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**ENGROSSED SUBSTITUTE HOUSE BILL 1885**

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**State of Washington**

**62nd Legislature**

**2011 Regular Session**

**By** House Environment (originally sponsored by Representatives Moscoso, Rolfes, and Fitzgibbon)

READ FIRST TIME 02/17/11.

1 AN ACT Relating to providing streamlining improvements in the  
2 administration of programs affecting the natural environment; amending  
3 RCW 79A.05.020, 79A.05.045, 70.93.200, 70.93.220, 70.93.250,  
4 70.95I.080, 70.95J.025, 70.105.210, 70.105.220, 90.80.150, 90.54.160,  
5 90.44.052, 90.90.030, 90.90.040, 90.82.043, 70.107.030, 70.107.060,  
6 70.95.290, 70.95C.220, 42.56.270, 89.08.040, 89.08.050, 43.23.130,  
7 15.85.050, 77.04.150, 77.12.068, 77.12.702, 77.12.755, 77.12.820,  
8 77.60.130, 77.95.020, 77.95.190, 77.95.200, 77.95.230, 43.30.340,  
9 76.06.150, 79.02.260, 79.17.010, 79.17.020, 79.19.100, 79.125.710,  
10 79.140.020, 79.105.410, 43.30.360, 90.71.010, 90.71.230, 90.71.250,  
11 90.71.260, 90.71.270, 90.71.280, 90.71.290, 90.71.300, 90.71.310,  
12 90.71.370, 90.71.340, 90.71.360, 43.155.070, 70.105D.070, 70.146.070,  
13 79.105.150, 79A.15.040, and 89.08.520; reenacting and amending RCW  
14 79A.05.030 and 77.85.130; and repealing RCW 79A.05.190, 79A.05.195,  
15 79A.05.351, 70.95C.250, 70.95H.005, 70.95H.007, 70.95H.010, 70.95H.030,  
16 70.95H.040, 70.95H.050, 70.95H.900, 70.95H.901, 70.107.080, 70.93.090,  
17 79.125.730, 77.95.140, 77.95.150, 77.95.160, 43.30.345, 43.30.370,  
18 79.125.610, 43.155.110, 70.105D.120, 70.146.110, 77.85.240, 79.105.610,  
19 79A.15.140, 89.08.580, and 90.50A.080.

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

2 **PART 1**

3 **STATE PARKS AND RECREATION COMMISSION**

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

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

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

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

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

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

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

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

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

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

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

29 The commission shall:

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

33 (2) Adopt policies, and adopt, issue, and enforce rules pertaining  
34 to the use, care, and administration of state parks and parkways. The  
35 commission ~~((shall cause a copy of the rules to be kept posted in a~~

1 ~~conspicuous place in every state park to which they are applicable, but~~  
2 ~~failure to post or keep any rule posted shall be no defense to any~~  
3 ~~prosecution for the violation thereof))~~ must maintain the rules that  
4 are relevant to each park in a manner that is accessible to park  
5 visitors.

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

8 (4) Clear, drain, grade, seed, and otherwise improve or beautify  
9 parks and parkways, and erect structures, buildings, fireplaces, and  
10 comfort stations and build and maintain paths, trails, and roadways  
11 through or on parks and parkways.

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

17 (a) Leases exceeding a twenty-year term shall require a unanimous  
18 vote of the commission((~~PROVIDED FURTHER, That~~));

19 (b) If, during the term of any concession or lease, it is the  
20 opinion of the commission that it would be in the best interest of the  
21 state, the commission may, with the consent of the concessionaire or  
22 lessee, alter and amend the terms and conditions of ((~~such~~)) the  
23 concession or lease((~~PROVIDED FURTHER, That~~));

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

28 (d) No concession shall be granted ((~~which~~)) that will prevent the  
29 public from having free access to the scenic attractions of any park or  
30 parkway.

31 (6) Employ such assistance as it deems necessary. Commission  
32 expenses relating to its use of volunteer assistance shall be limited  
33 to premiums or assessments for the insurance of volunteers by the  
34 department of labor and industries, compensation of staff who assist  
35 volunteers, materials and equipment used in authorized volunteer  
36 projects, training, reimbursement of volunteer travel as provided in  
37 RCW 43.03.050 and 43.03.060, and other reasonable expenses relating to  
38 volunteer recognition. The commission, at its discretion, may waive

1 commission fees otherwise applicable to volunteers. The commission  
2 shall not use volunteers to replace or supplant classified positions.  
3 The use of volunteers may not lead to the elimination of any employees  
4 or permanent positions in the bargaining unit.

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

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

17 (b) Moneys used for the purchase of the option agreement are from  
18 (i) funds appropriated therefor, or (ii) funds appropriated for  
19 undesignated land acquisitions, or (iii) funds deemed by the commission  
20 to be in excess of the amount necessary for the purposes for which they  
21 were appropriated; and

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

24 (8) Cooperate with the United States, or any county or city of this  
25 state, in any matter pertaining to the acquisition, development,  
26 redevelopment, renovation, care, control, or supervision of any park or  
27 parkway, and enter into contracts in writing to that end. All parks or  
28 parkways, to which the state contributed or in whose care, control, or  
29 supervision the state participated pursuant to the provisions of this  
30 section, shall be governed by the provisions hereof.

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

35 (10) Adopt rules establishing the requirements for a criminal  
36 history record information search for the following: Job applicants,  
37 volunteers, and independent contractors who have unsupervised access to  
38 children or vulnerable adults, or who will be responsible for

1 collecting or disbursing cash or processing credit/debit card  
2 transactions. These background checks will be done through the  
3 Washington state patrol criminal identification section and may include  
4 a national check from the federal bureau of investigation, which shall  
5 be through the submission of fingerprints. A permanent employee of the  
6 commission, employed as of July 24, 2005, is exempt from the provisions  
7 of this subsection.

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

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

14 ~~((The commission shall provide recycling receptacles in the~~  
15 ~~day use and campground areas of at least forty state parks. The~~  
16 ~~receptacles shall be clearly marked for the disposal of at least two of~~  
17 ~~the following recyclable materials: Aluminum, glass, newspaper,~~  
18 ~~plastic, and tin. The commission shall endeavor to provide recycling~~  
19 ~~receptacles in parks that are near urban centers or in heavily used~~  
20 ~~parks.~~

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

23 (4)) The commission is authorized to enter into agreements with  
24 any person, company, or nonprofit organization to provide for the  
25 collection and transport of recyclable materials and related activities  
26 under this section.

27 NEW SECTION. **Sec. 104.** The following acts or parts of acts are  
28 each repealed:

29 (1) RCW 79A.05.190 (Recreational metal detectors--Available land)  
30 and 1997 c 150 s 2;

31 (2) RCW 79A.05.195 (Identification of historic archaeological  
32 resources in state parks--Plan--Availability of land for use by  
33 recreational metal detectors) and 1999 c 249 s 905 & 1997 c 150 s 3;  
34 and

35 (3) RCW 79A.05.351 (Outdoor education and recreation grant

1 program--Creation--Establish and implement program by rule--Advisory  
2 committee--Account) and 2007 c 176 s 2.

3 **PART 2**

4 **DEPARTMENT OF ECOLOGY**

5 **Sec. 201.** RCW 70.93.200 and 1998 c 257 s 8 are each amended to  
6 read as follows:

7 In addition to the (~~foregoing~~) other provisions of this chapter,  
8 the department (~~of ecology shall~~) may, when the director determines  
9 that funding is available:

10 (1) Serve as the coordinating agency between the various industry  
11 organizations seeking to aid in the waste reduction, anti-litter, and  
12 recycling efforts;

13 (2) Serve as the coordinating and administrating agency for all  
14 state agencies and local governments receiving funds for waste  
15 reduction, litter control, and recycling under this chapter;

16 (3) Recommend to the governing bodies of all local governments that  
17 they adopt ordinances similar to the provisions of this chapter;

18 (4) Cooperate with all local governments to accomplish coordination  
19 of local waste reduction, anti-litter, and recycling efforts;

20 (5) Encourage, organize, and coordinate all voluntary local waste  
21 reduction, anti-litter, and recycling campaigns seeking to focus the  
22 attention of the public on the programs of this state to reduce waste,  
23 control and remove litter, and foster recycling;

24 (6) Investigate the availability of, and apply for funds available  
25 from any private or public source to be used in the program outlined in  
26 this chapter;

27 (7) Develop statewide programs by working with local governments,  
28 payers of the waste reduction, recycling, and litter control tax, and  
29 industry organizations that are active in waste reduction, anti-litter,  
30 and recycling efforts to increase public awareness of and participation  
31 in recycling and to stimulate and encourage local private recycling  
32 centers, public participation in recycling and research and development  
33 in the field of litter control, and recycling, removal, and disposal of  
34 litter-related recycling materials;

35 (8) Conduct a (~~biennial~~) periodic statewide litter survey

1 targeted at litter composition, sources, demographics, and geographic  
2 trends; and

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

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

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

16 (2) Funds may be used to meet the needs of efficient and effective  
17 litter collection and illegal dumping programs identified by the  
18 various agencies. The department shall develop criteria for evaluating  
19 the effectiveness and efficiency of the waste reduction, litter  
20 control, and recycling programs being administered by the various  
21 agencies listed in RCW 70.93.180, and shall distribute funds according  
22 to the effectiveness and efficiency of those programs. In addition,  
23 the department shall approve funding requests for efficient and  
24 effective waste reduction, litter control, and recycling programs,  
25 provide funds, and monitor the results of all agency programs.

