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**SUBSTITUTE HOUSE BILL 1413**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** House Committee on Capital Budget (originally sponsored by Representatives Dunshee, Jarrett, Hunt, Nixon, Linville, Anderson, Sells, Tom, Appleton, Eickmeyer, B. Sullivan, Ericks, Chase, Lantz, Flannigan, Green, Ormsby, Upthegrove, Blake, O'Brien, Priest, Morrell, Clibborn, Kagi, Williams, Moeller, McCoy, Miloscia, Campbell and Simpson)

READ FIRST TIME 02/28/05.

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; creating a new  
6 section; providing effective dates; providing an expiration date; and  
7 declaring an emergency.

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

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

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

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

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

1 (3) "Critical habitat" means lands important for the protection,  
2 management, or public enjoyment of certain wildlife species or groups  
3 of species, including, but not limited to, wintering range for deer,  
4 elk, and other species, waterfowl and upland bird habitat, fish  
5 habitat, and habitat for endangered, threatened, or sensitive species.

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

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

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

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

21 (8) "Special needs populations" means physically restricted people  
22 or people of limited means.

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

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

30 ((+8)) (11) "Urban wildlife habitat" means lands that provide  
31 habitat important to wildlife in proximity to a metropolitan area.

32 ((+9)) (12) "Water access" means boat or foot access to marine  
33 waters, lakes, rivers, or streams.

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

36 (1) Moneys appropriated for this chapter shall be divided ((equally

1 ~~between the habitat conservation and outdoor recreation accounts and~~  
2 ~~shall be used exclusively for the purposes specified in this chapter))~~  
3 as follows:

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

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

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

23 (3) All moneys deposited in the habitat conservation ((and)),  
24 outdoor recreation, riparian protection, and farmlands preservation  
25 accounts shall be allocated as provided under RCW 79A.15.040 ((and)),  
26 79A.15.050, and sections 6 and 7 of this act as grants to state or  
27 local agencies for acquisition, development, and renovation within the  
28 jurisdiction of those agencies, subject to legislative appropriation.  
29 The committee may use or permit the use of any funds appropriated for  
30 this chapter as matching funds where federal, local, or other funds are  
31 made available for projects within the purposes of this chapter.

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

35 (5) The committee may make grants to an eligible project from  
36 ((both)) the habitat conservation ((and)), outdoor recreation, riparian  
37 protection, and farmlands preservation accounts and any one or more of

1 the applicable categories under such accounts described in RCW  
2 79A.15.040 (~~and~~), 79A.15.050, and sections 6 and 7 of this act.

3 (6) The committee may accept private donations to the habitat  
4 conservation account, the outdoor recreation account, the riparian  
5 protection account, and the farmlands preservation account for the  
6 purposes specified in this chapter.

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

10 (8) Habitat and recreation land and facilities acquired or  
11 developed with moneys appropriated for this chapter may not, without  
12 prior approval of the committee, be converted to a use other than that  
13 for which funds were originally approved. The committee shall adopt  
14 rules and procedures governing the approval of such a conversion.

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

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

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

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

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

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

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

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

8 (4) State and local agencies may apply for acquisition and  
9 development funds for critical habitat and urban wildlife habitat  
10 projects under subsection (1)(a) and (c) (~~and (d)~~) of this section.

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

15 (b) Any lands that have been acquired with grants under this  
16 section by the department of natural resources are subject to payments  
17 in the amounts required under the provisions of sections 11 and 12 of  
18 this act.

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

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

23 (a) Not less than (~~twenty-five~~) thirty percent to the state parks  
24 and recreation commission for the acquisition and development of state  
25 parks, with at least (~~seventy-five~~) fifty percent of (~~this~~) the  
26 money for acquisition costs(~~(. However, between July 27, 2003, and~~  
27 ~~June 30, 2009, at least fifty percent of this money for the acquisition~~  
28 ~~and development of state parks must be used for acquisition costs))~~);

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

32 (c) Not less than (~~fifteen~~) twenty percent for the acquisition  
33 (~~and~~), renovation, or development of trails;

34 (d) Not less than (~~ten~~) fifteen percent for the acquisition  
35 (~~and~~), renovation, or development of water access sites, with at  
36 least seventy-five percent of this money for acquisition costs; and

1 (e) (~~The remaining amount shall be considered unallocated and~~  
2 ~~shall be distributed by the committee to state and local agencies to~~  
3 ~~fund high priority acquisition and development needs for parks, trails,~~  
4 ~~and water access sites~~) Not less than five percent for development and  
5 renovation projects on state recreation lands. Only the department of  
6 natural resources and the department of fish and wildlife may apply for  
7 these funds to be used on their existing recreation lands.

