

ESHB 1885 - S COMM AMD

By Committee on Natural Resources & Marine Waters

NOT CONSIDERED 05/25/2011

1 Strike everything after the enacting clause and insert the
2 following:

3 "PART 1

4 STATE PARKS AND RECREATION COMMISSION

5 **Sec. 101.** RCW 79A.05.020 and 1999 c 249 s 301 are each amended to
6 read as follows:

7 (1) In addition to whatever other duties may exist in law or be
8 imposed in the future, it is the duty of the commission to:

9 ~~((+1))~~ (a) Implement integrated pest management practices and
10 regulate pests as required by RCW 17.15.020;

11 ~~((+2))~~ (b) Take steps necessary to control spartina and purple
12 loosestrife as required by RCW 17.26.020;

13 ~~((+3))~~ (c) Participate in the implementation of chapter 19.02 RCW;

14 ~~((+4) Coordinate planning and provide staffing and administrative
15 assistance to the Lewis and Clark trail committee as required by RCW
16 27.34.340;~~

17 ~~(+5))~~ (d) Administer those portions of chapter 46.10 RCW not
18 dealing with registration and licensing of snowmobiles as required by
19 RCW ~~((46.10.210))~~ 46.10.370;

20 ~~((+6))~~ (e) Consult and participate in the scenic and recreational
21 highway system as required by chapter 47.39 RCW; and

22 ~~((+7))~~ (f) Develop, prepare, and distribute information relating
23 to marine oil recycling tanks and sewage holding tank pumping stations,
24 in cooperation with other departments, as required by chapter 88.02
25 RCW.

26 (2) The commission has the power reasonably necessary to carry out
27 these duties.

1 **Sec. 102.** RCW 79A.05.030 and 2005 c 373 s 1 and 2005 c 360 s 5 are
2 each reenacted and amended to read as follows:

3 The commission shall:

4 (1) Have the care, charge, control, and supervision of all parks
5 and parkways acquired or set aside by the state for park or parkway
6 purposes.

7 (2) Adopt policies, and adopt, issue, and enforce rules pertaining
8 to the use, care, and administration of state parks and parkways. The
9 commission (~~((shall cause a copy of the rules to be kept posted in a
10 conspicuous place in every state park to which they are applicable, but
11 failure to post or keep any rule posted shall be no defense to any
12 prosecution for the violation thereof))~~) must maintain the rules that
13 are relevant to each park in a manner that is accessible to park
14 visitors.

15 (3) Permit the use of state parks and parkways by the public under
16 (~~((such))~~) rules (~~((as shall be))~~) adopted by the commission.

17 (4) Clear, drain, grade, seed, and otherwise improve or beautify
18 parks and parkways, and erect structures, buildings, fireplaces, and
19 comfort stations and build and maintain paths, trails, and roadways
20 through or on parks and parkways.

21 (5) Grant concessions or leases in state parks and parkways, upon
22 (~~((such))~~) rentals, fees, or percentage of income or profits and for
23 (~~((such))~~) set terms, in no event longer than fifty years, and upon
24 (~~((such))~~) set conditions as shall be approved by the commission.
25 However: (~~((PROVIDED, That))~~)

26 (a) Leases exceeding a twenty-year term shall require a unanimous
27 vote of the commission(~~((:—PROVIDED FURTHER, That))~~);

28 (b) If, during the term of any concession or lease, it is the
29 opinion of the commission that it would be in the best interest of the
30 state, the commission may, with the consent of the concessionaire or
31 lessee, alter and amend the terms and conditions of ((such)) the
32 concession or lease(~~((:—PROVIDED FURTHER, That))~~);

33 (c) Television station leases shall be subject to the provisions of
34 RCW 79A.05.085(~~((, only:—PROVIDED FURTHER, That))~~) and the rates of
35 ((such)) television station concessions or leases shall be renegotiated
36 at five-year intervals(~~((:—))~~); and

37 (d) No concession shall be granted ((which)) that will prevent the

1 public from having free access to the scenic attractions of any park or
2 parkway.

3 (6) Employ such assistance as it deems necessary. Commission
4 expenses relating to its use of volunteer assistance shall be limited
5 to premiums or assessments for the insurance of volunteers by the
6 department of labor and industries, compensation of staff who assist
7 volunteers, materials and equipment used in authorized volunteer
8 projects, training, reimbursement of volunteer travel as provided in
9 RCW 43.03.050 and 43.03.060, and other reasonable expenses relating to
10 volunteer recognition. The commission, at its discretion, may waive
11 commission fees otherwise applicable to volunteers. The commission
12 shall not use volunteers to replace or supplant classified positions.
13 The use of volunteers may not lead to the elimination of any employees
14 or permanent positions in the bargaining unit.

15 (7) By majority vote of its authorized membership select and
16 purchase or obtain options upon, lease, or otherwise acquire for and in
17 the name of the state such tracts of land, including shore and tide
18 lands, for park and parkway purposes as it deems proper. If the
19 commission cannot acquire any tract at a price it deems reasonable, it
20 may, by majority vote of its authorized membership, obtain title
21 thereto, or any part thereof, by condemnation proceedings conducted by
22 the attorney general as provided for the condemnation of rights-of-way
23 for state highways. Option agreements executed under authority of this
24 subsection shall be valid only if:

25 (a) The cost of the option agreement does not exceed one dollar;
26 and

27 (b) Moneys used for the purchase of the option agreement are from
28 (i) funds appropriated therefor, or (ii) funds appropriated for
29 undesignated land acquisitions, or (iii) funds deemed by the commission
30 to be in excess of the amount necessary for the purposes for which they
31 were appropriated; and

32 (c) The maximum amount payable for the property upon exercise of
33 the option does not exceed the appraised value of the property.

34 (8) Cooperate with the United States, or any county or city of this
35 state, in any matter pertaining to the acquisition, development,
36 redevelopment, renovation, care, control, or supervision of any park or
37 parkway, and enter into contracts in writing to that end. All parks or

1 parkways, to which the state contributed or in whose care, control, or
2 supervision the state participated pursuant to the provisions of this
3 section, shall be governed by the provisions hereof.

4 (9) Within allowable resources, maintain policies that increase the
5 number of people who have access to free or low-cost recreational
6 opportunities for physical activity, including noncompetitive physical
7 activity.

8 (10) Adopt rules establishing the requirements for a criminal
9 history record information search for the following: Job applicants,
10 volunteers, and independent contractors who have unsupervised access to
11 children or vulnerable adults, or who will be responsible for
12 collecting or disbursing cash or processing credit/debit card
13 transactions. These background checks will be done through the
14 Washington state patrol criminal identification section and may include
15 a national check from the federal bureau of investigation, which shall
16 be through the submission of fingerprints. A permanent employee of the
17 commission, employed as of July 24, 2005, is exempt from the provisions
18 of this subsection.

19 **Sec. 103.** RCW 79A.05.045 and 1999 c 249 s 304 are each amended to
20 read as follows:

21 (1) The commission shall, when the commission determines there is
22 funding for such a purpose, provide waste reduction and recycling
23 information and opportunities in each state park campground and day-use
24 area.

25 ~~(2) ((The commission shall provide recycling receptacles in the~~
26 ~~day-use and campground areas of at least forty state parks. The~~
27 ~~receptacles shall be clearly marked for the disposal of at least two of~~
28 ~~the following recyclable materials: Aluminum, glass, newspaper,~~
29 ~~plastic, and tin. The commission shall endeavor to provide recycling~~
30 ~~receptacles in parks that are near urban centers or in heavily used~~
31 ~~parks.~~

32 ~~(3) The commission shall provide daily maintenance of such~~
33 ~~receptacles from April through September of each year.~~

34 ~~(4))~~ The commission is authorized to enter into agreements with
35 any person, company, or nonprofit organization to provide for the
36 collection and transport of recyclable materials and related activities
37 under this section.

1 (7) Develop statewide programs by working with local governments,
2 payers of the waste reduction, recycling, and litter control tax, and
3 industry organizations that are active in waste reduction, anti-litter,
4 and recycling efforts to increase public awareness of and participation
5 in recycling and to stimulate and encourage local private recycling
6 centers, public participation in recycling and research and development
7 in the field of litter control, and recycling, removal, and disposal of
8 litter-related recycling materials;

9 (8) Conduct a ~~((biennial))~~ periodic statewide litter survey
10 targeted at litter composition, sources, demographics, and geographic
11 trends; and

12 (9) Provide ~~((a biennial))~~, when requested by the governor or the
13 legislature, a periodic summary of all waste reduction, litter control,
14 and recycling efforts statewide including those of the department ~~((of~~
15 ~~ecology))~~, and other state agencies and local governments funded for
16 such programs under this chapter. ~~((This report is due to the~~
17 ~~legislature in March of even-numbered years.))~~

18 **Sec. 202.** RCW 70.93.220 and 1998 c 257 s 6 are each amended to
19 read as follows:

20 (1) The department ~~((of ecology))~~ is the coordinating and
21 administrative agency working with the departments of natural
22 resources, revenue, transportation, and corrections, and the parks and
23 recreation commission in developing a biennial budget request for funds
24 for the various agencies' litter collection programs.

25 (2) Funds may be used to meet the needs of efficient and effective
26 litter collection and illegal dumping programs identified by the
27 various agencies. The department shall develop criteria for evaluating
28 the effectiveness and efficiency of the waste reduction, litter
29 control, and recycling programs being administered by the various
30 agencies listed in RCW 70.93.180, and shall distribute funds according
31 to the effectiveness and efficiency of those programs. In addition,
32 the department shall approve funding requests for efficient and
33 effective waste reduction, litter control, and recycling programs,
34 provide funds, and monitor the results of all agency programs.

35 (3) All agencies are responsible for reporting information on their
36 litter collection programs~~((7))~~ as requested by the department ~~((of~~

1 ecology. ~~Beginning in the year 2000, this information shall be~~
2 ~~provided to the department by March of even numbered years. In 1998,~~
3 ~~this information shall be provided by July 1st.~~

4 ~~(4) By December 1998, and in every even numbered year thereafter,~~
5 ~~the department shall provide a report to the legislature summarizing~~
6 ~~biennial waste reduction, litter control, and recycling activities by~~
7 ~~state agencies and submitting the coordinated litter budget request of~~
8 ~~all agencies)).~~

9 **Sec. 203.** RCW 70.93.250 and 2002 c 175 s 46 are each amended to
10 read as follows:

11 (1) The department shall provide funding to local units of
12 government to establish, conduct, and evaluate community restitution
13 and other programs for waste reduction, litter and illegal dump
14 cleanup, and recycling. Programs eligible for funding under this
15 section shall include, but not be limited to, programs established
16 pursuant to RCW 72.09.260.

17 (2) Funds may be offered for costs associated with community waste
18 reduction, litter cleanup and prevention, and recycling activities.
19 The funding program must be flexible, allowing local governments to use
20 funds broadly to meet their needs to reduce waste, control litter and
21 illegal dumping, and promote recycling. Local governments are required
22 to contribute resources or in-kind services. The department shall
23 evaluate funding requests from local government according to the same
24 criteria as those developed in RCW 70.93.220, provide funds according
25 to the effectiveness and efficiency of local government litter control
26 programs, and monitor the results of all local government programs
27 under this section.

28 (3) Local governments shall report information as requested by the
29 department in funding agreements entered into by the department and a
30 local government. ~~((The department shall report to the appropriate~~
31 ~~standing committees of the legislature by December of even numbered~~
32 ~~years on the effectiveness of local government waste reduction, litter,~~
33 ~~and recycling programs funded under this section.))~~

34 **Sec. 204.** RCW 70.95I.080 and 1986 c 37 s 1 are each amended to
35 read as follows:

36 ~~((By January 1, 1987, the state fire protection board, in~~

1 cooperation with)) The department ((of ecology,)) shall ((develop))
2 maintain, as necessary, a statewide standard for the placement of
3 above-ground tanks to collect used oil from private individuals for
4 recycling purposes.

5 **Sec. 205.** RCW 70.95J.025 and 1997 c 398 s 1 are each amended to
6 read as follows:

7 (1) The department shall establish annual fees to collect expenses
8 for issuing and administering biosolids permits under this chapter. An
9 initial fee schedule shall be established by rule and shall be adjusted
10 no more often than once every two years. This fee schedule applies to
11 all permits, regardless of date of issuance, and fees shall be assessed
12 prospectively. Fees shall be established in amounts to recover
13 expenses incurred by the department in processing permit applications
14 and modifications, reviewing related plans and documents, monitoring,
15 evaluating, conducting inspections, overseeing performance of delegated
16 program elements, providing technical assistance and supporting
17 overhead expenses that are directly related to these activities.

18 (2) The annual fee paid by a permittee for any permit issued under
19 this chapter shall be determined by the number of residences or
20 residential equivalents contributing to the permittee's biosolids
21 management system. If residences or residential equivalents cannot be
22 determined or reasonably estimated, fees shall be based on other
23 appropriate criteria.

24 (3) The biosolids permit account is created in the state treasury.
25 All receipts from fees under this section must be deposited into the
26 account. Moneys in the account may be spent only after appropriation.
27 Expenditures from the account may be used only for the purposes of
28 administering permits under this chapter.

29 ~~(4) ((The department shall present a biennial progress report on
30 the use of moneys from the biosolids permit account to the legislature.
31 The first report is due on or before December 31, 1998, and thereafter
32 on or before December 31st of odd-numbered years. The report shall
33 consist of information on fees collected, actual expenses incurred, and
34 anticipated expenses for the current and following fiscal years.~~

35 ~~(5))~~ The department shall work with the regulated community and
36 local health departments to study the feasibility of modifying the fee

1 schedule to support delegated local health departments and reduce local
2 health department fees paid by biosolids permittees.

3 **Sec. 206.** RCW 70.105.210 and 1989 1st ex.s. c 13 s 2 are each
4 amended to read as follows:

5 (~~By May 31, 1990,~~) The department shall (~~develop and adopt~~)
6 maintain criteria for the siting of hazardous waste management
7 facilities. These criteria will be part of the state hazardous waste
8 management plan as described in RCW 70.105.200. To the extent
9 practical, these criteria shall be designed to minimize the short-term
10 and long-term risks and costs that may result from hazardous waste
11 management facilities. These criteria may vary by type of facilities
12 and may consider natural site characteristics and engineered
13 protection. Criteria may be established for:

- 14 (1) Geology;
- 15 (2) Surface and groundwater hydrology;
- 16 (3) Soils;
- 17 (4) Flooding;
- 18 (5) Climatic factors;
- 19 (6) Unique or endangered flora and fauna;
- 20 (7) Transportation routes;
- 21 (8) Site access;
- 22 (9) Buffer zones;
- 23 (10) Availability of utilities and public services;
- 24 (11) Compatibility with existing uses of land;
- 25 (12) Shorelines and wetlands;
- 26 (13) Sole-source aquifers;
- 27 (14) Natural hazards; and
- 28 (15) Other factors as determined by the department.

29 **Sec. 207.** RCW 70.105.220 and 1992 c 17 s 1 are each amended to
30 read as follows:

31 (1) Each local government, or combination of contiguous local
32 governments, is directed to prepare a local hazardous waste plan which
33 shall be based on state guidelines and include (~~the following~~
34 ~~elements:~~

35 ~~(a)~~) a plan or program to manage moderate-risk wastes that are
36 generated or otherwise present within the jurisdiction. This element

1 shall include an assessment of the quantities, types, generators, and
2 fate of moderate-risk wastes in the jurisdiction. The purpose of this
3 element is to develop a system of managing moderate-risk waste,
4 appropriate to each local area, and to ensure protection of the
5 environment and public health((+)

6 ~~(b) A plan or program to provide for ongoing public involvement and
7 public education in regard to the management of moderate-risk waste.
8 This element shall provide information regarding:~~

9 ~~(i) The potential hazards to human health and the environment
10 resulting from improper use and disposal of the waste; and~~

11 ~~(ii) Proper methods of handling, reducing, recycling, and disposing
12 of the waste;~~

13 ~~(c) An inventory of all existing generators of hazardous waste and
14 facilities managing hazardous waste within the jurisdiction. This
15 inventory shall be based on data provided by the department;~~

16 ~~(d) A description of the public involvement process used in
17 developing the plan;~~

18 ~~(e) A description of the eligible zones designated in accordance
19 with RCW 70.105.225. However, the requirement to designate eligible
20 zones shall not be considered part of the local hazardous waste
21 planning requirements; and~~

22 ~~(f) Other elements as deemed appropriate by local government)).~~

23 (2) To the maximum extent practicable, the local hazardous waste
24 plan shall be coordinated with other hazardous materials-related plans
25 and policies in the jurisdiction.