26 (3) All agencies are responsible for reporting information on their  
27 litter collection programs~~((7))~~ as requested by the department ~~((of~~  
28 ~~ecology. Beginning in the year 2000, this information shall be~~  
29 ~~provided to the department by March of even numbered years. In 1998,~~  
30 ~~this information shall be provided by July 1st.~~

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

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

3           (1) The department shall provide funding to local units of  
4 government to establish, conduct, and evaluate community restitution  
5 and other programs for waste reduction, litter and illegal dump  
6 cleanup, and recycling. Programs eligible for funding under this  
7 section shall include, but not be limited to, programs established  
8 pursuant to RCW 72.09.260.

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

20           (3) Local governments shall report information as requested by the  
21 department in funding agreements entered into by the department and a  
22 local government. ~~((The department shall report to the appropriate  
23 standing committees of the legislature by December of even numbered  
24 years on the effectiveness of local government waste reduction, litter,  
25 and recycling programs funded under this section.))~~

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

28           ~~((By January 1, 1987, the state fire protection board, in  
29 cooperation with))~~ The department ~~((of ecology,))~~ shall ~~((develop))~~  
30 maintain, as necessary, a statewide standard for the placement of  
31 above-ground tanks to collect used oil from private individuals for  
32 recycling purposes.

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

35           (1) The department shall establish annual fees to collect expenses  
36 for issuing and administering biosolids permits under this chapter. An



1 initial fee schedule shall be established by rule and shall be adjusted  
2 no more often than once every two years. This fee schedule applies to  
3 all permits, regardless of date of issuance, and fees shall be assessed  
4 prospectively. Fees shall be established in amounts to recover  
5 expenses incurred by the department in processing permit applications  
6 and modifications, reviewing related plans and documents, monitoring,  
7 evaluating, conducting inspections, overseeing performance of delegated  
8 program elements, providing technical assistance and supporting  
9 overhead expenses that are directly related to these activities.

10 (2) The annual fee paid by a permittee for any permit issued under  
11 this chapter shall be determined by the number of residences or  
12 residential equivalents contributing to the permittee's biosolids  
13 management system. If residences or residential equivalents cannot be  
14 determined or reasonably estimated, fees shall be based on other  
15 appropriate criteria.

16 (3) The biosolids permit account is created in the state treasury.  
17 All receipts from fees under this section must be deposited into the  
18 account. Moneys in the account may be spent only after appropriation.  
19 Expenditures from the account may be used only for the purposes of  
20 administering permits under this chapter.

21 ~~((The department shall present a biennial progress report on  
22 the use of moneys from the biosolids permit account to the legislature.  
23 The first report is due on or before December 31, 1998, and thereafter  
24 on or before December 31st of odd numbered years. The report shall  
25 consist of information on fees collected, actual expenses incurred, and  
26 anticipated expenses for the current and following fiscal years.~~

27 ~~(5))~~ The department shall work with the regulated community and  
28 local health departments to study the feasibility of modifying the fee  
29 schedule to support delegated local health departments and reduce local  
30 health department fees paid by biosolids permittees.

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

33 ~~((By May 31, 1990,))~~ The department shall ~~((develop and adopt))~~  
34 maintain criteria for the siting of hazardous waste management  
35 facilities. These criteria will be part of the state hazardous waste  
36 management plan as described in RCW 70.105.200. To the extent  
37 practical, these criteria shall be designed to minimize the short-term

1 and long-term risks and costs that may result from hazardous waste  
2 management facilities. These criteria may vary by type of facilities  
3 and may consider natural site characteristics and engineered  
4 protection. Criteria may be established for:

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

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

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

26 ~~(a))~~ a plan or program to manage moderate-risk wastes that are  
27 generated or otherwise present within the jurisdiction. This element  
28 shall include an assessment of the quantities, types, generators, and  
29 fate of moderate-risk wastes in the jurisdiction. The purpose of this  
30 element is to develop a system of managing moderate-risk waste,  
31 appropriate to each local area, and to ensure protection of the  
32 environment and public health(~~(:~~

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

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

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

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

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

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

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

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

16       (3) Local governments shall coordinate with those persons involved  
17 in providing privately owned hazardous and moderate-risk waste  
18 facilities and services as follows: If a local government determines  
19 that a moderate-risk waste will be or is adequately managed by one or  
20 more privately owned facilities or services at a reasonable price, the  
21 local government shall take actions to encourage the use of that  
22 private facility or service. Actions taken by a local government under  
23 this subsection may include, but are not limited to, restricting or  
24 prohibiting the land disposal of a moderate-risk waste at any transfer  
25 station or land disposal facility within its jurisdiction.

26       (4)(a) The department shall (~~prepare~~) maintain guidelines for the  
27 development of local hazardous waste plans. (~~The guidelines shall be~~  
28 ~~prepared in consultation with local governments and shall be completed~~  
29 ~~by December 31, 1986.~~) The guidelines shall include a list of  
30 substances identified as hazardous household substances.

31       (b) (~~In preparing the guidelines under (a) of this subsection, the~~  
32 ~~department shall review and assess information on pilot projects that~~  
33 ~~have been conducted for moderate risk waste management.~~) The  
34 department shall encourage (~~additional~~) pilot projects for moderate  
35 risk water management as needed to provide information to improve and  
36 update the guidelines.

37       (5) The department shall consult with retailers, trade

1 associations, public interest groups, and appropriate units of local  
2 government to encourage the development of voluntary public education  
3 programs on the proper handling of hazardous household substances.

4 ~~(6) ((Local hazardous waste plans shall be completed and submitted~~  
5 ~~to the department no later than June 30, 1990.))~~ Local ~~((governments~~  
6 ~~may from time to time amend the local plan))~~ governments' hazardous  
7 waste plans must be reviewed, and revised if necessary, at least as  
8 often as is required of solid waste management plans by RCW  
9 70.95.110(2).

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

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

28 (9) The department may waive the specific requirements of this  
29 section for any local government if such local government demonstrates  
30 to the satisfaction of the department that the objectives of the  
31 planning requirements have been met.

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

34 When so requested, the department shall report ~~((biennially by~~  
35 ~~December 31st of each even numbered year))~~ to the appropriate  
36 committees of the legislature ~~((on))~~, consistent with RCW 43.01.036,  
37 regarding the boards formed or sought to be formed under the authority

1 of this chapter, the transfer applications reviewed and other  
2 activities conducted by the boards, and the funding of such boards.  
3 Conservancy boards must provide information regarding their activities  
4 to the department to assist the department in preparing the report.

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

7 When so requested, the department of ecology shall report to the  
8 legislature (~~((on the last working day of December of 1984, 1985, and~~  
9 ~~1986, and thereafter as deemed appropriate by the department, on))~~),  
10 consistent with RCW 43.01.036, regarding dam facilities that exhibit  
11 safety deficiencies sufficient to pose a significant threat to the  
12 safety of life and property. The report shall identify the owner or  
13 owners of such facilities, detail the owner's ability and attitude  
14 towards correcting such deficiencies, and provide an estimate of the  
15 cost of correcting the deficiencies if a study has been completed.

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

18 (1) On a pilot project basis, the use of water for domestic use in  
19 clustered residential developments is exempt as described in subsection  
20 (2) of this section from the permit requirements of RCW 90.44.050 in  
21 Whitman county. The department must review the use of water under this  
22 section and its impact on water resources in the county and when  
23 requested to do so report to the legislature (~~((by December 31st of each~~  
24 ~~even numbered year through 2016 regarding its review))~~), consistent with  
25 RCW 43.01.036.

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

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

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

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

7       (2) Such agreements shall ensure that:

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

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

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

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

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

27       (a) Provide a sixty-day period for consultation with county  
28 legislative authorities and watershed planning groups with jurisdiction  
29 over the area where the water rights included in the agreement are  
30 located, the department of fish and wildlife, and affected tribal  
31 governments, and federal agencies. The department of fish and wildlife  
32 shall provide written comments within that time period. The  
33 consultation process for voluntary regional agreements developed under  
34 the provisions of this section is deemed adequate for the issuance of  
35 new water rights provided for in this section and satisfies all  
36 consultation requirements under state law related to the issuance of  
37 new water rights; and

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

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

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

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

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

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

27 (10) If the department of ecology executes a voluntary agreement  
28 under this section that includes water rights appropriated from the  
29 lower Snake river mainstem, the department shall develop aggregate data  
30 in accordance with the provisions of RCW 90.90.050 for the lower Snake  
31 river mainstem.

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

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

1 (a) "Columbia river mainstem" means all water in the Columbia river  
2 within the ordinary high water mark of the main channel of the Columbia  
3 river between the border of the United States and Canada and the  
4 Bonneville dam, and all groundwater within one mile of the high water  
5 mark.

6 (b) "Lower Snake river mainstem" means all water in the lower Snake  
7 river within the ordinary high water mark of the main channel of the  
8 lower Snake river from the head of Ice Harbor pool to the confluence of  
9 the Snake and Columbia rivers, and all groundwater within one mile of  
10 the high water mark.

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

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

14 (1) To support the development of new water supplies in the  
15 Columbia river and to protect instream flow, the department of ecology  
16 shall work with all interested parties, including interested county  
17 legislative authorities and watershed planning groups, adjacent to the  
18 Columbia river, and affected tribal governments, to develop a Columbia  
19 river water supply inventory and a long-term water supply and demand  
20 forecast. The inventory must include:

21 (a) A list of conservation projects that have been implemented  
22 under this chapter and the amount of water conservation they have  
23 achieved; and

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

- 26 (i) Cost per acre-foot;
- 27 (ii) Benefit to fish and other instream needs;
- 28 (iii) Benefit to out-of-stream needs; and
- 29 (iv) Environmental and cultural impacts.

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

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



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

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

8       (2) Each implementation plan must contain strategies to provide  
9 sufficient water for: (a) Production agriculture; (b) commercial,  
10 industrial, and residential use; and (c) instream flows. Each  
11 implementation plan must contain timelines to achieve these strategies  
12 and interim milestones to measure progress.

