

**RESOLUTION NO. 3255**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, IDENTIFYING MEASURES TO PROVIDE PROMPT AND COORDINATED PERMIT REVIEW IN ORDER TO BE EXEMPT FROM THE PERMIT REFUND PROVISIONS OF RCW 36.70B.080(1)(L)(II).**

**WHEREAS**, Legislature amended RCW 36.70B.080(1)(a) to establish new timelines for the processing of permit applications; and

**WHEREAS**, the Legislature also added a new section, RCW36.70B.080(1)(I), which provides that up to 20% of the permit fee must be refunded if the mandated review timelines are not met; and

**WHEREAS**, the refund penalty is not applicable to cities that have implemented at least three (3) of the options listed in RCW 36.70B.160; and

**WHEREAS**, the City has already implemented four of these practices prior to the 2023 amendments; and

**WHEREAS**, the City is documenting the implementation of these practices by Resolution to prevent financial liability to the City.

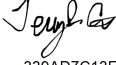
**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, WASHINGTON DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1: Measures Identified.** For the purposes of being exempt from the permit fee refund provisions of RCW 36.70B.080(1)(I)(i) the City documents that the following measures identified in RCW 36.70B.080.160 have been and will continue to be implemented by the City:

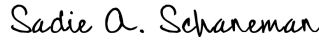
- (1) RCW 36.70B.160(1)(b): “Imposing reasonable fees, consistent with RCW 82.02.020, on applicants for permits or other governmental approvals to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW....”;
- (2) RCW 36.70B.160(1)(d): “Maintaining and budgeting for on-call permitting assistance for when permit volumes or staffing levels change rapidly”;

- (3) RCW 36.70B.160(1)(f) “Adopting development regulations which only require public hearings for permit applications that are required to have a public hearing by statute”; and
- (4) RCW 36.70B.160(1)(g) Adopting development regulations which make preapplication meetings optional rather than a requirement of permit application submittal;

**PASSED BY THE CITY COUNCIL this 10<sup>th</sup> day of December 2024.**

Signed by:  
  
339AD7C13E9E402...  
Terry Carter, Mayor

**AUTHENTICATED:**

DocuSigned by:  
  
975A05C52D794C6...  
Sadie A. Schaneman, CMC, City Clerk

City of Bonney Lake, Washington  
**City Council Agenda Bill (AB)**

<b>Agenda Item Type:</b> Resolution	<b>Agenda Bill Number &amp; Ordinance/Resolution/Motion Number:</b> AB24-114 – Resolution R24-114	
<b>Department/Division Submitting:</b> Development Services	<b>Presenter:</b> Jason Sullivan, Interim Public Services Director	<b>City Strategic Goal Category:</b> <b>DON'T FILL OUT YET</b>

**Agenda Subject:** SB5290 Implementation – Permit Fee Refund Protections.

**Full Title/Motion:** A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Identifying Measures To Provide Prompt And Coordinated Permit Review In Order To Be Exempt From The Permit Refund Provisions Of RCW 36.70B.080(1)(L)(II).

**Administrative Recommendation:** None.

**Short Background Summary (Use a memo to write a full history):** In 2023, The Washington State Legislature Passed SB5290, Which Amended Chapter 36.70B Of The Revised Code Of Washington (RCW). These Amendments Changed The Requirements For Review Of Certain Permit Applications At The City And County Level. Cities And Counties Are Required To Meet Certain Deadlines For Completing Reviews. If These Deadlines Are Not Met, Cities And Counties Are Required To Refund Up To 20% Of The Permit Fee. The Penalties Are Waived If A Jurisdiction Takes Certain Actions Listed In RCW 36.70A.160 To Minimize Delays. Please See Briefing Memorandum For More Details.

**Attachments:** Resolution R24-114, Briefing Memorandum, RCW 36.70B.080, And RCW 36.70B.160.

<b>BUDGET INFORMATION</b>			
Budgeted Amount	Current Balance	Expenditure Amount Needed	Budgeted Balance Difference
<b>Budget Explanation:</b>			

<b>COMMITTEE, BOARD &amp; COMMISSION REVIEW</b>					
<b>Public Hearing Date:</b>		<b>Name Of Committee/Commission Public Hearing Was Done At:</b>			
Date & Name Of Committee/ Commission Meeting	Return To Committee/ Commission/Board	Council Workshop Discussion	Consent Agenda	Council Full Issues	Chair's Signature For Approval Of Next Steps
Date: 12/03/2024 Name: CDC	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Yes	
Date: Name:	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	
Date: Name:	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	
Date: Name:	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	
<b>Hearing Examiner Review:</b>					

