
SENATE BILL 6329

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By Senators Stevens, Haugen, Swecker, Hargrove, Schoesler, Holmquist
Newbry, Hatfield, Delvin, Sheldon, Hobbs, Honeyford, and Morton

Read first time 01/18/12. Referred to Committee on Energy, Natural
Resources & Marine Waters.

1 AN ACT Relating to streamlining the shoreline management act to
2 avoid duplicative review; amending RCW 90.58.050, 90.58.080, 90.58.100,
3 90.58.120, 90.58.140, 90.58.190, 90.58.195, 90.58.580, 90.58.590, and
4 90.58.620; and reenacting and amending RCW 90.58.030 and 90.58.090.

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

6 **Sec. 1.** RCW 90.58.030 and 2010 c 107 s 3 are each reenacted and
7 amended to read as follows:

8 As used in this chapter, unless the context otherwise requires, the
9 following definitions and concepts apply:

10 (1) Administration:

11 (a) "Department" means the department of ecology;

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

13 (c) "Hearings board" means the shorelines hearings board
14 established by this chapter;

15 (d) "Local government" means any county, incorporated city, or town
16 which contains within its boundaries any lands or waters subject to
17 this chapter;

18 (e) "Person" means an individual, partnership, corporation,

1 association, organization, cooperative, public or municipal
2 corporation, or agency of the state or local governmental unit however
3 designated.

4 (2) Geographical:

5 (a) "Extreme low tide" means the lowest line on the land reached by
6 a receding tide;

7 (b) "Floodway" means the area, as identified in a master program,
8 that either: (i) Has been established in federal emergency management
9 agency flood insurance rate maps or floodway maps; or (ii) consists of
10 those portions of a river valley lying streamward from the outer limits
11 of a watercourse upon which flood waters are carried during periods of
12 flooding that occur with reasonable regularity, although not
13 necessarily annually, said floodway being identified, under normal
14 condition, by changes in surface soil conditions or changes in types or
15 quality of vegetative ground cover condition, topography, or other
16 indicators of flooding that occurs with reasonable regularity, although
17 not necessarily annually. Regardless of the method used to identify
18 the floodway, the floodway shall not include those lands that can
19 reasonably be expected to be protected from flood waters by flood
20 control devices maintained by or maintained under license from the
21 federal government, the state, or a political subdivision of the state;

22 (c) "Ordinary high water mark" on all lakes, streams, and tidal
23 water is that mark that will be found by examining the bed and banks
24 and ascertaining where the presence and action of waters are so common
25 and usual, and so long continued in all ordinary years, as to mark upon
26 the soil a character distinct from that of the abutting upland, in
27 respect to vegetation as that condition exists on June 1, 1971, as it
28 may naturally change thereafter, or as it may change thereafter in
29 accordance with permits issued by a local government or the department:
30 PROVIDED, That in any area where the ordinary high water mark cannot be
31 found, the ordinary high water mark adjoining salt water shall be the
32 line of mean higher high tide and the ordinary high water mark
33 adjoining freshwater shall be the line of mean high water;

34 (d) "Shorelands" or "shoreland areas" means those lands extending
35 landward for two hundred feet in all directions as measured on a
36 horizontal plane from the ordinary high water mark; floodways and
37 contiguous floodplain areas landward two hundred feet from such
38 floodways; and all wetlands and river deltas associated with the

1 streams, lakes, and tidal waters which are subject to the provisions of
2 this chapter; the same to be designated as to location by the
3 department of ecology.

4 (i) Any county or city may determine that portion of a one-hundred-
5 year-flood plain to be included in its master program as long as such
6 portion includes, as a minimum, the floodway and the adjacent land
7 extending landward two hundred feet therefrom.

8 (ii) Any city or county may also include in its master program land
9 necessary for buffers for critical areas, as defined in chapter 36.70A
10 RCW, that occur within shorelines of the state, provided that forest
11 practices regulated under chapter 76.09 RCW, except conversions to
12 nonforest land use, on lands subject to the provisions of this
13 subsection (2)(d)(ii) are not subject to additional regulations under
14 this chapter;

15 (e) "Shorelines" means all of the water areas of the state,
16 including reservoirs, and their associated shorelands, together with
17 the lands underlying them; except (i) shorelines of statewide
18 significance; (ii) shorelines on segments of streams upstream of a
19 point where the mean annual flow is twenty cubic feet per second or
20 less and the wetlands associated with such upstream segments; and (iii)
21 shorelines on lakes less than twenty acres in size and wetlands
22 associated with such small lakes;

23 (f) "Shorelines of statewide significance" means the following
24 shorelines of the state:

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

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

- 31 (A) Nisqually Delta--from DeWolf Bight to Tatsolo Point,
- 32 (B) Birch Bay--from Point Whitehorn to Birch Point,
- 33 (C) Hood Canal--from Tala Point to Foulweather Bluff,
- 34 (D) Skagit Bay and adjacent area--from Brown Point to Yokeko Point,

35 and

- 36 (E) Padilla Bay--from March Point to William Point;
- 37 (iii) Those areas of Puget Sound and the Strait of Juan de Fuca and

1 adjacent salt waters north to the Canadian line and lying seaward from
2 the line of extreme low tide;

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

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

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

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

15 (vi) Those shorelands associated with (i), (ii), (iv), and (v) of
16 this subsection (2)(f);

17 (g) "Shorelines of the state" are the total of all "shorelines" and
18 "shorelines of statewide significance" within the state;

19 (h) "Wetlands" means areas that are inundated or saturated by
20 surface water or groundwater at a frequency and duration sufficient to
21 support, and that under normal circumstances do support, a prevalence
22 of vegetation typically adapted for life in saturated soil conditions.
23 Wetlands generally include swamps, marshes, bogs, and similar areas.
24 Wetlands do not include those artificial wetlands intentionally created
25 from nonwetland sites, including, but not limited to, irrigation and
26 drainage ditches, grass-lined swales, canals, detention facilities,
27 wastewater treatment facilities, farm ponds, and landscape amenities,
28 or those wetlands created after July 1, 1990, that were unintentionally
29 created as a result of the construction of a road, street, or highway.
30 Wetlands may include those artificial wetlands intentionally created
31 from nonwetland areas to mitigate the conversion of wetlands.

