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HOUSE BILL 2844

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State of Washington

60th Legislature

2008 Regular Session

By Representatives Kagi, Priest, Upthegrove, Campbell, Simpson, Hunt, Blake, Jarrett, Nelson, Rolfes, Dickerson, Appleton, Takko, Loomis, Lantz, Pettigrew, Hunter, Moeller, Hudgins, Quall, O'Brien, Anderson, Kenney, Pedersen, McIntire, and Roberts

Read first time 01/16/08. Referred to Committee on Ecology & Parks.

1 AN ACT Relating to preventing air and water pollution through urban  
2 forestry partnerships; amending RCW 76.15.020, 35.92.390, 35A.80.040,  
3 80.28.300, 36.70A.280, 76.15.010, 89.08.520, and 79.105.150; reenacting  
4 and amending RCW 43.155.070, 70.146.070, and 79A.15.040; adding a new  
5 section to chapter 76.15 RCW; adding a new section to chapter 36.01  
6 RCW; adding a new section to chapter 54.16 RCW; adding a new section to  
7 chapter 80.28 RCW; adding a new chapter to Title 35 RCW; creating a new  
8 section; and providing an expiration date.

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

10 NEW SECTION. **Sec. 1.** (1)(a) The legislature finds that pollution  
11 from storm water runoff is a leading source of pollution in Puget Sound  
12 and in important water bodies in eastern Washington like the Columbia  
13 river. The decisions and actions of those living in adjacent  
14 communities impact the health of these water bodies. The loss of  
15 native and mature naturalized trees in urban areas throughout the  
16 region has contributed significantly to storm water and flooding  
17 problems in the region.

18 (b) The legislature further finds that the preservation and

1 enhancement of city trees and urban and community forests are one of  
2 the most cost-effective ways to protect and improve water quality, air  
3 quality, human well-being, and our quality of life.

4 (c) Appropriate selection, siting, and installation of trees can  
5 reduce heating and cooling energy costs and related greenhouse gases  
6 emissions. Managing urban trees, planting additional trees, and  
7 restoring the functionality of forests on public lands can reduce the  
8 amount of pollutants in our communities, reduce utility infrastructure  
9 damage, and reduce flooding caused by major storm events that can cost  
10 the state economy millions of dollars a day.

11 (d) The legislature further finds that there are innovative urban  
12 forest management programs and partnerships led by many cities across  
13 the state. However, there is no statewide inventory or assessment of  
14 our community and urban forests. Few cities have clear goals and  
15 standards for their urban forests. About twelve percent of  
16 Washington's cities have urban forest management plans and less than  
17 half of Washington's communities have tree ordinances. Many  
18 communities report the need for better enforcement.

19 (2) It is the intent of the legislature to recognize and support  
20 city efforts to conserve, protect, improve, and expand Washington's  
21 urban forest in order to reduce storm water pollution in Puget Sound,  
22 flooding, energy consumption and greenhouse gases emissions, air  
23 pollution, and storm impacts to utility infrastructure. The  
24 legislature also intends to create a foundation for emerging carbon  
25 market revenues to subsidize Washington's urban and community forests.

26 NEW SECTION. **Sec. 2.** The definitions in this section apply  
27 throughout this chapter unless the context clearly requires otherwise.

28 (1) "Community and urban forest assessment" means an analysis of  
29 the community and urban forest inventory to establish the scope and  
30 scale of forest-related benefits and services, the economic valuation  
31 of such benefits, highlight trends and issues of concern, identify high  
32 priority areas to be addressed, outline strategies for addressing the  
33 critical issues and urban landscapes, and identify opportunities for  
34 retaining trees, expanding forest canopy, and planting additional trees  
35 to sustain Washington's urban and community forests.

36 (2) "Community and urban forest inventory" means a management tool  
37 designed to gauge the condition, management status, health, and

1 diversity of a community and urban forest. An inventory may evaluate  
2 individual trees or groups of trees or canopy cover within community  
3 and urban forests, and will be periodically updated by the department  
4 of natural resources.

5 (3) "Department" means the department of community, trade, and  
6 economic development.

7 (4) "Evergreen cities ordinances" means ordinances adopted by the  
8 legislative body of a city, town, or county, or other political  
9 subdivision of the state that relate to urban forests and are  
10 consistent with the performance standards adopted by the department  
11 under section 8 of this act.

12 (5) "Public forest" means urban forests owned by the state, city,  
13 county, or other public entity within or adjacent to the urban growth  
14 areas.

15 (6) "Reforestation" means establishing and maintaining trees and  
16 urban forest canopy in plantable spaces such as street rights-of-way,  
17 transportation corridors, urban interchanges and highways, riparian  
18 areas, unstable slopes, shorelines, public lands, and property of  
19 willing private land owners.

20 (7) "Tree canopy" means the layer of leaves, branches, and stems of  
21 trees that cover the ground when viewed from above and that can be  
22 measured as a percentage of a city's land area shaded by trees.

23 (8) "Urban forest" has the same definition as provided for the term  
24 "community and urban forest" in RCW 76.15.010.

25 **Sec. 3.** RCW 76.15.020 and 1991 c 179 s 4 are each amended to read  
26 as follows:

27 (1) The department (~~may~~) shall establish and maintain a program  
28 in community and urban forestry to accomplish the purpose stated in RCW  
29 76.15.007. The department may assist municipalities and counties in  
30 establishing and maintaining community and urban forestry programs and  
31 encourage persons to engage in appropriate and improved tree management  
32 and care.

33 (2) The department (~~may~~) shall advise, encourage, and assist  
34 municipalities, counties, and other public and private entities in the  
35 development and coordination of policies, programs, and activities for  
36 the promotion of community and urban forestry.

1 (3) The department (~~may~~) shall appoint a committee or council to  
2 advise the department in establishing and carrying out a program in  
3 community and urban forestry.

4 (4) The department (~~may~~) shall assist municipal and county tree  
5 maintenance programs by making surplus equipment available on loan  
6 where feasible for community and urban forestry programs and  
7 cooperative projects.

