
SUBSTITUTE SENATE BILL 5396

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senators Fraser, Esser, Jacobsen, Oke, Regala, Swecker, Rockefeller, Spanel, Pridemore, Thibaudeau, Haugen and Kline)

READ FIRST TIME 03/02/05.

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 percent through June 30,
20 2011, at which time the amount shall become forty-five percent, for the
21 acquisition and development of critical habitat;

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

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

26 (d) (~~The remaining amount shall be considered unallocated and~~)
27 Not less than ten percent through June 30, 2011, at which time the
28 amount shall become five percent, shall be used by the committee to
29 fund (~~high priority acquisition and development needs for critical~~
30 ~~habitat, natural areas, and urban wildlife habitat. During the fiscal~~
31 ~~biennium ending June 30, 2001, the remaining amount reappropriated from~~
32 ~~the fiscal biennium ending June 30, 1999, may be allocated for matching~~
33 ~~grants for riparian zone habitat protection projects that implement~~
34 ~~watershed plans under the program established in section 329(6),~~
35 ~~chapter 235, Laws of 1997)) restoration and enhancement projects on
36 state lands. Only the department of natural resources and the~~

1 department of fish and wildlife may apply for these funds to be used on
2 existing habitat and natural area lands.

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

8 (b) If not enough project applications are submitted in a category
9 within the habitat conservation account to meet the percentages
10 described in subsection (1) of this section in any biennium, the
11 committee retains discretion to distribute any remaining funds to the
12 other categories within the account.

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

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

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

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

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

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

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

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

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

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

9 (~~The remaining amount shall be considered unallocated and
10 shall be distributed by the committee to state and local agencies to
11 fund high priority acquisition and development needs for parks, trails,
12 and water access sites~~) Not less than five percent for development and
13 renovation projects on state recreation lands. Only the department of
14 natural resources and the department of fish and wildlife may apply for
15 these funds to be used on their existing recreation lands.

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

21 (b) If not enough project applications are submitted in a category
22 within the outdoor recreation account to meet the percentages described
23 in subsection (1) of this section in any biennium, the committee
24 retains discretion to distribute any remaining funds to the other
25 categories within the account.

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

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

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

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

35 A state or local agency shall review the proposed project
36 application with the county or city with jurisdiction over the project
37 area prior to applying for funds for the acquisition of property under

1 this chapter. The appropriate county or city legislative authority
2 may, at its discretion, submit a letter to the committee identifying
3 the authority's position with regard to the acquisition project. The
4 committee shall make the letters received under this section available
5 to the governor and the legislature when the prioritized project list
6 is submitted under section 6 of this act, RCW 79A.15.060, and
7 79A.15.070.

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

10 (1) The riparian protection account is established in the state
11 treasury. The committee must 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.

14 (2) Moneys appropriated for this chapter to the riparian protection
15 account must be distributed for the acquisition and enhancement or
16 restoration of riparian habitat. All enhancement or restoration
17 projects, except those qualifying under subsection (10)(a) of this
18 section, must include the acquisition of a real property interest in
19 order to be eligible. At least fifty percent of riparian protection
20 account funds must be used for the acquisition of real property
21 interests.

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

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

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

36 (6) Moneys appropriated for this section may be used by grant

1 recipients for costs incidental to restoration and acquisition,
2 including, but not limited to, surveying expenses, fencing, and
3 signing.

4 (7) Moneys appropriated for this section may be used to fund
5 mitigation banking projects involving the restoration, creation,
6 enhancement, or preservation of riparian habitat. The moneys from this
7 section may not be used to supplant an obligation of a state or local
8 agency to provide mitigation. For the purposes of this section, a
9 mitigation bank means a site or sites where riparian habitat is
10 restored, created, enhanced, or in exceptional circumstances, preserved
11 expressly for the purpose of providing compensatory mitigation in
12 advance of authorized project impacts to similar resources.