32 (3) Procedural terms:

33 (a) "Development" means a use consisting of the construction or
34 exterior alteration of structures; dredging; drilling; dumping;
35 filling; removal of any sand, gravel, or minerals; bulkheading; driving
36 of piling; placing of obstructions; or any project of a permanent or
37 temporary nature which interferes with the normal public use of the

1 surface of the waters overlying lands subject to this chapter at any
2 state of water level;

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

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

13 (d) "Comprehensive master program update" means a master program
14 that fully achieves the procedural and substantive requirements of the
15 department guidelines effective January 17, 2004, as now or hereafter
16 amended;

17 ~~((d))~~ (e) "State master program" is the cumulative total of all
18 master programs ~~((approved or))~~ adopted by the ~~((department of~~
19 ~~ecology))~~ local government;

20 ~~((e))~~ (f) "Substantial development" shall mean any development of
21 which the total cost or fair market value exceeds five thousand
22 dollars, or any development which materially interferes with the normal
23 public use of the water or shorelines of the state. The dollar
24 threshold established in this subsection (3)~~((e))~~ (f) must be adjusted
25 for inflation by the office of financial management every five years,
26 beginning July 1, 2007, based upon changes in the consumer price index
27 during that time period. "Consumer price index" means, for any
28 calendar year, that year's annual average consumer price index,
29 Seattle, Washington area, for urban wage earners and clerical workers,
30 all items, compiled by the bureau of labor and statistics, United
31 States department of labor. The office of financial management must
32 calculate the new dollar threshold and transmit it to the office of the
33 code reviser for publication in the Washington State Register at least
34 one month before the new dollar threshold is to take effect. The
35 following shall not be considered substantial developments for the
36 purpose of this chapter:

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

1 (ii) Construction of the normal protective bulkhead common to
2 single-family residences;

3 (iii) Emergency construction necessary to protect property from
4 damage by the elements;

5 (iv) Construction and practices normal or necessary for farming,
6 irrigation, and ranching activities, including agricultural service
7 roads and utilities on shorelands, and the construction and maintenance
8 of irrigation structures including but not limited to head gates,
9 pumping facilities, and irrigation channels. A feedlot of any size,
10 all processing plants, other activities of a commercial nature,
11 alteration of the contour of the shorelands by leveling or filling
12 other than that which results from normal cultivation, shall not be
13 considered normal or necessary farming or ranching activities. A
14 feedlot shall be an enclosure or facility used or capable of being used
15 for feeding livestock hay, grain, silage, or other livestock feed, but
16 shall not include land for growing crops or vegetation for livestock
17 feeding and/or grazing, nor shall it include normal livestock wintering
18 operations;

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

21 (vi) Construction on shorelands by an owner, lessee, or contract
22 purchaser of a single-family residence for his own use or for the use
23 of his or her family, which residence does not exceed a height of
24 thirty-five feet above average grade level and which meets all
25 requirements of the state agency or local government having
26 jurisdiction thereof, other than requirements imposed pursuant to this
27 chapter;

28 (vii) Construction of a dock, including a community dock, designed
29 for pleasure craft only, for the private noncommercial use of the
30 owner, lessee, or contract purchaser of single and multiple-family
31 residences. This exception applies if either: (A) In salt waters, the
32 fair market value of the dock does not exceed two thousand five hundred
33 dollars; or (B) in freshwaters, the fair market value of the dock does
34 not exceed ten thousand dollars, but if subsequent construction having
35 a fair market value exceeding two thousand five hundred dollars occurs
36 within five years of completion of the prior construction, the
37 subsequent construction shall be considered a substantial development
38 for the purpose of this chapter;

1 (viii) Operation, maintenance, or construction of canals,
2 waterways, drains, reservoirs, or other facilities that now exist or
3 are hereafter created or developed as a part of an irrigation system
4 for the primary purpose of making use of system waters, including
5 return flow and artificially stored groundwater for the irrigation of
6 lands;

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

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

14 (xi) Site exploration and investigation activities that are
15 prerequisite to preparation of an application for development
16 authorization under this chapter, if:

17 (A) The activity does not interfere with the normal public use of
18 the surface waters;

19 (B) The activity will have no significant adverse impact on the
20 environment including, but not limited to, fish, wildlife, fish or
21 wildlife habitat, water quality, and aesthetic values;

22 (C) The activity does not involve the installation of a structure,
23 and upon completion of the activity the vegetation and land
24 configuration of the site are restored to conditions existing before
25 the activity;

26 (D) A private entity seeking development authorization under this
27 section first posts a performance bond or provides other evidence of
28 financial responsibility to the local jurisdiction to ensure that the
29 site is restored to preexisting conditions; and

30 (E) The activity is not subject to the permit requirements of RCW
31 90.58.550;

32 (xii) The process of removing or controlling an aquatic noxious
33 weed, as defined in RCW 17.26.020, through the use of an herbicide or
34 other treatment methods applicable to weed control that are recommended
35 by a final environmental impact statement published by the department
36 of agriculture or the department jointly with other state agencies
37 under chapter 43.21C RCW.