8 (5)(a) The commissioner of public lands shall utilize the evergreen  
9 cities partnership task force established in section 13 of this act to  
10 advise the department in the development of uniform criteria for a  
11 statewide community and urban forest inventory and assessment.

12 (b) The criteria established for a statewide community and urban  
13 forest inventory shall be consistent with emerging urban forest  
14 reporting protocols being developed for registering and reporting urban  
15 forest baselines for carbon market offset credits. Criteria must also  
16 be developed concurrent to and consistent with performance standards  
17 established by the department of community, trade, and economic  
18 development in section 8 of this act.

19 (c) The criteria for a statewide community and urban forest  
20 inventory may include but not be limited to: Tree size, species,  
21 location, condition and health, contribution to canopy cover and  
22 volume, available planting spaces, and ecosystem, economic, social, and  
23 monetary value.

24 (6) The department shall, in collaboration with municipalities, the  
25 evergreen cities partnership task force established in section 13 of  
26 this act, and a statewide organization representing urban and community  
27 forestry programs, develop the implementation plan for the inventory  
28 and assessment of the community and urban forests in Washington.

29 (7) The department shall, in collaboration with educational  
30 institutions, municipalities, corporations, state and national service  
31 organizations, and environmental organizations, conduct a statewide  
32 inventory of community and urban forests. For purposes of efficiency,  
33 existing data and current inventory technologies must be utilized in  
34 the development of this inventory. Statewide data must be maintained  
35 and periodically updated by the department and made available to every  
36 municipality.

37 (8) The department shall, in collaboration with a statewide  
38 organization representing urban and community forestry programs, and

1 with the evergreen cities partnership task force established in section  
2 13 of this act, conduct an urban forest assessment and develop  
3 recommendations to the appropriate committees of the legislature to  
4 improve community and urban forestry in Washington.

5 (9) The inventory and assessment must be designed to facilitate the  
6 adoption and implementation of evergreen cities management plans and  
7 ordinances described in sections 9, 10, and 11 of this act.

8 (10) The inventory and assessment prepared under this section must  
9 be designed to enable Washington's local governments and large urban  
10 forest land managers to be eligible to sell additional tree  
11 installations as carbon offset credits in emerging carbon trading  
12 markets.

13 (11) The inventory and assessment prepared under this section must  
14 be completed by June 1, 2010. Any rules relating to community and  
15 urban forests may be amended if deemed necessary by the board of  
16 natural resources to implement this section.

17 NEW SECTION. Sec. 4. A new section is added to chapter 76.15 RCW  
18 to read as follows:

19 The department may only provide grants or other forms of financial  
20 aid to cities or towns under this chapter if the city or town is in  
21 compliance with sections 9, 10, and 11 of this act.

22 NEW SECTION. Sec. 5. The department shall, in the implementation  
23 of this chapter, strive to coordinate with the department of natural  
24 resources whenever appropriate.

25 NEW SECTION. Sec. 6. The department shall develop an evergreen  
26 cities recognition program whereby the department, the governor, and a  
27 statewide council representing urban and community forestry programs  
28 authorized under RCW 76.15.020 establish criteria for official state  
29 recognition and designation of evergreen cities. The criteria must  
30 identify local jurisdictions that meet or exceed the performance  
31 standards in section 8 of this act and exceed those standards necessary  
32 for "tree city USA" designation. The department may develop an  
33 evergreen cities logo and signage for designated evergreen cities'  
34 gateway signage.

1        NEW SECTION.    **Sec. 7.** (1) The department shall, with any funds  
2 available in the evergreen cities support account created in section 16  
3 of this act, coordinate with the department of natural resources in the  
4 development and implementation of both a needs-based evergreen cities  
5 grant program and a competitive award program to provide financial  
6 assistance to cities, towns, and counties for the development,  
7 adoption, and implementation of evergreen cities management plans or  
8 ordinances adopted under sections 9, 10, and 11 of this act.

9        (2) The grant program authorized in this section must be  
10 administered by the department in both a needs-based and in a  
11 competitive manner. This will address both goals of rewarding  
12 innovation by successful evergreen cities and of providing resources  
13 and assistance to the applicants with the greatest financial need.

14        (3) The department may only provide grants to cities, towns, or  
15 counties under this chapter if the local government is in compliance  
16 with sections 9, 10, and 11 of this act.

17        (4) Prior to receiving a grant under this section, a city, town, or  
18 county must demonstrate that:

19        (a) It has developed partnerships with local not-for-profit  
20 organizations that contribute to urban forest or habitat expertise,  
21 education programs, or volunteers; and

22        (b) It is prepared to match any grant funding with an equal amount  
23 of local funding or in-kind contributions.

24        (5) Grant criteria developed to implement this section must be  
25 developed jointly by the department and the department of natural  
26 resources.

27        NEW SECTION.    **Sec. 8.** (1) The department shall adopt rules for  
28 urban forest and urban forest management performance standards with  
29 clearly stated, measurable goals and timelines to guide local  
30 government plan and ordinance development under sections 9, 10, and 11  
31 of this act.

32        (2) Performance standards adopted under this section must recognize  
33 ecoregional differences in the state.

34        (3) Performance standards adopted under this section must recognize  
35 and provide flexibility for the diversity of urban character and  
36 relative differences in density and zoning found in Washington's towns,  
37 cities, and counties.

1 (4) In developing performance standards under this section, the  
2 department must strive for clarity in the statement of the standards.

3 (5) All performance standards adopted by the department must be  
4 developed in conjunction with the evergreen cities partnership task  
5 force created in section 13 of this act.

6 (6) After the initial adoption of performance standards under this  
7 section, the department may, in conjunction with the department of  
8 natural resources, develop and distribute to cities representations of  
9 ecoregionally appropriate evergreen cities management plans,  
10 ordinances, and best management practices that local jurisdictions may  
11 choose to utilize to meet the requirements of this act.

12 (7) Initial rules under this section must be adopted by June 1,  
13 2010. The rules may be amended as deemed necessary by the department.