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

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

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

27       (b) (~~Beginning with the December 1, 2007, report, and then every~~  
28 ~~two years thereafter,~~) The director shall include in each report, when  
29 appropriate, the extent to which reclaimed water has been identified in  
30 the watershed plans as potential sources or strategies to meet future  
31 water needs, and provisions in any watershed implementation plans that  
32 discuss barriers to implementation of the water reuse elements of those  
33 plans. The department's report shall include an estimate of the  
34 potential cost of reclaimed water facilities and identification of  
35 potential sources of funding for them.

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

1 The department is empowered as follows:

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

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

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

28 (b) Use standards regulating, as to time and place, the operation  
29 of individual products which produce noise above specified levels  
30 considering frequency spectrum and duration (~~(PROVIDED)~~). However,  
31 the rules shall provide for temporarily exceeding those standards for  
32 stated purposes; and

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

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

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

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

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

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

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

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

23 (3) Standards and other control measures adopted by the department  
24 under this chapter shall be exclusive ~~((except as hereinafter  
25 provided))~~. However, a local government may impose limits or control  
26 sources differing from those adopted or controlled by the department  
27 upon a finding that such requirements are necessitated by special  
28 conditions. ~~((Noise limiting requirements of local government which  
29 differ from those adopted or controlled by the department shall be  
30 invalid unless first approved by the department. If the department of  
31 ecology fails to approve or disapprove standards submitted by local  
32 governmental jurisdictions within ninety days of submittal, such  
33 standards shall be deemed approved. If disapproved, the local  
34 government may appeal the decision to the pollution control hearings  
35 board which shall decide the appeal on the basis of the provisions of  
36 this chapter, and the applicable regulations, together with such  
37 briefs, testimony, and oral argument as the hearings board in its~~

1 ~~discretion may require. The department determination of whether to~~  
2 ~~grant approval shall depend on the reasonableness and practicability of~~  
3 ~~compliance. Particular attention shall be given to stationary sources~~  
4 ~~located near jurisdictional boundaries, and temporary noise producing~~  
5 ~~operations which may operate across one or more jurisdictional~~  
6 ~~boundaries.))~~

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

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

14 (1) The evaluation of the solid waste stream required in RCW  
15 70.95.280 shall include the following elements:

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

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

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

26 (2) The department shall give priority to evaluating categories of  
27 solid waste that, in relation to other categories of solid waste,  
28 comprise a large volume of the solid waste stream or present a high  
29 potential of harm to human health. ~~((At a minimum the following~~  
30 ~~categories of waste shall be evaluated:~~

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

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

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

1 (1) The department may review a plan, executive summary, or an  
2 annual progress report to determine whether the plan, executive  
3 summary, or annual progress report is adequate pursuant to the rules  
4 developed under this section and with the provisions of RCW 70.95C.200.  
5 In determining the adequacy of any plan, executive summary, or annual  
6 progress report, the department shall base its determination solely on  
7 whether the plan, executive summary, or annual progress report is  
8 complete and prepared in accordance with the provisions of RCW  
9 70.95C.200.

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

20 (3) If a hazardous substance user or hazardous waste generator  
21 fails to complete an adequate plan, executive summary, or annual  
22 progress report, the department shall notify the user or generator of  
23 the inadequacy, identifying specific deficiencies. For the purposes of  
24 this section, a deficiency may include failure to develop a plan,  
25 failure to submit an executive summary pursuant to the schedule  
26 provided in RCW 70.95C.200(5), and failure to submit an annual progress  
27 report pursuant to the rules developed under RCW 70.95C.200(6). The  
28 department shall specify a reasonable time frame, of not less than  
29 ninety days, within which the user or generator shall complete a  
30 modified plan, executive summary, or annual progress report addressing  
31 the specified deficiencies.

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

36 (5)(a) If, after having received a list of specified deficiencies  
37 from the department, a hazardous substance user or hazardous waste  
38 generator required to prepare a plan fails to complete modification of

1 a plan, executive summary, or annual progress report within the time  
2 period specified by the department, the department may enter an order  
3 pursuant to chapter 34.05 RCW finding the user or generator not in  
4 compliance with the requirements of RCW 70.95C.200. When the order is  
5 final, the department shall (~~notify the department of revenue to~~)  
6 charge a penalty fee. The penalty fee shall be the greater of one  
7 thousand dollars or three times the amount of the user's or generator's  
8 previous year's fee, in addition to the current year's fee. If no fee  
9 was assessed the previous year, the penalty shall be the greater of one  
10 thousand dollars or three times the amount of the current year's fee.  
11 The penalty assessed under this subsection shall be collected each year  
12 after the year for which the penalty was assessed until an adequate  
13 plan or executive summary is completed.

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

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

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

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

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

6 (3) Financial and commercial information and records supplied by  
7 private persons pertaining to export services provided under chapters  
8 43.163 and 53.31 RCW, and by persons pertaining to export projects  
9 under RCW 43.23.035;

10 (4) Financial and commercial information and records supplied by  
11 businesses or individuals during application for loans or program  
12 services provided by chapters 43.325, 43.163, 43.160, 43.330, and  
13 43.168 RCW, or during application for economic development loans or  
14 program services provided by any local agency;

15 (5) Financial information, business plans, examination reports, and  
16 any information produced or obtained in evaluating or examining a  
17 business and industrial development corporation organized or seeking  
18 certification under chapter 31.24 RCW;

19 (6) Financial and commercial information supplied to the state  
20 investment board by any person when the information relates to the  
21 investment of public trust or retirement funds and when disclosure  
22 would result in loss to such funds or in private loss to the providers  
23 of this information;

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

25 ~~((Financial, commercial, operations, and technical and research~~  
26 ~~information and data submitted to or obtained by the clean Washington~~  
27 ~~center in applications for, or delivery of, program services under~~  
28 ~~chapter 70.95H RCW;~~

29 ~~(9))~~ Financial and commercial information requested by the public  
30 stadium authority from any person or organization that leases or uses  
31 the stadium and exhibition center as defined in RCW 36.102.010;

32 ~~((10))~~ (9)(a) Financial information, including but not limited to  
33 account numbers and values, and other identification numbers supplied  
34 by or on behalf of a person, firm, corporation, limited liability  
35 company, partnership, or other entity related to an application for a  
36 horse racing license submitted pursuant to RCW 67.16.260(1)(b), liquor  
37 license, gambling license, or lottery retail license;

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

6 ~~((+11+))~~ (10) Proprietary data, trade secrets, or other information  
7 that relates to: (a) A vendor's unique methods of conducting business;  
8 (b) data unique to the product or services of the vendor; or (c)  
9 determining prices or rates to be charged for services, submitted by  
10 any vendor to the department of social and health services for purposes  
11 of the development, acquisition, or implementation of state purchased  
12 health care as defined in RCW 41.05.011;

13 ~~((+12+))~~ (11)(a) When supplied to and in the records of the  
14 department of ~~((community, trade, and economic development))~~ commerce:

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

18 (ii) Financial or proprietary information collected from any person  
19 and provided to the department of ~~((community, trade, and economic  
20 development))~~ commerce or the office of the governor in connection with  
21 the siting, recruitment, expansion, retention, or relocation of that  
22 person's business and until a siting decision is made, identifying  
23 information of any person supplying information under this subsection  
24 and the locations being considered for siting, relocation, or expansion  
25 of a business;

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

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

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



1           (~~(13)~~) (12) Financial and proprietary information submitted to or  
2 obtained by the department of ecology or the authority created under  
3 chapter 70.95N RCW to implement chapter 70.95N RCW;

4           (~~(14)~~) (13) Financial, commercial, operations, and technical and  
5 research information and data submitted to or obtained by the life  
6 sciences discovery fund authority in applications for, or delivery of,  
7 grants under chapter 43.350 RCW, to the extent that such information,  
8 if revealed, would reasonably be expected to result in private loss to  
9 the providers of this information;

10          (~~(15)~~) (14) Financial and commercial information provided as  
11 evidence to the department of licensing as required by RCW 19.112.110  
12 or 19.112.120, except information disclosed in aggregate form that does  
13 not permit the identification of information related to individual fuel  
14 licensees;

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

18          (~~(17)~~) (16)(a) Farm plans developed by conservation districts,  
19 unless permission to release the farm plan is granted by the landowner  
20 or operator who requested the plan, or the farm plan is used for the  
21 application or issuance of a permit;

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

25          (~~(18)~~) (17) Financial, commercial, operations, and technical and  
26 research information and data submitted to or obtained by a health  
27 sciences and services authority in applications for, or delivery of,  
28 grants under RCW 35.104.010 through 35.104.060, to the extent that such  
29 information, if revealed, would reasonably be expected to result in  
30 private loss to providers of this information;

31          (~~(19)~~) (18) Information gathered under chapter 19.85 RCW or RCW  
32 34.05.328 that can be identified to a particular business; and

33          (~~(20)~~) (19) Financial and commercial information submitted to or  
34 obtained by the University of Washington, other than information the  
35 university is required to disclose under RCW 28B.20.150, when the  
36 information relates to investments in private funds, to the extent that  
37 such information, if revealed, would reasonably be expected to result

1 in loss to the University of Washington consolidated endowment fund or  
2 to result in private loss to the providers of this information.

