
ENGROSSED SUBSTITUTE HOUSE BILL 2275

State of Washington

58th Legislature

2004 Regular Session

By House Committee on Capital Budget (originally sponsored by Representatives Mastin and Dunshee)

READ FIRST TIME 02/06/04.

1 AN ACT Relating to expanding the criteria for habitat conservation
2 programs; amending RCW 79A.15.010, 79A.15.030, 79A.15.040, 79A.15.050,
3 79A.15.060, 79A.15.070, 79A.15.080, 84.33.140, and 77.12.203; adding
4 new sections to chapter 79A.15 RCW; adding a new section to chapter
5 79.70 RCW; adding a new section to chapter 79.71 RCW; and providing an
6 effective date.

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

8 **Sec. 1.** RCW 79A.15.010 and 1990 1st ex.s. c 14 s 2 are each
9 amended to read as follows:

10 The definitions set forth in this section apply throughout this
11 chapter.

12 (1) "Acquisition" means the purchase on a willing seller basis of
13 fee or less than fee interests in real property. These interests
14 include, but are not limited to, options, rights of first refusal,
15 conservation easements, leases, and mineral rights.

16 (2) "Committee" means the interagency committee for outdoor
17 recreation.

18 (3) "Critical habitat" means lands important for the protection,
19 management, or public enjoyment of certain wildlife species or groups

1 of species, including, but not limited to, wintering range for deer,
2 elk, and other species, waterfowl and upland bird habitat, fish
3 habitat, and habitat for endangered, threatened, or sensitive species.

4 (4) "Farmlands" means any land defined as "farm and agricultural
5 land" in RCW 84.34.020(2).

6 (5) "Local agencies" means a city, county, town, federally
7 recognized Indian tribe, special purpose district, port district, or
8 other political subdivision of the state providing services to less
9 than the entire state.

10 ((+5)) (6) "Natural areas" means areas that have, to a significant
11 degree, retained their natural character and are important in
12 preserving rare or vanishing flora, fauna, geological, natural
13 historical, or similar features of scientific or educational value.

14 ((+6)) (7) "Riparian habitat" means land adjacent to water bodies,
15 as well as submerged land such as streambeds, which can provide
16 functional habitat for salmonids and other fish and wildlife species.
17 Riparian habitat includes, but is not limited to, shorelines and near-
18 shore marine habitat, estuaries, lakes, wetlands, streams, and rivers.

19 (8) "Special needs populations" means physically restricted people
20 or people of limited means.

21 ((+7)) (9) "State agencies" means the state parks and recreation
22 commission, the department of natural resources, the department of
23 general administration, and the department of fish and wildlife.

24 (10) "Trails" means public ways constructed for and open to
25 pedestrians, equestrians, or bicyclists, or any combination thereof,
26 other than a sidewalk constructed as a part of a city street or county
27 road for exclusive use of pedestrians.

28 ((+8)) (11) "Urban wildlife habitat" means lands that provide
29 habitat important to wildlife in proximity to a metropolitan area.

30 ((+9)) (12) "Water access" means boat or foot access to marine
31 waters, lakes, rivers, or streams.

32 **Sec. 2.** RCW 79A.15.030 and 2000 c 11 s 66 are each amended to read
33 as follows:

34 (1) Moneys appropriated for this chapter shall be divided ((equally
35 between the habitat conservation and outdoor recreation accounts and
36 shall be used exclusively for the purposes specified in this chapter))
37 as follows:

1 (a) Appropriations for a biennium of forty million dollars or less
2 must be allocated equally between the habitat conservation account and
3 the outdoor recreation account.

4 (b) If appropriations for a biennium total more than forty million
5 dollars, the money must be allocated as follows: (i) Twenty million
6 dollars to the habitat conservation account and twenty million dollars
7 to the outdoor recreation account; (ii) any amount over forty million
8 dollars up to fifty million dollars shall be allocated as follows: (A)
9 Ten percent to the habitat conservation account; (B) ten percent to the
10 outdoor recreation account; (C) forty percent to the riparian
11 protection account; and (D) forty percent to the farmlands preservation
12 account; and (iii) any remaining amounts over fifty million dollars
13 must be allocated as follows: (A) Thirty percent to the habitat
14 conservation account; (B) thirty percent to the outdoor recreation
15 account; (C) thirty percent to the riparian protection account; and (D)
16 ten percent to the farmlands preservation account.

17 (2) Except as otherwise provided in this act, moneys deposited in
18 these accounts shall be invested as authorized for other state funds,
19 and any earnings on them shall be credited to the respective account.

20 (3) All moneys deposited in the habitat conservation ~~((and))~~,
21 outdoor recreation, riparian protection, and farmlands preservation
22 accounts shall be allocated as provided under RCW 79A.15.040 ~~((and))~~,
23 79A.15.050, and sections 5 and 6 of this act as grants to state or
24 local agencies for acquisition, development, and renovation within the
25 jurisdiction of those agencies, subject to legislative appropriation.
26 The committee may use or permit the use of any funds appropriated for
27 this chapter as matching funds where federal, local, or other funds are
28 made available for projects within the purposes of this chapter.

29 (4) Projects receiving grants under this chapter that are developed
30 or otherwise accessible for public recreational uses shall be available
31 to the public ~~((on a nondiscriminatory basis))~~.

32 (5) The committee may make grants to an eligible project from
33 ~~((both))~~ the habitat conservation ~~((and))~~, outdoor recreation, riparian
34 protection, and farmlands preservation accounts and any one or more of
35 the applicable categories under such accounts described in RCW
36 79A.15.040 ~~((and))~~, 79A.15.050, and sections 5 and 6 of this act.