26 (3) Local governments shall coordinate with those persons involved
27 in providing privately owned hazardous and moderate-risk waste
28 facilities and services as follows: If a local government determines
29 that a moderate-risk waste will be or is adequately managed by one or
30 more privately owned facilities or services at a reasonable price, the
31 local government shall take actions to encourage the use of that
32 private facility or service. Actions taken by a local government under
33 this subsection may include, but are not limited to, restricting or
34 prohibiting the land disposal of a moderate-risk waste at any transfer
35 station or land disposal facility within its jurisdiction.

36 (4)(a) The department shall ((prepare)) maintain guidelines for the
37 development of local hazardous waste plans. ((The guidelines shall be

1 prepared in consultation with local governments and shall be completed
2 by ~~December 31, 1986.~~) The guidelines shall include a list of
3 substances identified as hazardous household substances.

4 (b) (~~In preparing the guidelines under (a) of this subsection, the~~
5 ~~department shall review and assess information on pilot projects that~~
6 ~~have been conducted for moderate risk waste management.~~) The
7 department shall encourage (~~additional~~) pilot projects for moderate
8 risk water management as needed to provide information to improve and
9 update the guidelines.

10 (5) The department shall consult with retailers, trade
11 associations, public interest groups, and appropriate units of local
12 government to encourage the development of voluntary public education
13 programs on the proper handling of hazardous household substances.

14 (6) (~~Local hazardous waste plans shall be completed and submitted~~
15 ~~to the department no later than June 30, 1990.~~) Local (~~governments~~
16 ~~may from time to time amend the local plan~~) governments' hazardous
17 waste plans must be reviewed, and revised if necessary, at least as
18 often as is required of solid waste management plans by RCW
19 70.95.110(2).

20 (7) Each local government, or combination of contiguous local
21 governments, shall submit (~~its~~) local hazardous waste plan (~~or~~
22 ~~amendments thereto~~) revisions to the department. The department shall
23 approve or disapprove local hazardous waste (~~plans or amendments by~~
24 ~~December 31, 1990, or~~) plan revision within ninety days of
25 submission(~~, whichever is later~~). The department shall approve a
26 local hazardous waste plan revision if it determines that the plan is
27 consistent with this chapter and the guidelines under subsection (4) of
28 this section. If approval is denied, the department shall submit its
29 objections to the local government within ninety days of submission.
30 (~~However, for plans submitted between January 1, 1990, and June 30,~~
31 ~~1990, the department shall have one hundred eighty days to submit its~~
32 ~~objections.~~) No local government is eligible for grants under RCW
33 70.105.235 for implementing a local hazardous waste plan unless the
34 plan for that jurisdiction has been approved by the department.

35 (8) Each local government, or combination of contiguous local
36 governments, shall implement the local hazardous waste plan for its
37 jurisdiction (~~by December 31, 1991~~).

1 (9) The department may waive the specific requirements of this
2 section for any local government if such local government demonstrates
3 to the satisfaction of the department that the objectives of the
4 planning requirements have been met.

5 **Sec. 208.** RCW 90.80.150 and 2001 c 237 s 21 are each amended to
6 read as follows:

7 When so requested, the department shall report ((biennially by
8 December 31st of each even-numbered year)) to the appropriate
9 committees of the legislature ((on)), consistent with RCW 43.01.036,
10 regarding the boards formed or sought to be formed under the authority
11 of this chapter, the transfer applications reviewed and other
12 activities conducted by the boards, and the funding of such boards.
13 Conservancy boards must provide information regarding their activities
14 to the department to assist the department in preparing the report.

15 **Sec. 209.** RCW 90.54.160 and 1984 c 83 s 1 are each amended to read
16 as follows:

17 When so requested, the department of ecology shall report to the
18 legislature ((on the last working day of December of 1984, 1985, and
19 1986, and thereafter as deemed appropriate by the department, on)),
20 consistent with RCW 43.01.036, regarding dam facilities that exhibit
21 safety deficiencies sufficient to pose a significant threat to the
22 safety of life and property. The report shall identify the owner or
23 owners of such facilities, detail the owner's ability and attitude
24 towards correcting such deficiencies, and provide an estimate of the
25 cost of correcting the deficiencies if a study has been completed.

26 **Sec. 210.** RCW 90.44.052 and 2003 c 307 s 2 are each amended to
27 read as follows:

28 (1) On a pilot project basis, the use of water for domestic use in
29 clustered residential developments is exempt as described in subsection
30 (2) of this section from the permit requirements of RCW 90.44.050 in
31 Whitman county. The department must review the use of water under this
32 section and its impact on water resources in the county and when
33 requested to do so report to the legislature ((by December 31st of each
34 even-numbered year through 2016 regarding its review)), consistent with
35 RCW 43.01.036.

1 (2) For the pilot project, the domestic use of water for a
2 clustered residential development is exempt from the permit
3 requirements of RCW 90.44.050 for an amount of water that is not more
4 than one thousand two hundred gallons a day per residence for a
5 residential development that has an overall density equal to or less
6 than one residence per ten acres and a minimum of six homes.

7 (3) No new right to use water may be established for a clustered
8 development under this section where the first residential use of water
9 for the development begins after December 31, 2015.

10 **Sec. 211.** RCW 90.90.030 and 2006 c 6 s 4 are each amended to read
11 as follows:

12 (1) The department of ecology may enter into voluntary regional
13 agreements for the purpose of providing new water for out-of-stream
14 use, streamlining the application process, and protecting instream
15 flow.

16 (2) Such agreements shall ensure that:

17 (a) For water rights issued from the Columbia river mainstem, there
18 is no negative impact on Columbia river mainstem instream flows in the
19 months of July and August as a result of the new appropriations issued
20 under the agreement;

21 (b) For water rights issued from the lower Snake river mainstem,
22 there is no negative impact on Snake river mainstem instream flows from
23 April through August as a result of the new appropriations issued under
24 the agreement; and

25 (c) Efforts are made to harmonize such agreements with watershed
26 plans adopted under the authority of chapter 90.82 RCW that are
27 applicable to the area covered by the agreement.

28 (3) The protection of instream flow as set forth in subsection (2)
29 of this section is adequate for purposes of mitigating instream flow
30 impacts resulting from any appropriations for out-of-stream use made
31 under a voluntary regional agreement, and the only applicable
32 consultation provisions under state law regarding instream flow impacts
33 shall be those set forth in subsection (4) of this section.

34 (4) Before executing a voluntary agreement under this section, the
35 department of ecology shall:

36 (a) Provide a sixty-day period for consultation with county
37 legislative authorities and watershed planning groups with jurisdiction

1 over the area where the water rights included in the agreement are
2 located, the department of fish and wildlife, and affected tribal
3 governments, and federal agencies. The department of fish and wildlife
4 shall provide written comments within that time period. The
5 consultation process for voluntary regional agreements developed under
6 the provisions of this section is deemed adequate for the issuance of
7 new water rights provided for in this section and satisfies all
8 consultation requirements under state law related to the issuance of
9 new water rights; and

10 (b) Provide a thirty-day public review and comment period for a
11 draft agreement, and publish a summary of any public comments received.
12 The thirty-day review period shall not begin until after the department
13 of ecology has concluded its consultation under (a) of this subsection
14 and the comments that have been received by the department are made
15 available to the public.

16 (5) The provisions of subsection (4) of this section satisfy all
17 applicable consultation requirements under state law.

18 (6) The provisions of this section and any voluntary regional
19 agreements developed under such provisions may not be relied upon by
20 the department of ecology as a precedent, standard, or model that must
21 be followed in any other voluntary regional agreements.

22 (7) Nothing in this section may be interpreted or administered in
23 a manner that precludes the processing of water right applications
24 under chapter 90.03 or 90.44 RCW that are not included in a voluntary
25 regional agreement.

26 (8) Nothing in this section may be interpreted or administered in
27 a manner that impairs or diminishes a valid water right or a habitat
28 conservation plan approved for purposes of compliance with the federal
29 endangered species act.

30 (9) The department of ecology shall monitor and evaluate the water
31 allocated to instream and out-of-stream uses under this section,
32 evaluate the program, and provide ~~((an interim report to the
33 appropriate committees of the legislature by June 30, 2008.))~~ a final
34 report ~~((shall be provided to the appropriate committees of))~~ to
35 the legislature consistent with RCW 43.01.036 by June 30, 2011.

36 (10) If the department of ecology executes a voluntary agreement
37 under this section that includes water rights appropriated from the

1 lower Snake river mainstem, the department shall develop aggregate data
2 in accordance with the provisions of RCW 90.90.050 for the lower Snake
3 river mainstem.

4 (11) Any agreement entered into under this section shall remain in
5 full force and effect through the term of the agreement regardless of
6 the expiration of this section.

7 (12) The definitions in this subsection apply to this section and
8 RCW 90.90.050, and may only be used for purposes of implementing these
9 sections.

10 (a) "Columbia river mainstem" means all water in the Columbia river
11 within the ordinary high water mark of the main channel of the Columbia
12 river between the border of the United States and Canada and the
13 Bonneville dam, and all groundwater within one mile of the high water
14 mark.

15 (b) "Lower Snake river mainstem" means all water in the lower Snake
16 river within the ordinary high water mark of the main channel of the
17 lower Snake river from the head of Ice Harbor pool to the confluence of
18 the Snake and Columbia rivers, and all groundwater within one mile of
19 the high water mark.

20 (13) This section expires June 30, 2012.

21 **Sec. 212.** RCW 90.90.040 and 2006 c 6 s 5 are each amended to read
22 as follows:

23 (1) To support the development of new water supplies in the
24 Columbia river and to protect instream flow, the department of ecology
25 shall work with all interested parties, including interested county
26 legislative authorities and watershed planning groups, adjacent to the
27 Columbia river, and affected tribal governments, to develop a Columbia
28 river water supply inventory and a long-term water supply and demand
29 forecast. The inventory must include:

30 (a) A list of conservation projects that have been implemented
31 under this chapter and the amount of water conservation they have
32 achieved; and

33 (b) A list of potential water supply and storage projects in the
34 Columbia river basin, including estimates of:

- 35 (i) Cost per acre-foot;
36 (ii) Benefit to fish and other instream needs;
37 (iii) Benefit to out-of-stream needs; and

1 (iv) Environmental and cultural impacts.

2 (2) The department of ecology shall ~~((complete the first Columbia~~
3 ~~river water supply inventory by November 15, 2006, and shall))~~ update
4 the inventory annually ~~((thereafter))~~.

5 (3) The department of ecology shall ~~((complete the first Columbia~~
6 ~~river long term water supply and demand forecast by November 15, 2006,~~
7 ~~and shall))~~ update the ~~((report every five years thereafter))~~ Columbia
8 river long-term water supply and demand forecast as necessary.

9 **Sec. 213.** RCW 90.82.043 and 2007 c 445 s 6 are each amended to
10 read as follows:

11 (1) Within one year of accepting funding under RCW 90.82.040(2)(e),
12 the planning unit must complete a detailed implementation plan.
13 Submittal of a detailed implementation plan to the department is a
14 condition of receiving grants for the second and all subsequent years
15 of the phase four grant.

16 (2) Each implementation plan must contain strategies to provide
17 sufficient water for: (a) Production agriculture; (b) commercial,
18 industrial, and residential use; and (c) instream flows. Each
19 implementation plan must contain timelines to achieve these strategies
20 and interim milestones to measure progress.

21 (3) The implementation plan must clearly define coordination and
22 oversight responsibilities; any needed interlocal agreements, rules, or
23 ordinances; any needed state or local administrative approvals and
24 permits that must be secured; and specific funding mechanisms.

25 (4) In developing the implementation plan, the planning unit must
26 consult with other entities planning in the watershed management area
27 and identify and seek to eliminate any activities or policies that are
28 duplicative or inconsistent.

29 (5)(a) ~~((By December 1, 2003, and by December 1st of each~~
30 ~~subsequent year))~~ When so requested, the director of the department
31 shall report to the ~~((appropriate legislative standing committees))~~
32 legislature, consistent with RCW 43.01.036, regarding statutory changes
33 necessary to enable state agency approval or permit decision making
34 needed to implement a plan approved under this chapter.

35 (b) ~~((Beginning with the December 1, 2007, report, and then every~~
36 ~~two years thereafter,))~~ The director shall include in each report, when
37 appropriate, the extent to which reclaimed water has been identified in

1 the watershed plans as potential sources or strategies to meet future
2 water needs, and provisions in any watershed implementation plans that
3 discuss barriers to implementation of the water reuse elements of those
4 plans. The department's report shall include an estimate of the
5 potential cost of reclaimed water facilities and identification of
6 potential sources of funding for them.

7 **Sec. 214.** RCW 70.107.030 and 1974 ex.s. c 183 s 3 are each amended
8 to read as follows:

9 The department is empowered as follows:

10 (1) The department(~~(, after consultation with state agencies~~
11 ~~expressing an interest therein,)) shall ((adopt, by rule,)) maintain
12 rules relating to maximum noise levels permissible in identified
13 environments in order to protect against adverse affects of noise on
14 the health, safety, and welfare of the people, the value of property,
15 and the quality of environment(~~(: PROVIDED, That in so doing))~~). The
16 department shall take ((also)) into account the economic and practical
17 benefits to be derived from the use of various products in each such
18 environment, whether the source of the noise or the use of such
19 products in each environment is permanent or temporary in nature, and
20 the state of technology relative to the control of noise generated by
21 all such sources of the noise or the products.~~

22 (2) (~~At any time after the adoption of maximum noise levels under~~
23 ~~subsection (1) of this section)) The department ((shall)) may, in
24 consultation with state agencies and local governments expressing an
25 interest ((therein)), adopt rules, consistent with the Federal Noise
26 Control Act of 1972 (86 Stat. 1234; 42 U.S.C. Sec. 4901-4918 and 49
27 U.S.C. Sec. 1431), for noise abatement and control in the state
28 designed to achieve compliance with the noise level adopted in
29 subsection (1) of this section, including reasonable implementation
30 schedules where appropriate, to ((insure)) ensure that the maximum
31 noise levels are not exceeded and that application of the best
32 practicable noise control technology and practice is provided. These
33 rules may include, but shall not be limited to:~~

34 (a) Performance standards setting allowable noise limits for the
35 operation of products which produce noise;

36 (b) Use standards regulating, as to time and place, the operation
37 of individual products which produce noise above specified levels

1 considering frequency spectrum and duration(~~(:—PROVIDED,)~~). However,
2 the rules shall provide for temporarily exceeding those standards for
3 stated purposes; and

4 (c) Public information requirements dealing with disclosure of
5 levels and characteristics of noise produced by products.

6 (3) The department may, as desirable in the performance of its
7 duties under this chapter, conduct surveys, studies, and public
8 education programs, and enter into contracts.

9 (4) The department is authorized to apply for and accept moneys
10 from the federal government and other sources to assist in the
11 implementation of this chapter.

12 (5) The legislature recognizes that the operation of motor vehicles
13 on public highways as defined in RCW (~~(46.09.020)~~) 46.09.310
14 contributes significantly to environmental noise levels and directs the
15 department, in exercising the rule-making authority under the
16 provisions of this section, to give first priority to the adoption of
17 motor vehicle noise performance standards.

18 (~~(6) Noise levels and rules adopted by the department pursuant to~~
19 ~~this chapter shall not be effective prior to March 31, 1975.)~~)

20 **Sec. 215.** RCW 70.107.060 and 1987 c 103 s 1 are each amended to
21 read as follows:

22 (1) Nothing in this chapter shall be construed to deny, abridge, or
23 alter alternative rights of action or remedies in equity or under
24 common law or statutory law, criminal or civil.

25 (2) Nothing in this chapter shall deny, abridge, or alter any
26 powers, duties, and functions relating to noise abatement and control
27 (~~(now or hereafter)~~) vested in any state agency, nor shall this chapter
28 be construed as granting jurisdiction over the industrial safety and
29 health of employees in work places of the state(~~(, as now or~~
30 ~~hereafter)~~) vested in the department of labor and industries.