1 **Sec. 2.** RCW 90.58.050 and 1995 c 347 s 303 are each amended to
2 read as follows:

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

12 **Sec. 3.** RCW 90.58.080 and 2011 c 353 s 13 are each amended to read
13 as follows:

14 (1) Local governments shall develop or amend a master program for
15 regulation of uses of the shorelines of the state consistent with the
16 required elements of the guidelines adopted by the department in
17 accordance with the schedule established by this section.

18 (2)(a) Subject to the provisions of subsections (5) and (6) of this
19 section, each local government subject to this chapter shall develop or
20 amend its master program for the regulation of uses of shorelines
21 within its jurisdiction according to the following schedule:

22 (i) On or before December 1, 2005, for the city of Port Townsend,
23 the city of Bellingham, the city of Everett, Snohomish county, and
24 Whatcom county;

25 (ii) On or before December 1, 2009, for King county and the cities
26 within King county greater in population than ten thousand;

27 (iii) Except as provided by (a)(i) and (ii) of this subsection, on
28 or before December 1, 2011, for Clallam, Clark, Jefferson, King,
29 Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the
30 cities within those counties;

31 (iv) On or before December 1, 2012, for Cowlitz, Island, Lewis,
32 Mason, San Juan, Skagit, and Skamania counties and the cities within
33 those counties;

34 (v) On or before December 1, 2013, for Benton, Chelan, Douglas,
35 Grant, Kittitas, Spokane, and Yakima counties and the cities within
36 those counties; and

1 (vi) On or before December 1, 2014, for Adams, Asotin, Columbia,
2 Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan,
3 Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman
4 counties and the cities within those counties.

5 (b) Nothing in this subsection (2) shall preclude a local
6 government from developing or amending its master program prior to the
7 dates established by this subsection (2).

8 (3)(a) Following (~~approval~~) adoption by the (~~department~~) local
9 government of a new or amended master program, local governments
10 required to develop or amend master programs on or before December 1,
11 2009, as provided by subsection (2)(a)(i) and (ii) of this section,
12 shall be deemed to have complied with the schedule established by
13 subsection (2)(a)(iii) of this section and shall not be required to
14 complete master program amendments until the applicable dates
15 established by subsection (4)(b) of this section. Any jurisdiction
16 listed in subsection (2)(a)(i) of this section that has a new or
17 amended master program approved by the department on or after March 1,
18 2002, but before July 27, 2003, shall not be required to complete
19 master program amendments until the applicable date provided by
20 subsection (4)(b) of this section.

21 (b) Following (~~approval~~) adoption by the (~~department~~) local
22 government of a new or amended master program, local governments
23 choosing to develop or amend master programs on or before December 1,
24 2009, shall be deemed to have complied with the schedule established by
25 subsection (2)(a)(iii) through (vi) of this section and shall not be
26 required to complete master program amendments until the applicable
27 dates established by subsection (4)(b) of this section.

28 (4)(a) Following the updates required by subsection (2) of this
29 section, local governments shall conduct a review of their master
30 programs at least once every eight years as required by (b) of this
31 subsection. Following the review required by this subsection (4),
32 local governments shall, if necessary, revise their master programs.
33 The purpose of the review is:

- 34 (i) To (~~assure~~) ensure that the master program complies with
35 applicable law and guidelines in effect at the time of the review; and
36 (ii) To (~~assure~~) ensure consistency of the master program with
37 the local government's comprehensive plan and development regulations

1 adopted under chapter 36.70A RCW, if applicable, and other local
2 requirements.

3 (b) Counties and cities shall take action to review and, if
4 necessary, revise their master programs as required by (a) of this
5 subsection as follows:

6 (i) On or before June 30, 2019, and every eight years thereafter,
7 for King, Pierce, and Snohomish counties and the cities within those
8 counties;

9 (ii) On or before June 30, 2020, and every eight years thereafter,
10 for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit,
11 Thurston, and Whatcom counties and the cities within those counties;

12 (iii) On or before June 30, 2021, and every eight years thereafter,
13 for Benton, Chelan, Cowlitz, Douglas, Grant, Kittitas, Lewis, Skamania,
14 Spokane, and Yakima counties and the cities within those counties; and

15 (iv) On or before June 30, 2022, and every eight years thereafter,
16 for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays
17 Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens,
18 Wahkiakum, Walla Walla, and Whitman counties and the cities within
19 those counties.

20 (5) In meeting the update requirements of subsection (2) of this
21 section, local governments are encouraged to begin the process of
22 developing or amending their master programs early and are eligible for
23 grants from the department as provided by RCW 90.58.250, subject to
24 available funding. Except for those local governments listed in
25 subsection (2)(a)(i) and (ii) of this section, the deadline for
26 completion of the new or amended master programs shall be two years
27 after the date the grant is approved by the department. Subsequent
28 master program review dates shall not be altered by the provisions of
29 this subsection.

30 (6) In meeting the update requirements of subsection (2) of this
31 section, the following shall apply:

32 (a) Grants to local governments for developing and amending master
33 programs pursuant to the schedule established by this section shall be
34 provided at least two years before the adoption dates specified in
35 subsection (2) of this section. To the extent possible, the department
36 shall allocate grants within the amount appropriated for such purposes
37 to provide reasonable and adequate funding to local governments that
38 have indicated their intent to develop or amend master programs during

1 the biennium according to the schedule established by subsection (2) of
2 this section. Any local government that applies for but does not
3 receive funding to comply with the provisions of subsection (2) of this
4 section may delay the development or amendment of its master program
5 until the following biennium.

6 (b) Local governments with delayed compliance dates as provided in
7 (a) of this subsection shall be the first priority for funding in
8 subsequent biennia, and the development or amendment compliance
9 deadline for those local governments shall be two years after the date
10 of grant approval.

11 (c) Failure of the local government to apply in a timely manner for
12 a master program development or amendment grant in accordance with the
13 requirements of the department shall not be considered a delay
14 resulting from the provisions of (a) of this subsection.