37 (6) The committee may accept private donations to the habitat

1 conservation account, the outdoor recreation account, the riparian
2 protection account, and the farmlands preservation account for the
3 purposes specified in this chapter.

4 (7) The committee may apply up to three percent of the funds
5 appropriated for this chapter for the administration of the programs
6 and purposes specified in this chapter.

7 **Sec. 3.** RCW 79A.15.040 and 1999 c 379 s 917 are each amended to
8 read as follows:

9 (1) Moneys appropriated for this chapter to the habitat
10 conservation account shall be distributed in the following way:

11 (a) Not less than (~~thirty-five~~) forty-five percent for the
12 acquisition and development of critical habitat;

13 (b) Not less than (~~twenty~~) thirty percent for the acquisition and
14 development of natural areas;

15 (c) Not less than (~~fifteen~~) twenty percent for the acquisition
16 and development of urban wildlife habitat; and

17 (d) (~~The remaining amount shall be considered unallocated and~~)
18 Not less than five percent shall be used by the committee to fund
19 (~~high priority acquisition and development needs for critical habitat,~~
20 ~~natural areas, and urban wildlife habitat. During the fiscal biennium~~
21 ~~ending June 30, 2001, the remaining amount reappropriated from the~~
22 ~~fiscal biennium ending June 30, 1999, may be allocated for matching~~
23 ~~grants for riparian zone habitat protection projects that implement~~
24 ~~watershed plans under the program established in section 329(6),~~
25 ~~chapter 235, Laws of 1997)) restoration and enhancement projects on
26 state lands. Only the department of natural resources and the
27 department of fish and wildlife may apply for these funds to be used on
28 existing habitat and natural area lands.~~

29 (2) In distributing these funds, the committee retains discretion
30 to meet the most pressing needs for critical habitat, natural areas,
31 and urban wildlife habitat, and is not required to meet the percentages
32 described in subsection (1) of this section in any one biennium.

33 (3) Only state agencies may apply for acquisition and development
34 funds for (~~critical habitat and~~) natural areas projects under
35 subsection (1) (~~(a),~~) (b) (~~, and (d)~~) of this section.

36 (4) State and local agencies may apply for acquisition and

1 development funds for critical habitat and urban wildlife habitat
2 projects under subsection (1)(a) and (c) (~~and (d)~~) of this section.

3 (5)(a) Any lands that have been acquired with grants under this
4 section by the department of fish and wildlife are subject to an amount
5 in lieu of real property taxes and an additional amount for control of
6 noxious weeds as determined by RCW 77.12.203.

7 (b) Any lands that have been acquired with grants under this
8 section by the department of natural resources are subject to payments
9 in the amounts required under the provisions of sections 10 and 11 of
10 this act.

11 **Sec. 4.** RCW 79A.15.050 and 2003 c 184 s 1 are each amended to read
12 as follows:

13 (1) Moneys appropriated for this chapter to the outdoor recreation
14 account shall be distributed in the following way:

15 (a) Not less than (~~twenty-five~~) thirty percent to the state parks
16 and recreation commission for the acquisition (~~and~~), renovation, or
17 development of state parks, with at least (~~seventy-five~~) fifty
18 percent of (~~this~~) the money for acquisition costs(~~(. — However,~~
19 ~~between July 27, 2003, and June 30, 2009, at least fifty percent of~~
20 ~~this money for the acquisition and development of state parks must be~~
21 ~~used for acquisition costs))~~);

22 (b) Not less than (~~twenty-five~~) thirty percent for the
23 acquisition, development, and renovation of local parks, with at least
24 fifty percent of this money for acquisition costs;

25 (c) Not less than fifteen percent for the acquisition and
26 development of trails;

27 (d) Not less than (~~ten~~) fifteen percent for the acquisition and
28 development of water access sites, with at least seventy-five percent
29 of this money for acquisition costs; (~~and~~)

30 (e) Not less than five percent for development and renovation
31 projects on state recreation lands. Only the department of natural
32 resources and the department of fish and wildlife may apply for these
33 funds to be used on their existing recreation lands; and

34 (f) The remaining amount shall be considered unallocated and shall
35 be distributed by the committee to state and local agencies to fund
36 high priority acquisition and development needs for parks, trails, and
37 water access sites.

1 (2) In distributing these funds, the committee retains discretion
2 to meet the most pressing needs for state and local parks, trails, and
3 water access sites, and is not required to meet the percentages
4 described in subsection (1) of this section in any one biennium.

5 (3) Only local agencies may apply for acquisition, development, or
6 renovation funds for local parks under subsection (1)(b) of this
7 section.

8 (4) Only state and local agencies may apply for funds for trails
9 under subsection (1)(c) of this section.

10 (5) Only state and local agencies may apply for funds for water
11 access sites under subsection (1)(d) of this section.

12 NEW SECTION. **Sec. 5.** A new section is added to chapter 79A.15 RCW
13 to read as follows:

14 (1) The riparian protection account is established in the state
15 treasury. The committee must administer the account in accordance with
16 chapter 79A.25 RCW and this chapter, and hold it separate and apart
17 from all other money, funds, and accounts of the committee.

18 (2) Moneys appropriated for this chapter to the riparian protection
19 account must be distributed for the acquisition and enhancement or
20 restoration of riparian habitat. All enhancement or restoration
21 projects, except those qualifying under subsection (9)(a) of this
22 section, must include the acquisition of a real property interest in
23 order to be eligible. At least fifty percent of riparian protection
24 account funds must be used for the acquisition of real property
25 interests.