31 (3) Standards and other control measures adopted by the department
32 under this chapter shall be exclusive (~~(except as hereinafter~~
33 ~~provided)~~). However, a local government may impose limits or control
34 sources differing from those adopted or controlled by the department
35 upon a finding that such requirements are necessitated by special
36 conditions. (~~(Noise limiting requirements of local government which~~
37 ~~differ from those adopted or controlled by the department shall be~~

1 ~~invalid unless first approved by the department. If the department of~~
2 ~~ecology fails to approve or disapprove standards submitted by local~~
3 ~~governmental jurisdictions within ninety days of submittal, such~~
4 ~~standards shall be deemed approved. If disapproved, the local~~
5 ~~government may appeal the decision to the pollution control hearings~~
6 ~~board which shall decide the appeal on the basis of the provisions of~~
7 ~~this chapter, and the applicable regulations, together with such~~
8 ~~briefs, testimony, and oral argument as the hearings board in its~~
9 ~~discretion may require. The department determination of whether to~~
10 ~~grant approval shall depend on the reasonableness and practicability of~~
11 ~~compliance. Particular attention shall be given to stationary sources~~
12 ~~located near jurisdictional boundaries, and temporary noise producing~~
13 ~~operations which may operate across one or more jurisdictional~~
14 ~~boundaries.))~~

15 (4) In carrying out the rule-making authority provided in this
16 chapter, the department shall follow the procedures of the
17 administrative procedure act, chapter 34.05 RCW, and shall take care
18 that no rules adopted purport to exercise any powers preempted by the
19 United States under federal law.

20 **Sec. 216.** RCW 70.95.290 and 1988 c 184 s 3 are each amended to
21 read as follows:

22 (1) The evaluation of the solid waste stream required in RCW
23 70.95.280 shall include the following elements:

24 (a) The department shall determine which management method for each
25 category of solid waste will have the least environmental impact; and

26 (b) The department shall evaluate the costs of various management
27 options for each category of solid waste, including a review of market
28 availability, and shall take into consideration the economic impact on
29 affected parties;

30 (c) Based on the results of (a) and (b) of this subsection, the
31 department shall determine the best management for each category of
32 solid waste. Different management methods for the same categories of
33 waste may be developed for different parts of the state.

34 (2) The department shall give priority to evaluating categories of
35 solid waste that, in relation to other categories of solid waste,
36 comprise a large volume of the solid waste stream or present a high

1 potential of harm to human health. ((At a minimum the following
2 categories of waste shall be evaluated:

3 (a) ~~By January 1, 1989, yard waste and other biodegradable
4 materials, paper products, disposable diapers, and batteries; and~~

5 (b) ~~By January 1, 1990, metals, glass, plastics, styrofoam or rigid
6 lightweight cellular polystyrene, and tires.))~~

7 **Sec. 217.** RCW 70.95C.220 and 2005 c 274 s 338 are each amended to
8 read as follows:

9 (1) The department may review a plan, executive summary, or an
10 annual progress report to determine whether the plan, executive
11 summary, or annual progress report is adequate pursuant to the rules
12 developed under this section and with the provisions of RCW 70.95C.200.
13 In determining the adequacy of any plan, executive summary, or annual
14 progress report, the department shall base its determination solely on
15 whether the plan, executive summary, or annual progress report is
16 complete and prepared in accordance with the provisions of RCW
17 70.95C.200.

18 (2) Plans developed under RCW 70.95C.200 shall be retained at the
19 facility of the hazardous substance user or hazardous waste generator
20 preparing a plan. The plan is not a public record under the public
21 records act, chapter 42.56 RCW. A user or generator required to
22 prepare a plan shall permit the director or a representative of the
23 director to review the plan to determine its adequacy. No visit made
24 by the director or a representative of the director to a facility for
25 the purposes of this subsection may be regarded as an inspection or
26 investigation, and no notices or citations may be issued, nor any civil
27 penalty assessed, upon such a visit.

28 (3) If a hazardous substance user or hazardous waste generator
29 fails to complete an adequate plan, executive summary, or annual
30 progress report, the department shall notify the user or generator of
31 the inadequacy, identifying specific deficiencies. For the purposes of
32 this section, a deficiency may include failure to develop a plan,
33 failure to submit an executive summary pursuant to the schedule
34 provided in RCW 70.95C.200(5), and failure to submit an annual progress
35 report pursuant to the rules developed under RCW 70.95C.200(6). The
36 department shall specify a reasonable time frame, of not less than

1 ninety days, within which the user or generator shall complete a
2 modified plan, executive summary, or annual progress report addressing
3 the specified deficiencies.

4 (4) If the department determines that a modified plan, executive
5 summary, or annual progress report is inadequate, the department may,
6 within its discretion, either require further modification or enter an
7 order pursuant to subsection (5)(a) of this section.

8 (5)(a) If, after having received a list of specified deficiencies
9 from the department, a hazardous substance user or hazardous waste
10 generator required to prepare a plan fails to complete modification of
11 a plan, executive summary, or annual progress report within the time
12 period specified by the department, the department may enter an order
13 pursuant to chapter 34.05 RCW finding the user or generator not in
14 compliance with the requirements of RCW 70.95C.200. When the order is
15 final, the department shall (~~notify the department of revenue to~~)
16 charge a penalty fee. The penalty fee shall be the greater of one
17 thousand dollars or three times the amount of the user's or generator's
18 previous year's fee, in addition to the current year's fee. If no fee
19 was assessed the previous year, the penalty shall be the greater of one
20 thousand dollars or three times the amount of the current year's fee.
21 The penalty assessed under this subsection shall be collected each year
22 after the year for which the penalty was assessed until an adequate
23 plan or executive summary is completed.

24 (b) If a hazardous substance user or hazardous waste generator
25 required to prepare a plan fails to complete an adequate plan,
26 executive summary, or annual progress report after the department has
27 levied against the user or generator the penalty provided in (a) of
28 this subsection, the user or generator shall be required to pay a
29 surcharge to the department whenever the user or generator disposes of
30 a hazardous waste at any hazardous waste incinerator or hazardous waste
31 landfill facility located in Washington state, until a plan, executive
32 summary, or annual progress report is completed and determined to be
33 adequate by the department. The surcharge shall be equal to three
34 times the fee charged for disposal. The department shall furnish the
35 incinerator and landfill facilities in this state with a list of
36 environmental protection agency/state identification numbers of the
37 hazardous waste generators that are not in compliance with the
38 requirements of RCW 70.95C.200.

1 **Sec. 218.** RCW 42.56.270 and 2009 c 394 s 3 are each amended to
2 read as follows:

3 The following financial, commercial, and proprietary information is
4 exempt from disclosure under this chapter:

5 (1) Valuable formulae, designs, drawings, computer source code or
6 object code, and research data obtained by any agency within five years
7 of the request for disclosure when disclosure would produce private
8 gain and public loss;

9 (2) Financial information supplied by or on behalf of a person,
10 firm, or corporation for the purpose of qualifying to submit a bid or
11 proposal for (a) a ferry system construction or repair contract as
12 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
13 or improvement as required by RCW 47.28.070;

14 (3) Financial and commercial information and records supplied by
15 private persons pertaining to export services provided under chapters
16 43.163 and 53.31 RCW, and by persons pertaining to export projects
17 under RCW 43.23.035;

18 (4) Financial and commercial information and records supplied by
19 businesses or individuals during application for loans or program
20 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
21 43.168 RCW, or during application for economic development loans or
22 program services provided by any local agency;

23 (5) Financial information, business plans, examination reports, and
24 any information produced or obtained in evaluating or examining a
25 business and industrial development corporation organized or seeking
26 certification under chapter 31.24 RCW;

27 (6) Financial and commercial information supplied to the state
28 investment board by any person when the information relates to the
29 investment of public trust or retirement funds and when disclosure
30 would result in loss to such funds or in private loss to the providers
31 of this information;

32 (7) Financial and valuable trade information under RCW 51.36.120;

33 (8) ~~((Financial, commercial, operations, and technical and research~~
34 ~~information and data submitted to or obtained by the clean Washington~~
35 ~~center in applications for, or delivery of, program services under~~
36 ~~chapter 70.95H RCW;~~

37 (9)) Financial and commercial information requested by the public

1 stadium authority from any person or organization that leases or uses
2 the stadium and exhibition center as defined in RCW 36.102.010;

3 ~~((+10+))~~ (9)(a) Financial information, including but not limited to
4 account numbers and values, and other identification numbers supplied
5 by or on behalf of a person, firm, corporation, limited liability
6 company, partnership, or other entity related to an application for a
7 horse racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
8 license, gambling license, or lottery retail license;

9 (b) Internal control documents, independent auditors' reports and
10 financial statements, and supporting documents: (i) Of house-banked
11 social card game licensees required by the gambling commission pursuant
12 to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes
13 with an approved tribal/state compact for class III gaming;

14 ~~((+11+))~~ (10) Proprietary data, trade secrets, or other information
15 that relates to: (a) A vendor's unique methods of conducting business;
16 (b) data unique to the product or services of the vendor; or (c)
17 determining prices or rates to be charged for services, submitted by
18 any vendor to the department of social and health services for purposes
19 of the development, acquisition, or implementation of state purchased
20 health care as defined in RCW 41.05.011;

21 ~~((+12+))~~ (11)(a) When supplied to and in the records of the
22 department of ~~((community, trade, and economic development))~~ commerce:

23 (i) Financial and proprietary information collected from any person
24 and provided to the department of ~~((community, trade, and economic
25 development))~~ commerce pursuant to RCW 43.330.050(8); and

26 (ii) Financial or proprietary information collected from any person
27 and provided to the department of ~~((community, trade, and economic
28 development))~~ commerce or the office of the governor in connection with
29 the siting, recruitment, expansion, retention, or relocation of that
30 person's business and until a siting decision is made, identifying
31 information of any person supplying information under this subsection
32 and the locations being considered for siting, relocation, or expansion
33 of a business;

34 (b) When developed by the department of ~~((community, trade, and
35 economic development))~~ commerce based on information as described in
36 (a)(i) of this subsection, any work product is not exempt from
37 disclosure;

1 (c) For the purposes of this subsection, "siting decision" means
2 the decision to acquire or not to acquire a site;

3 (d) If there is no written contact for a period of sixty days to
4 the department of (~~community, trade, and economic development~~)
5 commerce from a person connected with siting, recruitment, expansion,
6 retention, or relocation of that person's business, information
7 described in (a)(ii) of this subsection will be available to the public
8 under this chapter;

9 ((+13+)) (12) Financial and proprietary information submitted to or
10 obtained by the department of ecology or the authority created under
11 chapter 70.95N RCW to implement chapter 70.95N RCW;

12 ((+14+)) (13) Financial, commercial, operations, and technical and
13 research information and data submitted to or obtained by the life
14 sciences discovery fund authority in applications for, or delivery of,
15 grants under chapter 43.350 RCW, to the extent that such information,
16 if revealed, would reasonably be expected to result in private loss to
17 the providers of this information;

18 ((+15+)) (14) Financial and commercial information provided as
19 evidence to the department of licensing as required by RCW 19.112.110
20 or 19.112.120, except information disclosed in aggregate form that does
21 not permit the identification of information related to individual fuel
22 licensees;

23 ((+16+)) (15) Any production records, mineral assessments, and
24 trade secrets submitted by a permit holder, mine operator, or landowner
25 to the department of natural resources under RCW 78.44.085;

26 ((+17+)) (16)(a) Farm plans developed by conservation districts,
27 unless permission to release the farm plan is granted by the landowner
28 or operator who requested the plan, or the farm plan is used for the
29 application or issuance of a permit;

30 (b) Farm plans developed under chapter 90.48 RCW and not under the
31 federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to
32 RCW 42.56.610 and 90.64.190;

33 ((+18+)) (17) Financial, commercial, operations, and technical and
34 research information and data submitted to or obtained by a health
35 sciences and services authority in applications for, or delivery of,
36 grants under RCW 35.104.010 through 35.104.060, to the extent that such
37 information, if revealed, would reasonably be expected to result in
38 private loss to providers of this information;

1 (b) An individual with a permanent disability who is unable to walk
2 without the use of assistance from a brace, cane, crutch, wheelchair,
3 scooter, walker, or other assistive device;

4 (c) An individual who has a cardiac condition to the extent that
5 the individual's functional limitations are severe;

6 (d) An individual who is restricted by lung disease to the extent
7 that the individual's functional limitations are severe;

8 (e) An individual who is totally blind or visually impaired; or

9 (f) An individual with a permanent disability with upper or lower
10 extremity impairments who does not have the use of one or both upper or
11 lower extremities.

12 (3) The members of the advisory committee are appointed for a four-
13 year term. If a vacancy occurs on the advisory committee prior to the
14 expiration of a term, the commission must appoint a replacement within
15 sixty days to complete the term.

16 (4) The advisory committee must meet at least semiannually, and may
17 meet at other times as requested by a majority of the advisory
18 committee members for any express purpose that directly relates to the
19 duties set forth in subsection (1) of this section. A majority of
20 members currently serving on the advisory committee constitutes a
21 quorum. The department must provide staff support for all official
22 advisory committee meetings.

23 (5) Each member of the advisory committee shall serve without
24 compensation but may be reimbursed for travel expenses as authorized in
25 RCW 43.03.050 and 43.03.060.

26 (6) The members of the advisory committee, or individuals acting on
27 their behalf, are immune from civil liability for official acts
28 performed in the course of their duties.

29 ~~((7) Beginning December 1, 2011, and again at least once every
30 four years, the commission shall present a report to the appropriate
31 legislative committees detailing the effectiveness of the advisory
32 committee including, but not limited to, the participation levels,
33 general interest, quality of advice, and recommendations as to the
34 advisory committee's continuance or modification.))~~

35 **Sec. 502.** RCW 77.12.068 and 2008 c 225 s 4 are each amended to
36 read as follows:

37 The department and the state parks and recreation commission

1 ((shall)) may disseminate information about RCW 77.15.740, whale and
2 wildlife viewing guidelines, and other responsible wildlife viewing
3 messages to educate Washington's citizens on how to reduce the risk of
4 disturbing southern resident orca whales. ((The department and the
5 state parks and recreation commission must, at minimum, disseminate))
6 This information may be disseminated on ((their)) the agency internet
7 sites ((and)), through appropriate agency publications, brochures, and
8 through other information sources deemed appropriate by the two
9 agencies. The department and the state parks and recreation commission
10 ((shall)) should also attempt to reach the state's boating community by
11 coordinating with appropriate state and nongovernmental entities to
12 provide this information at marinas, boat shows, boat dealers, during
13 boating safety training courses, and in conjunction with vessel
14 registration or licensing.

15 **Sec. 503.** RCW 77.12.702 and 2007 c 442 s 2 are each amended to
16 read as follows:

17 (1) The department is directed to develop and implement a rockfish
18 research and stock assessment program. Using funds from the rockfish
19 research account created in subsection (2) of this section, the
20 department must conduct Puget Sound basin and coastal surveys with new
21 and existing technology to estimate the current abundance and future
22 recovery of rockfish populations and other groundfish species. The
23 stock assessment must include an evaluation of the potential for marine
24 fish enhancement. ((Beginning December 2008, and every two years
25 thereafter,)) When so requested, the department shall report to ((the
26 appropriate committees of)) the legislature, consistent with RCW
27 43.01.036, on the status of the stock assessment program.

28 (2) The rockfish research account is created in the custody of the
29 state treasurer. All receipts from surcharges assessed on commercial
30 and recreational fishing licenses for the purposes of rockfish research
31 must be deposited into the account. Expenditures from the account may
32 be used only for rockfish research, including stock assessments. Only
33 the director of the department or the director's designee may authorize
34 expenditures from the account. The account is subject to allotment
35 procedures under chapter 43.88 RCW, but an appropriation is not
36 required for expenditures.

1 **Sec. 504.** RCW 77.12.755 and 2003 c 311 s 10 are each amended to
2 read as follows:

3 In coordination with the department of natural resources and lead
4 entity groups, the department must establish a ranked inventory of fish
5 passage barriers on land owned by small forest landowners based on the
6 principle of fixing the worst first within a watershed consistent with
7 the fish passage priorities of the forest and fish report. The
8 department shall first gather and synthesize all available existing
9 information about the locations and impacts of fish passage barriers in
10 Washington. This information must include, but not be limited to, the
11 most recently available limiting factors analysis conducted pursuant to
12 RCW 77.85.060(2), the stock status information contained in the
13 department (~~(of fish and wildlife)~~) salmonid stock inventory (SASSI),
14 the salmon and steelhead habitat inventory and assessment project
15 (SSHIAP), and any comparable science-based assessment when available.
16 The inventory of fish passage barriers must be kept reasonably current
17 (~~(and at a minimum be updated by the beginning of each calendar year)~~)
18 as the director of the department determines funding allows. Nothing
19 in this section grants the department or others additional right of
20 entry onto private property.