<b>COUNCIL ACTION</b>	
Workshop Date(s): Meeting Date(s): 12/10/2024	Public Hearing Date(s): Tabled To:

<b>APPROVALS</b>		
<b>Department Director:</b> Jason Sullivan	<b>Mayor:</b> Terry Carter	<b>Date Reviewed By City Attorney (if applicable):</b>



## Public Services Briefing Memorandum

**Meeting Date:** December 3, 2024

**Memo Date:** November 21, 2024

**Staff Contact:** Jason Sullivan – Interim Public Services Director

**Prepared By:** Lauren Balisky – Interim Planning Manager

**Action Type:** Discussion

**Agenda Title:** AB24-114 – Resolution R24-114 - SB5290 Implementation – Permit Fee Refund Protections

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### **PURPOSE:**

The purpose of this item is to brief the City Council on changes to the Washington State Law related to permit processing, penalties for failure to process certain permits in a timely manner, and a proposed Resolution to document the actions Bonney Lake is taking to minimize delays and exempt the City from said penalties.

### **EXECUTIVE SUMMARY:**

Staff recommends adopting Resolution R24-114 to document the City's actions to provide prompt, coordinated review of certain permit applications and to exempt the City from the requirement to return up to 20% of the permit fee as authorized by Revised Code of Washington (RCW) 36.70B.080(1)(i)(ii).

### **DISCUSSION:**

Washington State law contains a variety of procedural requirements for local permit review. The Local Project Review Act (RCW Chapter 36.70B) was established in 1995 as the statewide framework for local government review of certain permits<sup>1</sup>. The purpose of this framework is to:

- Ensure a predictable review and public participation process;

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<sup>1</sup> As defined in RCW 36.70B.020, this includes full subdivisions, conditional use permits, shoreline substantial development permits, site plan review, critical area permits or approvals, and site-specific rezones (also called quasi-judicial rezones). Jurisdictions may add to this list or choose to apply the requirements more broadly for consistency across permit types.

- Reduce conflict, overlap, and duplication between various permit and review processes;
- Enforce reasonable environmental protection;
- Provide cost-effective infrastructure; and
- Promote orderly growth and development.

In 2023, the Washington State Legislature passed the first major update to this framework under Second Substitute Senate Bill 5290 (SB 5290)<sup>2</sup>. Key components of this update included:

- Clarifying how an application is determined to be “complete” or “incomplete”;
- Removing building permits from this set of procedures (procedures are within the building codes);
- Changing how review periods are calculated;
- Increasing minimum standards for communicating with customers;
- Reducing permit review times; and
- Adding a penalty for failure to complete review within the timeline.

The Legislature amended RCW 36.70B.080(1)(a) to establish new timelines for the processing of permit applications. These timelines are provided below:

Action	Deadline	Add'l Info
Permits without public notice requirements <sup>3</sup>	65 days from NOC <sup>4</sup>	These are calendar days
Permits with public notice but no public hearing <sup>5</sup>	100 days from NOC	
Permits with public notice <u>and</u> a public hearing <sup>6</sup>	170 days from NOC	

<sup>2</sup> Available online at: <https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bills/Session%20Laws/Senate/5290-S2.SL.pdf?q=20241114140257>

<sup>3</sup> This includes all Type 1 permits listed in BLMC 14.30.010 except for building permits which are exempted from compliance with this requirement. In addition to Type 1 permits, civil permits, right-of-way permits, utility connection permits are subject to the 65-day clock.

<sup>4</sup> NOC stands for Notice of Complete application, which must be issued within 28 days from the date the City receives an application.

<sup>5</sup> This includes all Type 2A and 2B permits listed in BLMC 14.30.010.

<sup>6</sup> This includes all Type 3A, 3B, and 4 permits listed in BLMC 14.30.010.

As part of the amendment the Legislature also added a new section, RCW36.70B.080(1)(l) , which states that up to 20% of the application fee must be refunded if mandated review timelines are not met. The refund penalty is not applicable to cities that have implemented at least three (3) of the options listed in RCW 36.70B.160 (attached). Staff recommends documenting the existing, standard practices associated with the following options by Resolution to prevent financial liability to the City:

- RCW 36.70B.160(1)(b): “Imposing reasonable fees, consistent with RCW 82.02.020, on applicants for permits or other governmental approvals to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW....”;
- RCW 36.70B.160(1)(d): “Maintaining and budgeting for on-call permitting assistance for when permit volumes or staffing levels change rapidly”;
- RCW 36.70B.160(1)(f) “Adopting development regulations which only require public hearings for permit applications that are required to have a public hearing by statute”; and
- RCW 36.70B.160(1)(g) Adopting development regulations which make preapplication meetings optional rather than a requirement of permit application submittal;

**CW 36.70B.080 Development regulations—Requirements—Report on implementation costs. (Effective January 1, 2025.)** (1) (a) Development regulations adopted pursuant to RCW 36.70A.040 must establish and implement time periods for local government actions for each type of project permit application and provide timely and predictable procedures to determine whether a completed project permit application meets the requirements of those development regulations. The time periods for local government actions for each type of complete project permit application or project type should not exceed those specified in this section.