26 (3) State and local agencies and lead entities under chapter 77.85
27 RCW may apply for acquisition and enhancement or restoration funds for
28 riparian habitat projects under subsection (1) of this section. Other
29 state agencies not defined in RCW 79A.15.010, such as the department of
30 transportation and the department of corrections, may enter into
31 interagency agreements with state agencies to apply in partnership for
32 funds under this section.

33 (4) The committee may adopt rules establishing acquisition policies
34 and priorities for distributions from the riparian protection account.

35 (5) Except as provided in RCW 79A.15.030(7), moneys appropriated
36 for this section may not be used by the committee to fund staff

1 positions or other overhead expenses, or by a state, regional, or local
2 agency to fund operation or maintenance of areas acquired under this
3 chapter.

4 (6) Moneys appropriated for this section may be used by grant
5 recipients for costs incidental to restoration and acquisition,
6 including, but not limited to, surveying expenses, fencing, and
7 signing.

8 (7) The committee may not approve a local project where the local
9 agency share is less than the amount to be awarded from the riparian
10 protection account. In-kind contributions, including contributions of
11 a real property interest in land may be used to satisfy the local
12 agency's share.

13 (8) State agencies receiving grants for acquisition of land under
14 this section must pay an amount in lieu of real property taxes equal to
15 the amount of tax that would be due if the land were taxable as open
16 space land under chapter 84.34 RCW, plus an additional amount for
17 control of noxious weeds equal to that which would be paid if such
18 lands were privately owned. The county assessor and county legislative
19 authority shall assist in determining the appropriate calculation of
20 the amount of tax that would be due under chapter 84.34 RCW.

21 (9) In determining acquisition priorities with respect to the
22 riparian protection account, the committee must consider, at a minimum,
23 the following criteria:

24 (a) Whether the project continues the conservation reserve
25 enhancement program. Applications that extend the duration of leases
26 of riparian areas that are currently enrolled in the conservation
27 reserve enhancement program shall be highly considered in the process.
28 Such applications are also eligible for an additional conservation
29 lease of at least twenty-five years of duration;

30 (b) Whether the projects are identified or recommended in a
31 watershed planning process under chapter 247, Laws of 1998, salmon
32 recovery planning under chapter 77.85 RCW, or other local plans, such
33 as habitat conservation plans, and these must be highly considered in
34 the process;

35 (c) Whether there is community support for the project;

36 (d) Whether there is an immediate threat to the site;

37 (e) Whether the quality of the habitat is improved or, for projects

1 including restoration or enhancement, the potential for restoring
2 quality habitat including linkage of the site to other high quality
3 habitat;

4 (f) Whether the project is consistent with a local land use plan,
5 or a regional or statewide recreational or resource plan. The projects
6 that assist in the implementation of local shoreline master plans
7 updated according to RCW 90.58.080 or local comprehensive plans updated
8 according to RCW 36.70A.130 must be highly considered in the process;
9 and

10 (g) Whether the site has educational or scientific value.

11 (10) Before November 1st of each even-numbered year, the committee
12 will recommend to the governor a prioritized list of projects to be
13 funded under this section. The governor may remove projects from the
14 list recommended by the committee and will submit this amended list in
15 the capital budget request to the legislature. The list must include,
16 but not be limited to, a description of each project and any particular
17 match requirement.

18 NEW SECTION. **Sec. 6.** A new section is added to chapter 79A.15 RCW
19 to read as follows:

20 (1) The farmlands preservation account is established in the state
21 treasury. The committee will administer the account in accordance with
22 chapter 79A.25 RCW and this chapter, and hold it separate and apart
23 from all other money, funds, and accounts of the committee. Moneys
24 appropriated for this chapter to the farmlands preservation account
25 must be distributed for the acquisition and preservation of farmlands
26 in order to maintain the opportunity for agricultural activity upon
27 these lands.

28 (2) Moneys appropriated for this chapter to the farmlands
29 preservation account must be distributed for the fee simple or less
30 than fee simple acquisition of farmlands, and for the enhancement or
31 restoration of ecological functions on those properties. In order for
32 a farmland preservation grant to provide for an environmental
33 enhancement or restoration project, the project must include the
34 acquisition of a real property interest in perpetuity. If a city or
35 county acquires a property through this program in fee simple, the city
36 or county shall endeavor to secure preservation of the property through
37 placing a conservation easement, or other form of deed restriction, on

1 the property which dedicates the land to agricultural use and retains
2 one or more property rights in perpetuity. Once an easement or other
3 form of deed restriction is placed on the property, the city or county
4 shall seek to sell the property, at fair market value, to a person or
5 persons who will maintain the property in agricultural production. Any
6 moneys from the sale of the property shall either be used to purchase
7 interests in additional properties which meet the criteria in
8 subsection (8) of this section, or to repay the grant from the state
9 which was originally used to purchase the property.

10 (3) Cities and counties may apply for acquisition and enhancement
11 or restoration funds for farmland preservation projects within their
12 jurisdictions under subsection (1) of this section.

13 (4) The committee may adopt rules establishing acquisition and
14 enhancement or restoration policies and priorities for distributions
15 from the farmlands preservation account.

16 (5) Except as provided in RCW 79A.15.030(7), moneys appropriated
17 for this section may not be used by the committee to fund staff
18 positions or other overhead expenses, or by a city or county to fund
19 operation or maintenance of areas acquired under this chapter.

20 (6) Moneys appropriated for this section may be used by grant
21 recipients for costs incidental to restoration and acquisition,
22 including, but not limited to, surveying expenses, fencing, and
23 signing.

