required by this section. This subsection (1)(e) applies if the  
31 following are demolished or converted: (i) Rental housing units that  
32 are affordable to households earning sixty percent or less of the  
33 adjusted county median income; and (ii) ownership housing that is  
34 affordable to households earning eighty percent of the adjusted county  
35 median income;

36 (f) Require that all new housing or mixed-use developments provide  
37 housing that is affordable to the income groups in (g) of this



1 subsection and receive density bonuses equal to the number of housing  
2 units produced under this subsection (1)(f), or provide for master  
3 planned zoning that identifies locations and incentives sufficient to  
4 provide housing that is affordable to the income groups in (g) of this  
5 subsection. The housing units required by this subsection must be  
6 constructed within one-half mile walking distance of a major transit  
7 station and must be comparable to the associated market rate  
8 development. Existing housing programs, including programs authorized  
9 by RCW 36.70A.540, may be used to assist in complying with the  
10 affordable housing requirements of this section. Affordable units  
11 required by this subsection (1)(f) must be affordable for a minimum of  
12 fifty years, but counties and cities should consider employing tools to  
13 permanently maintain affordability;

14 (g) Require that: (i) Twenty-five percent of rental units be  
15 affordable to people earning less than eighty percent of the adjusted  
16 county median income, with ten percent of the rental units being  
17 affordable to people earning less than sixty percent of the adjusted  
18 county median income; and (ii) twenty-five percent of ownership units  
19 be affordable to people earning less than one hundred twenty percent of  
20 the adjusted county median income, with ten percent of the ownership  
21 units being affordable to people earning less than one hundred percent  
22 of the adjusted county median income. Affordable units required by  
23 this subsection (1)(g) must be affordable for a minimum of fifty years,  
24 but counties and cities should consider employing tools to permanently  
25 maintain affordability;

26 (h) Authorize the waiving of minimum parking space requirements for  
27 any land use. The waiving authorized under this subsection (1)(h) is  
28 an acknowledgement that high levels of transit service and  
29 opportunities for walking and biking in transit-oriented development  
30 areas will reduce the need for motor vehicles;

31 (i) Require developers to provide the following to renters earning  
32 less than eighty percent of the adjusted median income who will be  
33 displaced by development: (i) No fewer than ninety days' notice of an  
34 order to vacate the affected premises; and (ii) relocation assistance  
35 in an amount determined by the applicable county or city. Relocation  
36 assistance provided under this subsection (1)(i)(ii) may not exceed an  
37 amount equaling three months rent for an affected tenant; and

1 (j) Require that notice be provided by sellers to the jurisdiction  
2 when buildings with two or more housing units that are affordable to  
3 households earning sixty percent or less of the adjusted county median  
4 income are offered for sale. Upon receiving the notice required by  
5 this subsection (1)(j), the jurisdiction must, within three business  
6 days, send copies of the notice to housing authorities and nonprofit  
7 housing providers that have requested copies of such notices.

8 (2) A major transit station includes any of the following within an  
9 urban growth area:

10 (a) Stations on a high capacity transportation system approved by  
11 the voters and funded or expanded under chapter 81.104 RCW. For  
12 purposes of this subsection (2), streetcars, including streetcar  
13 systems expanded under chapter 81.104 RCW, are not considered a high  
14 capacity transportation system;

15 (b) Commuter rail stations;

16 (c) Stops on rail or fixed guideway systems, including transitways,  
17 but excluding stops in a streetcar system; and

18 (d) Stations on bus rapid transit routes that operate on exclusive  
19 rights-of-way for sixty-five percent or more of a route.

20 (3) For purposes of this section, "transit-oriented development"  
21 has the same meaning as defined in RCW 36.70A.108.

22 (4) Density determinations made in accordance with this section  
23 must be calculated by dividing the number of allowed dwelling units by  
24 the net acreage of the applicable area. Net acreage is the land area,  
25 expressed in acres, after deducting: (a) Public buildings; (b) public  
26 parks; (c) hospitals and similar public and semipublic places; (d)  
27 military encroachment zones; (e) public rights-of-way; (f) critical  
28 areas; (g) unbuildable lands; and (h) lands meeting the requirements of  
29 subsection (9) of this section.

30 (5) Counties and cities must report the number of affordable  
31 housing units created in accordance with subsection (1) of this section  
32 to the department and the appropriate committees of the legislature by  
33 January 1, 2015. Subsequent reports to the department and the  
34 legislature must be completed according to the schedule established in  
35 RCW 36.70A.130(4).

36 (6) Cities with transit-oriented development areas that are  
37 designated as mixed-use centers by a plan adopted by a regional

1 transportation planning organization or by a countywide planning policy  
2 must adopt comprehensive plan provisions and development regulations  
3 meeting one or more of the following:

4 (a) Have an allowed average residential density of at least fifty  
5 dwelling units per net acre;

6 (b) Have an allowed average employment density of at least fifty  
7 jobs per acre; and

8 (c) Have a combination of residential dwelling units and net jobs  
9 capacity of at least fifty jobs and housing units per acre. In  
10 calculating the affordable housing that must be constructed under this  
11 section, each job must be considered the same as a dwelling unit.