21 **Sec. 505.** RCW 77.12.820 and 2009 c 333 s 52 are each amended to
22 read as follows:

23 The eastern Washington pheasant enhancement account is created in
24 the custody of the state treasurer. All receipts under RCW 77.12.810
25 must be deposited in the account. Moneys in the account are subject to
26 legislative appropriation and shall be used for the purpose of funding
27 the eastern Washington pheasant enhancement program. The department
28 may use moneys from the account to improve pheasant habitat or to
29 purchase or produce pheasants. The department must continue to release
30 rooster pheasants in eastern Washington. The eastern Washington
31 pheasant enhancement account funds must not be used for the purchase of
32 land. The account may be used to offer grants to improve pheasant
33 habitat on public or private lands that are open to public hunting.
34 The department may enter partnerships with private landowners,
35 nonprofit corporations, cooperative groups, and federal or state
36 agencies for the purposes of pheasant habitat enhancement in areas that
37 will be available for public hunting. The department shall (~~submit an~~

1 ~~annual report to the appropriate committees of the legislature by~~
2 ~~December 1st))~~ make information regarding the department's eastern
3 Washington pheasant activities available upon request.

4 **Sec. 506.** RCW 77.60.130 and 2007 c 341 s 59 are each amended to
5 read as follows:

6 (1) The aquatic nuisance species committee is created for the
7 purpose of fostering state, federal, tribal, and private cooperation on
8 aquatic nuisance species issues. The mission of the committee is to
9 minimize the unauthorized or accidental introduction of nonnative
10 aquatic species and give special emphasis to preventing the
11 introduction and spread of aquatic nuisance species. The term "aquatic
12 nuisance species" means a nonnative aquatic plant or animal species
13 that threatens the diversity or abundance of native species, the
14 ecological stability of infested waters, or commercial, agricultural,
15 or recreational activities dependent on such waters.

16 (2) The committee consists of representatives from each of the
17 following state agencies: Department of fish and wildlife, department
18 of ecology, department of agriculture, department of health, department
19 of natural resources, Puget Sound partnership, state patrol, state
20 noxious weed control board, and Washington sea grant program. The
21 committee shall encourage and solicit participation by: Federally
22 recognized tribes of Washington, federal agencies, Washington
23 conservation organizations, environmental groups, and representatives
24 from industries that may either be affected by the introduction of an
25 aquatic nuisance species or that may serve as a pathway for their
26 introduction.

27 (3) The committee has the following duties:

28 (a) Periodically revise the state of Washington aquatic nuisance
29 species management plan, originally published in June 1998;

30 (b) Make recommendations to the legislature on statutory provisions
31 for classifying and regulating aquatic nuisance species;

32 (c) Recommend to the state noxious weed control board that a plant
33 be classified under the process designated by RCW 17.10.080 as an
34 aquatic noxious weed;

35 (d) Coordinate education, research, regulatory authorities,
36 monitoring and control programs, and participate in regional and
37 national efforts regarding aquatic nuisance species; and

1 (e) Consult with representatives from industries and other
2 activities that may serve as a pathway for the introduction of aquatic
3 nuisance species to develop practical strategies that will minimize the
4 risk of new introductions(~~(; and~~

5 ~~(f) Prepare a biennial report to the legislature with the first~~
6 ~~report due by December 1, 2001, making recommendations for better~~
7 ~~accomplishing the purposes of this chapter, and listing the~~
8 ~~accomplishments of this chapter to date)).~~

9 (4) The committee shall accomplish its duties through the authority
10 and cooperation of its member agencies. Implementation of all plans
11 and programs developed by the committee shall be through the member
12 agencies and other cooperating organizations.

13 **Sec. 507.** RCW 77.95.020 and 1995 1st sp.s. c 2 s 34 are each
14 amended to read as follows:

15 (1) The commission shall develop long-term regional policy
16 statements regarding the salmon fishery resources before December 1,
17 1985. The commission shall consider the following in formulating and
18 updating regional policy statements:

- 19 (a) Existing resource needs;
- 20 (b) Potential for creation of new resources;
- 21 (c) Successful existing programs, both within and outside the
22 state;
- 23 (d) Balanced utilization of natural and hatchery production;
- 24 (e) Desires of the fishing interest;
- 25 (f) Need for additional data or research;
- 26 (g) Federal court orders; and
- 27 (h) Salmon advisory council recommendations.

28 (2) The commission shall review and update each policy statement
29 (~~(at least once each year))~~ as needed.

30 **Sec. 508.** RCW 77.95.190 and 2010 1st sp.s. c 7 s 84 are each
31 amended to read as follows:

32 The department (~~(shall))~~ may field test coho and chinook salmon
33 remote site incubators. The purpose of field testing efforts shall be
34 to gather conclusive scientific data on the effectiveness of coho and
35 chinook remote site incubators.

1 **Sec. 509.** RCW 77.95.200 and 2009 c 333 s 29 are each amended to
2 read as follows:

3 (1) The department (~~shall~~) may develop and implement a program
4 utilizing remote site incubators in Washington (~~state~~). If used, the
5 program (~~shall~~) must identify sites in tributaries that are suitable
6 for reestablishing self-sustaining, locally adapted populations of
7 coho, chum, or chinook salmon. The initial selection of sites shall be
8 updated annually.

9 (2) The department may only approve a remote site incubator project
10 if the department deems it is consistent with the conservation of wild
11 salmon and trout. The department shall only utilize appropriate
12 salmonid eggs in remote site incubators, and may acquire eggs by gift
13 or purchase.

14 (3) The department shall depend chiefly upon volunteer efforts to
15 implement (~~the~~) a remote site incubator program through volunteer
16 cooperative projects and the regional fisheries enhancement groups.
17 The department may prioritize remote site incubator projects within
18 regional enhancement areas.

19 (4) The department may purchase remote site incubators and may use
20 agency employees to construct remote site incubators.

21 (5) The department (~~shall~~) may investigate the use of the remote
22 site incubator technology for the production of warm water fish.

23 (6) (~~Annual~~) Reports on the progress of the program shall be
24 provided to the fish and wildlife commission as requested.

25 **Sec. 510.** RCW 77.95.230 and 1989 c 336 s 2 are each amended to
26 read as follows:

27 The director shall determine the cost of operating all state-funded
28 salmon production facilities at full capacity and shall provide this
29 information with the department's biennial budget request if so
30 requested by the office of financial management.

31 NEW SECTION. **Sec. 511.** The following acts or parts of acts are
32 each repealed:

33 (1) RCW 77.95.140 (Skagit river salmon recovery plan) and 1995 1st
34 sp.s. c 2 s 41, 1993 sp.s. c 2 s 48, & 1992 c 88 s 1;

35 (2) RCW 77.95.150 (Coordination with regional enhancement groups--
36 Findings) and 1995 c 367 s 1; and

1 (3) RCW 77.95.160 (Fish passage barrier removal task force--
2 Membership--Recommendations) and 2000 c 107 s 110, 1997 c 389 s 6, &
3 1995 c 367 s 2.

4 **PART 6**

5 **DEPARTMENT OF NATURAL RESOURCES**

6 **Sec. 601.** RCW 43.30.340 and 2003 c 334 s 202 are each amended to
7 read as follows:

8 The department is authorized to receive and disburse funds from the
9 federal government (~~(for cooperative work in management and protection~~
10 ~~of forests and forest and range lands as may be authorized by any act~~
11 ~~of Congress which is now, or may hereafter be, adopted for such~~
12 ~~purposes)) or from other sources for purposes that advance the mission,~~

13 responsibilities, and duties of the department.

14 **Sec. 602.** RCW 76.06.150 and 2009 c 163 s 5 are each amended to
15 read as follows:

16 (1) The commissioner of public lands is designated as the state of
17 Washington's lead for all forest health issues.

18 (2) The commissioner of public lands shall strive to promote
19 communications between the state and the federal government regarding
20 forest land management decisions that potentially affect the health of
21 forests in Washington and will allow the state to have an influence on
22 the management of federally owned land in Washington. Such government-
23 to-government cooperation is vital if the condition of the state's
24 public and private forest lands are to be protected. These activities
25 may include, when deemed by the commissioner to be in the best interest
26 of the state:

27 (a) Representing the state's interest before all appropriate local,
28 state, and federal agencies;

29 (b) Assuming the lead state role for developing formal comments on
30 federal forest management plans that may have an impact on the health
31 of forests in Washington;

32 (c) Pursuing in an expedited manner any available and appropriate
33 cooperative agreements, including cooperating agency status
34 designation, with the United States forest service and the United
35 States bureau of land management that allow for meaningful

1 participation in any federal land management plans that could affect
2 the department's strategic plan for healthy forests and effective fire
3 prevention and suppression, including the pursuit of any options
4 available for giving effect to the cooperative philosophy contained
5 within the national environmental policy act of 1969 (42 U.S.C. Sec.
6 4331); and

7 (d) Pursuing agreements with federal agencies in the service of
8 forest biomass energy partnerships and cooperatives authorized under
9 RCW 43.30.835 through 43.30.840.

10 (3) When requested and consistent with RCW 43.01.036, the
11 commissioner of public lands shall report to the ~~((chairs of the~~
12 ~~appropriate standing committees of the))~~ legislature ~~((every year))~~ on
13 progress under this section, including, if requested, the
14 identification~~((, if deemed appropriate by the commissioner,))~~ of any
15 needed statutory changes, policy issues, or funding needs.

16 **Sec. 603.** RCW 79.02.260 and 2003 c 334 s 429 are each amended to
17 read as follows:

18 (1) The department shall keep a ~~((fee book))~~ record, in a manner
19 determined to be effective and efficient by the department, in which
20 shall be entered all fees received, with the date paid and the name of
21 the person paying the ~~((same))~~ fee, and the nature of the services
22 rendered for which the fee is charged~~((, which book shall))~~. The
23 record must be verified monthly by an affidavit entered ~~((therein))~~
24 into the record.

25 (2) All fees collected by the department shall be paid into the
26 state treasury, as applicable, to the resource management cost account
27 created in RCW 79.64.020, the forest development account created in RCW
28 79.64.100, or the agricultural college trust management account fund as
29 established under RCW 79.64.090, and the receipt of the state treasurer
30 taken and retained in the department's Olympia office as a voucher.

31 **Sec. 604.** RCW 79.17.010 and 2009 c 497 s 6024 are each amended to
32 read as follows:

33 (1) The department, with the approval of the board, may exchange
34 any state land and any timber thereon for any land of equal value in
35 order to:

36 (a) Facilitate the marketing of forest products of state lands;

1 (b) Consolidate and block-up state lands;

2 (c) Acquire lands having commercial recreational leasing potential;

3 (d) Acquire county-owned lands;

4 (e) Acquire urban property which has greater income potential or
5 which could be more efficiently managed by the department in exchange
6 for state urban lands as defined in RCW 79.19.100; or

7 (f) Acquire any other lands when such exchange is determined by the
8 board to be in the best interest of the trust for which the state land
9 is held.

10 (2) Land exchanged under this section shall not be used to reduce
11 the publicly owned forest land base.

12 (3) The board shall determine that each land exchange is in the
13 best interest of the trust for which the land is held prior to
14 authorizing the land exchange.

15 (4) (~~During the biennium ending June 30, 2011,~~) For the purposes
16 of maintaining working farm and forest landscapes or acquiring natural
17 resource lands at risk of development, the department, with approval of
18 the board of natural resources, may exchange any state land and any
19 timber thereon for any land and proceeds of equal value, when it can be
20 demonstrated that the trust fiduciary obligations can be better
21 fulfilled after an exchange is completed. Proceeds may be in the form
22 of cash or services in order to achieve the purposes established in
23 this section. Any cash received as part of an exchange transaction
24 shall be deposited in the resource management cost account to pay for
25 administrative expenses incurred in carrying out an exchange
26 transaction. These administrative expenses include road maintenance
27 and abandonment expenses. The amount of proceeds received from the
28 exchange partner may not exceed five percent of the total value of the
29 exchange. The receipt of proceeds shall not change the character of
30 the transaction from an exchange to a sale.

31 (5) Prior to executing an exchange under this section, and in
32 addition to the public notice requirements set forth in RCW 79.17.050,
33 the department shall consult with legislative members, other state and
34 federal agencies, local governments, tribes, local stakeholders,
35 conservation groups, and any other interested parties to identify and
36 address cultural resource issues and the potential of the state lands
37 proposed for exchange to be used for open space, park, school, or
38 critical habitat purposes.

1 **Sec. 605.** RCW 79.17.020 and 2009 c 497 s 6025 are each amended to
2 read as follows:

3 (1) The board of county commissioners of any county and/or the
4 mayor and city council or city commission of any city or town and/or
5 the board shall have authority to exchange, each with the other, or
6 with the federal forest service, the federal government or any proper
7 agency thereof and/or with any private landowner, county land of any
8 character, land owned by municipalities of any character, and state
9 forest land owned by the state under the jurisdiction of the
10 department, for real property of equal value for the purpose of
11 consolidating and blocking up the respective land holdings of any
12 county, municipality, the federal government, or the state of
13 Washington or for the purpose of obtaining lands having commercial
14 recreational leasing potential.

15 (2) (~~During the biennium ending June 30, 2011,~~) For the purposes
16 of maintaining working farm and forest landscapes or acquiring natural
17 resource lands at risk of development, the department, with approval of
18 the board of natural resources, may exchange any state land and any
19 timber thereon for any land and proceeds of equal value, when it can be
20 demonstrated that the trust fiduciary obligations can be better
21 fulfilled after an exchange is completed. Proceeds may be in the form
22 of cash or services in order to achieve the purposes established in
23 this section. Any cash received as part of an exchange transaction
24 shall be deposited in the forest development account to pay for
25 administrative expenses incurred in carrying out an exchange
26 transaction. These administrative expenses include road maintenance
27 and abandonment expenses. The amount of proceeds received from the
28 exchange partner may not exceed five percent of the total value of the
29 exchange. The receipt of proceeds shall not change the character of
30 the transaction from an exchange to a sale.

31 (3) Prior to executing an exchange under this section, and in
32 addition to the public notice requirements set forth in RCW 79.17.050,
33 the department shall consult with legislative members, other state and
34 federal agencies, local governments, tribes, local stakeholders,
35 conservation groups, and any other interested parties to identify and
36 address cultural resource issues, and the potential of the state lands
37 proposed for exchange to be used for open space, park, school, or
38 critical habitat purposes.

1 **Sec. 606.** RCW 79.19.100 and 2003 c 334 s 441 are each amended to
2 read as follows:

3 (1) The purpose of this section is to foster cooperative planning
4 among the state, the department, and local governments as to state-
5 owned lands under the department's jurisdiction situated in urban
6 areas.

7 ~~((At least once a year,))~~ (2) Prior to finalizing the department's
8 urban land leasing action plan, the department and applicable local
9 governments shall meet on a schedule agreed upon between the department
10 and the local government to review state and local plans and to
11 coordinate planning in areas where urban lands are located. The
12 department and local governments may enter into formal agreements for
13 the purpose of planning the appropriate development of these state-
14 owned urban lands.

15 (3) The department shall contact those local governments which have
16 planning, zoning, and land-use regulation authority over areas where
17 urban lands under its jurisdiction are located so as to facilitate
18 these annual or other meetings.

19 (4) "Urban lands" as used in this section means those areas which
20 within ten years are expected to be intensively used for locations of
21 buildings or structures, and usually have urban governmental services.

22 (5) "Local government" as used in this section means counties,
23 cities, and towns having planning and land-use regulation authority.