14 NEW SECTION. **Sec. 9.** (1) All cities or towns with a population  
15 greater than five thousand that are required to adopt a comprehensive  
16 land use plan under chapter 36.70A RCW shall, at the time of plan  
17 updates required by chapter 36.70A RCW, adopt an evergreen cities  
18 forest management plan consistent with this section and performance  
19 standards developed in section 8 of this act.

20 (2) Management plans developed under this section must be based on  
21 urban forest inventories for the jurisdiction covered by the management  
22 plan. The city or town developing the management plan may rely solely  
23 on inventories developed, commissioned, or approved by the department  
24 of natural resources.

25 (3) All cities or towns not included in subsection (1) of this  
26 section are encouraged to develop and implement an evergreen cities  
27 management plan consistent with this section.

28 (4) All evergreen cities management plans must contain, but are not  
29 limited to, the following elements:

30 (a) Inventory and assessment of the jurisdiction's urban and  
31 community forests utilized as a dynamic management tool to set goals,  
32 implement programs, and monitor outcomes;

33 (b) Canopy cover goals and, if possible, plans for reforestation  
34 and tree canopy expansion within the jurisdiction's boundaries;

35 (c) Plans for restoration of public forests;

36 (d) Plans to achieve forest, storm water, and environmental health  
37 goals;

- 1 (e) Plans to meet utility safety and reliability goals;
- 2 (f) Prioritized planting sites;
- 3 (g) Standards for tree selection, siting, planting, and pruning;
- 4 (h) Scheduled maintenance and stewardship for new and established
- 5 trees;
- 6 (i) Staff and volunteer training requirements emphasizing
- 7 appropriate expertise and professionalism;
- 8 (j) Guidelines for protecting existing trees from construction-
- 9 related damage and damage related to preserving territorial views;
- 10 (k) Integrated disease and pest management plans;
- 11 (l) Wood waste utilization;
- 12 (m) Plans for community outreach, participation, education
- 13 programs, and partnerships with nongovernment organizations;
- 14 (n) Time frames for achieving plan goals, objectives, and tasks;
- 15 (o) Plans for monitoring and measuring progress toward those goals;
- 16 and
- 17 (p) Plans for maximizing building heating and cooling energy
- 18 efficiency through appropriate siting of trees for summer shading,
- 19 passive solar heating in winter, and for wind breaks.

20 (5) Cities may establish a local evergreen cities advisory board or  
21 utilize existing citizen boards focused on municipal tree issues to  
22 achieve appropriate expert and stakeholder participation in development  
23 of inventories, assessments, ordinances, and plans consistent with this  
24 chapter.

25 (6) Cities shall invite the expert advice of utilities serving  
26 within their jurisdiction for the purpose of adopting appropriate plans  
27 for meeting utility safety and reliability requirements.

28 NEW SECTION. **Sec. 10.** (1) No longer than two years after the  
29 adoption of an evergreen cities management plan as directed by section  
30 9 of this act, cities or towns must adopt an evergreen cities ordinance  
31 consistent with sections 8 and 9 of this act.

32 (2) Evergreen cities ordinances must contain, but not be limited  
33 to, the following policy elements:

- 34 (a) Tree canopy cover, density, and spacing;
- 35 (b) Tree conservation and retention;
- 36 (c) Vegetated storm water runoff management using native trees and
- 37 appropriate naturalized vegetation;



1 (d) Clearing, grading, protection of native soils, reductions in  
2 soil compaction, and use of appropriate soils with low runoff potential  
3 and high infiltration rates;

4 (e) Appropriate tree siting and maintenance to promote utility  
5 safety and reliability;

6 (f) Native species and naturalized species diversity selection to  
7 reduce disease and pests in urban forests;

8 (g) Tree maintenance;

9 (h) Street tree installation and maintenance;

10 (i) Tree and vegetation buffers for riparian areas, critical areas,  
11 transportation and utility corridors, and commercial and residential  
12 areas;

13 (j) Tree assessments for new construction permitting;

14 (k) Recommended forest conditions for different land use types;

15 (l) Variances for hardship and safety; and

16 (m) Permits and appeals.

17 (3) In addition to the other requirements of this section, a city  
18 or town must adopt locally appropriate enforcement mechanisms and civil  
19 penalties for violations of their jurisdiction's evergreen city  
20 ordinance.

21 (4) Ordinances adopted under this section may not prohibit or  
22 interfere with utility vegetation management practices undertaken to  
23 protect utility facilities and electric service reliability from trees  
24 that are encroaching upon or pose a hazard or threat to utility  
25 facilities under RCW 64.12.035.

26 NEW SECTION. **Sec. 11.** A new section is added to chapter 36.01 RCW  
27 to read as follows:

28 (1) Except as provided in subsection (2) of this section, all  
29 counties with a population greater than fifty thousand that are  
30 required to adopt a comprehensive land use plan under chapter 36.70A  
31 RCW shall adopt an evergreen cities ordinance, as that term is defined  
32 in section 2 of this act, which the county must apply to new building  
33 or land development in the unincorporated portions of the county's  
34 urban growth areas, as that term is defined in RCW 36.70A.030.

35 (2) As an alternative to subsection (1) of this section, a county  
36 may apply to any new building or land development permit in the  
37 unincorporated portions of the urban growth areas, as defined in RCW

1 36.70A.030, the evergreen cities ordinance standards adopted under  
2 section 10 of this act by the city or town in the county located  
3 closest to the proposed building or development.

4 NEW SECTION. **Sec. 12.** (1) Prior to the final adoption of an urban  
5 forest management plan or evergreen cities ordinance under sections 9,  
6 10, and 11 of this act, the city, town, or county shall submit the plan  
7 and ordinance to the department for review and comment at least sixty  
8 days prior to its planned implementation date.

9 (2) The department shall, together with the department of natural  
10 resources, review any evergreen cities ordinances or urban forest  
11 management plans submitted. When reviewing an ordinance or plan under  
12 this section, the department shall focus its review on the plan's  
13 compliance with this chapter and the performance standards adopted  
14 under section 8 of this act. Both departments may provide written  
15 comments on either plans or ordinances.