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

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

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

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

19 NEW SECTION. Sec. 5. A new section is added to chapter 79A.15 RCW  
20 to read as follows:

21 In a county in which public land, federal land, and tribal land  
22 together constitute more than seventy percent of the total area of the  
23 county, a state or local agency must consult with the county or city  
24 legislative authority with jurisdiction over the project area prior to  
25 applying for funds for acquisition of property under this chapter. The  
26 appropriate county or city legislative authority may, at its  
27 discretion, submit a letter to the committee identifying the  
28 authority's position with regard to the acquisition project. The  
29 committee shall make the letters received under this section available  
30 to the governor and the legislature with the prioritized project list  
31 submitted under RCW 79A.15.060 and 79A.15.070.

32 NEW SECTION. Sec. 6. A new section is added to chapter 79A.15 RCW  
33 to read as follows:

34 (1) The riparian protection account is established in the state  
35 treasury. The committee must administer the account in accordance with

1 chapter 79A.25 RCW and this chapter, and hold it separate and apart  
2 from all other money, funds, and accounts of the committee.

3 (2) Moneys appropriated for this chapter to the riparian protection  
4 account must be distributed for the acquisition and enhancement or  
5 restoration of riparian habitat. All enhancement or restoration  
6 projects, except those qualifying under subsection (9)(a) of this  
7 section, must include the acquisition of a real property interest in  
8 order to be eligible. At least fifty percent of riparian protection  
9 account funds must be used for the acquisition of real property  
10 interests.

11 (3) State and local agencies and lead entities under chapter 77.85  
12 RCW may apply for acquisition and enhancement or restoration funds for  
13 riparian habitat projects under subsection (1) of this section. Other  
14 state agencies not defined in RCW 79A.15.010, such as the department of  
15 transportation and the department of corrections, may enter into  
16 interagency agreements with state agencies to apply in partnership for  
17 funds under this section.

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

20 (5) Except as provided in RCW 79A.15.030(7), moneys appropriated  
21 for this section may not be used by the committee to fund staff  
22 positions or other overhead expenses, or by a state, regional, or local  
23 agency to fund operation or maintenance of areas acquired under this  
24 chapter.

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

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

34 (8) State agencies receiving grants for acquisition of land under  
35 this section must pay an amount in lieu of real property taxes equal to  
36 the amount of tax that would be due if the land were taxable as open  
37 space land under chapter 84.34 RCW, plus an additional amount for  
38 control of noxious weeds equal to that which would be paid if such

1 lands were privately owned. The county assessor and county legislative  
2 authority shall assist in determining the appropriate calculation of  
3 the amount of tax that would be due under chapter 84.34 RCW.

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

7 (a) Whether the project continues the conservation reserve  
8 enhancement program. Applications that extend the duration of leases  
9 of riparian areas that are currently enrolled in the conservation  
10 reserve enhancement program shall be eligible. Such applications are  
11 eligible for a conservation lease extension of at least twenty-five  
12 years of duration;

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

18 (c) Whether the committee has received a letter of support for the  
19 project from the appropriate county or city legislative authority with  
20 jurisdiction over the project area;

21 (d) Whether the project proposal includes a management plan for an  
22 ongoing stewardship program which includes control of noxious weeds,  
23 detrimental invasive species, and which identifies the source of the  
24 funds from which the stewardship program will be funded;

25 (e) Whether there is an immediate threat to the site;

26 (f) Whether the quality of the habitat is improved or, for projects  
27 including restoration or enhancement, the potential for restoring  
28 quality habitat including linkage of the site to other high quality  
29 habitat;

30 (g) Whether the project is consistent with a local land use plan,  
31 or a regional or statewide recreational or resource plan. The projects  
32 that assist in the implementation of local shoreline master plans  
33 updated according to RCW 90.58.080 or local comprehensive plans updated  
34 according to RCW 36.70A.130 must be highly considered in the process;

35 (h) Whether the site has educational or scientific value; and

36 (i) Whether the site has passive recreational values for walking  
37 trails, wildlife viewing, or the observation of natural settings.