24 (7) The committee may not approve a local project where the local
25 agency's share is less than the amount to be awarded from the farmlands
26 preservation account. In-kind contributions, including contributions
27 of a real property interest in land, may be used to satisfy the local
28 agency's share.

29 (8) In determining the acquisition priorities, the committee must
30 consider, at a minimum, the following criteria:

31 (a) Community support for the project;

32 (b) A recommendation as part of a limiting factors or critical
33 pathways analysis, a watershed plan or habitat conservation plan, or a
34 coordinated regionwide prioritization effort;

35 (c) The likelihood of the conversion of the site to nonagricultural
36 or more highly developed usage;

37 (d) Consistency with a local land use plan, or a regional or
38 statewide recreational or resource plan. The projects that assist in

1 the implementation of local shoreline master plans updated according to
2 RCW 90.58.080 or local comprehensive plans updated according to RCW
3 36.70A.130 must be highly considered in the process;

4 (e) Benefits to salmonids;

5 (f) Benefits to other fish and wildlife habitat;

6 (g) Integration with recovery efforts for endangered, threatened,
7 or sensitive species;

8 (h) The viability of the site for continued agricultural
9 production, including, but not limited to:

10 (i) Soil types;

11 (ii) On-site production and support facilities such as barns,
12 irrigation systems, crop processing and storage facilities, wells,
13 housing, livestock sheds, and other farming infrastructure;

14 (iii) Suitability for producing different types or varieties of
15 crops;

16 (iv) Farm-to-market access;

17 (v) Water availability; and

18 (i) Other community values provided by the property when used as
19 agricultural land, including, but not limited to:

20 (i) Viewshed;

21 (ii) Aquifer recharge;

22 (iii) Occasional or periodic collector for storm water runoff;

23 (iv) Agricultural sector job creation;

24 (v) Migratory bird habitat and forage area; and

25 (vi) Educational and curriculum potential.

26 (9) In allotting funds for environmental enhancement or restoration
27 projects, the committee will require the projects to meet the following
28 criteria:

29 (a) Enhancement or restoration projects must further the ecological
30 functions of the farmlands;

31 (b) The projects, such as fencing, bridging watercourses,
32 replanting native vegetation, replacing culverts, clearing of
33 waterways, etc., must be less than fifty percent of the acquisition
34 cost of the project including any in-kind contribution by any party;

35 (c) The projects should be based on accepted methods of achieving
36 beneficial enhancement or restoration results; and

37 (d) The projects should enhance the viability of the preserved

1 farmland to provide agricultural production while conforming to any
2 legal requirements for habitat protection.

3 (10) Before November 1st of each even-numbered year, the committee
4 will recommend to the governor a prioritized list of all projects to be
5 funded under this section. The governor may remove projects from the
6 list recommended by the committee and must submit this amended list in
7 the capital budget request to the legislature. The list must include,
8 but not be limited to, a description of each project and any particular
9 match requirement.

10 **Sec. 7.** RCW 79A.15.060 and 2000 c 11 s 67 are each amended to read
11 as follows:

12 (1) The committee may adopt rules establishing acquisition policies
13 and priorities for distributions from the habitat conservation account.

14 (2) Except as provided in RCW 79A.15.030(7), moneys appropriated
15 for this chapter may not be used by the committee to fund
16 ((additional)) staff positions or other overhead expenses, or by a
17 state, regional, or local agency to fund operation ((and)) or
18 maintenance of areas acquired under this chapter((, ~~except that the~~
19 ~~committee may use moneys appropriated for this chapter for the fiscal~~
20 ~~biennium ending June 30, 2001, for the administrative costs of~~
21 ~~implementing the pilot watershed plan implementation program~~
22 ~~established in section 329(6), chapter 235, Laws of 1997, and~~
23 ~~developing an inventory of publicly owned lands established in section~~
24 ~~329(7), chapter 235, Laws of 1997)).~~

25 (3) Moneys appropriated for this chapter may be used by grant
26 recipients for costs incidental to acquisition, including, but not
27 limited to, surveying expenses, fencing, and signing.

28 ((~~Except as provided in subsection (5) of this section,~~) The
29 committee may not approve a local project where the local agency share
30 is less than the amount to be awarded from the habitat conservation
31 account.

32 ((~~During the fiscal biennium ending June 30, 2001, the~~
33 ~~committee may approve a riparian zone habitat protection project~~
34 ~~established in section 329(6), chapter 235, Laws of 1997, where the~~
35 ~~local agency share is less than the amount to be awarded from the~~
36 ~~habitat conservation account.~~

1 ~~(6)~~) In determining acquisition priorities with respect to the
2 habitat conservation account, the committee shall consider, at a
3 minimum, the following criteria:

4 (a) For critical habitat and natural areas proposals:

5 (i) Community support for the project;

6 (ii) Recommendations as part of a watershed plan or habitat
7 conservation plan, or a coordinated regionwide prioritization effort,
8 and for projects primarily intended to benefit salmon, limiting
9 factors, or critical pathways analysis;

10 ~~(iii)~~ Immediacy of threat to the site;

11 ~~((+iii))~~ ~~(iii)~~ Uniqueness of the site;

12 ~~((+iv))~~ ~~(iv)~~ Diversity of species using the site;

13 ~~((+v))~~ ~~(v)~~ Quality of the habitat;

14 ~~((+vi))~~ ~~(vi)~~ Long-term viability of the site;

15 ~~((+vii))~~ ~~(vii)~~ Presence of endangered, threatened, or sensitive
16 species;

17 ~~((+viii))~~ ~~(viii)~~ Enhancement of existing public property;

18 ~~((+ix))~~ ~~(ix)~~ Consistency with a local land use plan, or a regional
19 or statewide recreational or resource plan, including projects that
20 assist in the implementation of local shoreline master plans updated
21 according to RCW 90.58.080 or local comprehensive plans updated
22 according to RCW 36.70A.130; ((and

23 ~~(+x))~~ ~~(x)~~ Educational and scientific value of the site;

24 ~~(xii)~~ Integration with recovery efforts for endangered, threatened,
25 or sensitive species;

26 ~~(xiii)~~ For critical habitat proposals by local agencies, the
27 statewide significance of the site.