3 NEW SECTION. **Sec. 219.** The following acts or parts of acts are  
4 each repealed:

5 (1) RCW 70.95C.250 (Multimedia permit pilot program--Air, water,  
6 hazardous waste management) and 1998 c 245 s 134 & 1994 c 248 s 1;

7 (2) RCW 70.95H.005 (Finding) and 1991 c 319 s 201;

8 (3) RCW 70.95H.007 (Center created) and 1995 c 399 s 192 & 1991 c  
9 319 s 202;

10 (4) RCW 70.95H.010 (Purpose--Market development defined) and 1991  
11 c 319 s 203;

12 (5) RCW 70.95H.030 (Duties and responsibilities) and 1992 c 131 s  
13 2 & 1991 c 319 s 205;

14 (6) RCW 70.95H.040 (Authority) and 1991 c 319 s 206;

15 (7) RCW 70.95H.050 (Funding) and 1995 c 399 s 194 & 1991 c 319 s  
16 207;

17 (8) RCW 70.95H.900 (Termination) and 1991 c 319 s 209;

18 (9) RCW 70.95H.901 (Captions not law) and 1991 c 319 s 211;

19 (10) RCW 70.107.080 (Exemptions) and 1974 ex.s. c 183 s 8;

20 (11) RCW 70.93.090 (Litter receptacles--Use of anti-litter symbol--  
21 Distribution--Placement--Violations--Penalties) and 1998 c 257 s 4,  
22 1979 c 94 s 5, & 1971 ex.s. c 307 s 9; and

23 (12) RCW 79.125.730 (Director of ecology to assist city parks) and  
24 2005 c 155 s 519, 1988 c 127 s 34, & 1939 c 157 s 3.

25 **PART 3**

26 **STATE CONSERVATION COMMISSION**

27 **Sec. 301.** RCW 89.08.040 and 2009 c 55 s 1 are each amended to read  
28 as follows:

29 (1) Members shall be compensated in accordance with RCW 43.03.250  
30 and shall be entitled to travel expenses in accordance with RCW  
31 43.03.050 and 43.03.060 incurred in the discharge of their duties.

32 (2) The commission shall keep a record of its official actions,  
33 shall adopt a seal, which shall be judicially noticed, and may perform  
34 such acts, hold such public hearings, and adopt such rules as may be  
35 necessary for the execution of its functions under chapter 184, Laws of

1 1973 1st ex. sess. The state department of ecology is empowered, but  
2 not required, to pay the travel expenses of the elected and appointed  
3 members of the state conservation commission, and the salaries, wages,  
4 and other expenses of such administrative officers or other employees  
5 as may be required under the provisions of this chapter.

6 **Sec. 302.** RCW 89.08.050 and 2009 c 55 s 2 are each amended to read  
7 as follows:

8 (1) The commission may employ an administrative officer, and such  
9 technical experts and such other agents and employees, permanent and  
10 temporary as it may require, and shall determine their qualifications,  
11 duties, and compensation. The commission may call upon the attorney  
12 general for such legal services as it may require.

13 ~~((It))~~ (2) The commission shall have authority to delegate to  
14 ~~((its))~~ the chair, to one or more of its members, to one or more agents  
15 or employees ~~((such))~~ those duties and powers ~~((as it deems))~~ deemed  
16 proper by the commission. As long as the commission and the office of  
17 financial management under the provisions of chapter 43.82 RCW deems it  
18 appropriate and financially justifiable to do so, the commission shall  
19 be supplied with suitable office accommodations at the central office  
20 of the department of ecology, and shall be furnished the necessary  
21 supplies and equipment.

22 (3) The commission shall ~~((organize annually and))~~ select a chair  
23 from among its members, who shall serve for ~~((one year from the date of~~  
24 ~~the chair's selection))~~ a length of time to be determined by the  
25 commission. A majority of the commission shall constitute a quorum and  
26 all actions of the commission shall be by a majority vote of the  
27 members present and voting at a meeting at which a quorum is present.

#### 28 **PART 4**

#### 29 **DEPARTMENT OF AGRICULTURE**

30 **Sec. 401.** RCW 43.23.130 and 2009 c 549 s 5107 are each amended to  
31 read as follows:

32 The director of the department of agriculture shall make ~~((an~~  
33 ~~annual))~~ reports to the governor, as requested, containing an account  
34 of all matters pertaining to ~~((his or her))~~ the department and its  
35 administration.



1 (e) An individual who is totally blind or visually impaired; or  
2 (f) An individual with a permanent disability with upper or lower  
3 extremity impairments who does not have the use of one or both upper or  
4 lower extremities.

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

9 (4) The advisory committee must meet at least semiannually, and may  
10 meet at other times as requested by a majority of the advisory  
11 committee members for any express purpose that directly relates to the  
12 duties set forth in subsection (1) of this section. A majority of  
13 members currently serving on the advisory committee constitutes a  
14 quorum. The department must provide staff support for all official  
15 advisory committee meetings.

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

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

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

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

30 The department and the state parks and recreation commission  
31 ~~((shall))~~ may disseminate information about RCW 77.15.740, whale and  
32 wildlife viewing guidelines, and other responsible wildlife viewing  
33 messages to educate Washington's citizens on how to reduce the risk of  
34 disturbing southern resident orca whales. ~~((The department and the  
35 state parks and recreation commission must, at minimum, disseminate))~~  
36 This information may be disseminated on ~~((their))~~ the agency internet  
37 sites ~~((and))~~, through appropriate agency publications, brochures, and

1 through other information sources deemed appropriate by the two  
2 agencies. The department and the state parks and recreation commission  
3 (~~shall~~) should also attempt to reach the state's boating community by  
4 coordinating with appropriate state and nongovernmental entities to  
5 provide this information at marinas, boat shows, boat dealers, during  
6 boating safety training courses, and in conjunction with vessel  
7 registration or licensing.

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

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

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

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

32 In coordination with the department of natural resources and lead  
33 entity groups, the department must establish a ranked inventory of fish  
34 passage barriers on land owned by small forest landowners based on the  
35 principle of fixing the worst first within a watershed consistent with  
36 the fish passage priorities of the forest and fish report. The

1 department shall first gather and synthesize all available existing  
2 information about the locations and impacts of fish passage barriers in  
3 Washington. This information must include, but not be limited to, the  
4 most recently available limiting factors analysis conducted pursuant to  
5 RCW 77.85.060(2), the stock status information contained in the  
6 department (~~(of fish and wildlife)~~) salmonid stock inventory (SASSI),  
7 the salmon and steelhead habitat inventory and assessment project  
8 (SSHIAP), and any comparable science-based assessment when available.  
9 The inventory of fish passage barriers must be kept reasonably current  
10 (~~(and at a minimum be updated by the beginning of each calendar year)~~)  
11 as the director of the department determines funding allows. Nothing  
12 in this section grants the department or others additional right of  
13 entry onto private property.

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

16 The eastern Washington pheasant enhancement account is created in  
17 the custody of the state treasurer. All receipts under RCW 77.12.810  
18 must be deposited in the account. Moneys in the account are subject to  
19 legislative appropriation and shall be used for the purpose of funding  
20 the eastern Washington pheasant enhancement program. The department  
21 may use moneys from the account to improve pheasant habitat or to  
22 purchase or produce pheasants. The department must continue to release  
23 rooster pheasants in eastern Washington. The eastern Washington  
24 pheasant enhancement account funds must not be used for the purchase of  
25 land. The account may be used to offer grants to improve pheasant  
26 habitat on public or private lands that are open to public hunting.  
27 The department may enter partnerships with private landowners,  
28 nonprofit corporations, cooperative groups, and federal or state  
29 agencies for the purposes of pheasant habitat enhancement in areas that  
30 will be available for public hunting. The department shall (~~(submit an~~  
31 ~~annual report to the appropriate committees of the legislature by~~  
32 ~~December 1st)~~) make information regarding the department's eastern  
33 Washington pheasant activities available upon request.

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

36 (1) The aquatic nuisance species committee is created for the

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

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

21 (3) The committee has the following duties:

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

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

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

29 (d) Coordinate education, research, regulatory authorities,  
30 monitoring and control programs, and participate in regional and  
31 national efforts regarding aquatic nuisance species; and

32 (e) Consult with representatives from industries and other  
33 activities that may serve as a pathway for the introduction of aquatic  
34 nuisance species to develop practical strategies that will minimize the  
35 risk of new introductions(~~(+and~~

36 ~~(f) Prepare a biennial report to the legislature with the first~~  
37 ~~report due by December 1, 2001, making recommendations for better~~



1 ~~accomplishing — the — purposes — of — this — chapter, — and — listing — the~~  
2 ~~accomplishments of this chapter to date~~)).

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

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

9 (1) The commission shall develop long-term regional policy  
10 statements regarding the salmon fishery resources before December 1,  
11 1985. The commission shall consider the following in formulating and  
12 updating regional policy statements:

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

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

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

26 The department (~~shall~~) may field test coho and chinook salmon  
27 remote site incubators. The purpose of field testing efforts shall be  
28 to gather conclusive scientific data on the effectiveness of coho and  
29 chinook remote site incubators.

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

32 (1) The department (~~shall~~) may develop and implement a program  
33 utilizing remote site incubators in Washington (~~state~~). If used, the  
34 program (~~shall~~) must identify sites in tributaries that are suitable

1 for reestablishing self-sustaining, locally adapted populations of  
2 coho, chum, or chinook salmon. The initial selection of sites shall be  
3 updated annually.

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

9 (3) The department shall depend chiefly upon volunteer efforts to  
10 implement (~~the~~) a remote site incubator program through volunteer  
11 cooperative projects and the regional fisheries enhancement groups.  
12 The department may prioritize remote site incubator projects within  
13 regional enhancement areas.

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

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

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

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

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

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

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

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

32 (3) RCW 77.95.160 (Fish passage barrier removal task force--  
33 Membership--Recommendations) and 2000 c 107 s 110, 1997 c 389 s 6, &  
34 1995 c 367 s 2.