(b) For project permits submitted after January 1, 2025, the development regulations must, for each type of permit application, specify the contents of a completed project permit application necessary for the complete compliance with the time periods and procedures.

(c) A jurisdiction may exclude certain permit types and timelines for processing project permit applications as provided for in RCW 36.70B.140.

(d) The time periods for local government action to issue a final decision for each type of complete project permit application or project type subject to this chapter should not exceed the following time periods unless modified by the local government pursuant to this section or RCW 36.70B.140:

(i) For project permits which do not require public notice under RCW 36.70B.110, a local government must issue a final decision within 65 days of the determination of completeness under RCW 36.70B.070;

(ii) For project permits which require public notice under RCW 36.70B.110, a local government must issue a final decision within 100 days of the determination of completeness under RCW 36.70B.070; and

(iii) For project permits which require public notice under RCW 36.70B.110 and a public hearing, a local government must issue a final decision within 170 days of the determination of completeness under RCW 36.70B.070.

(e) A jurisdiction may modify the provisions in (d) of this subsection to add permit types not identified, change the permit names or types in each category, address how consolidated review time periods may be different than permits submitted individually, and provide for how projects of a certain size or type may be differentiated, including by differentiating between residential and nonresidential permits. Unless otherwise provided for the consolidated review of more than one permit, the time period for a final decision shall be the longest of the permit time periods identified in (d) of this subsection or as amended by a local government.

(f) If a local government does not adopt an ordinance or resolution modifying the provisions in (d) of this subsection, the time periods in (d) of this subsection apply.

(g) The number of days an application is in review with the county or city shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a final decision is issued on the project permit application. The number of days shall be calculated by counting every calendar day and excluding the following time periods:

i) Any period when the day that the county or city has notified the applicant, in writing, that additional information is required to further process the application and the day when responsive information is resubmitted by the applicant;

(ii) Any period after an applicant informs the local government, in writing, that they would like to temporarily suspend review of the project permit application until the time that the applicant notifies the local government, in writing, that they would like to resume the application. A local government may set conditions for the temporary suspension of a permit application; and

(iii) Any period after an administrative appeal is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal has expired.

(h) The time periods for a local government to process a permit shall start over if an applicant proposes a change in use that adds or removes commercial or residential elements from the original application that would make the application fail to meet the determination of procedural completeness for the new use, as required by the local government under RCW 36.70B.070.

(i) If, at any time, an applicant informs the local government, in writing, that the applicant would like to temporarily suspend the review of the project for more than 60 days, or if an applicant is not responsive for more than 60 consecutive days after the county or city has notified the applicant, in writing, that additional information is required to further process the application, an additional 30 days may be added to the time periods for local government action to issue a final decision for each type of project permit that is subject to this chapter. Any written notice from the local government to the applicant that additional information is required to further process the application must include a notice that nonresponsiveness for 60 consecutive days may result in 30 days being added to the time for review. For the purposes of this subsection, "nonresponsiveness" means that an applicant is not making demonstrable progress on providing additional requested information to the local government, or that there is no ongoing communication from the applicant to the local government on the applicant's ability or willingness to provide the additional information.

(j) Annual amendments to the comprehensive plan are not subject to the requirements of this section.

(k) A county's or city's adoption of a resolution or ordinance to implement this subsection shall not be subject to appeal under chapter 36.70A RCW unless the resolution or ordinance modifies the time periods provided in (d) of this subsection by providing for a review period of more than 170 days for any project permit.

(l) (i) When permit time periods provided for in (d) of this subsection, as may be amended by a local government, and as may be extended as provided for in (i) of this subsection, are not met, a portion of the permit fee must be refunded to the applicant as provided in this subsection. A local government may provide for the collection of only 80 percent of a permit fee initially, and for the collection of the remaining balance if the permitting time periods are met. The portion of the fee refunded for missing time periods shall be:

(A) 10 percent if the final decision of the project permit application was made after the applicable deadline but the period from the passage of the deadline to the time of issuance of the final decision did not exceed 20 percent of the original time period; or



B) 20 percent the period from the passage of the deadline to the time of the issuance of the final decision exceeded 20 percent of the original time period.