16 (3) Together with the department of natural resources, the  
17 department may offer technical assistance in the development of  
18 evergreen cities ordinances and management plans.

19 NEW SECTION. **Sec. 13.** (1) The director of the department shall,  
20 in consultation with the department of natural resources, assemble and  
21 convene the evergreen cities partnership task force of no more than  
22 twenty-five and no less than fifteen individuals to aid and advise the  
23 department in the administration of this chapter.

24 (2) At the discretion of the department, the evergreen cities  
25 partnership task force may be disbanded upon completion of the urban  
26 and community forest inventory and assessment required in RCW 76.15.020  
27 and after adoption of the evergreen cities performance standards  
28 established in section 8 of this act.

29 (3) Representatives of the department of natural resources and the  
30 department of ecology must participate in the evergreen cities  
31 partnership task force.

32 (4) The department shall invite individuals representing the  
33 following entities to serve on the task force:

34 (a) A conservation organization with expertise in Puget Sound storm  
35 water management;

- 1 (b) At least two cities, one from a city east and one from a city  
2 west of the Cascade mountains;
- 3 (c) At least two counties, one from a county east and one from a  
4 county west of the Cascade mountains;
- 5 (d) Two land development professionals or representative  
6 associations representing development professionals affected by tree  
7 retention ordinances and storm water management policies;
- 8 (e) A statewide council representing urban and community forestry  
9 programs authorized under RCW 76.15.020;
- 10 (f) A national conservation organization with a network of chapter  
11 volunteers working to conserve habitat for birds and wildlife;
- 12 (g) A land trust conservation organization facilitating urban  
13 forest management partnerships;
- 14 (h) A statewide organization advocating for interests of land-use  
15 management policies and growth management;
- 16 (i) The United States forest service center for urban forest  
17 research;
- 18 (j) A national conservation organization with expertise in  
19 backyard, schoolyard, and community wildlife habitat development;
- 20 (k) A University of Washington school of forestry professor with  
21 expertise in the human dimensions of urban forestry;
- 22 (l) A tree nursery representative or wholesale and retail plant  
23 supply organization;
- 24 (m) A professional organization representing landscape architects;
- 25 (n) A professional organization representing arborists;
- 26 (o) A municipal forester;
- 27 (p) A public works or private utilities representative;
- 28 (q) An information technology specialist;
- 29 (r) A national forest land trust exclusively dedicated to  
30 sustaining America's vast and vital private forests and safeguarding  
31 their many public benefits; and
- 32 (s) Any other entity, profession, or organization with an expertise  
33 or viewpoint deemed beneficial by the director of the department to the  
34 products delivered by the task force.
- 35 (5) The department is encouraged to recruit council members who are  
36 able to represent two or more of the stakeholder groups listed in  
37 subsection (4) of this section.

1 (6) In assembling the task force, the director of the department  
2 shall strive to achieve representation from as many of the state's  
3 ecoregions as possible.

4 (5) Each member of the task force shall serve without compensation.  
5 Task force members that are not state employees may be reimbursed for  
6 travel expenses as authorized in RCW 43.03.050 and 43.03.060.

7 NEW SECTION. **Sec. 14.** Nothing in this chapter may be construed  
8 to:

9 (1) Conflict or supersede with any requirements, duties, or  
10 objectives placed on local governments under chapter 36.70A RCW; or

11 (2) Apply to working agricultural or forest lands that are not  
12 being converted into new residential, commercial, or industrial land  
13 uses.

14 NEW SECTION. **Sec. 15.** (1) The attorney general or any resident of  
15 a city, town, or county may appeal to the appropriate growth management  
16 hearings board created in RCW 36.70A.250 issues of local government  
17 compliance or noncompliance with evergreen cities management plan or  
18 ordinance adoptions as required by sections 9, 10, and 11 of this act.

19 (2) The attorney general or any resident of the applicable city,  
20 town, or county may bring an action in the local district court to seek  
21 an injunction against any building or land development that is or will  
22 be in violation of the locally adopted evergreen cities ordinance or  
23 sections 9, 10, and 11 of this act.

24 NEW SECTION. **Sec. 16.** (1) The evergreen cities support account is  
25 created in the state treasury. All receipts from voluntary donations  
26 received by the department pursuant to RCW 35.92.390, 35A.80.040,  
27 80.28.300, and section 20 or 21 of this act, along with any transfers  
28 or appropriations made by the legislature, must be deposited into the  
29 account. Moneys in the account may be spent only after appropriation.  
30 Expenditures from the account may be used only by the department for  
31 evergreen city grants and grant administration as provided in section  
32 7 of this act.

33 (2) The legislature intends to match all donations received by  
34 utilities under RCW 35.92.390, 35A.80.040, 80.28.300, and section 20 or  
35 21 of this act with an equal amount of funding for the evergreen cities

1 support account from the general fund. To aid the legislature with  
2 this process, the office of financial management shall, when developing  
3 a budget request, include a provision that requests an amount equal to  
4 all donations reported to the department under RCW 35.92.390,  
5 35A.80.040, 80.28.300, and section 20 or 21 of this act be appropriated  
6 into the evergreen cities support account from the general fund.

7 (3) The department shall compile and make available to the office  
8 of financial management and the legislature total receipts of ratepayer  
9 urban forestry contributions reported by utilities under RCW 35.92.390,  
10 35A.80.040, 80.28.300, and section 20 of this act.

11 **Sec. 17.** RCW 35.92.390 and 1993 c 204 s 2 are each amended to read  
12 as follows:

13 (1) Municipal utilities under this chapter are encouraged to  
14 provide information to their customers regarding landscaping that  
15 includes tree planting for energy conservation.

16 (2)(a) Municipal utilities under this chapter are encouraged to  
17 request voluntary donations from their customers for the purposes of  
18 urban forestry. The request may be in the form of a check-off on the  
19 billing statement or other form of request for a voluntary donation.

20 (b) Voluntary donations collected by municipal utilities under this  
21 section may be used by the municipal utility to:

22 (i) Support the development and implementation of evergreen cities  
23 ordinances, as that term is defined in section 2 of this act, for  
24 cities, towns, or counties within their service areas;

25 (ii) Complete projects consistent with the urban forest performance  
26 standards developed under section 8 of this act; or

27 (iii) Deposit into the evergreen cities support account created in  
28 section 16 of this act.