12 (7) Cities with transit-oriented development areas that are not  
13 designated as mixed-use areas under subsection (6) of this section must  
14 adopt comprehensive plan provisions and development regulations that  
15 can achieve a similar level of walking, biking, and transit ridership,  
16 and a similar number of affordable housing units, as would otherwise be  
17 required under subsection (6) of this section.

18 (8) Nothing in this section modifies or otherwise affects planning  
19 or regulatory requirements for airports or major transit stations  
20 located on shorelands, as that term is defined in RCW 90.58.030.

21 (9) This section does not apply to lands: (a) Designated for  
22 industrial or manufacturing uses in comprehensive plans or zoning  
23 regulations; or (b) upon which stadiums that seat twenty-five thousand  
24 or more persons are located.

25 **Sec. 9.** RCW 47.80.030 and 2005 c 328 s 2 are each amended to read  
26 as follows:

27 (1) Each regional transportation planning organization shall  
28 develop in cooperation with the department of transportation, providers  
29 of public transportation and high capacity transportation, ports, and  
30 local governments within the region, adopt, and periodically update a  
31 regional transportation plan that:

32 (a) Is based on a least cost planning methodology that identifies  
33 the most cost-effective facilities, services, and programs;

34 (b) Identifies existing or planned transportation facilities,  
35 services, and programs, including but not limited to major roadways  
36 including state highways and regional arterials, transit and  
37 nonmotorized services and facilities, multimodal and intermodal

1 facilities, marine ports and airports, railroads, and noncapital  
2 programs including transportation demand management that should  
3 function as an integrated regional transportation system, giving  
4 emphasis to those facilities, services, and programs that exhibit one  
5 or more of the following characteristics:

6 (i) Crosses member county lines;

7 (ii) Is or will be used by a significant number of people who live  
8 or work outside the county in which the facility, service, or project  
9 is located;

10 (iii) Significant impacts are expected to be felt in more than one  
11 county;

12 (iv) Potentially adverse impacts of the facility, service, program,  
13 or project can be better avoided or mitigated through adherence to  
14 regional policies;

15 (v) Transportation needs addressed by a project have been  
16 identified by the regional transportation planning process and the  
17 remedy is deemed to have regional significance; and

18 (vi) Provides for system continuity;

19 (c) Establishes level of service standards for state highways and  
20 state ferry routes, with the exception of transportation facilities of  
21 statewide significance as defined in RCW 47.06.140. These regionally  
22 established level of service standards for state highways and state  
23 ferries shall be developed jointly with the department of  
24 transportation, to encourage consistency across jurisdictions. In  
25 establishing level of service standards for state highways and state  
26 ferries, consideration shall be given for the necessary balance between  
27 providing for the free interjurisdictional movement of people and goods  
28 and the needs of local commuters using state facilities;

29 (d) Includes a financial plan demonstrating how the regional  
30 transportation plan can be implemented, indicating resources from  
31 public and private sources that are reasonably expected to be made  
32 available to carry out the plan, and recommending any innovative  
33 financing techniques to finance needed facilities, services, and  
34 programs;

35 (e) Assesses regional development patterns, capital investment and  
36 other measures necessary to:

37 (i) Ensure the preservation of the existing regional transportation  
38 system, including requirements for operational improvements,

1 resurfacing, restoration, and rehabilitation of existing and future  
2 major roadways, as well as operations, maintenance, modernization, and  
3 rehabilitation of existing and future transit, railroad systems and  
4 corridors, and nonmotorized facilities; and

5 (ii) Make the most efficient use of existing transportation  
6 facilities to relieve vehicular congestion and maximize the mobility of  
7 people and goods;

8 (f) Sets forth a proposed regional transportation approach,  
9 including capital investments, service improvements, programs, and  
10 transportation demand management measures to guide the development of  
11 the integrated, multimodal regional transportation system. For  
12 regional growth centers, the approach must address transportation  
13 concurrency strategies required under RCW 36.70A.070 and include a  
14 measurement of vehicle level of service for off-peak periods and total  
15 multimodal capacity for peak periods; and

16 (g) Where appropriate, sets forth the relationship of high capacity  
17 transportation providers and other public transit providers with regard  
18 to responsibility for, and the coordination between, services and  
19 facilities.

20 (2) Regional transportation planning organizations encompassing at  
21 least one county planning under RCW 36.70A.040 with two hundred forty-  
22 five thousand or more residents must adopt a regional transportation  
23 plan for those counties that implement the goals to reduce annual per  
24 capita vehicle miles traveled adopted under RCW 47.01.440.

25 (3) The organization shall review the regional transportation plan  
26 biennially for currency and forward the adopted plan along with  
27 documentation of the biennial review to the state department of  
28 transportation. In satisfying the requirements of this subsection, the  
29 organization shall provide notice reasonably calculated to inform the  
30 public of the review, and opportunities for the public to comment on  
31 the review and plan adoption.