28 (b) For urban wildlife habitat proposals, in addition to the
29 criteria of (a) of this subsection:

30 (i) Population of, and distance from, the nearest urban area;

31 (ii) Proximity to other wildlife habitat;

32 (iii) Potential for public use; and

33 (iv) Potential for use by special needs populations.

34 ~~((+7))~~ ~~(6)~~ Before ~~((October))~~ November 1st of each even-numbered
35 year, the committee shall recommend to the governor a prioritized list
36 of state agency projects to be funded under RCW 79A.15.040(1) (a), (b),
37 and (c). The governor may remove projects from the list recommended by
38 the committee and shall submit this amended list in the capital budget

1 request to the legislature. The list shall include, but not be limited
2 to, a description of each project; and shall describe for each project
3 any anticipated restrictions upon recreational activities allowed prior
4 to the project.

5 ~~((+8))~~ (7) Before ~~((October))~~ November 1st of each even-numbered
6 year, the committee shall recommend to the governor a prioritized list
7 of all local projects to be funded under RCW 79A.15.040(1) (a) and (c).
8 The governor may remove projects from the list recommended by the
9 committee and shall submit this amended list in the capital budget
10 request to the legislature. The list shall include, but not be limited
11 to, a description of each project and any particular match requirement,
12 and describe for each project any anticipated restrictions upon
13 recreational activities allowed prior to the project.

14 **Sec. 8.** RCW 79A.15.070 and 2000 c 11 s 68 are each amended to read
15 as follows:

16 (1) In determining which state parks proposals and local parks
17 proposals to fund, the committee shall use existing policies and
18 priorities.

19 (2) Except as provided in RCW 79A.15.030(7), moneys appropriated
20 for this chapter may not be used by the committee to fund
21 ~~((additional))~~ staff or other overhead expenses, or by a state,
22 regional, or local agency to fund operation ~~((and))~~ or maintenance of
23 areas acquired under this chapter ~~((, except that the committee may use~~
24 ~~moneys appropriated for this chapter for the fiscal biennium ending~~
25 ~~June 30, 2001, for the administrative costs of implementing the pilot~~
26 ~~watershed plan implementation program established in section 329(6),~~
27 ~~chapter 235, Laws of 1997, and developing an inventory of publicly~~
28 ~~owned lands established in section 329(7), chapter 235, Laws of 1997)).~~

29 (3) Moneys appropriated for this chapter may be used by grant
30 recipients for costs incidental to acquisition and development,
31 including, but not limited to, surveying expenses, fencing, and
32 signing.

33 (4) The committee may not approve a project of a local agency where
34 the share contributed by the local agency is less than the amount to be
35 awarded from the outdoor recreation account.

36 (5) The committee may adopt rules establishing acquisition policies

1 and priorities for the acquisition and development of trails and water
2 access sites to be financed from moneys in the outdoor recreation
3 account.

4 (6) In determining the acquisition and development priorities, the
5 committee shall consider, at a minimum, the following criteria:

6 (a) For trails proposals:

7 (i) Community support for the project;

8 (ii) Immediacy of threat to the site;

9 (iii) Linkage between communities;

10 (iv) Linkage between trails;

11 (v) Existing or potential usage;

12 (vi) Consistency with ~~((an existing))~~ a local land use plan, or a
13 regional or statewide recreational or resource plan, including projects
14 that assist in the implementation of local shoreline master plans
15 updated according to RCW 90.58.080 or local comprehensive plans updated
16 according to RCW 36.70A.130;

17 (vii) Availability of water access or views;

18 (viii) Enhancement of wildlife habitat; and

19 (ix) Scenic values of the site.

20 (b) For water access proposals:

21 (i) Community support for the project;

22 (ii) Distance from similar water access opportunities;

23 (iii) Immediacy of threat to the site;

24 (iv) Diversity of possible recreational uses; ~~((and))~~

25 (v) Public demand in the area; and

26 (vi) Consistency with a local land use plan, or a regional or
27 statewide recreational or resource plan, including projects that assist
28 in the implementation of local shoreline master plans updated according
29 to RCW 90.58.080 or local comprehensive plans updated according to RCW
30 36.70A.130.

31 (7) Before ~~((October))~~ November 1st of each even-numbered year, the
32 committee shall recommend to the governor a prioritized list of state
33 agency projects to be funded under RCW 79A.15.050(1) (a), (c), and (d).
34 The governor may remove projects from the list recommended by the
35 committee and shall submit this amended list in the capital budget
36 request to the legislature. The list shall include, but not be limited
37 to, a description of each project; and shall describe for each project

1 any anticipated restrictions upon recreational activities allowed prior
2 to the project.

3 (8) Before (~~October~~) November 1st of each even-numbered year, the
4 committee shall recommend to the governor a prioritized list of all
5 local projects to be funded under RCW 79A.15.050(1) (b), (c), and (d).
6 The governor may remove projects from the list recommended by the
7 committee and shall submit this amended list in the capital budget
8 request to the legislature. The list shall include, but not be limited
9 to, a description of each project and any particular match requirement,
10 and describe for each project any anticipated restrictions upon
11 recreational activities allowed prior to the project.