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

8 NEW SECTION. **Sec. 7.** A new section is added to chapter 79A.15 RCW  
9 to read as follows:

10 (1) The farmlands preservation account is established in the state  
11 treasury. The committee will administer the account in accordance with  
12 chapter 79A.25 RCW and this chapter, and hold it separate and apart  
13 from all other money, funds, and accounts of the committee. Moneys  
14 appropriated for this chapter to the farmlands preservation account  
15 must be distributed for the acquisition and preservation of farmlands  
16 in order to maintain the opportunity for agricultural activity upon  
17 these lands.

18 (2) Moneys appropriated for this chapter to the farmlands  
19 preservation account must be distributed for the fee simple or less  
20 than fee simple acquisition of farmlands, and for the enhancement or  
21 restoration of ecological functions on those properties. In order for  
22 a farmland preservation grant to provide for an environmental  
23 enhancement or restoration project, the project must include the  
24 acquisition of a real property interest in perpetuity. If a city or  
25 county acquires a property through this program in fee simple, the city  
26 or county shall endeavor to secure preservation of the property through  
27 placing a conservation easement, or other form of deed restriction, on  
28 the property which dedicates the land to agricultural use and retains  
29 one or more property rights in perpetuity. Once an easement or other  
30 form of deed restriction is placed on the property, the city or county  
31 shall seek to sell the property, at fair market value, to a person or  
32 persons who will maintain the property in agricultural production. Any  
33 moneys from the sale of the property shall either be used to purchase  
34 interests in additional properties which meet the criteria in  
35 subsection (9) of this section, or to repay the grant from the state  
36 which was originally used to purchase the property.

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

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

7 (5) The acquisition of a property right in a project under this  
8 section by a county or a city does not provide a right of access to the  
9 property by the public unless explicitly provided for in a conservation  
10 easement or other form of deed restriction.

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

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

19 (8) The committee may not approve a local project where the local  
20 agency's share is less than the amount to be awarded from the farmlands  
21 preservation account. In-kind contributions, including contributions  
22 of a real property interest in land, may be used to satisfy the local  
23 agency's share.

24 (9) In determining the acquisition priorities, the committee must  
25 consider, at a minimum, the following criteria:

26 (a) Community support for the project, as expressed in a letter of  
27 support from the appropriate county or city legislative authority with  
28 jurisdiction over the project area;

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

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

34 (d) Consistency with a local land use plan, or a regional or  
35 statewide recreational or resource plan. The projects that assist in  
36 the implementation of local shoreline master plans updated according to  
37 RCW 90.58.080 or local comprehensive plans updated according to RCW  
38 36.70A.130 must be highly considered in the process;

1 (e) Benefits to salmonids;  
2 (f) Benefits to other fish and wildlife habitat;  
3 (g) Integration with recovery efforts for endangered, threatened,  
4 or sensitive species;  
5 (h) The viability of the site for continued agricultural  
6 production, including, but not limited to:  
7 (i) Soil types;  
8 (ii) On-site production and support facilities such as barns,  
9 irrigation systems, crop processing and storage facilities, wells,  
10 housing, livestock sheds, and other farming infrastructure;  
11 (iii) Suitability for producing different types or varieties of  
12 crops;  
13 (iv) Farm-to-market access;  
14 (v) Water availability; and  
15 (i) Other community values provided by the property when used as  
16 agricultural land, including, but not limited to:  
17 (i) Viewshed;  
18 (ii) Aquifer recharge;  
19 (iii) Occasional or periodic collector for storm water runoff;  
20 (iv) Agricultural sector job creation;  
21 (v) Migratory bird habitat and forage area; and  
22 (vi) Educational and curriculum potential.  
23 (10) In allotting funds for environmental enhancement or  
24 restoration projects, the committee will require the projects to meet  
25 the following criteria:  
26 (a) Enhancement or restoration projects must further the ecological  
27 functions of the farmlands;  
28 (b) The projects, such as fencing, bridging watercourses,  
29 replanting native vegetation, replacing culverts, clearing of  
30 waterways, etc., must be less than fifty percent of the acquisition  
31 cost of the project including any in-kind contribution by any party;  
32 (c) The projects should be based on accepted methods of achieving  
33 beneficial enhancement or restoration results; and  
34 (d) The projects should enhance the viability of the preserved  
35 farmland to provide agricultural production while conforming to any  
36 legal requirements for habitat protection.  
37 (11) Before November 1st of each even-numbered year, the committee  
38 will recommend to the governor a prioritized list of all projects to be

1 funded under this section. The governor may remove projects from the  
2 list recommended by the committee and must submit this amended list in  
3 the capital budget request to the legislature. The list must include,  
4 but not be limited to, a description of each project and any particular  
5 match requirement.