1 PART 6

2 DEPARTMENT OF NATURAL RESOURCES

3 Sec. 601. RCW 43.30.340 and 2003 c 334 s 202 are each amended to  
4 read as follows:

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

11 Sec. 602. RCW 76.06.150 and 2009 c 163 s 5 are each amended to  
12 read as follows:

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

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

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

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

29 (c) Pursuing in an expedited manner any available and appropriate  
30 cooperative agreements, including cooperating agency status  
31 designation, with the United States forest service and the United  
32 States bureau of land management that allow for meaningful  
33 participation in any federal land management plans that could affect  
34 the department's strategic plan for healthy forests and effective fire  
35 prevention and suppression, including the pursuit of any options  
36 available for giving effect to the cooperative philosophy contained

1 within the national environmental policy act of 1969 (42 U.S.C. Sec.  
2 4331); and

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

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

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

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

21 (2) All fees collected by the department shall be paid into the  
22 state treasury, as applicable, to the resource management cost account  
23 created in RCW 79.64.020, the forest development account created in RCW  
24 79.64.100, or the agricultural college trust management account fund as  
25 established under RCW 79.64.090, and the receipt of the state treasurer  
26 taken and retained in the department's Olympia office as a voucher.

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

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

- 32 (a) Facilitate the marketing of forest products of state lands;  
33 (b) Consolidate and block-up state lands;  
34 (c) Acquire lands having commercial recreational leasing potential;  
35 (d) Acquire county-owned lands;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (3) Except as otherwise provided in this section, no gift of  
33 aquatic land may be accepted until: (a) An appraisal of the value of  
34 the land has been prepared; (b) an environmental site assessment has  
35 been conducted; and (c) the title property report has been examined and  
36 approved by the attorney general of the state. The results of the



1 appraisal, the site assessment, and the examination of the title  
2 property report must be submitted to the board before the department  
3 may accept a gift of aquatic land.

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

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

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

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

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

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

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

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



1 mapped by water resource inventory areas 1 through 19 in WAC  
2 173-500-040 as it exists on July 1, 2007.

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

7 ~~(13))~~ "Watershed groups" means all groups sponsoring or  
8 administering watershed programs, including but not limited to local  
9 governments, private sector entities, watershed planning units,  
10 watershed councils, shellfish protection areas, regional fishery  
11 enhancement groups, marine ~~((resource[s]))~~ resources committees  
12 including those working with the Northwest straits commission,  
13 nearshore groups, and watershed lead entities.

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

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

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

22 (a) Provide leadership and have responsibility for the functions of  
23 the partnership, including adopting, revising, and guiding the  
24 implementation of the action agenda, allocating funds for Puget Sound  
25 recovery, providing progress and other reports, setting strategic  
26 priorities and benchmarks, adopting and applying accountability  
27 measures, and making appointments to the board and panel;

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

29 (c) Create subcommittees and advisory committees as appropriate to  
30 assist the council;

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

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

36 (f) Receive such gifts, grants, and endowments, in trust or

1 otherwise, for the use and benefit of the partnership to effectuate the  
2 purposes of this chapter;

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

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

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

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

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

15 (3) The council shall work closely with existing organizations and  
16 all levels of government to ensure that the action agenda and its  
17 implementation are scientifically sound, efficient, and achieve  
18 necessary results to accomplish recovery of Puget Sound to health by  
19 2020.

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

22 (5) When working with federally recognized Indian tribes to  
23 ~~((develop))~~ update and implement the action agenda, the council shall  
24 conform to the procedures and standards required in a government-to-  
25 governmental relationship with tribes under the 1989 Centennial Accord  
26 between the state of Washington and the sovereign tribal governments in  
27 the state of Washington.

28 (6) Members of the council shall be compensated in accordance with  
29 RCW 43.03.220 and be reimbursed for travel expenses in accordance with  
30 RCW 43.03.050 and 43.03.060.

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

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

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

36 (a) One representative from the geographic area of each of the

1 action areas specified in RCW 90.71.260, appointed by the council. The  
2 council shall solicit nominations from, at a minimum, counties, cities,  
3 and watershed groups;

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

7 (c) Two members representing environmental interests, appointed by  
8 the council;

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

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

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

18 (g) Three representatives of federal agencies with environmental  
19 management responsibilities in Puget Sound, representing the interests  
20 of all federal agencies and invited by the governor to participate as  
21 members of the board.

22 ~~((+3))~~ (2) The president of the senate shall appoint two senators,  
23 one from each major caucus, as legislative liaisons to the board. The  
24 speaker of the house of representatives shall appoint two  
25 representatives, one from each major caucus, as legislative liaisons to  
26 the board.

27 ~~((+4))~~ (3) The board shall elect one of its members as chair, and  
28 one of its members as vice-chair.

29 ~~((+5))~~ (4) The board shall advise and assist the council in  
30 carrying out its responsibilities in implementing this chapter,  
31 including ~~((development and))~~:

32 (a) The implementation and updating of the action agenda~~((The  
33 board's duties include:~~

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

1 (b) (~~Upon request of the council, reviewing and making~~  
2 ~~recommendations regarding activities, projects, and programs proposed~~  
3 ~~for inclusion in the action agenda, including assessing existing~~  
4 ~~ecosystem scale management, restoration and protection plan elements,~~  
5 ~~activities, projects, and programs for inclusion in the action agenda;~~

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

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

11 ((~~e~~)) (d) Recruiting the active involvement of and encouraging  
12 the collaboration and communication among governmental and  
13 nongovernmental entities, the private sector, and citizens working to  
14 achieve the recovery of Puget Sound.

15 ((~~6~~)) (5) Members of the board, except for federal and state  
16 employees, shall be reimbursed for travel expenses in accordance with  
17 RCW 43.03.050 and 43.03.060.

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

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

28 (2) The partnership shall organize ((~~this work~~)) the implementation  
29 of the action agenda by working with these groups in the following  
30 geographic action areas of Puget Sound, which collectively encompass  
31 all of the Puget Sound basin and include the areas draining to the  
32 marine waters in these action areas:

- 33 (a) Strait of Juan de Fuca;
- 34 (b) The San Juan Islands;
- 35 (c) Whidbey Island;
- 36 (d) North central Puget Sound;
- 37 (e) South central Puget Sound;

1 (f) South Puget Sound; and

2 (g) Hood Canal.

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

7 ~~((The — executive — director, — working — with — the — board  
8 representatives from each action area, shall invite appropriate tribes,  
9 local governments, and watershed groups to convene for the purpose of  
10 compiling the existing watershed programs relating or contributing to  
11 the health of Puget Sound. — The participating groups should work to  
12 identify the applicable local plan elements, projects, and programs,  
13 together — with — estimated — budget, — timelines, — and — proposed — funding  
14 sources, that are suitable for adoption into the action agenda. — This  
15 may — include — a — prioritization — among — plan — elements, — projects, — and  
16 programs.~~

17 ~~(5))~~ The partnership may provide assistance to watershed groups in  
18 those action areas that are developing and implementing programs  
19 included within the action agenda, and to improve coordination among  
20 the groups to improve and accelerate the implementation of the action  
21 agenda.

22 ~~((6))~~ (5) The executive director, working with the board, shall  
23 also compile and assess ecosystem scale management, restoration, and  
24 protection plans for the Puget Sound basin.

25 (a) At a minimum, the compilation shall include the Puget Sound  
26 nearshore estuary project, clean-up plans for contaminated aquatic  
27 lands and shorelands, aquatic land management plans, state resource  
28 management plans, habitat conservation plans, and recovery plans for  
29 salmon, orca, and other species in Puget Sound that are listed under  
30 the federal endangered species act.

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

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

1 (d) If it determines that doing so will increase the likelihood of  
2 restoring Puget Sound by 2020, the partnership may explore the utility  
3 of federal assurances under the endangered species act, 16 U.S.C. Sec.  
4 1531 et seq., and shall confer with the federal services administering  
5 that act.

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

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

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

16 (2) ~~((In establishing the panel,))~~ The council shall request the  
17 Washington academy of sciences, created in chapter 70.220 RCW, to  
18 nominate fifteen scientists with recognized expertise in fields of  
19 science essential to the recovery of Puget Sound. Nominees should  
20 reflect the full range of scientific and engineering disciplines  
21 involved in Puget Sound recovery. At a minimum, the Washington academy  
22 of sciences shall consider making nominations from scientists  
23 associated with federal, state, and local agencies, tribes, the  
24 business and environmental communities, members of the K-12, college,  
25 and university communities, and members of the board. The solicitation  
26 should be to all sectors, and candidates may be from all public and  
27 private sectors. ~~((Persons nominated by the Washington academy of  
28 sciences))~~ Nominees and panel members must disclose any potential  
29 conflicts of interest, and any financial relationship with any  
30 leadership councilmember, and disclose sources of current financial  
31 support and contracts relating to Puget Sound recovery.

32 (3) The panel shall select a chair and a vice chair. Panel members  
33 shall serve four-year terms, except that the council shall determine  
34 initial terms of two, three, and four years to provide for staggered  
35 terms. The council shall determine reappointments and select  
36 replacements or additional members of the panel. No panel member may  
37 serve longer than twelve years.



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

6 (5) The executive director of the partnership and the science panel  
7 shall explore a shared state and federal responsibility for the  
8 staffing and administration of the panel. In the event that a  
9 federally sponsored Puget Sound recovery office is created, the council  
10 may propose that such office provide for staffing and administration of  
11 the panel.

12 (6) The panel shall assist the council in ~~((developing and))~~  
13 revising the action agenda, making recommendations to the action  
14 agenda, and making recommendations to the council for updates or  
15 revisions.

16 (7) Members of the panel shall be reimbursed for travel expenses  
17 under RCW 43.03.050 and 43.03.060, and based upon the availability of  
18 funds, the council may contract with members of the panel for  
19 compensation for their services under chapter 39.29 RCW. If appointees  
20 to the panel are employed by the federal, state, tribal, or local  
21 governments, the council may enter into interagency personnel  
22 agreements.