15 (7) In meeting the update requirements of subsection (2) of this
16 section, all local governments subject to the requirements of this
17 chapter that have not developed or amended master programs on or after
18 March 1, 2002, shall, no later than December 1, 2014, develop or amend
19 their master programs to comply with guidelines adopted by the
20 department after January 1, 2003.

21 (8) In meeting the update requirements of subsection (2) of this
22 section, local governments may be provided an additional year beyond
23 the deadlines in this section to complete their master program or
24 amendment. The department shall grant the request if it determines
25 that the local government is likely to adopt or amend its master
26 program within the additional year.

27 **Sec. 4.** RCW 90.58.090 and 2011 c 353 s 14 and 2011 c 277 s 2 are
28 each reenacted and amended to read as follows:

29 (1) A master program, segment of a master program, or an amendment
30 to a master program shall become effective when approved by the
31 ~~((department as provided in subsection (7) of this section))~~
32 legislative body of the local government. ~~((Within the time period~~
33 ~~provided in RCW 90.58.080,))~~ Each local government shall ~~((have~~
34 ~~submitted))~~ adopt a master program, either totally or by segments, for
35 all shorelines of the state within its jurisdiction ~~((to the department~~
36 ~~for review and approval))~~ within the time period provided in RCW
37 90.58.080.

1 (~~The department shall strive to achieve final action on a~~
2 ~~submitted master program within one hundred eighty days of receipt and~~
3 ~~shall post an annual assessment related to this performance benchmark~~
4 ~~on the agency web site.~~

5 ~~(2) Upon receipt of a proposed master program or amendment, the~~
6 ~~department shall:~~

7 ~~(a) Provide notice to and opportunity for written comment by all~~
8 ~~interested parties of record as a part of the local government review~~
9 ~~process for the proposal and to all persons, groups, and agencies that~~
10 ~~have requested in writing notice of proposed master programs or~~
11 ~~amendments generally or for a specific area, subject matter, or issue.~~
12 ~~The comment period shall be at least thirty days, unless the department~~
13 ~~determines that the level of complexity or controversy involved~~
14 ~~supports a shorter period;~~

15 ~~(b) In the department's discretion, conduct a public hearing during~~
16 ~~the thirty day comment period in the jurisdiction proposing the master~~
17 ~~program or amendment;~~

18 ~~(c) Within fifteen days after the close of public comment, request~~
19 ~~the local government to review the issues identified by the public,~~
20 ~~interested parties, groups, and agencies and provide a written response~~
21 ~~as to how the proposal addresses the identified issues;~~

22 ~~(d) Within thirty days after receipt of the local government~~
23 ~~response pursuant to (c) of this subsection, make written findings and~~
24 ~~conclusions regarding the consistency of the proposal with the policy~~
25 ~~of RCW 90.58.020 and the applicable guidelines, provide a response to~~
26 ~~the issues identified in (c) of this subsection, and either approve the~~
27 ~~proposal as submitted, recommend specific changes necessary to make the~~
28 ~~proposal approvable, or deny approval of the proposal in those~~
29 ~~instances where no alteration of the proposal appears likely to be~~
30 ~~consistent with the policy of RCW 90.58.020 and the applicable~~
31 ~~guidelines. The written findings and conclusions shall be provided to~~
32 ~~the local government, and made available to all interested persons,~~
33 ~~parties, groups, and agencies of record on the proposal;~~

34 ~~(e) If the department recommends changes to the proposed master~~
35 ~~program or amendment, within thirty days after the department mails the~~
36 ~~written findings and conclusions to the local government, the local~~
37 ~~government may:~~

1 ~~(i) Agree to the proposed changes by written notice to the~~
2 ~~department; or~~

3 ~~(ii) Submit an alternative proposal. If, in the opinion of the~~
4 ~~department, the alternative is consistent with the purpose and intent~~
5 ~~of the changes originally submitted by the department and with this~~
6 ~~chapter it shall approve the changes and provide notice to all~~
7 ~~recipients of the written findings and conclusions. If the department~~
8 ~~determines the proposal is not consistent with the purpose and intent~~
9 ~~of the changes proposed by the department, the department may resubmit~~
10 ~~the proposal for public and agency review pursuant to this section or~~
11 ~~reject the proposal.~~

12 ~~(3) The department shall approve the segment of a master program~~
13 ~~relating to shorelines unless it determines that the submitted segments~~
14 ~~are not consistent with the policy of RCW 90.58.020 and the applicable~~
15 ~~guidelines.~~

16 ~~(4) The department shall approve the segment of a master program~~
17 ~~relating to critical areas as defined by RCW 36.70A.030(5) provided the~~
18 ~~master program segment is consistent with RCW 90.58.020 and applicable~~
19 ~~shoreline guidelines, and if the segment provides a level of protection~~
20 ~~of critical areas at least equal to that provided by the local~~
21 ~~government's critical areas ordinances adopted and thereafter amended~~
22 ~~pursuant to RCW 36.70A.060(2).~~

23 ~~(5) The department shall approve those segments of the master~~
24 ~~program relating to shorelines of statewide significance only after~~
25 ~~determining the program provides the optimum implementation of the~~
26 ~~policy of this chapter to satisfy the statewide interest. If the~~
27 ~~department does not approve a segment of a local government master~~
28 ~~program relating to a shoreline of statewide significance, the~~
29 ~~department may develop and by rule adopt an alternative to the local~~
30 ~~government's proposal.~~

31 ~~(6) In the event a local government has not complied with the~~
32 ~~requirements of RCW 90.58.070 it may thereafter upon written notice to~~
33 ~~the department elect to adopt a master program for the shorelines~~
34 ~~within its jurisdiction, in which event it shall comply with the~~
35 ~~provisions established by this chapter for the adoption of a master~~
36 ~~program for such shorelines.))~~

37 (2) Upon ((approval)) adoption of such master program by the

1 ((department)) local government, it shall supersede such master program
2 as may have been adopted by the ((department)) local government for
3 such shorelines.