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

18 (9) State agencies receiving grants for acquisition of land under
19 this section must pay an amount in lieu of real property taxes equal to
20 the amount of tax that would be due if the land were taxable as open
21 space land under chapter 84.34 RCW except taxes levied for any state
22 purpose, plus an additional amount for control of noxious weeds equal
23 to that which would be paid if such lands were privately owned. The
24 county assessor and county legislative authority shall assist in
25 determining the appropriate calculation of the amount of tax that would
26 be due under chapter 84.34 RCW.

27 (10) In determining acquisition priorities with respect to the
28 riparian protection account, the committee must consider, at a minimum,
29 the following criteria:

30 (a) Whether the project continues the conservation reserve
31 enhancement program. Applications that extend the duration of leases
32 of riparian areas that are currently enrolled in the conservation
33 reserve enhancement program shall be eligible. Such applications are
34 eligible for a conservation lease extension of at least twenty-five
35 years of duration;

36 (b) Whether the projects are identified or recommended in a
37 watershed planning process under chapter 247, Laws of 1998, salmon

1 recovery planning under chapter 77.85 RCW, or other local plans, such
2 as habitat conservation plans, and these must be highly considered in
3 the process;

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

5 (d) Whether the proposal includes a management plan for an ongoing
6 stewardship program that includes control of noxious weeds, detrimental
7 invasive species, and that identifies the source of the funds from
8 which the stewardship program will be funded;

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

10 (f) Whether the quality of the habitat is improved or, for projects
11 including restoration or enhancement, the potential for restoring
12 quality habitat including linkage of the site to other high quality
13 habitat;

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

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

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

22 (11) Before November 1st of each even-numbered year, the committee
23 will recommend to the governor a prioritized list of projects to be
24 funded under this section. The governor may remove projects from the
25 list recommended by the committee and will submit this amended list in
26 the capital budget request to the legislature. The list must include,
27 but not be limited to, a description of each project and any particular
28 match requirement.

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

31 (1) The farmlands preservation account is established in the state
32 treasury. The committee will administer the account in accordance with
33 chapter 79A.25 RCW and this chapter, and hold it separate and apart
34 from all other money, funds, and accounts of the committee. Moneys
35 appropriated for this chapter to the farmlands preservation account
36 must be distributed for the acquisition and preservation of farmlands

1 in order to maintain the opportunity for agricultural activity upon
2 these lands.

3 (2)(a) Moneys appropriated for this chapter to the farmlands
4 preservation account may be distributed for (i) the fee simple or less
5 than fee simple acquisition of farmlands; (ii) the enhancement or
6 restoration of ecological functions on those properties; or (iii) both.
7 In order for a farmland preservation grant to provide for an
8 environmental enhancement or restoration project, the project must
9 include the acquisition of a real property interest in perpetuity.

10 (b) If a city or county acquires a property through this program in
11 fee simple, the city or county shall endeavor to secure preservation of
12 the property through placing a conservation easement, or other form of
13 deed restriction, on the property which dedicates the land to
14 agricultural use and retains one or more property rights in perpetuity.
15 Once an easement or other form of deed restriction is placed on the
16 property, the city or county shall seek to sell the property, at fair
17 market value, to a person or persons who will maintain the property in
18 agricultural production. Any moneys from the sale of the property
19 shall either be used to purchase interests in additional properties
20 which meet the criteria in subsection (9) of this section, or to repay
21 the grant from the state which was originally used to purchase the
22 property.

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

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

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

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

37 (7) Moneys appropriated for this section may be used by grant

1 recipients for costs incidental to restoration and acquisition,
2 including, but not limited to, surveying expenses, fencing, and
3 signing.