29 (c) Municipal utilities shall annually report to the department of  
30 community, trade, and economic development the total amount of  
31 voluntary donations received under this section as well as whether the  
32 municipal utility provided a match for the donations received from  
33 their own available funds.

34 **Sec. 18.** RCW 35A.80.040 and 1993 c 204 s 3 are each amended to  
35 read as follows:

1 (1) Code cities providing utility services under this chapter are  
2 encouraged to provide information to their customers regarding  
3 landscaping that includes tree planting for energy conservation.

4 (2)(a) Code cities providing utility services under this chapter  
5 are encouraged to request voluntary donations from their customers for  
6 the purposes of urban forestry. The request may be in the form of a  
7 check-off on the billing statement or other form of a request for a  
8 voluntary donation.

9 (b) Voluntary donations collected by code cities under this section  
10 may be used by the code city to:

11 (i) Support the development and implementation of evergreen cities  
12 ordinances, as that term is defined in section 2 of this act, for  
13 cities, towns, or counties within their service areas;

14 (ii) Complete projects consistent with the urban forest performance  
15 standards developed under section 8 of this act; or

16 (iii) Deposit into the evergreen cities support account created in  
17 section 16 of this act.

18 (c) Code cities shall annually report to the department of  
19 community, trade, and economic development the total amount of  
20 voluntary donations received under this section as well as whether the  
21 municipal utility provided a match for the donations received from  
22 their own available funds.

23 **Sec. 19.** RCW 80.28.300 and 1993 c 204 s 4 are each amended to read  
24 as follows:

25 (1) Gas companies and electrical companies under this chapter  
26 (~~may~~) are encouraged to provide information to their customers  
27 regarding landscaping that includes tree planting for energy  
28 conservation.

29 (2)(a) Gas companies and electrical companies under this chapter  
30 may request voluntary donations from their customers for the purposes  
31 of urban forestry. The request may be in the form of a check-off on  
32 the billing statement or other form of a request for a voluntary  
33 donation.

34 (b) Voluntary donations collected by gas companies and electrical  
35 companies under this section may be used by the gas companies and  
36 electrical companies to:

1        (i) Support the development and implementation of evergreen cities  
2 ordinances, as that term is defined in section 2 of this act, for  
3 cities, towns, or counties within their service areas;

4        (ii) Complete projects consistent with the urban forest performance  
5 standards developed under section 8 of this act; or

6        (iii) Deposit into the evergreen cities support account created in  
7 section 16 of this act.

8        (c) Gas companies and electrical companies shall annually report to  
9 the department of community, trade, and economic development the total  
10 amount of voluntary donations received under this section as well as  
11 whether the municipal utility provided a match for the donations  
12 received from their own available funds.

13        NEW SECTION. Sec. 20. A new section is added to chapter 54.16 RCW  
14 to read as follows:

15        (1) Public utility districts may request voluntary donations from  
16 their customers for the purposes of urban forestry. The request may be  
17 in the form of a check-off on the billing statement or other form of a  
18 request for a voluntary donation.

19        (2) Voluntary donations collected by public utility districts under  
20 this section may be used by the public utility district to:

21        (a) Support the development and implementation of evergreen cities  
22 ordinances, as that term is defined in section 2 of this act, for  
23 cities, towns, or counties within their service areas;

24        (b) Complete projects consistent with the urban forest performance  
25 standards developed under section 8 of this act; or

26        (c) Deposit into the evergreen cities support account created in  
27 section 16 of this act.

28        (3) Public utility districts shall annually report to the  
29 department of community, trade, and economic development the total  
30 amount of voluntary donations received under this section as well as  
31 whether the municipal utility provided a match for the donations  
32 received from their own available funds.

33        NEW SECTION. Sec. 21. A new section is added to chapter 80.28 RCW  
34 to read as follows:

35        The commission shall consider utilizing surcharges on utility rates  
36 to cover the expenses of utilities to implement the infrastructure

1 reliability portion of evergreen cities plans and ordinances developed  
2 under sections 9 and 10 of this act. Any surcharges established must  
3 represent a recoverable cost for utilities and require utilities to  
4 demonstrate a net financial benefit to ratepayers, taxpayers, and  
5 Washington's economy. Any surcharges must be adequate to cover  
6 utilities infrastructure reliability management as well as to provide  
7 funds to the evergreen cities support account created in section 16 of  
8 this act.

9 **Sec. 22.** RCW 36.70A.280 and 2003 c 332 s 2 are each amended to  
10 read as follows:

11 (1) A growth management hearings board shall hear and determine  
12 only those petitions alleging either:

13 (a) That a state agency, county, or city planning under this  
14 chapter is not in compliance with the requirements of this chapter,  
15 chapter 90.58 RCW as it relates to the adoption of shoreline master  
16 programs or amendments thereto, or chapter 43.21C RCW as it relates to  
17 plans, development regulations, or amendments, adopted under RCW  
18 36.70A.040 or chapter 90.58 RCW; (~~(or)~~)

19 (b) That a city, town, or county is not in compliance with chapter  
20 35.-- RCW (sections 1, 2, 5 through 10, and 12 through 16 of this act);  
21 or

22 (c) That the twenty-year growth management planning population  
23 projections adopted by the office of financial management pursuant to  
24 RCW 43.62.035 should be adjusted.

25 (2) A petition may be filed only by: (a) The state, or a county or  
26 city that plans under this chapter; (b) a person who has participated  
27 orally or in writing before the county or city regarding the matter on  
28 which a review is being requested; (c) a person who is certified by the  
29 governor within sixty days of filing the request with the board; or (d)  
30 a person qualified pursuant to RCW 34.05.530.

31 (3) For purposes of this section "person" means any individual,  
32 partnership, corporation, association, state agency, governmental  
33 subdivision or unit thereof, or public or private organization or  
34 entity of any character.