4 ~~((7) A master program or amendment to a master program takes
5 effect when and in such form as approved or adopted by the department.
6 The effective date is fourteen days from the date of the department's
7 written notice of final action to the local government stating the
8 department has approved or rejected the proposal.))~~

9 (3) For master programs adopted by rule, the effective date is
10 governed by RCW 34.05.380. ~~((The department's written notice to the
11 local government must conspicuously and plainly state that it is the
12 department's final decision and that there will be no further
13 modifications to the proposal.))~~

14 ~~(a) Shoreline master programs that were adopted by the department
15 prior to July 22, 1995, in accordance with the provisions of this
16 section then in effect, shall be deemed approved by the department in
17 accordance with the provisions of this section that became effective on
18 that date.~~

19 ~~(b) The department shall maintain a record of each master program,
20 the action taken on any proposal for adoption or amendment of the
21 master program, and any appeal of the department's action. The
22 department's approved document of record constitutes the official
23 master program.~~

24 ~~((8) Promptly after approval or disapproval of a local government's
25 shoreline master program or amendment, the department shall publish a
26 notice consistent with RCW 36.70A.290 that the shoreline master program
27 or amendment has been approved or disapproved. This notice must be
28 filed for all shoreline master programs or amendments. If the notice
29 is for a local government that does not plan under RCW 36.70A.040, the
30 department must, on the day the notice is published, notify the
31 legislative authority of the applicable local government by telephone
32 or electronic means, followed by written communication as necessary, to
33 ensure that the local government has received the full written decision
34 of the approval or disapproval.))~~

35 **Sec. 5.** RCW 90.58.100 and 2009 c 421 s 9 are each amended to read
36 as follows:

37 (1) The master programs provided for in this chapter, when adopted

1 ((~~or approved~~)) by ((~~the department~~)) a local government shall
2 constitute use regulations for the various shorelines of the state. In
3 preparing the master programs, and any amendments thereto, the
4 ((~~department and~~)) local government((~~s~~)) shall to the extent feasible:

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

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

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

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

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

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

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

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

29 (b) A public access element making provision for public access to
30 publicly owned areas;

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

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

1 (e) A use element which considers the proposed general distribution
2 and general location and extent of the use on shorelines and adjacent
3 land areas for housing, business, industry, transportation,
4 agriculture, natural resources, recreation, education, public buildings
5 and grounds, and other categories of public and private uses of the
6 land;

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

10 (g) An historic, cultural, scientific, and educational element for
11 the protection and restoration of buildings, sites, and areas having
12 historic, cultural, scientific, or educational values;

13 (h) An element that gives consideration to the statewide interest
14 in the prevention and minimization of flood damages; and

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

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

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

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

34 (6) Each master program shall contain standards governing the
35 protection of single-family residences and appurtenant structures
36 against damage or loss due to shoreline erosion. The standards shall
37 govern the issuance of substantial development permits for shoreline
38 protection, including structural methods such as construction of

1 bulkheads, and nonstructural methods of protection. The standards
2 shall provide for methods which achieve effective and timely protection
3 against loss or damage to single-family residences and appurtenant
4 structures due to shoreline erosion. The standards shall provide a
5 preference for permit issuance for measures to protect single-family
6 residences occupied prior to January 1, 1992, where the proposed
7 measure is designed to minimize harm to the shoreline natural
8 environment.

9 **Sec. 6.** RCW 90.58.120 and 1995 c 347 s 308 are each amended to
10 read as follows:

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

17 (1) Each local government shall establish and broadly disseminate
18 to the public a public participation program identifying procedures
19 providing for early and continuous public participation in the
20 development and amendment of master programs. The procedures must
21 provide for broad dissemination of proposals and alternatives,
22 opportunity for written comments, public meetings after effective
23 notice, provision for open discussion, communication programs,
24 information services, and consideration of and response to public
25 comments. Errors in exact compliance with the established program and
26 procedures do not render the master program invalid if the spirit of
27 the program and procedures is observed.

28 (2) Prior to the adoption by ((the department)) a local government
29 of a master program, or portion thereof ((pursuant to RCW 90.58.070(2)
30 or 90.58.090(4))), at least one public hearing shall be held in each
31 county affected by a program or portion thereof for the purpose of
32 obtaining the views and comments of the public. Notice of each such
33 hearing shall be published at least once in each of the three weeks
34 immediately preceding the hearing in one or more newspapers of general
35 circulation in the county in which the hearing is to be held.

36 ~~((+2))~~ (3) All guidelines, regulations, designations, or master
37 programs adopted or approved under this chapter shall be available for

1 public inspection at the office of the (~~department or the~~)
2 appropriate county and city. (~~The terms "adopt" and "approve" for~~
3 ~~purposes of this section, shall include modifications and rescission of~~
4 ~~guidelines.~~)

5 (4) Promptly after adoption of a local government's shoreline
6 master program or amendment, the local government planning under RCW
7 36.70A.040 shall publish a notice consistent with RCW 36.70A.290 that
8 the shoreline master program or amendment has been adopted. This
9 notice must be filed for all shoreline master programs or amendments.
10 A local government that does not plan under RCW 36.70A.040 must publish
11 notice on the date the shoreline master program or amendment has been
12 adopted in one or more newspapers of general circulation in the county.

13 **Sec. 7.** RCW 90.58.140 and 2011 c 277 s 3 are each amended to read
14 as follows:

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

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

22 A permit shall be granted:

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

28 (b) After adoption (~~or approval, as appropriate,~~) by (~~the~~
29 ~~department~~) a local government of an applicable master program, only
30 when the development proposed is consistent with the applicable master
31 program and this chapter.