12 **Sec. 9.** RCW 79A.15.080 and 1990 1st ex.s. c 14 s 9 are each
13 amended to read as follows:

14 The committee shall not sign contracts or otherwise financially
15 obligate funds from the habitat conservation account (~~or~~), the
16 outdoor recreation account, the riparian protection account, or the
17 farmlands preservation account as provided in this chapter before the
18 legislature has appropriated funds for a specific list of projects.
19 The legislature may remove projects from the list recommended by the
20 governor.

21 NEW SECTION. **Sec. 10.** A new section is added to chapter 79.70 RCW
22 to read as follows:

23 The state treasurer, on behalf of the department, must distribute
24 to counties for all lands acquired for the purposes of this chapter an
25 amount in lieu of real property taxes equal to the amount of tax that
26 would be due if the land were taxable as open space land under chapter
27 84.34 RCW, plus an additional amount equal to the amount of weed
28 control assessment that would be due if such lands were privately
29 owned. The county assessor and county legislative authority shall
30 assist in determining the appropriate calculation of the amount of tax
31 that would be due under chapter 84.34 RCW. The county shall distribute
32 the amount received under this section in lieu of real property taxes
33 to all property taxing districts except the state in appropriate tax
34 code areas the same way it would distribute local property taxes from
35 private property. The county shall distribute the amount received
36 under this section for weed control to the appropriate weed district.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 79.71 RCW
2 to read as follows:

3 The state treasurer, on behalf of the department, must distribute
4 to counties for all lands acquired for the purposes of this chapter an
5 amount in lieu of real property taxes equal to the amount of tax that
6 would be due if the land were taxable as open space land under chapter
7 84.34 RCW, plus an additional amount equal to the amount of weed
8 control assessment that would be due if such lands were privately
9 owned. The county assessor and county legislative authority shall
10 assist in determining the appropriate calculation of the amount of tax
11 that would be due under chapter 84.34 RCW. The county shall distribute
12 the amount received under this section in lieu of real property taxes
13 to all property taxing districts except the state in appropriate tax
14 code areas the same way it would distribute local property taxes from
15 private property. The county shall distribute the amount received
16 under this section for weed control to the appropriate weed district.

17 **Sec. 12.** RCW 84.33.140 and 2003 c 170 s 5 are each amended to read
18 as follows:

19 (1) When land has been designated as forest land under RCW
20 84.33.130, a notation of the designation shall be made each year upon
21 the assessment and tax rolls. A copy of the notice of approval
22 together with the legal description or assessor's parcel numbers for
23 the land shall, at the expense of the applicant, be filed by the
24 assessor in the same manner as deeds are recorded.

25 (2) In preparing the assessment roll as of January 1, 2002, for
26 taxes payable in 2003 and each January 1st thereafter, the assessor
27 shall list each parcel of designated forest land at a value with
28 respect to the grade and class provided in this subsection and adjusted
29 as provided in subsection (3) of this section. The assessor shall
30 compute the assessed value of the land using the same assessment ratio
31 applied generally in computing the assessed value of other property in
32 the county. Values for the several grades of bare forest land shall be
33 as follows:

34	LAND	OPERABILITY	VALUES
35	GRADE	CLASS	PER ACRE

1		1	\$234
2	1	2	229
3		3	217
4		4	157
5		1	198
6	2	2	190
7		3	183
8		4	132
9		1	154
10	3	2	149
11		3	148
12		4	113
13		1	117
14	4	2	114
15		3	113
16		4	86
17		1	85
18	5	2	78
19		3	77
20		4	52
21		1	43
22	6	2	39
23		3	39
24		4	37
25		1	21
26	7	2	21
27		3	20
28		4	20
29	8		1

30 (3) On or before December 31, 2001, the department shall adjust by
31 rule under chapter 34.05 RCW, the forest land values contained in
32 subsection (2) of this section in accordance with this subsection, and
33 shall certify the adjusted values to the assessor who will use these
34 values in preparing the assessment roll as of January 1, 2002. For the
35 adjustment to be made on or before December 31, 2001, for use in the
36 2002 assessment year, the department shall:

37 (a) Divide the aggregate value of all timber harvested within the

1 state between July 1, 1996, and June 30, 2001, by the aggregate harvest
2 volume for the same period, as determined from the harvester excise tax
3 returns filed with the department under RCW 84.33.074; and

4 (b) Divide the aggregate value of all timber harvested within the
5 state between July 1, 1995, and June 30, 2000, by the aggregate harvest
6 volume for the same period, as determined from the harvester excise tax
7 returns filed with the department under RCW 84.33.074; and

8 (c) Adjust the forest land values contained in subsection (2) of
9 this section by a percentage equal to one-half of the percentage change
10 in the average values of harvested timber reflected by comparing the
11 resultant values calculated under (a) and (b) of this subsection.

12 (4) For the adjustments to be made on or before December 31, 2002,
13 and each succeeding year thereafter, the same procedure described in
14 subsection (3) of this section shall be followed using harvester excise
15 tax returns filed under RCW 84.33.074. However, this adjustment shall
16 be made to the prior year's adjusted value, and the five-year periods
17 for calculating average harvested timber values shall be successively
18 one year more recent.