(ii) Except as provided in RCW 36.70B.160, the provisions in subsection (1)(i) of this section are not applicable to cities and counties which have implemented at least three of the options in RCW 36.70B.160(1) (a) through (j) at the time an application is deemed procedurally complete.

(2)(a) Counties subject to the requirements of RCW 36.70A.215 and the cities within those counties that have populations of at least 20,000 must, for each type of permit application, identify the total number of project permit applications for which decisions are issued according to the provisions of this chapter. For each type of project permit application identified, these counties and cities must establish and implement a deadline for issuing a notice of final decision as required by subsection (1) of this section and minimum requirements for applications to be deemed complete under RCW 36.70B.070 as required by subsection (1) of this section.

(b) Counties and cities subject to the requirements of this subsection also must prepare an annual performance report that includes information outlining time periods for certain permit types associated with housing. The report must provide:

(i) Permit time periods for certain permit processes in the county or city in relation to those established under this section, including whether the county or city has established shorter time periods than those provided in this section;

(ii) The total number of decisions issued during the year for the following permit types: Preliminary subdivisions, final subdivisions, binding site plans, permit processes associated with the approval of multifamily housing, and construction plan review for each of these permit types when submitted separately;

(iii) The total number of decisions for each permit type which included consolidated project permit review, such as concurrent review of a rezone or construction plans;

(iv) The average number of days from a submittal to a decision being issued for the project permit types listed in subsection (2)(a)(ii) of this section. This shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a decision is issued on the application. The number of days shall be calculated by counting every calendar day;

(v) The total number of days each project permit application of a type listed in subsection (2)(a)(ii) of this section was in review with the county or city. This shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a final decision is issued on the application. The number of days shall be calculated by counting every calendar day. The days the application is in review with the county or city does not include the time periods in subsection (1)(g)(i)-(iii) [(1)(g)(i) through (iii)] of this section;

(vi) The total number of days that were excluded from the time period calculation under subsection (1)(g)(i)-(iii) [(1)(g)(i) through (iii)] of this section for each project permit application of a type listed in subsection (2)(a)(ii) of this section.

(c) Counties and cities subject to the requirements of this subsection must:

(i) Post the annual performance report through the county's or city's website; and

ii) Submit the annual performance report to the department of commerce by March 1st each year.

(d) No later than July 1st each year, the department of commerce shall publish a report which includes the annual performance report data for each county and city subject to the requirements of this subsection and a list of those counties and cities whose time periods are shorter than those provided for in this section.

The annual report must also include key metrics and findings from the information collected.

(e) The initial annual report required under this subsection must be submitted to the department of commerce by March 1, 2025, and must include information from permitting in 2024.

(3) Nothing in this section prohibits a county or city from extending a deadline for issuing a decision for a specific project permit application for any reasonable period of time mutually agreed upon by the applicant and the local government. [2023 c 338 s 7; 2004 c 191 s 2; 2001 c 322 s 1; 1995 c 347 s 410; (1995 c 347 s 409 expired July 1, 2000); 1994 c 257 s 3. Formerly RCW 36.70A.065.]

**\*Reviser's note:** The reference to RCW 36.70B.080(2)(a)(ii) appears to be erroneous. RCW 36.70B.080(2)(b)(ii) was apparently intended.

**Effective date—2023 c 338 s 7:** "Section 7 of this act takes effect January 1, 2025." [2023 c 338 s 13.]

**Findings—Intent—2004 c 191:** "The legislature finds that the timely issuance of project permit decisions by local governments serves the public interest. When these decisions, that are often responses to land use and building permit applications, are issued according to specific and locally established time periods and without unnecessary or inappropriate delays, the public enjoys greater efficiency, consistency, and predictability in the permitting process.

The legislature also finds that full access to relevant performance data produced annually by local governments for each type of permit application affords elected officials, project proponents, and the general public the opportunity to review and compare the permit application and processing performance of jurisdictions. Furthermore, the legislature finds that the review and comparison of this data, and the requirement to provide convenient and direct internet access to germane and consistent reports, will likely foster improved methods for processing applications, and issuing project permit decisions in a timely manner.

The legislature, therefore, intends to continue and clarify the requirements for certain jurisdictions to produce and provide access to annual permitting performance reports." [2004 c 191 s 1.]

**Effective date—1995 c 347 s 410:** "Section 410, chapter 347, Laws of 1995 shall take effect July 1, 2000." [1998 c 286 s 10; 1995 c 347 s 412.]