24 **Sec. 607.** RCW 79.125.710 and 2005 c 155 s 517 are each amended to
25 read as follows:

26 Whenever application is made to the department by any incorporated
27 city or town or metropolitan park district for the use of any state-
28 owned tidelands or shorelands within the corporate limits of the city
29 or town or metropolitan park district for municipal park and/or
30 playground purposes, the department shall ~~((cause the application to be~~
31 ~~entered))~~ record the application in the department's records ~~((of its~~
32 ~~office,))~~ and ~~((shall then))~~ must forward the application to the office
33 of the governor~~((, who shall appoint a committee of five representative~~
34 ~~citizens of the city or town, in addition to the commissioner and the~~
35 ~~director of ecology, both of whom shall be ex officio members of the~~
36 ~~committee, to investigate the lands and determine whether they))~~ for
37 the opportunity to determine whether the lands are suitable and needed

1 for park or playground purposes(~~; and, if they so find~~). If the
2 lands are found to be suitable and needed, or the governor declines to
3 comment, the commissioner shall certify to the governor that the
4 property (~~shall~~) is to be deeded, (~~when~~) in accordance with RCW
5 79.125.200 and 79.125.700, to the city or town or metropolitan park
6 district and the governor shall then execute a deed in the name of the
7 state of Washington, attested by the secretary of state, conveying the
8 use of the lands to the city or town or metropolitan park district for
9 park or playground purposes for so long as it shall continue to hold,
10 use, and maintain the lands for park or playground purposes.

11 **Sec. 608.** RCW 79.140.020 and 2005 c 155 s 802 are each amended to
12 read as follows:

13 The department shall (~~print~~) generate a list of valuable
14 materials contained within or upon state-owned aquatic lands, giving
15 appraised value, character of the land, and (~~such~~) other information
16 as may be of interest to prospective buyers. The lists must be
17 (~~issued~~) generated at least four weeks prior to the date of any sale.
18 The department shall (~~retain for free distribution in its office in~~
19 ~~Olympia and the regional offices sufficient copies of the lists, to be~~
20 ~~kept in a conspicuous place or receptacle on the counter of the general~~
21 ~~and regional office of the department, and, when requested, shall mail~~
22 ~~copies of the list as issued to any applicant~~) make the list available
23 in its public offices and, if deemed beneficial by the department, on
24 the department's internet web page.

25 **Sec. 609.** RCW 79.105.410 and 2005 c 155 s 163 are each amended to
26 read as follows:

27 (1) The department is authorized to accept gifts of aquatic land
28 within the state, including tidelands, shorelands, harbor areas, and
29 the beds of navigable waters, which shall become part of the state-
30 owned aquatic land base.

31 (2) Consistent with RCW 79.105.030, the department must develop
32 procedures and criteria that state the manner in which gifts of aquatic
33 land, received after July 27, 2003, may occur.

34 (3) Except as otherwise provided in this section, no gift of
35 aquatic land may be accepted until: (a) An appraisal of the value of
36 the land has been prepared; (b) an environmental site assessment has

1 been conducted; and (c) the title property report has been examined and
2 approved by the attorney general of the state. The results of the
3 appraisal, the site assessment, and the examination of the title
4 property report must be submitted to the board before the department
5 may accept a gift of aquatic land.

6 ~~((+2))~~ (4) On a case-by-case basis, the department may accept a
7 gift of aquatic lands without the necessity of completing the
8 requirements of subsection (3) of this section. This authority is
9 limited to donations the department determines to be low-risk and may
10 be utilized if the department can identify processes to protect the
11 state's interest that are functionally equivalent to the requirements
12 of subsection (3) of this section.

13 (5) The authorization to accept gifts of aquatic land within the
14 state extends to aquatic land accepted as gifts prior to July 27, 2003.

15 **Sec. 610.** RCW 43.30.360 and 2002 c 371 s 908 are each amended to
16 read as follows:

17 The department and Washington State University may each receive
18 funds from the federal government in connection with cooperative work
19 with the United States department of agriculture, authorized by
20 sections 4 and 5 of the Clarke-McNary act of congress, approved June 7,
21 1924, providing for the procurement, protection, and distribution of
22 forestry seed and plants for the purpose of establishing windbreaks,
23 shelter belts, and farm wood lots and to assist the owners of farms in
24 establishing, improving, and renewing wood lots, shelter belts, and
25 windbreaks; and are authorized to disburse such funds as needed.
26 ~~((During the 2001-2003 fiscal biennium, the legislature may transfer~~
27 ~~from the Clarke McNary fund to the state general fund such amounts as~~
28 ~~reflect the excess fund balance of the Clarke McNary fund.))~~

29 NEW SECTION. **Sec. 611.** The following acts or parts of acts are
30 each repealed:

31 (1) RCW 43.30.345 (Federal funds for management and protection of
32 forests, forest and range lands--Disbursement of funds) and 2003 c 334
33 s 203, 1988 c 128 s 14, & 1957 c 78 s 2;

34 (2) RCW 43.30.370 (Cooperative farm forestry funds) and 1986 c 100
35 s 47; and

1 (3) RCW 79.125.610 (List of state-owned tidelands and shorelands
2 permitted to be sold) and 2005 c 155 s 113 & 1982 1st ex.s. c 21 s 24.

3 **PART 7**

4 **THE PUGET SOUND PARTNERSHIP**

5 **Sec. 701.** RCW 90.71.010 and 2007 c 341 s 2 are each amended to
6 read as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Action agenda" means the comprehensive schedule of projects,
10 programs, and other activities designed to achieve a healthy Puget
11 Sound ecosystem that ~~((is authorized and further described in RCW~~
12 ~~90.71.300 and 90.71.310))~~ was developed under RCW 90.71.300 and
13 90.71.310 by the Puget Sound partnership, approved by the leadership
14 council, and delivered to the legislature in December 2008, along with
15 any subsequent updates.

16 (2) "Action area" means the geographic areas delineated as provided
17 in RCW 90.71.260.

18 (3) ~~(("Benchmarks" means measurable interim milestones or~~
19 ~~achievements established to demonstrate progress towards a goal,~~
20 ~~objective, or outcome.~~

21 ~~(4))~~ "Board" means the ecosystem coordination board.

22 ~~((5))~~ (4) "Council" means the leadership council.

23 ~~((6))~~ (5) "Environmental indicator" means a physical, biological,
24 or chemical measurement, statistic, or value that provides a proximate
25 gauge, or evidence of, the state or condition of Puget Sound.

26 ~~((7))~~ (6) "Implementation strategies" means the strategies
27 incorporated on a biennial basis in the action agenda ~~((developed~~
28 ~~under))~~ pursuant to RCW 90.71.310.

29 ~~((8))~~ (7) "Nearshore" means the area beginning at the crest of
30 coastal bluffs and extending seaward through the marine photics zone,
31 and to the head of tide in coastal rivers and streams. "Nearshore"
32 also means both shoreline and estuaries.

33 ~~((9))~~ (8) "Panel" means the Puget Sound science panel.

34 ~~((10))~~ (9) "Partnership" means the Puget Sound partnership.

35 ~~((11))~~ (10) "Puget Sound" means Puget Sound and related inland
36 marine waters, including all salt waters of the state of Washington

1 inside the international boundary line between Washington and British
2 Columbia, and lying east of the junction of the Pacific Ocean and the
3 Strait of Juan de Fuca, and the rivers and streams draining to Puget
4 Sound as mapped by water resource inventory areas 1 through 19 in WAC
5 173-500-040 as it exists on July 1, 2007.

6 ~~((12)) "Puget Sound partner" means an entity that has been~~
7 ~~recognized by the partnership, as provided in RCW 90.71.340, as having~~
8 ~~consistently achieved outstanding progress in implementing the 2020~~
9 ~~action agenda.~~

10 ~~(13))~~ (11) "Targets" means measurable interim milestones or
11 achievements established to demonstrate progress towards a goal,
12 objective, or outcome.

13 (12) "Watershed groups" means all groups sponsoring or
14 administering watershed programs, including but not limited to local
15 governments, private sector entities, watershed planning units,
16 watershed councils, shellfish protection areas, regional fishery
17 enhancement groups, marine ~~((resource{s}))~~ resources committees
18 including those working with the Northwest straits commission,
19 nearshore groups, and watershed lead entities.

20 ~~((14))~~ (13) "Watershed programs" means and includes all
21 watershed-level plans, programs, projects, and activities that relate
22 to or may contribute to the protection or restoration of Puget Sound
23 waters. Such programs include jurisdiction-wide programs regardless of
24 whether more than one watershed is addressed.

25 **Sec. 702.** RCW 90.71.230 and 2007 c 341 s 5 are each amended to
26 read as follows:

27 (1) The leadership council shall have the power and duty to:

28 (a) Provide leadership and have responsibility for the functions of
29 the partnership, including adopting, revising, and guiding the
30 implementation of the action agenda, allocating funds for Puget Sound
31 recovery, providing progress and other reports, setting strategic
32 priorities and ~~((benchmarks))~~ targets, adopting and applying
33 accountability measures, and making appointments to the board and
34 panel;

35 (b) Adopt rules, in accordance with chapter 34.05 RCW;

36 (c) Create subcommittees and advisory committees as appropriate to
37 assist the council;

1 (d) Enter into, amend, and terminate contracts with individuals,
2 corporations, or research institutions to effectuate the purposes of
3 this chapter;

4 (e) Make grants to governmental and nongovernmental entities to
5 effectuate the purposes of this chapter;

6 (f) Receive such gifts, grants, and endowments, in trust or
7 otherwise, for the use and benefit of the partnership to effectuate the
8 purposes of this chapter;

9 (g) Promote extensive public awareness, education, and
10 participation in Puget Sound protection and recovery;

11 (h) Work collaboratively with the Hood Canal coordinating council
12 established in chapter 90.88 RCW on Hood Canal-specific issues;

13 (i) Maintain complete and consolidated financial information to
14 ensure that all funds received and expended to implement the action
15 agenda have been accounted for; and

16 (j) ~~((Such))~~ Perform other powers and duties as are necessary and
17 appropriate to carry out the provisions of this chapter.

18 (2) The council may delegate functions to the chair and to the
19 executive director, however the council may not delegate its decisional
20 authority regarding ~~((developing or))~~ amending the action agenda.

21 (3) The council shall work closely with existing organizations and
22 all levels of government to ensure that the action agenda and its
23 implementation are scientifically sound, efficient, and achieve
24 necessary results to accomplish recovery of Puget Sound to health by
25 2020.

26 (4) The council shall support, engage, and foster collaboration
27 among watershed groups to assist in the recovery of Puget Sound.

28 (5) When working with federally recognized Indian tribes to
29 ~~((develop))~~ update and implement the action agenda, the council shall
30 conform to the procedures and standards required in a government-to-
31 governmental relationship with tribes under the 1989 Centennial Accord
32 between the state of Washington and the sovereign tribal governments in
33 the state of Washington.

34 (6) Members of the council shall be compensated in accordance with
35 RCW 43.03.220 and be reimbursed for travel expenses in accordance with
36 RCW 43.03.050 and 43.03.060.

1 **Sec. 703.** RCW 90.71.250 and 2007 c 341 s 7 are each amended to
2 read as follows:

3 (1) The (~~council shall convene the~~) ecosystem coordination board
4 (~~not later than October 1, 2007.~~

5 ~~(2) The board~~) shall consist of the following:

6 (a) One representative from the geographic area of each of the
7 action areas specified in RCW 90.71.260, appointed by the council. The
8 council shall solicit nominations from, at a minimum, counties, cities,
9 and watershed groups;

10 (b) Two members representing general business interests, one of
11 whom shall represent in-state general small business interests, both
12 appointed by the council;

13 (c) Two members representing environmental interests, appointed by
14 the council;

15 (d) Three representatives of tribal governments located in Puget
16 Sound, invited by the governor to participate as members of the board;

17 (e) One representative each from counties, cities, and port
18 districts, appointed by the council from nominations submitted by
19 statewide associations representing such local governments;

20 (f) Three representatives of state agencies with environmental
21 management responsibilities in Puget Sound, representing the interests
22 of all state agencies, one of whom shall be the commissioner of public
23 lands or his or her designee; and

24 (g) Three representatives of federal agencies with environmental
25 management responsibilities in Puget Sound, representing the interests
26 of all federal agencies and invited by the governor to participate as
27 members of the board.

28 ~~((3))~~ (2) The president of the senate shall appoint two senators,
29 one from each major caucus, as legislative liaisons to the board. The
30 speaker of the house of representatives shall appoint two
31 representatives, one from each major caucus, as legislative liaisons to
32 the board.

33 ~~((4))~~ (3) The board shall elect one of its members as chair, and
34 one of its members as vice-chair.

35 ~~((5))~~ (4) The board shall advise and assist the council in
36 carrying out its responsibilities in implementing this chapter,
37 including (~~development and~~):

1 (a) The implementation and updating of the action agenda(~~(.—The~~
2 ~~board's duties include:~~

3 ~~(a) Assisting cities, counties, ports, tribes, watershed groups,~~
4 ~~and other governmental and private organizations in the compilation of~~
5 ~~local programs for consideration for inclusion in the action agenda as~~
6 ~~provided in RCW 90.71.260));~~

7 ~~((Upon request of the council, reviewing and making~~
8 ~~recommendations regarding activities, projects, and programs proposed~~
9 ~~for inclusion in the action agenda, including assessing existing~~
10 ~~ecosystem scale management, restoration and protection plan elements,~~
11 ~~activities, projects, and programs for inclusion in the action agenda;~~

12 ~~(e)) Seeking public and private funding and the commitment of~~
13 ~~other resources for ((plan)) action agenda implementation;~~

14 ~~((d)) (c) Assisting the council in conducting public education~~
15 ~~activities regarding threats to Puget Sound and about local~~
16 ~~implementation strategies to support the action agenda; and~~

17 ~~((e)) (d) Recruiting the active involvement of and encouraging~~
18 ~~the collaboration and communication among governmental and~~
19 ~~nongovernmental entities, the private sector, and citizens working to~~
20 ~~achieve the recovery of Puget Sound.~~

21 ~~((6)) (5) Members of the board, except for federal and state~~
22 ~~employees, shall be reimbursed for travel expenses in accordance with~~
23 ~~RCW 43.03.050 and 43.03.060.~~

24 **Sec. 704.** RCW 90.71.260 and 2007 c 341 s 8 are each amended to
25 read as follows:

26 (1) The partnership shall ~~((develop))~~ pursue the implementation of
27 the action agenda in part upon the foundation of existing watershed
28 programs that address or contribute to the health of Puget Sound. To
29 ensure full consideration of these watershed programs ~~((in a timely~~
30 ~~manner to meet the required date for adoption of the action agenda)),~~
31 the partnership shall rely largely upon local watershed groups, tribes,
32 cities, counties, special purpose districts, and the private sector,
33 who are engaged in developing and implementing these programs.

34 (2) The partnership shall organize ~~((this work))~~ the implementation
35 of the action agenda by working with these groups and local integrating
36 organizations recognized by the council in the following geographic

1 action areas of Puget Sound, which collectively encompass all of the
2 Puget Sound basin and include the areas draining to the marine waters
3 in these action areas:

4 (a) Strait of Juan de Fuca;

5 (b) The San Juan Islands;

6 (c) Nooksack Basin;

7 (d) Whidbey Island;

8 ~~((+d))~~ (e) North central Puget Sound;

9 ~~((+e))~~ (f) South central Puget Sound;

10 ~~((+f))~~ (g) South Puget Sound; and

11 ~~((+g))~~ (h) Hood Canal.

12 (3) The council shall define the geographic delineations of these
13 action areas based upon the common issues and interests of the entities
14 in these action areas, and upon the characteristics of the Sound's
15 physical structure, and the water flows into and within the Sound.

16 (4) ~~((The executive director, working with the board
17 representatives from each action area, shall invite appropriate tribes,
18 local governments, and watershed groups to convene for the purpose of
19 compiling the existing watershed programs relating or contributing to
20 the health of Puget Sound. The participating groups should work to
21 identify the applicable local plan elements, projects, and programs,
22 together with estimated budget, timelines, and proposed funding
23 sources, that are suitable for adoption into the action agenda. This
24 may include a prioritization among plan elements, projects, and
25 programs.~~

26 ~~(+5))~~ The partnership may provide assistance to watershed groups in
27 those action areas that are developing and implementing programs
28 included within the action agenda, and to improve coordination among
29 the groups to improve and accelerate the implementation of the action
30 agenda.

31 ~~((+6))~~ (5) The executive director, working with the board, shall
32 also compile and assess ecosystem scale management, restoration, and
33 protection plans for the Puget Sound basin.