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

25 (1) The panel shall:

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

29 (b) As provided in RCW 90.71.290, assist the partnership in  
30 ~~((developing))~~ maintaining an ecosystem level strategic science program  
31 that:

32 (i) Addresses monitoring, modeling, data management, and research;  
33 and

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

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

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

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

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

8 (2) The panel should collaborate with other scientific groups and  
9 consult other scientists in conducting its work. To the maximum extent  
10 possible, the panel should seek to integrate the state-sponsored Puget  
11 Sound science program with the Puget Sound science activities of  
12 federal agencies, including working toward an integrated research  
13 agenda and Puget Sound science work plan.

14 (3) (~~By July 31, 2008,~~) The panel shall identify environmental  
15 indicators measuring the health of Puget Sound, and recommend  
16 environmental benchmarks that need to be achieved to meet the goals of  
17 the action agenda. The council shall confer with the panel on  
18 incorporating the indicators and benchmarks, as necessary, into any  
19 updates of the action agenda.

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

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

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

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

32 (c) Recommendations regarding data collection and management to  
33 facilitate easy access and use of data by all participating agencies  
34 and the public; and

35 (d) A list of critical research needs.

36 (2) The strategic science program may not become an official

1 document until a majority of the members of the council votes for its  
2 adoption.

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

8 (a) Describe the current scientific understanding of various  
9 physical attributes of Puget Sound;

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

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

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

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

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

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

24 (a) Identification of recommendations from scientific and technical  
25 reports relating to Puget Sound;

26 (b) A description of the Puget Sound science-related activities  
27 being conducted by various entities in the region, including studies,  
28 models, monitoring, research, and other appropriate activities;

29 (c) A description of whether the ongoing work addresses the  
30 recommendations and, if not, identification of necessary actions to  
31 fill gaps;

32 (d) Identification of specific biennial science work actions to be  
33 done over the course of the work plan, and how these actions address  
34 science needs in Puget Sound; and

35 (e) Recommendations for improvements to the ongoing science work in  
36 Puget Sound.

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

3           (1) The action agenda shall consist of the goals and objectives in  
4 this section, implementation strategies to meet measurable outcomes,  
5 benchmarks, and identification of responsible entities. By 2020, the  
6 action agenda shall strive to achieve the following goals:

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

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

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

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

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

18           (f) Fresh and marine waters and sediments of a sufficient quality  
19 so that the waters in the region are safe for drinking, swimming,  
20 shellfish harvest and consumption, and other human uses and enjoyment,  
21 and are not harmful to the native marine mammals, fish, birds, and  
22 shellfish of the region.

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

25           (a) Protect existing habitat and prevent further losses;

26           (b) Restore habitat functions and values;

27           (c) Significantly reduce toxics entering Puget Sound fresh and  
28 marine waters;

29           (d) Significantly reduce nutrients and pathogens entering Puget  
30 Sound fresh and marine waters;

31           (e) Improve water quality and habitat by managing storm water  
32 runoff;

33           (f) Provide water for people, fish and wildlife, and the  
34 environment;

35           (g) Protect ecosystem biodiversity and recover imperiled species;  
36 and

37           (h) Build and sustain the capacity for action.

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

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

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

9       (b) Describe the problems affecting Puget Sound's health using  
10 supporting scientific data, and provide a summary of the historical  
11 environmental health conditions of Puget Sound so as to determine past  
12 levels of pollution and restorative actions that have established the  
13 current health conditions of Puget Sound;

14       (c) Meet the goals and objectives described in RCW 90.71.300,  
15 including measurable outcomes for each goal and objective specifically  
16 describing what will be achieved, how it will be quantified, and how  
17 progress towards outcomes will be measured. The action agenda shall  
18 include near-term and long-term benchmarks designed to ensure  
19 continuous progress needed to reach the goals, objectives, and  
20 designated outcomes by 2020. The council shall consult with the panel  
21 in developing these elements of the plan;

22       (d) Identify and prioritize the strategies and actions necessary to  
23 restore and protect Puget Sound and to achieve the goals and objectives  
24 described in RCW 90.71.300;

25       (e) Identify the agency, entity, or person responsible for  
26 completing the necessary strategies and actions, and potential sources  
27 of funding;

28       (f) Include prioritized actions identified through the assembled  
29 proposals from each of the seven action areas and the identification  
30 and assessment of ecosystem scale programs as provided in RCW  
31 90.71.260;

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

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

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

37       (2) In ~~((developing))~~ revising the action agenda ~~((and any~~

1 subsequent — revisions)), the council shall, when appropriate,  
2 incorporate the following:

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

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

9 (c) Existing plans and agreements signed by the governor, the  
10 commissioner of public lands, other state officials, or by federal  
11 agencies((+)

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

14 (3) ~~((Until the action agenda is adopted, the existing Puget Sound~~  
15 ~~management plan and the 2007-09 Puget Sound biennial plan shall remain~~  
16 ~~in effect. — The — existing — Puget — Sound — management — plan — shall — also~~  
17 ~~continue to serve as the comprehensive conservation and management plan~~  
18 ~~for the purposes of the national estuary program described in section~~  
19 ~~320 of the federal clean water act, until replaced by the action agenda~~  
20 ~~and approved by the United States environmental protection agency as~~  
21 ~~the new comprehensive conservation and management plan.~~

22 ~~(4) — The — council — shall — adopt — the — action — agenda — by — December — 1,~~  
23 ~~2008.))~~ The council shall revise the action agenda as needed, and,  
24 beginning in 2011, revise the implementation strategies every two years  
25 using an adaptive management process informed by tracking actions and  
26 monitoring results in Puget Sound. In revising the action agenda and  
27 the implementation strategies, the council shall consult the panel and  
28 the board and provide opportunity for public review and comment.  
29 Biennial updates shall:

30 (a) Contain a detailed description of prioritized actions necessary  
31 in the biennium to achieve the goals, objectives, outcomes, and  
32 benchmarks of progress identified in the action agenda;

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

35 (c) Establish biennial benchmarks for near-term actions.

36 ~~((+5))~~ (4) The action agenda shall be ~~((organized and))~~ maintained  
37 in a single document to facilitate public accessibility to the plan.

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

3       (1) By ((~~December 1, 2008, and by~~)) September 1st of each even-  
4 numbered year beginning in 2010, the council shall provide to the  
5 governor and the appropriate fiscal committees of the senate and house  
6 of representatives its recommendations for the funding necessary to  
7 implement the action agenda in the succeeding biennium. The  
8 recommendations shall:

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

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

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

15       (2) In the 2008 report required under subsection (1) of this  
16 section, the council shall include recommendations for projected  
17 funding needed through 2020 to implement the action agenda; funding  
18 needs for science panel staff; identify methods to secure stable and  
19 sufficient funding to meet these needs; and include proposals for new  
20 sources of funding to be dedicated to Puget Sound protection and  
21 recovery. In preparing the science panel staffing proposal, the  
22 council shall consult with the panel.

23       (3) By November 1st of each ((~~odd-numbered~~)) even-numbered year  
24 beginning in ((~~2009~~)) 2012, the council shall produce a state of the  
25 Sound report that includes, at a minimum:

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

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

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

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

36       (e) A review of the expenditures of funds to state agencies for the  
37 implementation of programs affecting the protection and recovery of

1 Puget Sound, and an assessment of whether the use of the funds is  
2 consistent with the action agenda; and

3 (f) An identification of all funds provided to the partnership, and  
4 recommendations as to how future state expenditures for all entities,  
5 including the partnership, could better match the priorities of the  
6 action agenda.

7 (4)(a) The council shall review state programs that fund facilities  
8 and activities that may contribute to action agenda implementation. By  
9 November 1, 2009, the council shall provide initial recommendations  
10 regarding program changes to the governor and appropriate fiscal and  
11 policy committees of the senate and house of representatives. By  
12 November 1, 2010, the council shall provide final recommendations  
13 regarding program changes, including proposed legislation to implement  
14 the recommendation, to the governor and appropriate fiscal and policy  
15 committees of the senate and house of representatives.

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

20 (i) Water pollution control facilities financing, chapter 70.146  
21 RCW;

22 (ii) The water pollution control revolving fund, chapter 90.50A  
23 RCW;

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

25 (iv) The aquatic lands enhancement account, RCW 79.105.150;

26 (v) The state toxics control account and local toxics control  
27 account and clean-up program, chapter 70.105D RCW;

28 (vi) The acquisition of habitat conservation and outdoor recreation  
29 land, chapter 79A.15 RCW;

30 (vii) The salmon recovery funding board, RCW 77.85.110 through  
31 77.85.150;

32 (viii) The community economic revitalization board, chapter 43.160  
33 RCW;

34 (ix) Other state financial assistance to water quality-related  
35 projects and activities; and

36 (x) Water quality financial assistance from federal programs  
37 administered through state programs or provided directly to local  
38 governments in the Puget Sound basin.



1 (c) The council's review shall include but not be limited to:

2 (i) Determining the level of funding and types of projects and  
3 activities funded through the programs that contribute to  
4 implementation of the action agenda;

5 (ii) Evaluating the procedures and criteria in each program for  
6 determining which projects and activities to fund, and their  
7 relationship to the goals and priorities of the action agenda;

8 (iii) Assessing methods for ensuring that the goals and priorities  
9 of the action agenda are given priority when program funding decisions  
10 are made regarding water quality-related projects and activities in the  
11 Puget Sound basin and habitat-related projects and activities in the  
12 Puget Sound basin;

13 (iv) Modifying funding criteria so that projects, programs, and  
14 activities that are inconsistent with the action agenda are ineligible  
15 for funding;

16 (v) Assessing ways to incorporate a strategic funding approach for  
17 the action agenda within the outcome-focused performance measures  
18 required by RCW 43.41.270 in administering natural resource-related and  
19 environmentally based grant and loan programs.