32 (3) The local government shall establish a program, consistent with
33 rules adopted by the department, for the administration and enforcement
34 of the permit system provided in this section. The administration of
35 the system so established shall be performed exclusively by the local
36 government.

1 (4) Except as otherwise specifically provided in subsection
2 (~~((11))~~) (10) of this section, the local government shall require
3 notification of the public of all applications for permits governed by
4 any permit system established pursuant to subsection (3) of this
5 section by ensuring that notice of the application is given by at least
6 one of the following methods:

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

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

13 (c) Any other manner deemed appropriate by local authorities to
14 accomplish the objectives of reasonable notice to adjacent landowners
15 and the public.

16 The notices shall include a statement that any person desiring to
17 submit written comments concerning an application, or desiring to
18 receive notification of the final decision concerning an application as
19 expeditiously as possible after the issuance of the decision, may
20 submit the comments or requests for decisions to the local government
21 within thirty days of the last date the notice is to be published
22 pursuant to this subsection. The local government shall forward, in a
23 timely manner following the issuance of a decision, a copy of the
24 decision to each person who submits a request for the decision.

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

28 (5) The system shall include provisions to (~~(assure)~~) ensure that
29 construction pursuant to a permit will not begin or be authorized until
30 twenty-one days from the date the permit decision was filed as provided
31 in subsection (6) of this section; or until all review proceedings are
32 terminated if the proceedings were initiated within twenty-one days
33 from the date of filing as defined in subsection (6) of this section
34 except as follows:

35 (a) In the case of any permit issued to the state of Washington,
36 department of transportation, for the construction and modification of
37 SR 90 (I-90) on or adjacent to Lake Washington, the construction may

1 begin after thirty days from the date of filing, and the permits are
2 valid until December 31, 1995;

3 (b) Construction may be commenced no sooner than thirty days after
4 the date of the appeal of the board's decision is filed if a permit is
5 granted by the local government and (i) the granting of the permit is
6 appealed to the shorelines hearings board within twenty-one days of the
7 date of filing, (ii) the hearings board approves the granting of the
8 permit by the local government or approves a portion of the substantial
9 development for which the local government issued the permit, and (iii)
10 an appeal for judicial review of the hearings board decision is filed
11 pursuant to chapter 34.05 RCW. The appellant may request, within ten
12 days of the filing of the appeal with the court, a hearing before the
13 court to determine whether construction pursuant to the permit approved
14 by the hearings board or to a revised permit issued pursuant to the
15 order of the hearings board should not commence. If, at the conclusion
16 of the hearing, the court finds that construction pursuant to such a
17 permit would involve a significant, irreversible damaging of the
18 environment, the court shall prohibit the permittee from commencing the
19 construction pursuant to the approved or revised permit until all
20 review proceedings are final. Construction pursuant to a permit
21 revised at the direction of the hearings board may begin only on that
22 portion of the substantial development for which the local government
23 had originally issued the permit, and construction pursuant to such a
24 revised permit on other portions of the substantial development may not
25 begin until after all review proceedings are terminated. In such a
26 hearing before the court, the burden of proving whether the
27 construction may involve significant irreversible damage to the
28 environment and demonstrating whether such construction would or would
29 not be appropriate is on the appellant;

30 (c) If the permit is for a substantial development meeting the
31 requirements of subsection (~~((+11))~~) (10) of this section, construction
32 pursuant to that permit may not begin or be authorized until twenty-one
33 days from the date the permit decision was filed as provided in
34 subsection (6) of this section.

35 If a permittee begins construction pursuant to (a), (b), or (c) of
36 this subsection, the construction is begun at the permittee's own risk.
37 If, as a result of judicial review, the courts order the removal of any
38 portion of the construction or the restoration of any portion of the

1 environment involved or require the alteration of any portion of a
2 substantial development constructed pursuant to a permit, the permittee
3 is barred from recovering damages or costs involved in adhering to such
4 requirements from the local government that granted the permit, the
5 hearings board, or any appellant or intervener.

6 (6) Any decision on an application for a permit under the authority
7 of this section, whether it is an approval or a denial, shall,
8 concurrently with the transmittal of the ruling to the applicant, be
9 filed with the department and the attorney general. This shall be
10 accomplished by return receipt requested mail. A petition for review
11 of such a decision must be commenced within twenty-one days from the
12 date of filing of the decision.

13 (a) With regard to a permit (~~other than a permit governed by~~
14 ~~subsection (10) of this section~~), "date of filing" as used in this
15 section refers to the date of actual receipt by the department of the
16 local government's decision.

17 (b) (~~With regard to a permit for a variance or a conditional use~~
18 ~~governed by subsection (10) of this section, "date of filing" means the~~
19 ~~date the decision of the department is transmitted by the department to~~
20 ~~the local government.~~

21 ~~(c)~~) When a local government simultaneously transmits to the
22 department its decision on a shoreline substantial development with its
23 approval of either a shoreline conditional use permit or variance, or
24 both, "date of filing" (~~has the same meaning as defined in (b) of this~~
25 ~~subsection~~) means the date of actual receipt by the department of the
26 local government's decision.

27 (~~(d)~~) (c) The department shall notify in writing the local
28 government and the applicant of the date of filing by telephone or
29 electronic means, followed by written communication as necessary, to
30 ensure that the applicant has received the full written decision.

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

37 (8) Any permit may, after a hearing with adequate notice to the
38 permittee and the public, be rescinded by the issuing authority upon

1 the finding that a permittee has not complied with conditions of a
2 permit. If the department is of the opinion that noncompliance exists,
3 the department shall provide written notice to the local government and
4 the permittee. If the department is of the opinion that the
5 noncompliance continues to exist thirty days after the date of the
6 notice, and the local government has taken no action to rescind the
7 permit, the department may petition the hearings board for a rescission
8 of the permit upon written notice of the petition to the local
9 government and the permittee if the request by the department is made
10 to the hearings board within fifteen days of the termination of the
11 thirty-day notice to the local government.