34 (a) At a minimum, the compilation shall include the Puget Sound
35 nearshore estuary project, clean-up plans for contaminated aquatic
36 lands and shorelands, aquatic land management plans, state resource
37 management plans, habitat conservation plans, and recovery plans for

1 salmon, orca, and other species in Puget Sound that are listed under
2 the federal endangered species act.

3 (b) The board should work to identify and assess applicable
4 ecosystem scale plan elements, projects, and programs, together with
5 estimated budget, timelines, and proposed funding sources(~~(, that are~~
6 ~~suitable for adoption into the action agenda)~~)).

7 (c) When the board identifies conflicts or disputes among ecosystem
8 scale projects or programs, the board may convene the agency managers
9 in an attempt to reconcile the conflicts with the objective of
10 advancing the protection and recovery of Puget Sound.

11 (d) If it determines that doing so will increase the likelihood of
12 restoring Puget Sound by 2020, the partnership may explore the utility
13 of federal assurances under the endangered species act, 16 U.S.C. Sec.
14 1531 et seq., and shall confer with the federal services administering
15 that act.

16 ~~((7) The executive director shall integrate and present the~~
17 ~~proposed elements from watershed programs and ecosystem level plans to~~
18 ~~the council for consideration for inclusion in the action agenda not~~
19 ~~later than July 1, 2008.))~~

20 **Sec. 705.** RCW 90.71.270 and 2007 c 341 s 9 are each amended to
21 read as follows:

22 (1) The council shall appoint a nine-member Puget Sound science
23 panel to provide independent, nonrepresentational scientific advice to
24 the council (~~and expertise in identifying environmental indicators and~~
25 ~~benchmarks for incorporation into the action agenda)~~)).

26 (2) ~~((In establishing the panel,))~~ The council shall request the
27 Washington academy of sciences, created in chapter 70.220 RCW, to
28 ~~((nominate fifteen scientists with))~~ review credentials of nominated
29 scientists to ensure recognized expertise in fields of science
30 essential to the recovery of Puget Sound. Nominees should reflect the
31 full range of scientific and engineering disciplines involved in Puget
32 Sound recovery. ~~((At a minimum, the Washington academy of sciences~~
33 ~~shall consider making nominations from scientists associated with~~
34 ~~federal, state, and local agencies, tribes, the business and~~
35 ~~environmental communities, members of the K-12, college, and university~~
36 ~~communities, and members of the board.))~~ The solicitation should be to
37 all sectors, and candidates may be from all public and private sectors,

1 including scientists associated with federal, state, and local
2 agencies, tribes, the business and environmental communities, members
3 of the K-12, college, and university communities, and members of the
4 board. (~~Persons nominated by the Washington academy of sciences~~)
5 Nominees and panel members must disclose any potential conflicts of
6 interest, and any financial relationship with any leadership
7 councilmember, and disclose sources of current financial support and
8 contracts relating to Puget Sound recovery.

9 (3) The panel shall select a chair and a vice chair. Panel members
10 shall serve four-year terms, except that the council shall determine
11 initial terms of two, three, and four years to provide for staggered
12 terms. The council shall determine reappointments and select
13 replacements or additional members of the panel. No panel member may
14 serve longer than twelve years.

15 (4) The executive director shall designate a lead staff scientist
16 to coordinate panel actions, and administrative staff to support panel
17 activities. The legislature intends to provide ongoing funding for
18 staffing of the panel to ensure that it has sufficient capacity to
19 provide independent scientific advice.

20 (5) The executive director of the partnership and the science panel
21 shall explore a shared state and federal responsibility for the
22 staffing and administration of the panel. In the event that a
23 federally sponsored Puget Sound recovery office is created, the council
24 may propose that such office provide for staffing and administration of
25 the panel.

26 (6) The panel shall assist the council in (~~developing and~~)
27 revising the action agenda, making recommendations to the action
28 agenda, and making recommendations to the council for updates or
29 revisions.

30 (7) Members of the panel shall be reimbursed for travel expenses
31 under RCW 43.03.050 and 43.03.060, and based upon the availability of
32 funds, the council may contract with members of the panel for
33 compensation for their services under chapter 39.29 RCW. If appointees
34 to the panel are employed by the federal, state, tribal, or local
35 governments, the council may enter into interagency personnel
36 agreements.

1 **Sec. 706.** RCW 90.71.280 and 2009 c 99 s 2 are each amended to read
2 as follows:

3 (1) The panel shall:

4 (a) Assist the council, board, and executive director in carrying
5 out the obligations of the partnership, including (~~preparing and~~)
6 updating the action agenda;

7 (b) As provided in RCW 90.71.290, assist the partnership in
8 (~~developing~~) maintaining an ecosystem level strategic science program
9 that:

10 (i) Addresses monitoring, modeling, data management, and research;
11 and

12 (ii) Identifies science gaps and recommends research priorities;

13 (c) (~~Develop and~~) Provide oversight of a competitive peer-
14 reviewed process for soliciting, strategically prioritizing, and
15 funding research and modeling projects;

16 (d) (~~Develop and~~) Implement an appropriate process for peer
17 review of monitoring, research, and modeling conducted as part of the
18 strategic science program;

19 (e) Provide input to the executive director in developing biennial
20 implementation strategies; and

21 (f) Offer an ecosystem-wide perspective on the science work being
22 conducted in Puget Sound and by the partnership.

23 (2) The panel should collaborate with other scientific groups and
24 consult other scientists in conducting its work. To the maximum extent
25 possible, the panel should seek to integrate the state-sponsored Puget
26 Sound science program with the Puget Sound science activities of
27 federal agencies, including working toward an integrated research
28 agenda and Puget Sound science work plan.

29 (3) (~~By July 31, 2008,~~) The panel shall identify environmental
30 indicators measuring the health of Puget Sound, and recommend
31 environmental (~~benchmarks~~) targets that need to be achieved to meet
32 the goals of the action agenda. The council shall confer with the
33 panel on incorporating the indicators and (~~benchmarks~~) targets, as
34 necessary, into any updates of the action agenda.

35 **Sec. 707.** RCW 90.71.290 and 2007 c 341 s 11 are each amended to
36 read as follows:

1 (1) The strategic science program shall be developed by the panel
2 with assistance and staff support provided by the executive director.
3 The science program may include:

4 (a) Continuation of the Puget Sound assessment and monitoring
5 program, as provided in RCW 90.71.060, as well as other monitoring or
6 modeling programs deemed appropriate by the executive director;

7 (b) Development of a monitoring program, in addition to the
8 provisions of RCW 90.71.060, including baselines, protocols,
9 guidelines, and quantifiable performance measures, to be recommended as
10 ~~((an))~~ elements of and updates to the action agenda;

11 (c) Recommendations regarding data collection and management to
12 facilitate easy access and use of data by all participating agencies
13 and the public; and

14 (d) A list of critical research needs.

15 (2) The strategic science program may not become an official
16 document until a majority of the members of the council votes for its
17 adoption.

18 (3) A Puget Sound science update shall be developed by the panel
19 with assistance and staff support provided by the executive director.
20 The panel ~~((shall submit the initial update to the executive director
21 by April 2010, and subsequent))~~ may submit updates as necessary to
22 reflect new scientific understandings. The update shall:

23 (a) Describe the current scientific understanding of various
24 physical attributes of Puget Sound;

25 (b) Serve as the scientific basis for the selection of
26 environmental indicators measuring the health of Puget Sound; and

27 (c) Serve as the scientific basis for the status and trends of
28 those environmental indicators.

29 (4) The executive director shall provide the Puget Sound science
30 update to the Washington academy of sciences, the governor, and
31 appropriate legislative committees, and include:

32 (a) A summary of information in existing updates; and

33 (b) Changes adopted in subsequent updates and in the state of the
34 Sound reports produced pursuant to RCW 90.71.370.

35 (5) A biennial science work plan shall be developed by the panel,
36 with assistance and staff support provided by the executive director,
37 and approved by the council. The biennial science work plan shall
38 include, at a minimum:

- 1 (a) Identification of recommendations from scientific and technical
2 reports relating to Puget Sound;
- 3 (b) A description of the Puget Sound science-related activities
4 being conducted by various entities in the region, including studies,
5 models, monitoring, research, and other appropriate activities;
- 6 (c) A description of whether the ongoing work addresses the
7 recommendations and, if not, identification of necessary actions to
8 fill gaps;
- 9 (d) Identification of specific biennial science work actions to be
10 done over the course of the work plan, and how these actions address
11 science needs in Puget Sound; and
- 12 (e) Recommendations for improvements to the ongoing science work in
13 Puget Sound.

14 **Sec. 708.** RCW 90.71.300 and 2007 c 341 s 12 are each amended to
15 read as follows:

16 (1) The action agenda shall consist of the goals and objectives in
17 this section, implementation strategies to meet measurable outcomes,
18 ((~~benchmarks~~)) targets, and identification of responsible entities. By
19 2020, the action agenda shall strive to achieve the following goals:

20 (a) A healthy human population supported by a healthy Puget Sound
21 that is not threatened by changes in the ecosystem;

22 (b) A quality of human life that is sustained by a functioning
23 Puget Sound ecosystem;

24 (c) Healthy and sustaining populations of native species in Puget
25 Sound, including a robust food web;

26 (d) A healthy Puget Sound where freshwater, estuary, nearshore,
27 marine, and upland habitats are protected, restored, and sustained;

28 (e) An ecosystem that is supported by groundwater levels as well as
29 river and stream flow levels sufficient to sustain people, fish, and
30 wildlife, and the natural functions of the environment;

31 (f) Fresh and marine waters and sediments of a sufficient quality
32 so that the waters in the region are safe for drinking, swimming,
33 shellfish harvest and consumption, and other human uses and enjoyment,
34 and are not harmful to the native marine mammals, fish, birds, and
35 shellfish of the region.

36 (2) The action agenda shall be ((~~developed~~)) updated and
37 implemented to achieve the following objectives:

- 1 (a) Protect existing habitat and prevent further losses;
2 (b) Restore habitat functions and values;
3 (c) Significantly reduce toxics entering Puget Sound fresh and
4 marine waters;
5 (d) Significantly reduce nutrients and pathogens entering Puget
6 Sound fresh and marine waters;
7 (e) Improve water quality and habitat by managing storm water
8 runoff;
9 (f) Provide water for people, fish and wildlife, and the
10 environment;
11 (g) Protect ecosystem biodiversity and recover imperiled species;
12 and
13 (h) Build and sustain the capacity for action.

14 **Sec. 709.** RCW 90.71.310 and 2008 c 329 s 926 are each amended to
15 read as follows:

16 (1) The council shall ~~((develop))~~ maintain, and update as
17 necessary, a science-based action agenda that leads to the recovery of
18 Puget Sound by 2020 and achievement of the goals and objectives
19 established in RCW 90.71.300. The action agenda shall:

20 (a) Address all geographic areas of Puget Sound including upland
21 areas and tributary rivers and streams that affect Puget Sound;

22 (b) Describe the problems affecting Puget Sound's health using
23 supporting scientific data, and provide a summary of the historical
24 environmental health conditions of Puget Sound so as to determine past
25 levels of pollution and restorative actions that have established the
26 current health conditions of Puget Sound;

27 (c) Meet the goals and objectives described in RCW 90.71.300,
28 including measurable outcomes for each goal and objective specifically
29 describing what will be achieved, how it will be quantified, and how
30 progress towards outcomes will be measured. The action agenda shall
31 include near-term and long-term ~~((benchmarks))~~ targets designed to
32 ensure continuous progress needed to reach the goals, objectives, and
33 designated outcomes by 2020. The council shall consult with the panel
34 in developing these elements of the plan;

35 (d) Identify and prioritize the strategies and actions necessary to
36 restore and protect Puget Sound and to achieve the goals and objectives
37 described in RCW 90.71.300;

1 (e) Identify the agency, entity, or person responsible for
2 completing the necessary strategies and actions, and potential sources
3 of funding;

4 (f) Include prioritized actions identified through the assembled
5 proposals from each of the seven action areas and the identification
6 and assessment of ecosystem scale programs as provided in RCW
7 90.71.260;

8 (g) Include specific actions to address aquatic rehabilitation zone
9 one, as defined in RCW 90.88.010;

10 (h) Incorporate any additional goals adopted by the council; and

11 (i) Incorporate appropriate actions to carry out the biennial
12 science work plan created in RCW 90.71.290.

13 (2) In ~~((developing))~~ revising the action agenda ~~((and any~~
14 ~~subsequent revisions))~~, the council shall, when appropriate,
15 incorporate the following:

16 (a) Water quality, water quantity, sediment quality, watershed,
17 marine resource, and habitat restoration plans created by governmental
18 agencies, watershed groups, and marine and shoreline groups. The
19 council shall consult with the board in incorporating these plans;

20 (b) Recovery plans for salmon, orca, and other species in Puget
21 Sound listed under the federal endangered species act;

22 (c) Existing plans and agreements signed by the governor, the
23 commissioner of public lands, other state officials, or by federal
24 agencies(~~(+~~

25 ~~(d) Appropriate portions of the Puget Sound water quality~~
26 ~~management plan existing on July 1, 2007))~~.

27 (3) ~~((Until the action agenda is adopted, the existing Puget Sound~~
28 ~~management plan and the 2007-09 Puget Sound biennial plan shall remain~~
29 ~~in effect. The existing Puget Sound management plan shall also~~
30 ~~continue to serve as the comprehensive conservation and management plan~~
31 ~~for the purposes of the national estuary program described in section~~
32 ~~320 of the federal clean water act, until replaced by the action agenda~~
33 ~~and approved by the United States environmental protection agency as~~
34 ~~the new comprehensive conservation and management plan.~~

35 ~~(4) The council shall adopt the action agenda by December 1,~~
36 ~~2008.))~~ The council shall revise the action agenda as needed, and,
37 beginning in 2011, revise the implementation strategies every two years
38 using an adaptive management process informed by tracking actions and

1 monitoring results in Puget Sound. In revising the action agenda and
2 the implementation strategies, the council shall consult the panel and
3 the board and provide opportunity for public review and comment.
4 Biennial updates shall:

5 (a) Contain a detailed description of prioritized actions necessary
6 in the biennium to achieve the goals, objectives, outcomes, and
7 (~~benchmarks~~) targets of progress identified in the action agenda;

8 (b) Identify the agency, entity, or person responsible for
9 completing the necessary action; and

10 (c) Establish biennial (~~benchmarks~~) targets for near-term
11 actions.

12 (~~(+5)~~) (4) The action agenda shall be (~~organized and~~) maintained
13 in a single document to facilitate public accessibility to the plan.

14 **Sec. 710.** RCW 90.71.370 and 2010 1st sp.s. c 36 s 6013 are each
15 amended to read as follows:

16 (1) By (~~December 1, 2008, and by~~) September 1st of each even-
17 numbered year beginning in 2010, the council shall provide to the
18 governor and the appropriate fiscal committees of the senate and house
19 of representatives its recommendations for the funding necessary to
20 implement the action agenda in the succeeding biennium. The
21 recommendations shall:

22 (a) Identify the funding needed by action agenda element;

23 (b) Address funding responsibilities among local, state, and
24 federal governments, as well as nongovernmental funding; and

25 (c) Address funding needed to support the work of the partnership,
26 the panel, the ecosystem work group, and entities assisting in
27 coordinating local efforts to implement the plan.

28 (2) In the 2008 report required under subsection (1) of this
29 section, the council shall include recommendations for projected
30 funding needed through 2020 to implement the action agenda; funding
31 needs for science panel staff; identify methods to secure stable and
32 sufficient funding to meet these needs; and include proposals for new
33 sources of funding to be dedicated to Puget Sound protection and
34 recovery. In preparing the science panel staffing proposal, the
35 council shall consult with the panel.

36 (3) By November 1st of each (~~odd-numbered~~) even-numbered year

1 beginning in ((2009)) 2012, the council shall produce a state of the
2 Sound report that includes, at a minimum:

3 (a) An assessment of progress by state and nonstate entities in
4 implementing the action agenda, including accomplishments in the use of
5 state funds for action agenda implementation;

6 (b) A description of actions by implementing entities that are
7 inconsistent with the action agenda and steps taken to remedy the
8 inconsistency;

9 (c) The comments by the panel on progress in implementing the plan,
10 as well as findings arising from the assessment and monitoring program;

11 (d) A review of citizen concerns provided to the partnership and
12 the disposition of those concerns;

13 (e) A review of the expenditures of funds to state agencies for the
14 implementation of programs affecting the protection and recovery of
15 Puget Sound, and an assessment of whether the use of the funds is
16 consistent with the action agenda; and

17 (f) An identification of all funds provided to the partnership, and
18 recommendations as to how future state expenditures for all entities,
19 including the partnership, could better match the priorities of the
20 action agenda.