20 (5) During the 2009-2011 fiscal biennium, the council's review must  
21 result in a ranking of projects affecting the protection and recovery  
22 of the Puget Sound basin that are proposed in the governor's capital  
23 budget submitted under RCW 43.88.060. The ranking shall include  
24 recommendations for reallocation of total requested funds for Puget  
25 Sound basin projects to achieve the greatest positive outcomes for  
26 protection and recovery of Puget Sound and shall be submitted to the  
27 appropriate fiscal committees of the legislature no later than February  
28 1, 2011.

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

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

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

36 (b) Aligning environmental investments with strategic priorities of  
37 the action agenda; and

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

3 (2) The council shall adopt measures to ensure that funds  
4 appropriated for implementation of the action agenda and identified by  
5 proviso or specifically referenced in the omnibus appropriations act  
6 pursuant to RCW 43.88.030(1)(g) are expended in a manner that will  
7 achieve the intended results. In developing such performance measures,  
8 the council shall establish criteria for the expenditure of the funds  
9 consistent with the responsibilities and timelines under the action  
10 agenda, and require reporting and tracking of funds expended. The  
11 council may adopt other measures, such as requiring interagency  
12 agreements regarding the expenditure of provided or specifically  
13 referenced Puget Sound funds.

14 (3) The partnership shall work with other state agencies providing  
15 grant and loan funds or other financial assistance for projects and  
16 activities that impact the health of the Puget Sound ecosystem under  
17 chapters 43.155, 70.105D, 70.146, 77.85, 79.105, 79A.15, 89.08, and  
18 90.50A RCW to, within the authorities of the programs, develop  
19 consistent funding criteria that prohibits funding projects and  
20 activities that are in conflict with the action agenda.

21 ~~(4) ((The partnership shall develop a process and criteria by which  
22 entities that consistently achieve outstanding progress in implementing  
23 the action agenda are designated as Puget Sound partners. State  
24 agencies shall work with the partnership to revise their grant, loan,  
25 or other financial assistance allocation criteria to create a  
26 preference for entities designated as Puget Sound partners for funds  
27 allocated to the Puget Sound basin, pursuant to RCW 43.155.070,  
28 70.105D.070, 70.146.070, 77.85.130, 79.105.150, 79A.15.040, 89.08.520,  
29 and 90.50A.040. This process shall be developed on a timeline that  
30 takes into consideration state grant and loan funding cycles.~~

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

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

37 (1) The partnership shall not have regulatory authority nor

1 authority to transfer the responsibility for, or implementation of, any  
2 state regulatory program, unless otherwise specifically authorized by  
3 the legislature.

4 (2) The action agenda (~~may~~) does not create a legally enforceable  
5 duty to review or approve permits, or to adopt plans or regulations.  
6 The action agenda (~~may~~) does not authorize the adoption of rules  
7 under chapter 34.05 RCW creating a legally enforceable duty applicable  
8 to the review or approval of permits or to the adoption of plans or  
9 regulations. No action of the partnership may alter the forest  
10 practices rules adopted pursuant to chapter 76.09 RCW, or any  
11 associated habitat conservation plan. Any changes in forest practices  
12 identified by the processes established in this chapter as necessary to  
13 fully recover the health of Puget Sound by 2020 may only be realized  
14 through the processes established in RCW 76.09.370 and other designated  
15 processes established in Title 76 RCW. Nothing in this subsection or  
16 subsection (1) of this section limits the accountability provisions of  
17 this chapter.

18 (3) Nothing in this chapter limits or alters the existing legal  
19 authority of local governments, nor does it create a legally  
20 enforceable duty upon local governments. When a local government  
21 proposes to take an action inconsistent with the action agenda, it  
22 shall inform the council and identify the reasons for taking the  
23 action. If a local government chooses to take an action inconsistent  
24 with the action agenda or chooses not to take action required by the  
25 action agenda, it will be subject to the accountability measures in  
26 this chapter which can be used at the discretion of the council.

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

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

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

34 (b) The local government must have developed a capital facility  
35 plan; and

36 (c) The local government must be using all local revenue sources

1 which are reasonably available for funding public works, taking into  
2 consideration local employment and economic factors.

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 must have adopted a comprehensive plan, including  
6 a capital facilities plan element, and development regulations as  
7 required by RCW 36.70A.040. This subsection does not require any  
8 county, city, or town planning under RCW 36.70A.040 to adopt a  
9 comprehensive plan or development regulations before requesting or  
10 receiving a loan or loan guarantee under this chapter if such request  
11 is made before the expiration of the time periods specified in RCW  
12 36.70A.040. A county, city, or town planning under RCW 36.70A.040  
13 which has not adopted a comprehensive plan and development regulations  
14 within the time periods specified in RCW 36.70A.040 is not prohibited  
15 from receiving a loan or loan guarantee under this chapter if the  
16 comprehensive plan and development regulations are adopted as required  
17 by RCW 36.70A.040 before submitting a request for a loan or loan  
18 guarantee.

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

26 (4) The board shall develop a priority process for public works  
27 projects as provided in this section. The intent of the priority  
28 process is to maximize the value of public works projects accomplished  
29 with assistance under this chapter. The board shall attempt to assure  
30 a geographical balance in assigning priorities to projects. The board  
31 shall consider at least the following factors in assigning a priority  
32 to a project:

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

36 ~~(( Except as otherwise conditioned by RCW 43.155.110, whether~~  
37 ~~the entity receiving assistance is a Puget Sound partner, as defined in~~  
38 ~~RCW 90.71.010;~~

1       ~~(e)~~) Whether the project is referenced in the action agenda  
2 developed by the Puget Sound partnership under RCW 90.71.310;

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

5       ~~((e))~~ (d) Whether the applicant has developed and adhered to  
6 guidelines regarding its permitting process for those applying for  
7 development permits consistent with section 1(2), chapter 231, Laws of  
8 2007;

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

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

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

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

19       ~~((j))~~ (i) Except as otherwise conditioned by RCW 43.155.120, and  
20 effective one calendar year following the development of model  
21 evergreen community management plans and ordinances under RCW  
22 35.105.050, whether the entity receiving assistance has been  
23 recognized, and what gradation of recognition was received, in the  
24 evergreen community recognition program created in RCW 35.105.030;

25       ~~((k))~~ (j) The relative benefit of the project to the community,  
26 considering the present level of economic activity in the community and  
27 the existing local capacity to increase local economic activity in  
28 communities that have low economic growth; and

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

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

35       (6) Before November 1st of each even-numbered year, the board shall  
36 develop and submit to the appropriate fiscal committees of the senate  
37 and house of representatives a description of the loans made under RCW  
38 43.155.065, 43.155.068, and subsection (9) of this section during the

1 preceding fiscal year and a prioritized list of projects which are  
2 recommended for funding by the legislature, including one copy to the  
3 staff of each of the committees. The list shall include, but not be  
4 limited to, a description of each project and recommended financing,  
5 the terms and conditions of the loan or financial guarantee, the local  
6 government jurisdiction and unemployment rate, demonstration of the  
7 jurisdiction's critical need for the project and documentation of local  
8 funds being used to finance the public works project. The list shall  
9 also include measures of fiscal capacity for each jurisdiction  
10 recommended for financial assistance, compared to authorized limits and  
11 state averages, including local government sales taxes; real estate  
12 excise taxes; property taxes; and charges for or taxes on sewerage,  
13 water, garbage, and other utilities.

14 (7) The board shall not sign contracts or otherwise financially  
15 obligate funds from the public works assistance account before the  
16 legislature has appropriated funds for a specific list of public works  
17 projects. The legislature may remove projects from the list  
18 recommended by the board. The legislature shall not change the order  
19 of the priorities recommended for funding by the board.

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

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

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

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

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

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

1 (2) The following moneys shall be deposited into the state toxics  
2 control account: (a) Those revenues which are raised by the tax  
3 imposed under RCW 82.21.030 and which are attributable to that portion  
4 of the rate equal to thirty-three one-hundredths of one percent; (b)  
5 the costs of remedial actions recovered under this chapter or chapter  
6 70.105A RCW; (c) penalties collected or recovered under this chapter;  
7 and (d) any other money appropriated or transferred to the account by  
8 the legislature. Moneys in the account may be used only to carry out  
9 the purposes of this chapter, including but not limited to the  
10 following activities:

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

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

17 (iii) The hazardous waste cleanup program required under this  
18 chapter;

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

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

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

25 (vii) Hazardous materials emergency response training;

26 (viii) Water and environmental health protection and monitoring  
27 programs;

28 (ix) Programs authorized under chapter 70.146 RCW;

29 (x) A public participation program, including regional citizen  
30 advisory committees;

31 (xi) Public funding to assist potentially liable persons to pay for  
32 the costs of remedial action in compliance with cleanup standards under  
33 RCW 70.105D.030(2)(e) but only when the amount and terms of such  
34 funding are established under a settlement agreement under RCW  
35 70.105D.040(4) and when the director has found that the funding will  
36 achieve both (A) a substantially more expeditious or enhanced cleanup  
37 than would otherwise occur, and (B) the prevention or mitigation of  
38 unfair economic hardship;

1 (xii) Development and demonstration of alternative management  
2 technologies designed to carry out the hazardous waste management  
3 priorities of RCW 70.105.150;

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

6 (xiv) During the 2009-2011 fiscal biennium, multijurisdictional  
7 permitting teams.

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

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

15 (i) Remedial actions;

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

17 (iii) Solid waste plans and programs under chapters 70.95, 70.95C,  
18 70.95I, and 70.105 RCW;

19 (iv) Funds for a program to assist in the assessment and cleanup of  
20 sites of methamphetamine production, but not to be used for the initial  
21 containment of such sites, consistent with the responsibilities and  
22 intent of RCW 69.50.511; and

23 (v) Cleanup and disposal of hazardous substances from abandoned or  
24 derelict vessels, defined for the purposes of this section as vessels  
25 that have little or no value and either have no identified owner or  
26 have an identified owner lacking financial resources to clean up and  
27 dispose of the vessel, that pose a threat to human health or the  
28 environment.