35 (4) To establish participation standing under subsection (2)(b) of  
36 this section, a person must show that his or her participation before



1 the county or city was reasonably related to the person's issue as  
2 presented to the board.

3 (5) When considering a possible adjustment to a growth management  
4 planning population projection prepared by the office of financial  
5 management, a board shall consider the implications of any such  
6 adjustment to the population forecast for the entire state.

7 The rationale for any adjustment that is adopted by a board must be  
8 documented and filed with the office of financial management within ten  
9 working days after adoption.

10 If adjusted by a board, a county growth management planning  
11 population projection shall only be used for the planning purposes set  
12 forth in this chapter and shall be known as a "board adjusted  
13 population projection". None of these changes shall affect the  
14 official state and county population forecasts prepared by the office  
15 of financial management, which shall continue to be used for state  
16 budget and planning purposes.

17 **Sec. 23.** RCW 76.15.010 and 2000 c 11 s 15 are each amended to read  
18 as follows:

19 Unless the context clearly requires otherwise, the definitions in  
20 this section apply throughout this chapter.

21 (1) "Community and urban forest" is that land in and around human  
22 settlements ranging from small communities to metropolitan areas,  
23 occupied or potentially occupied by trees and associated vegetation.  
24 Community and urban forest land may be planted or unplanted, used or  
25 unused, and includes public and private lands, lands along  
26 transportation and utility corridors, and forested watershed lands  
27 within populated areas.

28 (2) "Community and urban forest assessment" has the same meaning as  
29 defined in section 2 of this act.

30 (3) "Community and urban forest inventory" has the same meaning as  
31 defined in section 2 of this act.

32 (4) "Community and urban forestry" means the planning,  
33 establishment, protection, care, and management of trees and associated  
34 plants individually, in small groups, or under forest conditions within  
35 municipalities and counties.

36 ((+3+)) (5) "Department" means the department of natural resources.

1       (~~(4)~~) (6) "Municipality" means a city, town, port district,  
2 public school district, community college district, irrigation  
3 district, weed control district, park district, or other political  
4 subdivision of the state.

5       (~~(5)~~) (7) "Person" means an individual, partnership, private or  
6 public municipal corporation, Indian tribe, state entity, county or  
7 local governmental entity, or association of individuals of whatever  
8 nature.

9       NEW SECTION. **Sec. 24.** (1) Cities or towns either required or  
10 opting to adopt an evergreen city ordinance under chapter 35.-- RCW  
11 (sections 1, 2, 5 through 10, and 12 through 16 of this act) are  
12 encouraged to identify community and urban forests within their  
13 applicable urban growth areas that are appropriately situated for the  
14 local government to assume ownership.

15       (2) Cities or towns opting to provide a list of identified  
16 properties under this section must provide that list to the department  
17 of community, trade, and economic development by October 31, 2009.

18       (3) This section expires July 31, 2010.

19       **Sec. 25.** RCW 43.155.070 and 2007 c 341 s 24 and 2007 c 231 s 2 are  
20 each reenacted and amended to read as follows:

21       (1) To qualify for loans or pledges under this chapter the board  
22 must determine that a local government meets all of the following  
23 conditions:

24       (a) The city or county must be imposing a tax under chapter 82.46  
25 RCW at a rate of at least one-quarter of one percent;

26       (b) The local government must have developed a capital facility  
27 plan; and

28       (c) The local government must be using all local revenue sources  
29 which are reasonably available for funding public works, taking into  
30 consideration local employment and economic factors.

31       (2) Except where necessary to address a public health need or  
32 substantial environmental degradation, a county, city, or town planning  
33 under RCW 36.70A.040 must have adopted a comprehensive plan, including  
34 a capital facilities plan element, and development regulations as  
35 required by RCW 36.70A.040. This subsection does not require any  
36 county, city, or town planning under RCW 36.70A.040 to adopt a

1 comprehensive plan or development regulations before requesting or  
2 receiving a loan or loan guarantee under this chapter if such request  
3 is made before the expiration of the time periods specified in RCW  
4 36.70A.040. A county, city, or town planning under RCW 36.70A.040  
5 which has not adopted a comprehensive plan and development regulations  
6 within the time periods specified in RCW 36.70A.040 is not prohibited  
7 from receiving a loan or loan guarantee under this chapter if the  
8 comprehensive plan and development regulations are adopted as required  
9 by RCW 36.70A.040 before submitting a request for a loan or loan  
10 guarantee.

11 (3) In considering awarding loans for public facilities to special  
12 districts requesting funding for a proposed facility located in a  
13 county, city, or town planning under RCW 36.70A.040, the board shall  
14 consider whether the county, city, or town planning under RCW  
15 36.70A.040 in whose planning jurisdiction the proposed facility is  
16 located has adopted a comprehensive plan and development regulations as  
17 required by RCW 36.70A.040.

18 (4) The board shall develop a priority process for public works  
19 projects as provided in this section. The intent of the priority  
20 process is to maximize the value of public works projects accomplished  
21 with assistance under this chapter. The board shall attempt to assure  
22 a geographical balance in assigning priorities to projects. The board  
23 shall consider at least the following factors in assigning a priority  
24 to a project:

25 (a) Whether the local government receiving assistance has  
26 experienced severe fiscal distress resulting from natural disaster or  
27 emergency public works needs;

28 (b) Except as otherwise conditioned by RCW 43.155.110, whether the  
29 entity receiving assistance is a Puget Sound partner, as defined in RCW  
30 90.71.010;

31 (c) Whether the project is referenced in the action agenda  
32 developed by the Puget Sound partnership under RCW 90.71.310;

33 (d) Whether the project is critical in nature and would affect the  
34 health and safety of a great number of citizens;

35 (e) Whether the applicant has developed and adhered to guidelines  
36 regarding its permitting process for those applying for development  
37 permits consistent with section 1(2), chapter 231, Laws of 2007;

1 (f) The cost of the project compared to the size of the local  
2 government and amount of loan money available;

3 (g) The number of communities served by or funding the project;

4 (h) Whether the project is located in an area of high unemployment,  
5 compared to the average state unemployment;

6 (i) Whether the project is the acquisition, expansion, improvement,  
7 or renovation by a local government of a public water system that is in  
8 violation of health and safety standards, including the cost of  
9 extending existing service to such a system;

10 (j) Whether the entity receiving assistance has been recognized in  
11 the evergreen cities recognition program created in section 6 of this  
12 act;

13 (k) The relative benefit of the project to the community,  
14 considering the present level of economic activity in the community and  
15 the existing local capacity to increase local economic activity in  
16 communities that have low economic growth; and

17 (~~(k)~~) (l) Other criteria that the board considers advisable.