21 (4)(a) The council shall review state programs that fund facilities
22 and activities that may contribute to action agenda implementation. By
23 November 1, 2009, the council shall provide initial recommendations
24 regarding program changes to the governor and appropriate fiscal and
25 policy committees of the senate and house of representatives. By
26 November 1, 2010, the council shall provide final recommendations
27 regarding program changes, including proposed legislation to implement
28 the recommendation, to the governor and appropriate fiscal and policy
29 committees of the senate and house of representatives.

30 (b) The review in this subsection shall be conducted with the
31 active assistance and collaboration of the agencies administering these
32 programs, and in consultation with local governments and other entities
33 receiving funding from these programs:

34 (i) Water pollution control facilities financing, chapter 70.146
35 RCW;

36 (ii) The water pollution control revolving fund, chapter 90.50A
37 RCW;

38 (iii) The public works assistance account, chapter 43.155 RCW;

- 1 (iv) The aquatic lands enhancement account, RCW 79.105.150;
- 2 (v) The state toxics control account and local toxics control
3 account and clean-up program, chapter 70.105D RCW;
- 4 (vi) The acquisition of habitat conservation and outdoor recreation
5 land, chapter 79A.15 RCW;
- 6 (vii) The salmon recovery funding board, RCW 77.85.110 through
7 77.85.150;
- 8 (viii) The community economic revitalization board, chapter 43.160
9 RCW;
- 10 (ix) Other state financial assistance to water quality-related
11 projects and activities; and
- 12 (x) Water quality financial assistance from federal programs
13 administered through state programs or provided directly to local
14 governments in the Puget Sound basin.
- 15 (c) The council's review shall include but not be limited to:
- 16 (i) Determining the level of funding and types of projects and
17 activities funded through the programs that contribute to
18 implementation of the action agenda;
- 19 (ii) Evaluating the procedures and criteria in each program for
20 determining which projects and activities to fund, and their
21 relationship to the goals and priorities of the action agenda;
- 22 (iii) Assessing methods for ensuring that the goals and priorities
23 of the action agenda are given priority when program funding decisions
24 are made regarding water quality-related projects and activities in the
25 Puget Sound basin and habitat-related projects and activities in the
26 Puget Sound basin;
- 27 (iv) Modifying funding criteria so that projects, programs, and
28 activities that are inconsistent with the action agenda are ineligible
29 for funding;
- 30 (v) Assessing ways to incorporate a strategic funding approach for
31 the action agenda within the outcome-focused performance measures
32 required by RCW 43.41.270 in administering natural resource-related and
33 environmentally based grant and loan programs.
- 34 (5) During the 2009-2011 fiscal biennium, the council's review must
35 result in a ranking of projects affecting the protection and recovery
36 of the Puget Sound basin that are proposed in the governor's capital
37 budget submitted under RCW 43.88.060. The ranking shall include
38 recommendations for reallocation of total requested funds for Puget

1 Sound basin projects to achieve the greatest positive outcomes for
2 protection and recovery of Puget Sound and shall be submitted to the
3 appropriate fiscal committees of the legislature no later than February
4 1, 2011.

5 **Sec. 711.** RCW 90.71.340 and 2007 c 341 s 16 are each amended to
6 read as follows:

7 (1) The legislature intends that fiscal incentives and
8 disincentives be used as accountability measures designed to achieve
9 consistency with the action agenda by:

10 (a) Ensuring that projects and activities in conflict with the
11 action agenda are not funded;

12 (b) Aligning environmental investments with strategic priorities of
13 the action agenda; and

14 (c) Using state grant and loan programs to encourage consistency
15 with the action agenda.

16 (2) The council shall adopt measures to ensure that funds
17 appropriated for implementation of the action agenda and identified by
18 proviso or specifically referenced in the omnibus appropriations act
19 pursuant to RCW 43.88.030(1)(g) are expended in a manner that will
20 achieve the intended results. In developing such performance measures,
21 the council shall establish criteria for the expenditure of the funds
22 consistent with the responsibilities and timelines under the action
23 agenda, and require reporting and tracking of funds expended. The
24 council may adopt other measures, such as requiring interagency
25 agreements regarding the expenditure of provided or specifically
26 referenced Puget Sound funds.

27 (3) The partnership shall work with other state agencies providing
28 grant and loan funds or other financial assistance for projects and
29 activities that impact the health of the Puget Sound ecosystem under
30 chapters 43.155, 70.105D, 70.146, 77.85, 79.105, 79A.15, 89.08, and
31 90.50A RCW to, within the authorities of the programs, develop
32 consistent funding criteria that prohibits funding projects and
33 activities that are in conflict with the action agenda.

34 ~~(4) ((The partnership shall develop a process and criteria by which
35 entities that consistently achieve outstanding progress in implementing
36 the action agenda are designated as Puget Sound partners. State
37 agencies shall work with the partnership to revise their grant, loan,~~

1 ~~or other financial assistance allocation criteria to create a~~
2 ~~preference for entities designated as Puget Sound partners for funds~~
3 ~~allocated to the Puget Sound basin, pursuant to RCW 43.155.070,~~
4 ~~70.105D.070, 70.146.070, 77.85.130, 79.105.150, 79A.15.040, 89.08.520,~~
5 ~~and 90.50A.040. This process shall be developed on a timeline that~~
6 ~~takes into consideration state grant and loan funding cycles.~~

7 (5)) Any entity that receives state funds to implement actions
8 required in the action agenda shall report biennially to the council on
9 progress in completing the action and whether expected results have
10 been achieved within the time frames specified in the action agenda.

11 **Sec. 712.** RCW 90.71.360 and 2007 c 341 s 18 are each amended to
12 read as follows:

13 (1) The partnership shall not have regulatory authority nor
14 authority to transfer the responsibility for, or implementation of, any
15 state regulatory program, unless otherwise specifically authorized by
16 the legislature.

17 (2) The action agenda ((may)) does not create a legally enforceable
18 duty to review or approve permits, or to adopt plans or regulations.
19 The action agenda ((may)) does not authorize the adoption of rules
20 under chapter 34.05 RCW creating a legally enforceable duty applicable
21 to the review or approval of permits or to the adoption of plans or
22 regulations. No action of the partnership may alter the forest
23 practices rules adopted pursuant to chapter 76.09 RCW, or any
24 associated habitat conservation plan. Any changes in forest practices
25 identified by the processes established in this chapter as necessary to
26 fully recover the health of Puget Sound by 2020 may only be realized
27 through the processes established in RCW 76.09.370 and other designated
28 processes established in Title 76 RCW. Nothing in this subsection or
29 subsection (1) of this section limits the accountability provisions of
30 this chapter.

31 (3) Nothing in this chapter limits or alters the existing legal
32 authority of local governments, nor does it create a legally
33 enforceable duty upon local governments. When a local government
34 proposes to take an action inconsistent with the action agenda, it
35 shall inform the council and identify the reasons for taking the
36 action. If a local government chooses to take an action inconsistent

1 with the action agenda or chooses not to take action required by the
2 action agenda, it will be subject to the accountability measures in
3 this chapter which can be used at the discretion of the council.

4 **Sec. 713.** RCW 43.155.070 and 2009 c 518 s 16 are each amended to
5 read as follows:

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

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

11 (b) The local government must have developed a capital facility
12 plan; and

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

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

32 (3) In considering awarding loans for public facilities to special
33 districts requesting funding for a proposed facility located in a
34 county, city, or town planning under RCW 36.70A.040, the board shall
35 consider whether the county, city, or town planning under RCW
36 36.70A.040 in whose planning jurisdiction the proposed facility is

1 located has adopted a comprehensive plan and development regulations as
2 required by RCW 36.70A.040.

3 (4) The board shall develop a priority process for public works
4 projects as provided in this section. The intent of the priority
5 process is to maximize the value of public works projects accomplished
6 with assistance under this chapter. The board shall attempt to assure
7 a geographical balance in assigning priorities to projects. The board
8 shall consider at least the following factors in assigning a priority
9 to a project:

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

13 ~~(b) ((Except as otherwise conditioned by RCW 43.155.110, whether~~
14 ~~the entity receiving assistance is a Puget Sound partner, as defined in~~
15 ~~RCW 90.71.010;~~

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

18 ~~((d))~~ (c) Whether the project is critical in nature and would
19 affect the health and safety of a great number of citizens;

20 ~~((e))~~ (d) Whether the applicant has developed and adhered to
21 guidelines regarding its permitting process for those applying for
22 development permits consistent with section 1(2), chapter 231, Laws of
23 2007;

24 ~~((f))~~ (e) The cost of the project compared to the size of the
25 local government and amount of loan money available;

26 ~~((g))~~ (f) The number of communities served by or funding the
27 project;

28 ~~((h))~~ (g) Whether the project is located in an area of high
29 unemployment, compared to the average state unemployment;

30 ~~((i))~~ (h) Whether the project is the acquisition, expansion,
31 improvement, or renovation by a local government of a public water
32 system that is in violation of health and safety standards, including
33 the cost of extending existing service to such a system;

34 ~~((j))~~ (i) Except as otherwise conditioned by RCW 43.155.120, and
35 effective one calendar year following the development of model
36 evergreen community management plans and ordinances under RCW
37 35.105.050, whether the entity receiving assistance has been

1 recognized, and what gradation of recognition was received, in the
2 evergreen community recognition program created in RCW 35.105.030;

3 ~~((+k))~~ (j) The relative benefit of the project to the community,
4 considering the present level of economic activity in the community and
5 the existing local capacity to increase local economic activity in
6 communities that have low economic growth; and

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

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

13 (6) Before November 1st of each even-numbered year, the board shall
14 develop and submit to the appropriate fiscal committees of the senate
15 and house of representatives a description of the loans made under RCW
16 43.155.065, 43.155.068, and subsection (9) of this section during the
17 preceding fiscal year and a prioritized list of projects which are
18 recommended for funding by the legislature, including one copy to the
19 staff of each of the committees. The list shall include, but not be
20 limited to, a description of each project and recommended financing,
21 the terms and conditions of the loan or financial guarantee, the local
22 government jurisdiction and unemployment rate, demonstration of the
23 jurisdiction's critical need for the project and documentation of local
24 funds being used to finance the public works project. The list shall
25 also include measures of fiscal capacity for each jurisdiction
26 recommended for financial assistance, compared to authorized limits and
27 state averages, including local government sales taxes; real estate
28 excise taxes; property taxes; and charges for or taxes on sewerage,
29 water, garbage, and other utilities.

30 (7) The board shall not sign contracts or otherwise financially
31 obligate funds from the public works assistance account before the
32 legislature has appropriated funds for a specific list of public works
33 projects. The legislature may remove projects from the list
34 recommended by the board. The legislature shall not change the order
35 of the priorities recommended for funding by the board.

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

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

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

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

12 **Sec. 714.** RCW 70.105D.070 and 2010 1st sp.s. c 37 s 942 are each
13 amended to read as follows:

14 (1) The state toxics control account and the local toxics control
15 account are hereby created in the state treasury.

16 (2) The following moneys shall be deposited into the state toxics
17 control account: (a) Those revenues which are raised by the tax
18 imposed under RCW 82.21.030 and which are attributable to that portion
19 of the rate equal to thirty-three one-hundredths of one percent; (b)
20 the costs of remedial actions recovered under this chapter or chapter
21 70.105A RCW; (c) penalties collected or recovered under this chapter;
22 and (d) any other money appropriated or transferred to the account by
23 the legislature. Moneys in the account may be used only to carry out
24 the purposes of this chapter, including but not limited to the
25 following activities:

26 (i) The state's responsibility for hazardous waste planning,
27 management, regulation, enforcement, technical assistance, and public
28 education required under chapter 70.105 RCW;

29 (ii) The state's responsibility for solid waste planning,
30 management, regulation, enforcement, technical assistance, and public
31 education required under chapter 70.95 RCW;

32 (iii) The hazardous waste cleanup program required under this
33 chapter;

34 (iv) State matching funds required under the federal cleanup law;

35 (v) Financial assistance for local programs in accordance with
36 chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

1 (vi) State government programs for the safe reduction, recycling,
2 or disposal of hazardous wastes from households, small businesses, and
3 agriculture;

4 (vii) Hazardous materials emergency response training;

5 (viii) Water and environmental health protection and monitoring
6 programs;

7 (ix) Programs authorized under chapter 70.146 RCW;

8 (x) A public participation program, including regional citizen
9 advisory committees;

10 (xi) Public funding to assist potentially liable persons to pay for
11 the costs of remedial action in compliance with cleanup standards under
12 RCW 70.105D.030(2)(e) but only when the amount and terms of such
13 funding are established under a settlement agreement under RCW
14 70.105D.040(4) and when the director has found that the funding will
15 achieve both (A) a substantially more expeditious or enhanced cleanup
16 than would otherwise occur, and (B) the prevention or mitigation of
17 unfair economic hardship;

18 (xii) Development and demonstration of alternative management
19 technologies designed to carry out the hazardous waste management
20 priorities of RCW 70.105.150;

21 (xiii) During the 2009-2011 fiscal biennium, shoreline update
22 technical assistance; and

23 (xiv) During the 2009-2011 fiscal biennium, multijurisdictional
24 permitting teams.

25 (3) The following moneys shall be deposited into the local toxics
26 control account: Those revenues which are raised by the tax imposed
27 under RCW 82.21.030 and which are attributable to that portion of the
28 rate equal to thirty-seven one-hundredths of one percent.

29 (a) Moneys deposited in the local toxics control account shall be
30 used by the department for grants or loans to local governments for the
31 following purposes in descending order of priority:

32 (i) Remedial actions;

33 (ii) Hazardous waste plans and programs under chapter 70.105 RCW;

34 (iii) Solid waste plans and programs under chapters 70.95, 70.95C,
35 70.95I, and 70.105 RCW;

36 (iv) Funds for a program to assist in the assessment and cleanup of
37 sites of methamphetamine production, but not to be used for the initial

1 containment of such sites, consistent with the responsibilities and
2 intent of RCW 69.50.511; and

3 (v) Cleanup and disposal of hazardous substances from abandoned or
4 derelict vessels, defined for the purposes of this section as vessels
5 that have little or no value and either have no identified owner or
6 have an identified owner lacking financial resources to clean up and
7 dispose of the vessel, that pose a threat to human health or the
8 environment.

9 (b) Funds for plans and programs shall be allocated consistent with
10 the priorities and matching requirements established in chapters
11 70.105, 70.95C, 70.95I, and 70.95 RCW, except that (~~any applicant that~~
12 ~~is a Puget Sound partner, as defined in RCW 90.71.010, along with~~) any
13 project that is referenced in the action agenda developed by the Puget
14 Sound partnership under RCW 90.71.310, shall(~~(, except as conditioned~~
15 ~~by RCW 70.105D.120,)~~) receive priority for any available funding for
16 any grant or funding programs or sources that use a competitive bidding
17 process. During the 2007-2009 fiscal biennium, moneys in the account
18 may also be used for grants to local governments to retrofit public
19 sector diesel equipment and for storm water planning and implementation
20 activities.

21 (c) To expedite cleanups throughout the state, the department shall
22 partner with local communities and liable parties for cleanups. The
23 department is authorized to use the following additional strategies in
24 order to ensure a healthful environment for future generations:

25 (i) The director may alter grant-matching requirements to create
26 incentives for local governments to expedite cleanups when one of the
27 following conditions exists:

28 (A) Funding would prevent or mitigate unfair economic hardship
29 imposed by the clean-up liability;

30 (B) Funding would create new substantial economic development,
31 public recreational, or habitat restoration opportunities that would
32 not otherwise occur; or

33 (C) Funding would create an opportunity for acquisition and
34 redevelopment of vacant, orphaned, or abandoned property under RCW
35 70.105D.040(5) that would not otherwise occur;

36 (ii) The use of outside contracts to conduct necessary studies;

37 (iii) The purchase of remedial action cost-cap insurance, when
38 necessary to expedite multiparty clean-up efforts.