6 **Sec. 8.** RCW 79A.15.060 and 2000 c 11 s 67 are each amended to read  
7 as follows:

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

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

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

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

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

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

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

37 (i) Community support for the project;

1       (ii) The project proposal's management plan for an ongoing  
2 stewardship program which includes control of noxious weeds,  
3 detrimental invasive species, and which identifies the source of the  
4 funds from which the stewardship program will be funded;

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

9       (iv) Immediacy of threat to the site;

10       ~~((iii))~~ (v) Uniqueness of the site;

11       ~~((iv))~~ (vi) Diversity of species using the site;

12       ~~((v))~~ (vii) Quality of the habitat;

13       ~~((vi))~~ (viii) Long-term viability of the site;

14       ~~((vii))~~ (ix) Presence of endangered, threatened, or sensitive  
15 species;

16       ~~((viii))~~ (x) Enhancement of existing public property;

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

22 ~~(x))~~ (xii) Educational and scientific value of the site;

23       (xiii) Integration with recovery efforts for endangered,  
24 threatened, or sensitive species;

25       (xiv) For critical habitat proposals by local agencies, the  
26 statewide significance of the site.

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

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

30       (ii) Proximity to other wildlife habitat;

31       (iii) Potential for public use; and

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

33       (7) ~~((Before October 1st of each even-numbered year, the committee~~  
34 ~~shall recommend to the governor a prioritized list of state agency~~  
35 ~~projects to be funded under RCW 79A.15.040(1) (a), (b), and (c). The~~  
36 ~~governor may remove projects from the list recommended by the committee~~  
37 ~~and shall submit this amended list in the capital budget request to the~~  
38 ~~legislature. The list shall include, but not be limited to, a~~

1 ~~description of each project; and shall describe for each project any~~  
2 ~~anticipated restrictions upon recreational activities allowed prior to~~  
3 ~~the project.~~

4 ~~(8))~~ (6) Before ~~((October))~~ November 1st of each even-numbered  
5 year, the committee shall recommend to the governor a prioritized list  
6 of all state agency and local projects to be funded under RCW  
7 79A.15.040(1) (a), (b), and (c). The governor may remove projects from  
8 the list recommended by the committee and shall submit this amended  
9 list in the capital budget request to the legislature. The list shall  
10 include, but not be limited to, a description of each project and any  
11 particular match requirement, and describe for each project any  
12 anticipated restrictions upon recreational activities allowed prior to  
13 the project.

14 **Sec. 9.** 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 1st of each even numbered year, the committee~~  
32 ~~shall recommend to the governor a prioritized list of state agency~~  
33 ~~projects to be funded under RCW 79A.15.050(1) (a), (c), and (d). The~~  
34 ~~governor may remove projects from the list recommended by the committee~~  
35 ~~and shall submit this amended list in the capital budget request to the~~  
36 ~~legislature. The list shall include, but not be limited to, a~~  
37 ~~description of each project; and shall describe for each project any~~

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

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

12 **Sec. 10.** 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. 11.** 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. 12.**    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. 13.**    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. 14.** 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. 15. (1) The interagency committee for outdoor  
8 recreation may apply up to three percent of the funds appropriated for  
9 chapter 79A.15 RCW for the administration of the programs and purposes  
10 specified in chapter 79A.15 RCW.

11       (2) Habitat and recreation land and facilities acquired or  
12 developed with moneys appropriated for chapter 79A.15 RCW may not,  
13 without prior approval of the interagency committee for outdoor  
14 recreation, be converted to a use other than that for which funds were  
15 originally approved. The interagency committee for outdoor recreation  
16 shall adopt rules and procedures governing the approval of such a  
17 conversion.

18       (3) This section expires July 1, 2007.

19       NEW SECTION. Sec. 16. Sections 1 through 14 of this act take  
20 effect July 1, 2007.

21       NEW SECTION. Sec. 17. Section 15 of this act is necessary for the  
22 immediate preservation of the public peace, health, or safety, or  
23 support of the state government and its existing public institutions,  
24 and takes effect July 1, 2005.

--- END ---