18 (5) Existing debt or financial obligations of local governments  
19 shall not be refinanced under this chapter. Each local government  
20 applicant shall provide documentation of attempts to secure additional  
21 local or other sources of funding for each public works project for  
22 which financial assistance is sought under this chapter.

23 (6) Before November 1st of each year, the board shall develop and  
24 submit to the appropriate fiscal committees of the senate and house of  
25 representatives a description of the loans made under RCW 43.155.065,  
26 43.155.068, and subsection (9) of this section during the preceding  
27 fiscal year and a prioritized list of projects which are recommended  
28 for funding by the legislature, including one copy to the staff of each  
29 of the committees. The list shall include, but not be limited to, a  
30 description of each project and recommended financing, the terms and  
31 conditions of the loan or financial guarantee, the local government  
32 jurisdiction and unemployment rate, demonstration of the jurisdiction's  
33 critical need for the project and documentation of local funds being  
34 used to finance the public works project. The list shall also include  
35 measures of fiscal capacity for each jurisdiction recommended for  
36 financial assistance, compared to authorized limits and state averages,  
37 including local government sales taxes; real estate excise taxes;

1 property taxes; and charges for or taxes on sewerage, water, garbage,  
2 and other utilities.

3 (7) The board shall not sign contracts or otherwise financially  
4 obligate funds from the public works assistance account before the  
5 legislature has appropriated funds for a specific list of public works  
6 projects. The legislature may remove projects from the list  
7 recommended by the board. The legislature shall not change the order  
8 of the priorities recommended for funding by the board.

9 (8) Subsection (7) of this section does not apply to loans made  
10 under RCW 43.155.065, 43.155.068, and subsection (9) of this section.

11 (9) Loans made for the purpose of capital facilities plans shall be  
12 exempted from subsection (7) of this section.

13 (10) To qualify for loans or pledges for solid waste or recycling  
14 facilities under this chapter, a city or county must demonstrate that  
15 the solid waste or recycling facility is consistent with and necessary  
16 to implement the comprehensive solid waste management plan adopted by  
17 the city or county under chapter 70.95 RCW.

18 (11) After January 1, 2010, any project designed to address the  
19 effects of storm water or wastewater on Puget Sound may be funded under  
20 this section only if the project is not in conflict with the action  
21 agenda developed by the Puget Sound partnership under RCW 90.71.310.

22 **Sec. 26.** RCW 70.146.070 and 2007 c 341 s 60 and 2007 c 341 s 26  
23 are each reenacted and amended to read as follows:

24 (1) When making grants or loans for water pollution control  
25 facilities, the department shall consider the following:

26 (a) The protection of water quality and public health;

27 (b) The cost to residential ratepayers if they had to finance water  
28 pollution control facilities without state assistance;

29 (c) Actions required under federal and state permits and compliance  
30 orders;

31 (d) The level of local fiscal effort by residential ratepayers  
32 since 1972 in financing water pollution control facilities;

33 (e) Except as otherwise conditioned by RCW 70.146.110, whether the  
34 entity receiving assistance is a Puget Sound partner, as defined in RCW  
35 90.71.010;

36 (f) Whether the project is referenced in the action agenda  
37 developed by the Puget Sound partnership under RCW 90.71.310;

1       (g) Whether the project is sponsored by an entity that has been  
2 recognized in the evergreen cities recognition program created in  
3 section 6 of this act;

4       (h) The extent to which the applicant county or city, or if the  
5 applicant is another public body, the extent to which the county or  
6 city in which the applicant public body is located, has established  
7 programs to mitigate nonpoint pollution of the surface or subterranean  
8 water sought to be protected by the water pollution control facility  
9 named in the application for state assistance; and

10       (~~(h)~~) (i) The recommendations of the Puget Sound partnership,  
11 created in RCW 90.71.210, and any other board, council, commission, or  
12 group established by the legislature or a state agency to study water  
13 pollution control issues in the state.

14       (2) Except where necessary to address a public health need or  
15 substantial environmental degradation, a county, city, or town planning  
16 under RCW 36.70A.040 may not receive a grant or loan for water  
17 pollution control facilities unless it has adopted a comprehensive  
18 plan, including a capital facilities plan element, and development  
19 regulations as required by RCW 36.70A.040. This subsection does not  
20 require any county, city, or town planning under RCW 36.70A.040 to  
21 adopt a comprehensive plan or development regulations before requesting  
22 or receiving a grant or loan under this chapter if such request is made  
23 before the expiration of the time periods specified in RCW 36.70A.040.  
24 A county, city, or town planning under RCW 36.70A.040 which has not  
25 adopted a comprehensive plan and development regulations within the  
26 time periods specified in RCW 36.70A.040 is not prohibited from  
27 receiving a grant or loan under this chapter if the comprehensive plan  
28 and development regulations are adopted as required by RCW 36.70A.040  
29 before submitting a request for a grant or loan.

30       (3) Whenever the department is considering awarding grants or loans  
31 for public facilities to special districts requesting funding for a  
32 proposed facility located in a county, city, or town planning under RCW  
33 36.70A.040, it shall consider whether the county, city, or town  
34 planning under RCW 36.70A.040 in whose planning jurisdiction the  
35 proposed facility is located has adopted a comprehensive plan and  
36 development regulations as required by RCW 36.70A.040.

37       (4) After January 1, 2010, any project designed to address the

1 effects of water pollution on Puget Sound may be funded under this  
2 chapter only if the project is not in conflict with the action agenda  
3 developed by the Puget Sound partnership under RCW 90.71.310.