1 (d) To facilitate and expedite cleanups using funds from the local
2 toxics control account, during the 2009-2011 fiscal biennium the
3 director may establish grant-funded accounts to hold and disperse local
4 toxics control account funds and funds from local governments to be
5 used for remedial actions.

6 (4) Except for unanticipated receipts under RCW 43.79.260 through
7 43.79.282, moneys in the state and local toxics control accounts may be
8 spent only after appropriation by statute.

9 (5) Except during the 2009-2011 fiscal biennium, one percent of the
10 moneys deposited into the state and local toxics control accounts shall
11 be allocated only for public participation grants to persons who may be
12 adversely affected by a release or threatened release of a hazardous
13 substance and to not-for-profit public interest organizations. The
14 primary purpose of these grants is to facilitate the participation by
15 persons and organizations in the investigation and remedying of
16 releases or threatened releases of hazardous substances and to
17 implement the state's solid and hazardous waste management priorities.
18 No grant may exceed sixty thousand dollars. Grants may be renewed
19 annually. Moneys appropriated for public participation from either
20 account which are not expended at the close of any biennium shall
21 revert to the state toxics control account.

22 (6) No moneys deposited into either the state or local toxics
23 control account may be used for solid waste incinerator feasibility
24 studies, construction, maintenance, or operation, or, after January 1,
25 2010, for projects designed to address the restoration of Puget Sound,
26 funded in a competitive grant process, that are in conflict with the
27 action agenda developed by the Puget Sound partnership under RCW
28 90.71.310.

29 (7) The department shall adopt rules for grant or loan issuance and
30 performance.

31 (8) During the 2007-2009 and 2009-2011 fiscal biennia, the
32 legislature may transfer from the local toxics control account to
33 either the state general fund or the oil spill prevention account, or
34 both such amounts as reflect excess fund balance in the account.

35 (9) During the 2009-2011 fiscal biennium, the local toxics control
36 account may also be used for a standby rescue tug at Neah Bay, local
37 government shoreline update grants, private and public sector diesel

1 equipment retrofit, and oil spill prevention, preparedness, and
2 response activities.

3 (10) During the 2009-2011 fiscal biennium, the legislature may
4 transfer from the state toxics control account to the state general
5 fund such amounts as reflect the excess fund balance in the account.

6 **Sec. 715.** RCW 70.146.070 and 2008 c 299 s 26 are each amended to
7 read as follows:

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

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

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

13 (c) Actions required under federal and state permits and compliance
14 orders;

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

17 ~~((Except as otherwise conditioned by RCW 70.146.110, whether
18 the entity receiving assistance is a Puget Sound partner, as defined in
19 RCW 90.71.010;~~

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

22 ~~((g))~~ (f) Except as otherwise provided in RCW 70.146.120, and
23 effective one calendar year following the development and statewide
24 availability of model evergreen community management plans and
25 ordinances under RCW 35.105.050, whether the project is sponsored by an
26 entity that has been recognized, and what gradation of recognition was
27 received, in the evergreen community recognition program created in RCW
28 35.105.030;

29 ~~((h))~~ (g) The extent to which the applicant county or city, or if
30 the applicant is another public body, the extent to which the county or
31 city in which the applicant public body is located, has established
32 programs to mitigate nonpoint pollution of the surface or subterranean
33 water sought to be protected by the water pollution control facility
34 named in the application for state assistance; and

35 ~~((i))~~ (h) The recommendations of the Puget Sound partnership,
36 created in RCW 90.71.210, and any other board, council, commission, or

1 group established by the legislature or a state agency to study water
2 pollution control issues in the state.

3 (2) Except where necessary to address a public health need or
4 substantial environmental degradation, a county, city, or town planning
5 under RCW 36.70A.040 may not receive a grant or loan for water
6 pollution control facilities unless it has adopted a comprehensive
7 plan, including a capital facilities plan element, and development
8 regulations as required by RCW 36.70A.040. This subsection does not
9 require any county, city, or town planning under RCW 36.70A.040 to
10 adopt a comprehensive plan or development regulations before requesting
11 or receiving a grant or loan under this chapter if such request is made
12 before the expiration of the time periods specified in RCW 36.70A.040.
13 A county, city, or town planning under RCW 36.70A.040 which has not
14 adopted a comprehensive plan and development regulations within the
15 time periods specified in RCW 36.70A.040 is not prohibited from
16 receiving a grant or loan under this chapter if the comprehensive plan
17 and development regulations are adopted as required by RCW 36.70A.040
18 before submitting a request for a grant or loan.

19 (3) Whenever the department is considering awarding grants or loans
20 for public facilities to special districts requesting funding for a
21 proposed facility located in a county, city, or town planning under RCW
22 36.70A.040, it shall consider whether the county, city, or town
23 planning under RCW 36.70A.040 in whose planning jurisdiction the
24 proposed facility is located has adopted a comprehensive plan and
25 development regulations as required by RCW 36.70A.040.

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

30 **Sec. 716.** RCW 77.85.130 and 2007 c 341 s 36 and 2007 c 257 s 1 are
31 each reenacted and amended to read as follows:

32 (1) The salmon recovery funding board shall develop procedures and
33 criteria for allocation of funds for salmon habitat projects and salmon
34 recovery activities on a statewide basis to address the highest
35 priorities for salmon habitat protection and restoration. To the
36 extent practicable the board shall adopt an annual allocation of
37 funding. The allocation should address both protection and restoration

1 of habitat, and should recognize the varying needs in each area of the
2 state on an equitable basis. The board has the discretion to partially
3 fund, or to fund in phases, salmon habitat projects. The board may
4 annually establish a maximum amount of funding available for any
5 individual project, subject to available funding. No projects required
6 solely as a mitigation or a condition of permitting are eligible for
7 funding.

8 (2)(a) In evaluating, ranking, and awarding funds for projects and
9 activities the board shall give preference to projects that:

10 (i) Are based upon the limiting factors analysis identified under
11 RCW 77.85.060;

12 (ii) Provide a greater benefit to salmon recovery based upon the
13 stock status information contained in the department of fish and
14 wildlife salmonid stock inventory (SASSI), the salmon and steelhead
15 habitat inventory and assessment project (SSHIAP), and any comparable
16 science-based assessment when available;

17 (iii) Will benefit listed species and other fish species;

18 (iv) Will preserve high quality salmonid habitat;

19 (v) Are included in a regional or watershed-based salmon recovery
20 plan that accords the project, action, or area a high priority for
21 funding; and

22 ~~(vi) ((Are, except as provided in RCW 77.85.240, sponsored by an
23 entity that is a Puget Sound partner, as defined in RCW 90.71.010; and~~

24 ~~(vii))~~ Are projects referenced in the action agenda developed by
25 the Puget Sound partnership under RCW 90.71.310.

26 (b) In evaluating, ranking, and awarding funds for projects and
27 activities the board shall also give consideration to projects that:

28 (i) Are the most cost-effective;

29 (ii) Have the greatest matched or in-kind funding;

30 (iii) Will be implemented by a sponsor with a successful record of
31 project implementation;

32 (iv) Involve members of the veterans conservation corps established
33 in RCW 43.60A.150; and

34 (v) Are part of a regionwide list developed by lead entities.

35 (3) The board may reject, but not add, projects from a habitat
36 project list submitted by a lead entity for funding.

37 (4) The board shall establish criteria for determining when block
38 grants may be made to a lead entity. The board may provide block

1 grants to the lead entity to implement habitat project lists developed
2 under RCW 77.85.050, subject to available funding. The board shall
3 determine an equitable minimum amount of project funds for each
4 recovery region, and shall distribute the remainder of funds on a
5 competitive basis. The board may also provide block grants to the lead
6 entity or regional recovery organization to assist in carrying out
7 functions described under this chapter. Block grants must be expended
8 consistent with the priorities established for the board in subsection
9 (2) of this section. Lead entities or regional recovery organizations
10 receiving block grants under this subsection shall provide an annual
11 report to the board summarizing how funds were expended for activities
12 consistent with this chapter, including the types of projects funded,
13 project outcomes, monitoring results, and administrative costs.

14 (5) The board may waive or modify portions of the allocation
15 procedures and standards adopted under this section in the award of
16 grants or loans to conform to legislative appropriations directing an
17 alternative award procedure or when the funds to be awarded are from
18 federal or other sources requiring other allocation procedures or
19 standards as a condition of the board's receipt of the funds. The
20 board shall develop an integrated process to manage the allocation of
21 funding from federal and state sources to minimize delays in the award
22 of funding while recognizing the differences in state and legislative
23 appropriation timing.

24 (6) The board may award a grant or loan for a salmon recovery
25 project on private or public land when the landowner has a legal
26 obligation under local, state, or federal law to perform the project,
27 when expedited action provides a clear benefit to salmon recovery, and
28 there will be harm to salmon recovery if the project is delayed. For
29 purposes of this subsection, a legal obligation does not include a
30 project required solely as a mitigation or a condition of permitting.

31 (7) Property acquired or improved by a project sponsor may be
32 conveyed to a federal agency if: (a) The agency agrees to comply with
33 all terms of the grant or loan to which the project sponsor was
34 obligated; or (b) the board approves: (i) Changes in the terms of the
35 grant or loan, and the revision or removal of binding deed of right
36 instruments; and (ii) a memorandum of understanding or similar document
37 ensuring that the facility or property will retain, to the extent
38 feasible, adequate habitat protections; and (c) the appropriate

1 legislative authority of the county or city with jurisdiction over the
2 project area approves the transfer and provides notification to the
3 board.

4 (8) Any project sponsor receiving funding from the salmon recovery
5 funding board that is not subject to disclosure under chapter 42.56 RCW
6 must, as a mandatory contractual prerequisite to receiving the funding,
7 agree to disclose any information in regards to the expenditure of that
8 funding as if the project sponsor was subject to the requirements of
9 chapter 42.56 RCW.

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

14 **Sec. 717.** RCW 79.105.150 and 2010 1st sp.s. c 37 s 949 are each
15 amended to read as follows:

16 (1) After deduction for management costs as provided in RCW
17 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys
18 received by the state from the sale or lease of state-owned aquatic
19 lands and from the sale of valuable material from state-owned aquatic
20 lands shall be deposited in the aquatic lands enhancement account which
21 is hereby created in the state treasury. After appropriation, these
22 funds shall be used solely for aquatic lands enhancement projects; for
23 the purchase, improvement, or protection of aquatic lands for public
24 purposes; for providing and improving access to the lands; and for
25 volunteer cooperative fish and game projects. During the 2009-2011
26 fiscal biennium, the aquatic lands enhancement account may also be used
27 for scientific research as part of the adaptive management process.
28 During the 2009-11 fiscal biennium, the legislature may transfer from
29 the aquatic lands enhancement account to the state general fund such
30 amounts as reflect excess fund balance of the account.

31 (2) In providing grants for aquatic lands enhancement projects, the
32 recreation and conservation funding board shall:

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

35 (b) Utilize the statement of environmental benefits,
36 consideration(~~(, except as provided in RCW 79.105.610, of whether the~~
37 ~~applicant is a Puget Sound partner, as defined in RCW 90.71.010,))~~ of

1 whether a project is referenced in the action agenda developed by the
2 Puget Sound partnership under RCW 90.71.310, and except as otherwise
3 provided in RCW 79.105.630, and effective one calendar year following
4 the development and statewide availability of model evergreen community
5 management plans and ordinances under RCW 35.105.050, whether the
6 applicant is an entity that has been recognized, and what gradation of
7 recognition was received, in the evergreen community recognition
8 program created in RCW 35.105.030 in its prioritization and selection
9 process; and

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

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

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

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

21 **Sec. 718.** RCW 79A.15.040 and 2008 c 299 s 29 are each amended to
22 read as follows:

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

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

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

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

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

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

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

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

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

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

20 (b) Any lands that have been acquired with grants under this
21 section by the department of natural resources are subject to payments
22 in the amounts required under the provisions of RCW 79.70.130 and
23 79.71.130.

24 (6) Except as otherwise conditioned by RCW (~~79A.15.140 or~~)
25 79A.15.150, the board in its evaluating process shall consider the
26 following in determining distribution priority:

27 (a) (~~Whether the entity applying for funding is a Puget Sound
28 partner, as defined in RCW 90.71.010;~~

29 ~~(b))~~) Effective one calendar year following the development and
30 statewide availability of model evergreen community management plans
31 and ordinances under RCW 35.105.050, whether the entity receiving
32 assistance has been recognized, and what gradation of recognition was
33 received, in the evergreen community recognition program created in RCW
34 35.105.030; and

35 (~~(c))~~) (b) Whether the project is referenced in the action agenda
36 developed by the Puget Sound partnership under RCW 90.71.310.

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

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

4 **Sec. 719.** RCW 89.08.520 and 2008 c 299 s 27 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~~
13 ~~applicant is a Puget Sound partner, as defined in RCW 90.71.010, and~~
14 ~~except as))~~ otherwise provided in RCW 89.08.590, and effective one
15 calendar year following the development and statewide availability of
16 model evergreen community management plans and ordinances under RCW
17 35.105.050, ~~((whether))~~ the applicant is an entity that has been
18 recognized, and what gradation of recognition was received, in the
19 evergreen community recognition program created in RCW 35.105.030; and

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

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

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

29 (b) The commission shall work with the districts to develop uniform
30 performance measures across participating districts and, to the extent
31 possible, the commission should coordinate its performance measure
32 system with other natural resource-related agencies as defined in RCW
33 43.41.270. The commission shall consult with affected interest groups
34 in implementing this section.

35 NEW SECTION. **Sec. 720.** The following acts or parts of acts are
36 each repealed:

- 1 (1) RCW 43.155.110 (Puget Sound partners) and 2007 c 341 s 25;
- 2 (2) RCW 70.105D.120 (Puget Sound partners) and 2007 c 341 s 31;
- 3 (3) RCW 70.146.110 (Puget Sound partners) and 2007 c 341 s 27;
- 4 (4) RCW 77.85.240 (Puget Sound partners) and 2007 c 341 s 37;
- 5 (5) RCW 79.105.610 (Puget Sound partners) and 2007 c 341 s 33;
- 6 (6) RCW 79A.15.140 (Puget Sound partners) and 2007 c 341 s 35;
- 7 (7) RCW 89.08.580 (Puget Sound partners) and 2007 c 341 s 29; and
- 8 (8) RCW 90.50A.080 (Puget Sound partners) and 2007 c 341 s 40."

ESHB 1885 - S COMM AMD

By Committee on Natural Resources & Marine Waters

NOT CONSIDERED 05/25/2011

9 On page 1, line 2 of the title, after "environment;" strike the
10 remainder of the title and insert "amending RCW 79A.05.020, 79A.05.045,
11 70.93.200, 70.93.220, 70.93.250, 70.95I.080, 70.95J.025, 70.105.210,
12 70.105.220, 90.80.150, 90.54.160, 90.44.052, 90.90.030, 90.90.040,
13 90.82.043, 70.107.030, 70.107.060, 70.95.290, 70.95C.220, 42.56.270,
14 89.08.040, 89.08.050, 43.23.130, 15.85.050, 77.04.150, 77.12.068,
15 77.12.702, 77.12.755, 77.12.820, 77.60.130, 77.95.020, 77.95.190,
16 77.95.200, 77.95.230, 43.30.340, 76.06.150, 79.02.260, 79.17.010,
17 79.17.020, 79.19.100, 79.125.710, 79.140.020, 79.105.410, 43.30.360,
18 90.71.010, 90.71.230, 90.71.250, 90.71.260, 90.71.270, 90.71.280,
19 90.71.290, 90.71.300, 90.71.310, 90.71.370, 90.71.340, 90.71.360,
20 43.155.070, 70.105D.070, 70.146.070, 79.105.150, 79A.15.040, and
21 89.08.520; reenacting and amending RCW 79A.05.030 and 77.85.130; and
22 repealing RCW 79A.05.190, 79A.05.195, 79A.05.351, 70.95C.250,
23 70.95H.005, 70.95H.007, 70.95H.010, 70.95H.030, 70.95H.040, 70.95H.050,
24 70.95H.900, 70.95H.901, 70.107.080, 70.93.090, 79.125.730, 77.95.140,
25 77.95.150, 77.95.160, 43.30.345, 43.30.370, 79.125.610, 43.155.110,
26 70.105D.120, 70.146.110, 77.85.240, 79.105.610, 79A.15.140, 89.08.580,
27 and 90.50A.080."

--- END ---