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

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

11 (a) Community support for the project;

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

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

17 (d) Consistency with a local land use plan, or a regional or
18 statewide recreational or resource plan. The projects that assist in
19 the implementation of local shoreline master plans updated according to
20 RCW 90.58.080 or local comprehensive plans updated according to RCW
21 36.70A.130 must be highly considered in the process;

22 (e) Benefits to salmonids;

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

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

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

28 (i) Soil types;

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

32 (iii) Suitability for producing different types or varieties of
33 crops;

34 (iv) Farm-to-market access;

35 (v) Water availability; and

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

38 (i) Viewshed;

- 1 (ii) Aquifer recharge;
- 2 (iii) Occasional or periodic collector for storm water runoff;
- 3 (iv) Agricultural sector job creation;
- 4 (v) Migratory bird habitat and forage area; and
- 5 (vi) Educational and curriculum potential.

6 (10) In allotting funds for environmental enhancement or
7 restoration projects, the committee will require the projects to meet
8 the following criteria:

9 (a) Enhancement or restoration projects must further the ecological
10 functions of the farmlands;

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

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

17 (d) The projects should enhance the viability of the preserved
18 farmland to provide agricultural production while conforming to any
19 legal requirements for habitat protection.

20 (11) Before November 1st of each even-numbered year, the committee
21 will recommend to the governor a prioritized list of all projects to be
22 funded under this section. The governor may remove projects from the
23 list recommended by the committee and must submit this amended list in
24 the capital budget request to the legislature. The list must include,
25 but not be limited to, a description of each project and any particular
26 match requirement.

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

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

31 (2) Except as provided in RCW 79A.15.030(7), moneys appropriated
32 for this chapter may not be used by the committee to fund
33 ((additional)) staff positions or other overhead expenses, or by a
34 state, regional, or local agency to fund operation ((and)) or
35 maintenance of areas acquired under this chapter((, except that the
36 committee may use moneys appropriated for this chapter for the fiscal
37 biennium ending June 30, 2001, for the administrative costs of

1 ~~implementing the pilot watershed plan implementation program~~
2 ~~established in section 329(6), chapter 235, Laws of 1997, and~~
3 ~~developing an inventory of publicly owned lands established in section~~
4 ~~329(7), chapter 235, Laws of 1997)).~~

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

8 (~~Except as provided in subsection (5) of this section,))~~
9 Moneys appropriated for this section may be used to fund mitigation
10 banking projects involving the restoration, creation, enhancement, or
11 preservation of critical habitat and urban wildlife habitat. The
12 moneys from this section may not be used to supplant an obligation of
13 a state or local agency to provide mitigation. For the purposes of
14 this section, a mitigation bank means a site or sites where critical
15 habitat or urban wildlife habitat is restored, created, enhanced, or in
16 exceptional circumstances, preserved expressly for the purpose of
17 providing compensatory mitigation in advance of authorized project
18 impacts to similar resources.

19 (5) The committee may not approve a local project where the local
20 agency share is less than the amount to be awarded from the habitat
21 conservation account.

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

27 (6) In determining acquisition priorities with respect to the
28 habitat conservation account, the committee shall consider, at a
29 minimum, the following criteria:

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

31 (i) Community support for the project;

32 (ii) The project proposal's management plan for an ongoing
33 stewardship program that includes control of noxious weeds, detrimental
34 invasive species, and that identifies the source of the funds from
35 which the stewardship program will be funded;

36 (iii) Recommendations as part of a watershed plan or habitat
37 conservation plan, or a coordinated regionwide prioritization effort,