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

15 ~~(10) ((Any permit for a variance or a conditional use issued with
16 approval by a local government under their approved master program must
17 be submitted to the department for its approval or disapproval.~~

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

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

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

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

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

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

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

5 **Sec. 8.** RCW 90.58.190 and 2011 c 277 s 5 are each amended to read
6 as follows:

7 (1) The appeal of the ~~((department's))~~ local government's decision
8 to adopt a master program or amendment ~~((pursuant to RCW 90.58.070(2)
9 or 90.58.090(5)))~~ is governed by RCW 34.05.510 through 34.05.598.

10 (2)(a) The ~~((department's final))~~ decision ~~((to approve or reject))~~
11 by a local government planning under RCW 36.70A.040 to adopt a proposed
12 master program or master program amendment ~~((by a local government
13 planning under RCW 36.70A.040))~~ shall be appealed to the growth
14 management hearings board by filing a petition as provided in RCW
15 36.70A.290.

16 (b) If the appeal to the growth management hearings board concerns
17 shorelines, the growth management hearings board shall review the
18 proposed master program or amendment solely for compliance with the
19 requirements of this chapter, the policy of RCW 90.58.020 and the
20 applicable guidelines, the internal consistency provisions of RCW
21 36.70A.070, 36.70A.040(4), 35.63.125, and 35A.63.105, and chapter
22 43.21C RCW as it relates to the adoption of master programs and
23 amendments under chapter 90.58 RCW.

24 ~~((If the appeal to the growth management hearings board
25 concerns a shoreline of statewide significance, the board shall uphold
26 the decision by the department unless the board, by clear and
27 convincing evidence, determines that the decision of the department is
28 inconsistent with the policy of RCW 90.58.020 and the applicable
29 guidelines.~~

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

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

35 (3)(a) The ~~((department's final))~~ decision ~~((to approve or reject))~~
36 by a local government not planning under RCW 36.70A.040 to adopt a
37 proposed master program or master program amendment ~~((by a local~~

1 ~~government not planning under RCW 36.70A.040~~) shall be appealed to the
2 shorelines hearings board by filing a petition within thirty days of
3 the date that the ~~((department))~~ local government publishes notice of
4 its final decision under RCW ~~((90.58.090(8)))~~ 90.58.120.

5 (b) In an appeal relating to shorelines, the shorelines hearings
6 board shall review the proposed master program or master program
7 amendment and, after full consideration of the presentations of the
8 local government ~~((and the department))~~, shall determine the validity
9 of the local government's master program or amendment in light of the
10 policy of RCW 90.58.020 and the applicable guidelines.

11 ~~((In an appeal relating to shorelines of statewide
12 significance, the shorelines hearings board shall uphold the decision
13 by the department unless the board determines, by clear and convincing
14 evidence that the decision of the department is inconsistent with the
15 policy of RCW 90.58.020 and the applicable guidelines.~~

16 ~~(d))~~ Review by the shorelines hearings board shall be considered
17 an adjudicative proceeding under chapter 34.05 RCW, the administrative
18 procedure act. The aggrieved local government shall have the burden of
19 proof in all such reviews.

20 ~~((e))~~ (d) Whenever possible, the review by the shorelines
21 hearings board shall be heard within the county where the land subject
22 to the proposed master program or master program amendment is primarily
23 located. The ~~((department and any))~~ local government aggrieved by a
24 final decision of the hearings board may appeal the decision to
25 superior court as provided in chapter 34.05 RCW.

26 (4) A master program amendment shall become effective after the
27 ~~((approval of the department or after the))~~ decision of the shorelines
28 hearings board to uphold the master program or master program
29 amendment, provided that the board may remand the master program or
30 master program adjustment to the local government ~~((or the department
31 for modification))~~ prior to the final adoption of the master program or
32 master program amendment.

33 **Sec. 9.** RCW 90.58.195 and 1989 1st ex.s. c 2 s 13 are each amended
34 to read as follows:

35 (1) The department of ecology, in cooperation with other state
36 agencies and coastal local governments, shall prepare and adopt ocean
37 use guidelines and policies to be used in reviewing, and where

1 appropriate, amending, shoreline master programs of local governments
2 with coastal waters or coastal shorelines within their boundaries.
3 These guidelines shall be finalized by April 1, 1990.

4 (2) After the department of ecology has adopted the guidelines
5 required in subsection (1) of this section, counties, cities, and towns
6 with coastal waters or coastal shorelines shall review their shoreline
7 master programs to ensure that the programs conform with RCW 43.143.010
8 and 43.143.030 and with the department of ecology's ocean use
9 guidelines. (~~Amended master programs shall be submitted to the~~
10 ~~department of ecology for its approval under RCW 90.58.090 by June 30,~~
11 ~~1991.~~)

12 **Sec. 10.** RCW 90.58.580 and 2009 c 405 s 2 are each amended to read
13 as follows:

14 (1) The local government may grant relief from shoreline master
15 program development standards and use regulations within urban growth
16 areas when the following apply:

17 (a) A shoreline restoration project causes or would cause a
18 landward shift in the ordinary high water mark, resulting in the
19 following:

20 (i)(A) Land that had not been regulated under this chapter prior to
21 construction of the restoration project is brought under shoreline
22 jurisdiction; or

23 (B) Additional regulatory requirements apply due to a landward
24 shift in required shoreline buffers or other regulations of the
25 applicable shoreline master program; and