32 ((+3)) (4) All transportation projects, programs, and  
33 transportation demand management measures within the region that have  
34 an impact upon regional facilities or services must be consistent with  
35 the plan and with the adopted regional growth and transportation  
36 strategies.

1       **Sec. 10.** RCW 43.21C.240 and 2003 c 298 s 2 are each amended to  
2 read as follows:

3       (1) If the requirements of subsection (2) of this section are  
4 satisfied, a county, city, or town reviewing a project action shall  
5 determine that the requirements for environmental analysis, protection,  
6 and mitigation measures in the county, city, or town's development  
7 regulations and comprehensive plans adopted under chapter 36.70A RCW,  
8 and in other applicable local, state, or federal laws and rules provide  
9 adequate analysis of and mitigation for the specific adverse  
10 environmental impacts of the project action to which the requirements  
11 apply. Rules adopted by the department according to RCW 43.21C.110  
12 regarding project specific impacts that may not have been adequately  
13 addressed apply to any determination made under this section. In these  
14 situations, in which all adverse environmental impacts will be  
15 mitigated below the level of significance as a result of mitigation  
16 measures included by changing, clarifying, or conditioning of the  
17 proposed action and/or regulatory requirements of development  
18 regulations adopted under chapter 36.70A RCW or other local, state, or  
19 federal laws, a determination of nonsignificance or a mitigated  
20 determination of nonsignificance is the proper threshold determination.

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

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

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

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

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

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

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

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

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

23 (7) A project action that is consistent with the applicable  
24 comprehensive plan and development regulations may not be challenged  
25 for noncompliance under this chapter due to greenhouse gas emissions  
26 if:

27 (a) The county, city, or town in which the project action is  
28 located has prepared an environmental impact statement under RCW  
29 43.21C.030 for the area covered by the comprehensive plan or subarea  
30 plan that includes a greenhouse gas emissions analysis;

31 (b) The county, city, or town in which the project action is  
32 located has adopted a comprehensive plan or subarea plan and  
33 development regulations that comply with subsections (3) and (4) of  
34 this section;

35 (c) The development authorized by the comprehensive plan and  
36 development regulations will reduce greenhouse gas emissions in  
37 accordance with RCW 70.235.020, and per capita vehicle miles traveled  
38 in accordance with RCW 47.01.440;

1        (d) The project action complies with the definition of compact  
2 development in RCW 36.70A.108; and

3        (e) The project action is located in an urban growth area and a  
4 center designated by the county, city, or town comprehensive plan.

5        (8) This section shall apply only to a county, city, or town  
6 planning under RCW 36.70A.040.

7        NEW SECTION.    **Sec. 11.** A new section is added to chapter 43.21C  
8 RCW to read as follows:

9        Cities and towns authorizing compact development in designated  
10 centers or participating in a regional transfer of development rights  
11 program under chapter 43.362 RCW may impose environmental fees on  
12 development activity as part of the financing for environmental review  
13 under this chapter. Environmental fees imposed under this section:

14        (1) May only be for: (a) A subarea plan for which the impacts of  
15 compact development have been addressed by the applicable city or town;  
16 or (b) a regional transfer of development rights program receiving area  
17 for which the impacts of development within the receiving area have  
18 been addressed by the applicable city or town;

19        (2) May only be for environmental review costs that have been  
20 identified as reasonably related to the new development;

21        (3) May not exceed a proportionate share of the environmental  
22 review costs financed under RCW 36.70A.500, if any, or the costs of  
23 environmental review and holding costs that would have been borne by  
24 the development if no environmental review had occurred; and

25        (4) Must be used to repay a loan authorized under RCW 36.70A.500,  
26 if applicable.

27        **Sec. 12.** RCW 82.14.0455 and 2006 c 311 s 16 are each amended to  
28 read as follows:

29        (1) Subject to the provisions in RCW 36.73.065, a transportation  
30 benefit district under chapter 36.73 RCW may fix and impose a sales and  
31 use tax in accordance with the terms of this chapter. The tax  
32 authorized in this section is in addition to any other taxes authorized  
33 by law and shall be collected from those persons who are taxable by the  
34 state under chapters 82.08 and 82.12 RCW upon the occurrence of any  
35 taxable event within the boundaries of the district. The rate of tax  
36 shall not exceed two-tenths of one percent of the selling price in the



1 case of a sales tax, or value of the article used, in the case of a use  
2 tax. ~~((The tax may not be imposed for a period exceeding ten years.  
3 This tax may be extended for a period not exceeding ten years with an  
4 affirmative vote of the voters voting at the election.))~~

5 (2) Money received from the tax imposed under this section must be  
6 spent in accordance with the requirements of chapter 36.73 RCW.

7 NEW SECTION. **Sec. 13.** If specific funding for the purposes of  
8 this act, referencing this act by bill or chapter number, is not  
9 provided by June 30, 2011, in the omnibus appropriations act, this act  
10 is null and void.

11 NEW SECTION. **Sec. 14.** This act takes effect December 1, 2011.

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