**Expiration date—1995 c 347 s 409:** "The amendments to RCW 36.70B.080 contained in section 409, chapter 347, Laws of 1995 shall expire July 1, 2000." [1998 c 286 s 9; 1995 c 347 s 411.]

**Severability—1994 c 257:** See note following RCW 36.70A.270.

development regulations must provide sufficient land capacity for  
development: RCW 36.70A.115.

**CW 36.70 .160 Additional project review encouraged — Construction (as amended by 2023 c 333).** (1) Each local government is encouraged to adopt further project review provisions to provide prompt, coordinated, and objective review and ensure accountability to applicants and the public, including expedited review for project permit applications for projects that are consistent with adopted development regulations or that include dwelling units that are affordable to low-income or moderate-income households and within the capacity of systemwide infrastructure improvements.

(2) Nothing in this chapter is intended or shall be construed to prevent a local government from requiring a preapplication conference or a public meeting by rule, ordinance, or resolution, where otherwise required by applicable state law.

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

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

(5) For the purposes of this section:

(a) A dwelling unit is affordable if it requires payment of monthly housing costs, including utilities other than telephone, of no more than 30 percent of the family's income.

(b) "Dwelling unit" means a residential living unit that provides complete independent living facilities for one or more persons and that includes permanent provisions for living, sleeping, eating, cooking, and sanitation, and that is sold or rented separately from other dwelling units.

(c) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is less than 80 percent of the median family income, adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development, or less than 80 percent of the city's median income if the project is located in the city, the city has median income of more than 20 percent above the county median income, and the city has adopted an alternative local median income.

(d) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 120 percent of the median household income, adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development, or less than 120 percent of the city's median income if the project is located in the city, the city has median income of more than 20 percent above the county median income, and the city has adopted an alternative local median income. [2023 c 333 s 2; 1995 c 347 s 420.]

**RCW 36.70B.160 Additional project review encouraged—Additional measures for certain jurisdictions—Construction (as amended by 2023 c 338).** (1) Each local government is encouraged to adopt further project review and code provisions to provide prompt, coordinated review and ensure accountability to applicants and the public (~~(7~~ including expedited review for project permit applications for projects that are consistent with adopted development regulations and within the capacity of systemwide infrastructure improvements)) by:

a) Expedited review for project permit applications for projects that are consistent with adopted development regulations;

(b) Imposing reasonable fees, consistent with RCW 82.02.020, on applicants for permits or other governmental approvals to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW. The fees imposed may not include a fee for the cost of processing administrative appeals. Nothing in this subsection limits the ability of a county or city to impose a fee for the processing of administrative appeals as otherwise authorized by law;

(c) Entering into an interlocal agreement with another jurisdiction to share permitting staff and resources;

(d) Maintaining and budgeting for on-call permitting assistance for when permit volumes or staffing levels change rapidly;

(e) Having new positions budgeted that are contingent on increased permit revenue;

(f) Adopting development regulations which only require public hearings for permit applications that are required to have a public hearing by statute;

(g) Adopting development regulations which make preapplication meetings optional rather than a requirement of permit application submittal;

(h) Adopting development regulations which make housing types an outright permitted use in all zones where the housing type is permitted;

(i) Adopting a program to allow for outside professionals with appropriate professional licenses to certify components of applications consistent with their license; or

(j) Meeting with the applicant to attempt to resolve outstanding issues during the review process. The meeting must be scheduled within 14 days of a second request for corrections during permit review. If the meeting cannot resolve the issues and a local government proceeds with a third request for additional information or corrections, the local government must approve or deny the application upon receiving the additional information or corrections.

(2) (a) After January 1, 2026, a county or city must adopt additional measures under subsection (1) of this section at the time of its next comprehensive plan update under RCW 36.70A.130 if it meets the following conditions:

(i) The county or city has adopted at least three project review and code provisions under subsection (1) of this section more than five years prior; and

(ii) The county or city is not meeting the permitting deadlines established in RCW 36.70B.080 at least half of the time over the period since its most recent comprehensive plan update under RCW 36.70A.130.

(b) A city or county that is required to adopt new measures under (a) of this subsection but fails to do so becomes subject to the provisions of RCW 36.70B.080(1)(1), notwithstanding RCW 36.70B.080(1)(1)(ii).

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

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

-4-)) (5) Not g t c apter modifies a y depe de t  
tatutory authority for a government agency to appeal a project perm t  
issued by a local government. [2023 c 338 s 8; 1995 c 347 s 420.]

**Reviser's note:** RCW 36.70B.160 was amended twice during the 2023  
legislative session, each without reference to the other. For rule of  
construction concerning sections amended more than once during the  
same legislative session, see RCW 1.12.025.