1 and for projects primarily intended to benefit salmon, limiting
2 factors, or critical pathways analysis;
3 (iv) Immediacy of threat to the site;
4 ~~((iii))~~ (v) Uniqueness of the site;
5 ~~((iv))~~ (vi) Diversity of species using the site;
6 ~~((v))~~ (vii) Quality of the habitat;
7 ~~((vi))~~ (viii) Long-term viability of the site;
8 ~~((vii))~~ (ix) Presence of endangered, threatened, or sensitive
9 species;
10 ~~((viii))~~ (x) Enhancement of existing public property;
11 ~~((ix))~~ (xi) Consistency with a local land use plan, or a regional
12 or statewide recreational or resource plan, including projects that
13 assist in the implementation of local shoreline master plans updated
14 according to RCW 90.58.080 or local comprehensive plans updated
15 according to RCW 36.70A.130; ((and
16 ~~(x))~~ (xii) Educational and scientific value of the site;
17 (xiii) Integration with recovery efforts for endangered,
18 threatened, or sensitive species;
19 (xiv) For critical habitat proposals by local agencies, the
20 statewide significance of the site.
21 (b) For urban wildlife habitat proposals, in addition to the
22 criteria of (a) of this subsection:
23 (i) Population of, and distance from, the nearest urban area;
24 (ii) Proximity to other wildlife habitat;
25 (iii) Potential for public use; and
26 (iv) Potential for use by special needs populations.
27 (7) ~~((Before October 1st of each even-numbered year, the committee~~
28 ~~shall recommend to the governor a prioritized list of state agency~~
29 ~~projects to be funded under RCW 79A.15.040(1) (a), (b), and (c). The~~
30 ~~governor may remove projects from the list recommended by the committee~~
31 ~~and shall submit this amended list in the capital budget request to the~~
32 ~~legislature. The list shall include, but not be limited to, a~~
33 ~~description of each project; and shall describe for each project any~~
34 ~~anticipated restrictions upon recreational activities allowed prior to~~
35 ~~the project.~~
36 ~~(8))~~ Before ~~((October))~~ November 1st of each even-numbered year,
37 the committee shall recommend to the governor a prioritized list of all
38 state agency and local projects to be funded under RCW 79A.15.040(1)

1 (a), (b), and (c). The governor may remove projects from the list
2 recommended by the committee and shall submit this amended list in the
3 capital budget request to the legislature. The list shall include, but
4 not be limited to, a description of each project and any particular
5 match requirement, and describe for each project any anticipated
6 restrictions upon recreational activities allowed prior to the project.

7 **Sec. 9.** RCW 79A.15.070 and 2000 c 11 s 68 are each amended to read
8 as follows:

9 (1) In determining which state parks proposals and local parks
10 proposals to fund, the committee shall use existing policies and
11 priorities.

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

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

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

29 (5) The committee may adopt rules establishing acquisition policies
30 and priorities for the acquisition and development of trails and water
31 access sites to be financed from moneys in the outdoor recreation
32 account.

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

- 35 (a) For trails proposals:
 - 36 (i) Community support for the project;
 - 37 (ii) Immediacy of threat to the site;

1 (iii) Linkage between communities;
2 (iv) Linkage between trails;
3 (v) Existing or potential usage;
4 (vi) Consistency with ~~((an existing))~~ a local land use plan, or a
5 regional or statewide recreational or resource plan, including 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;

9 (vii) Availability of water access or views;

10 (viii) Enhancement of wildlife habitat; and

11 (ix) Scenic values of the site.

12 (b) For water access proposals:

13 (i) Community support for the project;

14 (ii) Distance from similar water access opportunities;

15 (iii) Immediacy of threat to the site;

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

17 (v) Public demand in the area; and

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

23 ~~(7) ((Before October 1st of each even-numbered year, the committee~~
24 ~~shall recommend to the governor a prioritized list of state agency~~
25 ~~projects to be funded under RCW 79A.15.050(1) (a), (c), and (d). The~~
26 ~~governor may remove projects from the list recommended by the committee~~
27 ~~and shall submit this amended list in the capital budget request to the~~
28 ~~legislature. The list shall include, but not be limited to, a~~
29 ~~description of each project; and shall describe for each project any~~
30 ~~anticipated restrictions upon recreational activities allowed prior to~~
31 ~~the project.~~

32 ~~(8))~~ Before ~~((October))~~ November 1st of each even-numbered year,
33 the committee shall recommend to the governor a prioritized list of all
34 state agency and local projects to be funded under RCW 79A.15.050(1)
35 (a), (b), (c), and (d). The governor may remove projects from the list
36 recommended by the committee and shall submit this amended list in the
37 capital budget request to the legislature. The list shall include, but

1 not be limited to, a description of each project and any particular
2 match requirement, and describe for each project any anticipated
3 restrictions upon recreational activities allowed prior to the project.