19 (5) Land graded, assessed, and valued as forest land shall continue
20 to be so graded, assessed, and valued until removal of designation by
21 the assessor upon the occurrence of any of the following:

22 (a) Receipt of notice from the owner to remove the designation;

23 (b) Sale or transfer to an ownership making the land exempt from ad
24 valorem taxation;

25 (c) Sale or transfer of all or a portion of the land to a new
26 owner, unless the new owner has signed a notice of forest land
27 designation continuance, except transfer to an owner who is an heir or
28 devisee of a deceased owner, shall not, by itself, result in removal of
29 designation. The signed notice of continuance shall be attached to the
30 real estate excise tax affidavit provided for in RCW 82.45.150. The
31 notice of continuance shall be on a form prepared by the department.
32 If the notice of continuance is not signed by the new owner and
33 attached to the real estate excise tax affidavit, all compensating
34 taxes calculated under subsection (11) of this section shall become due
35 and payable by the seller or transferor at time of sale. The auditor
36 shall not accept an instrument of conveyance regarding designated
37 forest land for filing or recording unless the new owner has signed the
38 notice of continuance or the compensating tax has been paid, as

1 evidenced by the real estate excise tax stamp affixed thereto by the
2 treasurer. The seller, transferor, or new owner may appeal the new
3 assessed valuation calculated under subsection (11) of this section to
4 the county board of equalization in accordance with the provisions of
5 RCW 84.40.038. Jurisdiction is hereby conferred on the county board of
6 equalization to hear these appeals;

7 (d) Determination by the assessor, after giving the owner written
8 notice and an opportunity to be heard, that:

9 (i) The land is no longer primarily devoted to and used for growing
10 and harvesting timber. However, land shall not be removed from
11 designation if a governmental agency, organization, or other recipient
12 identified in subsection (13) or (14) of this section as exempt from
13 the payment of compensating tax has manifested its intent in writing or
14 by other official action to acquire a property interest in the
15 designated forest land by means of a transaction that qualifies for an
16 exemption under subsection (13) or (14) of this section. The
17 governmental agency, organization, or recipient shall annually provide
18 the assessor of the county in which the land is located reasonable
19 evidence in writing of the intent to acquire the designated land as
20 long as the intent continues or within sixty days of a request by the
21 assessor. The assessor may not request this evidence more than once in
22 a calendar year;

23 (ii) The owner has failed to comply with a final administrative or
24 judicial order with respect to a violation of the restocking, forest
25 management, fire protection, insect and disease control, and forest
26 debris provisions of Title 76 RCW or any applicable rules under Title
27 76 RCW; or

28 (iii) Restocking has not occurred to the extent or within the time
29 specified in the application for designation of such land.

30 (6) Land shall not be removed from designation if there is a
31 governmental restriction that prohibits, in whole or in part, the owner
32 from harvesting timber from the owner's designated forest land. If
33 only a portion of the parcel is impacted by governmental restrictions
34 of this nature, the restrictions cannot be used as a basis to remove
35 the remainder of the forest land from designation under this chapter.
36 For the purposes of this section, "governmental restrictions" includes:

37 (a) Any law, regulation, rule, ordinance, program, or other action

1 adopted or taken by a federal, state, county, city, or other
2 governmental entity; or (b) the land's zoning or its presence within an
3 urban growth area designated under RCW 36.70A.110.

4 (7) The assessor shall have the option of requiring an owner of
5 forest land to file a timber management plan with the assessor upon the
6 occurrence of one of the following:

7 (a) An application for designation as forest land is submitted; or

8 (b) Designated forest land is sold or transferred and a notice of
9 continuance, described in subsection (5)(c) of this section, is signed.

10 (8) If land is removed from designation because of any of the
11 circumstances listed in subsection (5)(a) through (c) of this section,
12 the removal shall apply only to the land affected. If land is removed
13 from designation because of subsection (5)(d) of this section, the
14 removal shall apply only to the actual area of land that is no longer
15 primarily devoted to the growing and harvesting of timber, without
16 regard to any other land that may have been included in the application
17 and approved for designation, as long as the remaining designated
18 forest land meets the definition of forest land contained in RCW
19 84.33.035.

20 (9) Within thirty days after the removal of designation as forest
21 land, the assessor shall notify the owner in writing, setting forth the
22 reasons for the removal. The seller, transferor, or owner may appeal
23 the removal to the county board of equalization in accordance with the
24 provisions of RCW 84.40.038.

25 (10) Unless the removal is reversed on appeal a copy of the notice
26 of removal with a notation of the action, if any, upon appeal, together
27 with the legal description or assessor's parcel numbers for the land
28 removed from designation shall, at the expense of the applicant, be
29 filed by the assessor in the same manner as deeds are recorded and a
30 notation of removal from designation shall immediately be made upon the
31 assessment and tax rolls. The assessor shall revalue the land to be
32 removed with reference to its true and fair value as of January 1st of
33 the year of removal from designation. Both the assessed value before
34 and after the removal of designation shall be listed. Taxes based on
35 the value of the land as forest land shall be assessed and payable up
36 until the date of removal and taxes based on the true and fair value of
37 the land shall be assessed and payable from the date of removal from
38 designation.

1 (11) Except as provided in subsection (5)(c), (13), or (14) of this
2 section, a compensating tax shall be imposed on land removed from
3 designation as forest land. The compensating tax shall be due and
4 payable to the treasurer thirty days after the owner is notified of the
5 amount of this tax. As soon as possible after the land is removed from
6 designation, the assessor shall compute the amount of compensating tax
7 and mail a notice to the owner of the amount of compensating tax owed
8 and the date on which payment of this tax is due. The amount of
9 compensating tax shall be equal to the difference between the amount of
10 tax last levied on the land as designated forest land and an amount
11 equal to the new assessed value of the land multiplied by the dollar
12 rate of the last levy extended against the land, multiplied by a
13 number, in no event greater than nine, equal to the number of years for
14 which the land was designated as forest land, plus compensating taxes
15 on the land at forest land values up until the date of removal and the
16 prorated taxes on the land at true and fair value from the date of
17 removal to the end of the current tax year.