4 **Sec. 27.** RCW 89.08.520 and 2007 c 341 s 28 are each amended to  
5 read as follows:

6 (1) In administering grant programs to improve water quality and  
7 protect habitat, the commission shall:

8 (a) Require grant recipients to incorporate the environmental  
9 benefits of the project into their grant applications;

10 (b) In its grant prioritization and selection process, consider:

11 (i) The statement of environmental benefits;

12 (ii) Whether, except as conditioned by RCW 89.08.580, the applicant  
13 is a Puget Sound partner, as defined in RCW 90.71.010, and whether the  
14 applicant is an entity that has been recognized in the evergreen cities  
15 recognition program created in section 6 of this act; and

16 (iii) Whether the project is referenced in the action agenda  
17 developed by the Puget Sound partnership under RCW 90.71.310; and

18 (c) Not provide funding, after January 1, 2010, for projects  
19 designed to address the restoration of Puget Sound that are in conflict  
20 with the action agenda developed by the Puget Sound partnership under  
21 RCW 90.71.310.

22 (2)(a) The commission shall also develop appropriate outcome-  
23 focused performance measures to be used both for management and  
24 performance assessment of the grant program.

25 (b) The commission shall work with the districts to develop uniform  
26 performance measures across participating districts and, to the extent  
27 possible, the commission should coordinate its performance measure  
28 system with other natural resource-related agencies as defined in RCW  
29 43.41.270. The commission shall consult with affected interest groups  
30 in implementing this section.

31 **Sec. 28.** RCW 79.105.150 and 2007 c 341 s 32 are each amended to  
32 read as follows:

33 (1) After deduction for management costs as provided in RCW  
34 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys  
35 received by the state from the sale or lease of state-owned aquatic  
36 lands and from the sale of valuable material from state-owned aquatic

1 lands shall be deposited in the aquatic lands enhancement account which  
2 is hereby created in the state treasury. After appropriation, these  
3 funds shall be used solely for aquatic lands enhancement projects; for  
4 the purchase, improvement, or protection of aquatic lands for public  
5 purposes; for providing and improving access to the lands; and for  
6 volunteer cooperative fish and game projects.

7 (2) In providing grants for aquatic lands enhancement projects, the  
8 (~~interagency committee for outdoor~~) recreation (~~shall~~) and  
9 conservation funding board must:

10 (a) Require grant recipients to incorporate the environmental  
11 benefits of the project into their grant applications;

12 (b) Utilize the statement of environmental benefits, consideration,  
13 except as provided in RCW 79.105.610, of whether the applicant is a  
14 Puget Sound partner, as defined in RCW 90.71.010, (~~and~~) whether a  
15 project is referenced in the action agenda developed by the Puget Sound  
16 partnership under RCW 90.71.310, and whether the applicant is an entity  
17 that has been recognized in the evergreen cities recognition program  
18 created in section 6 of this act in its prioritization and selection  
19 process; and

20 (c) Develop appropriate outcome-focused performance measures to be  
21 used both for management and performance assessment of the grants.

22 (3) To the extent possible, the department should coordinate its  
23 performance measure system with other natural resource-related agencies  
24 as defined in RCW 43.41.270.

25 (4) The department shall consult with affected interest groups in  
26 implementing this section.

27 (5) After January 1, 2010, any project designed to address the  
28 restoration of Puget Sound may be funded under this chapter only if the  
29 project is not in conflict with the action agenda developed by the  
30 Puget Sound partnership under RCW 90.71.310.

31 **Sec. 29.** RCW 79A.15.040 and 2007 c 341 s 34 and 2007 c 241 s 29  
32 are each reenacted and amended to read as follows:

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

35 (a) Not less than forty percent through June 30, 2011, at which  
36 time the amount shall become forty-five percent, for the acquisition  
37 and development of critical habitat;



1 (b) Not less than thirty percent for the acquisition and  
2 development of natural areas;

3 (c) Not less than twenty percent for the acquisition and  
4 development of urban wildlife habitat; and

5 (d) Not less than ten percent through June 30, 2011, at which time  
6 the amount shall become five percent, shall be used by the board to  
7 fund restoration and enhancement projects on state lands. Only the  
8 department of natural resources and the department of fish and wildlife  
9 may apply for these funds to be used on existing habitat and natural  
10 area lands.

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

15 (b) If not enough project applications are submitted in a category  
16 within the habitat conservation account to meet the percentages  
17 described in subsection (1) of this section in any biennium, the board  
18 retains discretion to distribute any remaining funds to the other  
19 categories within the account.

20 (3) Only state agencies may apply for acquisition and development  
21 funds for natural areas projects under subsection (1)(b) of this  
22 section.

23 (4) State and local agencies may apply for acquisition and  
24 development funds for critical habitat and urban wildlife habitat  
25 projects under subsection (1)(a) and (c) of this section.

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

30 (b) Any lands that have been acquired with grants under this  
31 section by the department of natural resources are subject to payments  
32 in the amounts required under the provisions of RCW 79.70.130 and  
33 79.71.130.

34 (6)((~~a~~)) Except as otherwise conditioned by RCW 79A.15.140, the  
35 ((~~committee~~)) board shall consider the following in determining  
36 distribution priority:

37 ((~~i~~)) (a) Whether the entity applying for funding is a Puget  
38 Sound partner, as defined in RCW 90.71.010; ((~~and~~

1       ~~(ii))~~ (b) Whether the entity receiving assistance has been  
2 recognized in the evergreen cities recognition program created in  
3 section 6 of this act; and

4       (c) Whether the project is referenced in the action agenda  
5 developed by the Puget Sound partnership under RCW 90.71.310.

6       (7) After January 1, 2010, any project designed to address the  
7 restoration of Puget Sound may be funded under this chapter only if the  
8 project is not in conflict with the action agenda developed by the  
9 Puget Sound partnership under RCW 90.71.310.

10       NEW SECTION. **Sec. 30.** Sections 1, 2, 5 through 10, and 12 through  
11 16 of this act constitute a new chapter in Title 35 RCW.

--- END ---