4 **Sec. 10.** RCW 79A.15.080 and 1990 1st ex.s. c 14 s 9 are each
5 amended to read as follows:

6 The committee shall not sign contracts or otherwise financially
7 obligate funds from the habitat conservation account (~~(or)~~), the
8 outdoor recreation account, the riparian protection account, or the
9 farmlands preservation account as provided in this chapter before the
10 legislature has appropriated funds for a specific list of projects.
11 The legislature may remove projects from the list recommended by the
12 governor.

13 NEW SECTION. **Sec. 11.** A new section is added to chapter 79.70 RCW
14 to read as follows:

15 The state treasurer, on behalf of the department, must distribute
16 to counties for all lands acquired for the purposes of this chapter an
17 amount in lieu of real property taxes equal to the amount of tax that
18 would be due if the land were taxable as open space land under chapter
19 84.34 RCW except taxes levied for any state purpose, plus an additional
20 amount equal to the amount of weed control assessment that would be due
21 if such lands were privately owned. The county assessor and county
22 legislative authority shall assist in determining the appropriate
23 calculation of the amount of tax that would be due under chapter 84.34
24 RCW. The county shall distribute the amount received under this
25 section in lieu of real property taxes to all property taxing districts
26 except the state in appropriate tax code areas the same way it would
27 distribute local property taxes from private property. The county
28 shall distribute the amount received under this section for weed
29 control to the appropriate weed district.

30 NEW SECTION. **Sec. 12.** A new section is added to chapter 79.71 RCW
31 to read as follows:

32 The state treasurer, on behalf of the department, must distribute
33 to counties for all lands acquired for the purposes of this chapter an
34 amount in lieu of real property taxes equal to the amount of tax that
35 would be due if the land were taxable as open space land under chapter

1 84.34 RCW except taxes levied for any state purpose, plus an additional
2 amount equal to the amount of weed control assessment that would be due
3 if such lands were privately owned. The county assessor and county
4 legislative authority shall assist in determining the appropriate
5 calculation of the amount of tax that would be due under chapter 84.34
6 RCW. The county shall distribute the amount received under this
7 section in lieu of real property taxes to all property taxing districts
8 except the state in appropriate tax code areas the same way it would
9 distribute local property taxes from private property. The county
10 shall distribute the amount received under this section for weed
11 control to the appropriate weed district.

12 **Sec. 13.** RCW 84.33.140 and 2003 c 170 s 5 are each amended to read
13 as follows:

14 (1) When land has been designated as forest land under RCW
15 84.33.130, a notation of the designation shall be made each year upon
16 the assessment and tax rolls. A copy of the notice of approval
17 together with the legal description or assessor's parcel numbers for
18 the land shall, at the expense of the applicant, be filed by the
19 assessor in the same manner as deeds are recorded.

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

29	LAND	OPERABILITY	VALUES
30	GRADE	CLASS	PER ACRE
31		1	\$234
32	1	2	229
33		3	217
34		4	157
35		1	198

1		2	2	190
2			3	183
3			4	132
4			1	154
5		3	2	149
6			3	148
7			4	113
8			1	117
9		4	2	114
10			3	113
11			4	86
12			1	85
13		5	2	78
14			3	77
15			4	52
16			1	43
17		6	2	39
18			3	39
19			4	37
20			1	21
21		7	2	21
22			3	20
23			4	20
24		8		1