26 (ii) Application of shoreline master program regulations would
27 preclude or interfere with use of the property permitted by local
28 development regulations, thus presenting a hardship to the project
29 proponent; and

30 (b) The proposed relief meets the following criteria:

31 (i) The proposed relief is the minimum necessary to relieve the
32 hardship;

33 (ii) After granting the proposed relief, there is net environmental
34 benefit from the restoration project;

35 (iii) Granting the proposed relief is consistent with the
36 objectives of the shoreline restoration project and consistent with the
37 shoreline master program; and

1 (iv) Where a shoreline restoration project is created as mitigation
2 to obtain a development permit, the project proponent required to
3 perform the mitigation is not eligible for relief under this section(†
4 and

5 ~~(c) The application for relief must be submitted to the department
6 for written approval or disapproval. This review must occur during the
7 department's normal review of a shoreline substantial development
8 permit, conditional use permit, or variance. If no such permit is
9 required, then the department shall conduct its review when the local
10 government provides a copy of a complete application and all supporting
11 information necessary to conduct the review.~~

12 ~~(i) Except as otherwise provided in subsection (2) of this section,
13 the department shall provide at least twenty days notice to parties
14 that have indicated interest to the department in reviewing
15 applications for relief under this section, and post the notice on
16 their web site.~~

17 ~~(ii) The department shall act within thirty calendar days of close
18 of the public notice period, or within thirty days of receipt of the
19 proposal from the local government if additional public notice is not
20 required.~~

21 ~~(2) The public notice requirements of subsection (1)(c) of this
22 section do not apply if the relevant shoreline restoration project was
23 included in a shoreline master program or shoreline restoration plan as
24 defined in WAC 173-26-201, as follows:~~

25 ~~(a) The restoration plan has been approved by the department under
26 applicable shoreline master program guidelines;~~

27 ~~(b) The shoreline restoration project is specifically identified in
28 the shoreline master program or restoration plan or is located along a
29 shoreline reach identified in the shoreline master program or
30 restoration plan as appropriate for granting relief from shoreline
31 regulations; and~~

32 ~~(c) The shoreline master program or restoration plan includes
33 policies addressing the nature of the relief and why, when, and how it
34 would be applied.~~

35 ~~(3) A substantial development permit is not required on land within
36 urban growth areas as defined in RCW 36.70A.030 that is brought under
37 shoreline jurisdiction due to a shoreline restoration project creating
38 a landward shift in the ordinary high water mark)).~~

1 ((+4)) (2) The definitions in this subsection apply throughout
2 this section unless the context clearly requires otherwise.

3 (a) "Shoreline restoration project" means a project designed to
4 restore impaired ecological function of a shoreline.

5 (b) "Urban growth areas" has the same meaning as defined in RCW
6 36.70A.030.

7 **Sec. 11.** RCW 90.58.590 and 2009 c 444 s 2 are each amended to read
8 as follows:

9 (1) Local governments may adopt moratoria or other interim official
10 controls as necessary and appropriate to implement this chapter.

11 (2)(a) A local government adopting a moratorium or control under
12 this section must:

13 (i) Hold a public hearing on the moratorium or control;

14 (ii) Adopt detailed findings of fact that include, but are not
15 limited to, justifications for the proposed or adopted actions and
16 explanations of the desired and likely outcomes;

17 (iii) Notify the department of the moratorium or control
18 immediately after its adoption. The notification must specify the
19 time, place, and date of any public hearing required by this
20 subsection;

21 (iv) Provide that all lawfully existing uses, structures, or other
22 development shall continue to be deemed lawful conforming uses and may
23 continue to be maintained, repaired, and redeveloped, so long as the
24 use is not expanded, under the terms of the land use and shoreline
25 rules and regulations in place at the time of the moratorium.

26 (b) The public hearing required by this section must be held within
27 sixty days of the adoption of the moratorium or control.

28 (3) A moratorium or control adopted under this section may be
29 effective for up to six months if a detailed work plan for remedying
30 the issues and circumstances necessitating the moratorium or control is
31 developed and made available for public review. A moratorium or
32 control may be renewed for two six-month periods if the local
33 government complies with subsection (2)(a) of this section before each
34 renewal. ~~((If a moratorium or control is in effect on the date a
35 proposed master program or amendment is submitted to the department,
36 the moratorium or control must remain in effect until the department's~~

1 ~~final action under RCW 90.58.090; however, the moratorium expires six~~
2 ~~months after the date of submittal if the department has not taken~~
3 ~~final action.)~~)

4 (4) Nothing in this section may be construed to modify county and
5 city moratoria powers conferred outside this chapter.

6 **Sec. 12.** RCW 90.58.620 and 2011 c 323 s 2 are each amended to read
7 as follows:

8 (1) New or amended master programs (~~approved by the department~~)
9 adopted by a local government on or after September 1, 2011, may
10 include provisions authorizing:

11 (a) Residential structures and appurtenant structures that were
12 legally established and are used for a conforming use, but that do not
13 meet standards for the following to be considered a conforming
14 structure: Setbacks, buffers, or yards; area; bulk; height; or
15 density; and

16 (b) Redevelopment, expansion, change with the class of occupancy,
17 or replacement of the residential structure if it is consistent with
18 the master program, including requirements for no net loss of shoreline
19 ecological functions.

20 (2) For purposes of this section, "appurtenant structures" means
21 garages, sheds, and other legally established structures. "Appurtenant
22 structures" does not include bulkheads and other shoreline
23 modifications or over-water structures.

24 (3) Nothing in this section: (a) Restricts the ability of a master
25 program to limit redevelopment, expansion, or replacement of over-water
26 structures located in hazardous areas, such as floodplains and
27 geologically hazardous areas; or (b) affects the application of other
28 federal, state, or local government requirements to residential
29 structures.

--- END ---