18 (12) Compensating tax, together with applicable interest thereon,
19 shall become a lien on the land which shall attach at the time the land
20 is removed from designation as forest land and shall have priority to
21 and shall be fully paid and satisfied before any recognizance,
22 mortgage, judgment, debt, obligation, or responsibility to or with
23 which the land may become charged or liable. The lien may be
24 foreclosed upon expiration of the same period after delinquency and in
25 the same manner provided by law for foreclosure of liens for delinquent
26 real property taxes as provided in RCW 84.64.050. Any compensating tax
27 unpaid on its due date shall thereupon become delinquent. From the
28 date of delinquency until paid, interest shall be charged at the same
29 rate applied by law to delinquent ad valorem property taxes.

30 (13) The compensating tax specified in subsection (11) of this
31 section shall not be imposed if the removal of designation under
32 subsection (5) of this section resulted solely from:

33 (a) Transfer to a government entity in exchange for other forest
34 land located within the state of Washington;

35 (b) A taking through the exercise of the power of eminent domain,
36 or sale or transfer to an entity having the power of eminent domain in
37 anticipation of the exercise of such power;

1 (c) A donation of fee title, development rights, or the right to
2 harvest timber, to a government agency or organization qualified under
3 RCW 84.34.210 and 64.04.130 for the purposes enumerated in those
4 sections, or the sale or transfer of fee title to a governmental entity
5 or a nonprofit nature conservancy corporation, as defined in RCW
6 64.04.130, exclusively for the protection and conservation of lands
7 recommended for state natural area preserve purposes by the natural
8 heritage council and natural heritage plan as defined in chapter 79.70
9 RCW or approved for state natural resources conservation area purposes
10 as defined in chapter 79.71 RCW. At such time as the land is not used
11 for the purposes enumerated, the compensating tax specified in
12 subsection (11) of this section shall be imposed upon the current
13 owner;

14 (d) The sale or transfer of fee title to the parks and recreation
15 commission for park and recreation purposes;

16 (e) Official action by an agency of the state of Washington or by
17 the county or city within which the land is located that disallows the
18 present use of the land;

19 (f) The creation, sale, or transfer of forestry riparian easements
20 under RCW 76.13.120;

21 (g) The creation, sale, or transfer of a fee interest or a
22 conservation easement for the riparian open space program under RCW
23 76.09.040;

24 (h) The sale or transfer of land within two years after the death
25 of the owner of at least a fifty percent interest in the land if the
26 land has been assessed and valued as classified forest land, designated
27 as forest land under this chapter, or classified under chapter 84.34
28 RCW continuously since 1993. The date of death shown on a death
29 certificate is the date used for the purposes of this subsection
30 (13)(h); or

31 (i) The sale or transfer of land after the death of the owner of at
32 least a fifty percent interest in the land if the land has been
33 assessed and valued as classified forest land, designated as forest
34 land under this chapter, or classified under chapter 84.34 RCW
35 continuously since 1993 and the sale or transfer takes place after July
36 22, 2001, and on or before July 22, 2003, and the death of the owner
37 occurred after January 1, 1991. The date of death shown on a death

1 certificate is the date used for the purposes of this subsection
2 (13)(i).

3 (14) In a county with a population of more than one million
4 inhabitants, the compensating tax specified in subsection (11) of this
5 section shall not be imposed if the removal of designation as forest
6 land under subsection (5) of this section resulted solely from:

- 7 (a) An action described in subsection (13) of this section; or
- 8 (b) A transfer of a property interest to a government entity, or to
9 a nonprofit historic preservation corporation or nonprofit nature
10 conservancy corporation, as defined in RCW 64.04.130, to protect or
11 enhance public resources, or to preserve, maintain, improve, restore,
12 limit the future use of, or otherwise to conserve for public use or
13 enjoyment, the property interest being transferred. At such time as
14 the property interest is not used for the purposes enumerated, the
15 compensating tax shall be imposed upon the current owner.

16 **Sec. 13.** RCW 77.12.203 and 1990 1st ex.s. c 15 s 11 are each
17 amended to read as follows:

18 (1) Notwithstanding RCW 84.36.010 or other statutes to the
19 contrary, the director shall pay by April 30th of each year on game
20 lands in each county, if requested by an election under RCW 77.12.201,
21 an amount in lieu of real property taxes equal to that amount paid on
22 similar parcels of open space land taxable under chapter 84.34 RCW or
23 the greater of seventy cents per acre per year or the amount paid in
24 1984 plus an additional amount for control of noxious weeds equal to
25 that which would be paid if such lands were privately owned. This
26 amount shall not be assessed or paid on department buildings,
27 structures, facilities, game farms, fish hatcheries, tidelands, or
28 public fishing areas of less than one hundred acres.

29 (2) "Game lands," as used in this section and RCW 77.12.201, means
30 those tracts one hundred acres or larger owned in fee by the department
31 and used for wildlife habitat and public recreational purposes. All
32 lands purchased for wildlife habitat, public access or recreation
33 purposes with federal funds in the Snake River drainage basin shall be
34 considered game lands regardless of acreage.

35 (3) This section shall not apply to lands transferred after April
36 23, 1990, to the department from other state agencies.

1 (4) The county shall distribute the amount received under this
2 section in lieu of real property taxes to all property taxing districts
3 except the state in appropriate tax code areas the same way it would
4 distribute local property taxes from private property. The county
5 shall distribute the amount received under this section for weed
6 control to the appropriate weed district.

7 NEW SECTION. **Sec. 14.** This act takes effect July 1, 2005.

--- END ---