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

32 (a) Divide the aggregate value of all timber harvested within the
33 state between July 1, 1996, and June 30, 2001, by the aggregate harvest
34 volume for the same period, as determined from the harvester excise tax
35 returns filed with the department under RCW 84.33.074; and

36 (b) Divide the aggregate value of all timber harvested within the
37 state between July 1, 1995, and June 30, 2000, by the aggregate harvest

1 volume for the same period, as determined from the harvester excise tax
2 returns filed with the department under RCW 84.33.074; and

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

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

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

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

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

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

1 RCW 84.40.038. Jurisdiction is hereby conferred on the county board of
2 equalization to hear these appeals;

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

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

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

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

26 (6) Land shall not be removed from designation if there is a
27 governmental restriction that prohibits, in whole or in part, the owner
28 from harvesting timber from the owner's designated forest land. If
29 only a portion of the parcel is impacted by governmental restrictions
30 of this nature, the restrictions cannot be used as a basis to remove
31 the remainder of the forest land from designation under this chapter.
32 For the purposes of this section, "governmental restrictions" includes:
33 (a) Any law, regulation, rule, ordinance, program, or other action
34 adopted or taken by a federal, state, county, city, or other
35 governmental entity; or (b) the land's zoning or its presence within an
36 urban growth area designated under RCW 36.70A.110.

37 (7) The assessor shall have the option of requiring an owner of

1 forest land to file a timber management plan with the assessor upon the
2 occurrence of one of the following:

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

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

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

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

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

35 (11) Except as provided in subsection (5)(c), (13), or (14) of this
36 section, a compensating tax shall be imposed on land removed from
37 designation as forest land. The compensating tax shall be due and
38 payable to the treasurer thirty days after the owner is notified of the

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

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

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

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

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

34 (c) A donation of fee title, development rights, or the right to
35 harvest timber, to a government agency or organization qualified under
36 RCW 84.34.210 and 64.04.130 for the purposes enumerated in those
37 sections, or the sale or transfer of fee title to a governmental entity
38 or a nonprofit nature conservancy corporation, as defined in RCW

1 64.04.130, exclusively for the protection and conservation of lands
2 recommended for state natural area preserve purposes by the natural
3 heritage council and natural heritage plan as defined in chapter 79.70
4 RCW or approved for state natural resources conservation area purposes
5 as defined in chapter 79.71 RCW. At such time as the land is not used
6 for the purposes enumerated, the compensating tax specified in
7 subsection (11) of this section shall be imposed upon the current
8 owner;

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

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

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

16 (g) The creation, sale, or transfer of a fee interest or a
17 conservation easement for the riparian open space program under RCW
18 76.09.040;

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

26 (i) The sale or transfer of land after the death of the owner of at
27 least a fifty percent interest in the land if the land has been
28 assessed and valued as classified forest land, designated as forest
29 land under this chapter, or classified under chapter 84.34 RCW
30 continuously since 1993 and the sale or transfer takes place after July
31 22, 2001, and on or before July 22, 2003, and the death of the owner
32 occurred after January 1, 1991. The date of death shown on a death
33 certificate is the date used for the purposes of this subsection
34 (13)(i).

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

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

10 **Sec. 14.** RCW 77.12.203 and 1990 1st ex.s. c 15 s 11 are each
11 amended to read as follows:

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

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

30 (3) This section shall not apply to lands transferred after April
31 23, 1990, to the department from other state agencies.

32 (4) The county shall distribute the amount received under this
33 section in lieu of real property taxes to all property taxing districts
34 except the state in appropriate tax code areas the same way it would
35 distribute local property taxes from private property. The county
36 shall distribute the amount received under this section for weed
37 control to the appropriate weed district.

1 NEW SECTION. **Sec. 15.** (1) The interagency committee for outdoor
2 recreation may apply up to three percent of the funds appropriated for
3 chapter 79A.15 RCW for the administration of the programs and purposes
4 specified in chapter 79A.15 RCW.

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

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

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

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

--- END ---