29 (b) Funds for plans and programs shall be allocated consistent with  
30 the priorities and matching requirements established in chapters  
31 70.105, 70.95C, 70.95I, and 70.95 RCW, except that (~~any applicant that~~  
32 ~~is a Puget Sound partner, as defined in RCW 90.71.010, along with~~) any  
33 project that is referenced in the action agenda developed by the Puget  
34 Sound partnership under RCW 90.71.310, shall(~~, except as conditioned~~  
35 ~~by RCW 70.105D.120,~~) receive priority for any available funding for  
36 any grant or funding programs or sources that use a competitive bidding  
37 process. During the 2007-2009 fiscal biennium, moneys in the account



1 may also be used for grants to local governments to retrofit public  
2 sector diesel equipment and for storm water planning and implementation  
3 activities.

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

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

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

13 (B) Funding would create new substantial economic development,  
14 public recreational, or habitat restoration opportunities that would  
15 not otherwise occur; or

16 (C) Funding would create an opportunity for acquisition and  
17 redevelopment of vacant, orphaned, or abandoned property under RCW  
18 70.105D.040(5) that would not otherwise occur;

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

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

22 (d) To facilitate and expedite cleanups using funds from the local  
23 toxics control account, during the 2009-2011 fiscal biennium the  
24 director may establish grant-funded accounts to hold and disperse local  
25 toxics control account funds and funds from local governments to be  
26 used for remedial actions.

27 (4) Except for unanticipated receipts under RCW 43.79.260 through  
28 43.79.282, moneys in the state and local toxics control accounts may be  
29 spent only after appropriation by statute.

30 (5) Except during the 2009-2011 fiscal biennium, one percent of the  
31 moneys deposited into the state and local toxics control accounts shall  
32 be allocated only for public participation grants to persons who may be  
33 adversely affected by a release or threatened release of a hazardous  
34 substance and to not-for-profit public interest organizations. The  
35 primary purpose of these grants is to facilitate the participation by  
36 persons and organizations in the investigation and remedying of  
37 releases or threatened releases of hazardous substances and to  
38 implement the state's solid and hazardous waste management priorities.

1 No grant may exceed sixty thousand dollars. Grants may be renewed  
2 annually. Moneys appropriated for public participation from either  
3 account which are not expended at the close of any biennium shall  
4 revert to the state toxics control account.

5 (6) No moneys deposited into either the state or local toxics  
6 control account may be used for solid waste incinerator feasibility  
7 studies, construction, maintenance, or operation, or, after January 1,  
8 2010, for projects designed to address the restoration of Puget Sound,  
9 funded in a competitive grant process, that are in conflict with the  
10 action agenda developed by the Puget Sound partnership under RCW  
11 90.71.310.

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

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

18 (9) During the 2009-2011 fiscal biennium, the local toxics control  
19 account may also be used for a standby rescue tug at Neah Bay, local  
20 government shoreline update grants, private and public sector diesel  
21 equipment retrofit, and oil spill prevention, preparedness, and  
22 response activities.

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

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

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

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

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

33 (c) Actions required under federal and state permits and compliance  
34 orders;

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

1           (e) (~~Except as otherwise conditioned by RCW 70.146.110, whether~~  
2 ~~the entity receiving assistance is a Puget Sound partner, as defined in~~  
3 ~~RCW 90.71.010;~~

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

6           ~~((g))~~ (f) Except as otherwise provided in RCW 70.146.120, and  
7 effective one calendar year following the development and statewide  
8 availability of model evergreen community management plans and  
9 ordinances under RCW 35.105.050, whether the project is sponsored by an  
10 entity that has been recognized, and what gradation of recognition was  
11 received, in the evergreen community recognition program created in RCW  
12 35.105.030;

13           ~~((h))~~ (g) The extent to which the applicant county or city, or if  
14 the applicant is another public body, the extent to which the county or  
15 city in which the applicant public body is located, has established  
16 programs to mitigate nonpoint pollution of the surface or subterranean  
17 water sought to be protected by the water pollution control facility  
18 named in the application for state assistance; and

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

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

1 (3) Whenever the department is considering awarding grants or loans  
2 for public facilities to special districts requesting funding for a  
3 proposed facility located in a county, city, or town planning under RCW  
4 36.70A.040, it shall consider whether the county, city, or town  
5 planning under RCW 36.70A.040 in whose planning jurisdiction the  
6 proposed facility is located has adopted a comprehensive plan and  
7 development regulations as required by RCW 36.70A.040.

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

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

14 (1) The salmon recovery funding board shall develop procedures and  
15 criteria for allocation of funds for salmon habitat projects and salmon  
16 recovery activities on a statewide basis to address the highest  
17 priorities for salmon habitat protection and restoration. To the  
18 extent practicable the board shall adopt an annual allocation of  
19 funding. The allocation should address both protection and restoration  
20 of habitat, and should recognize the varying needs in each area of the  
21 state on an equitable basis. The board has the discretion to partially  
22 fund, or to fund in phases, salmon habitat projects. The board may  
23 annually establish a maximum amount of funding available for any  
24 individual project, subject to available funding. No projects required  
25 solely as a mitigation or a condition of permitting are eligible for  
26 funding.

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

29 (i) Are based upon the limiting factors analysis identified under  
30 RCW 77.85.060;

31 (ii) Provide a greater benefit to salmon recovery based upon the  
32 stock status information contained in the department of fish and  
33 wildlife salmonid stock inventory (SASSI), the salmon and steelhead  
34 habitat inventory and assessment project (SSHIAP), and any comparable  
35 science-based assessment when available;

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

37 (iv) Will preserve high quality salmonid habitat;

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

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

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

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

10 (i) Are the most cost-effective;

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

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

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

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

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

19 (4) The board shall establish criteria for determining when block  
20 grants may be made to a lead entity. The board may provide block  
21 grants to the lead entity to implement habitat project lists developed  
22 under RCW 77.85.050, subject to available funding. The board shall  
23 determine an equitable minimum amount of project funds for each  
24 recovery region, and shall distribute the remainder of funds on a  
25 competitive basis. The board may also provide block grants to the lead  
26 entity or regional recovery organization to assist in carrying out  
27 functions described under this chapter. Block grants must be expended  
28 consistent with the priorities established for the board in subsection  
29 (2) of this section. Lead entities or regional recovery organizations  
30 receiving block grants under this subsection shall provide an annual  
31 report to the board summarizing how funds were expended for activities  
32 consistent with this chapter, including the types of projects funded,  
33 project outcomes, monitoring results, and administrative costs.

34 (5) The board may waive or modify portions of the allocation  
35 procedures and standards adopted under this section in the award of  
36 grants or loans to conform to legislative appropriations directing an  
37 alternative award procedure or when the funds to be awarded are from  
38 federal or other sources requiring other allocation procedures or

1 standards as a condition of the board's receipt of the funds. The  
2 board shall develop an integrated process to manage the allocation of  
3 funding from federal and state sources to minimize delays in the award  
4 of funding while recognizing the differences in state and legislative  
5 appropriation timing.

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

13 (7) Property acquired or improved by a project sponsor may be  
14 conveyed to a federal agency if: (a) The agency agrees to comply with  
15 all terms of the grant or loan to which the project sponsor was  
16 obligated; or (b) the board approves: (i) Changes in the terms of the  
17 grant or loan, and the revision or removal of binding deed of right  
18 instruments; and (ii) a memorandum of understanding or similar document  
19 ensuring that the facility or property will retain, to the extent  
20 feasible, adequate habitat protections; and (c) the appropriate  
21 legislative authority of the county or city with jurisdiction over the  
22 project area approves the transfer and provides notification to the  
23 board.

24 (8) Any project sponsor receiving funding from the salmon recovery  
25 funding board that is not subject to disclosure under chapter 42.56 RCW  
26 must, as a mandatory contractual prerequisite to receiving the funding,  
27 agree to disclose any information in regards to the expenditure of that  
28 funding as if the project sponsor was subject to the requirements of  
29 chapter 42.56 RCW.

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

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

36 (1) After deduction for management costs as provided in RCW  
37 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys

1 received by the state from the sale or lease of state-owned aquatic  
2 lands and from the sale of valuable material from state-owned aquatic  
3 lands shall be deposited in the aquatic lands enhancement account which  
4 is hereby created in the state treasury. After appropriation, these  
5 funds shall be used solely for aquatic lands enhancement projects; for  
6 the purchase, improvement, or protection of aquatic lands for public  
7 purposes; for providing and improving access to the lands; and for  
8 volunteer cooperative fish and game projects. During the 2009-2011  
9 fiscal biennium, the aquatic lands enhancement account may also be used  
10 for scientific research as part of the adaptive management process.  
11 During the 2009-11 fiscal biennium, the legislature may transfer from  
12 the aquatic lands enhancement account to the state general fund such  
13 amounts as reflect excess fund balance of the account.

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

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

18 (b) Utilize the statement of environmental benefits,  
19 consideration(~~(, except as provided in RCW 79.105.610, of whether the~~  
20 ~~applicant is a Puget Sound partner, as defined in RCW 90.71.010,))~~ of  
21 whether a project is referenced in the action agenda developed by the  
22 Puget Sound partnership under RCW 90.71.310, and except as otherwise  
23 provided in RCW 79.105.630, and effective one calendar year following  
24 the development and statewide availability of model evergreen community  
25 management plans and ordinances under RCW 35.105.050, whether the  
26 applicant is an entity that has been recognized, and what gradation of  
27 recognition was received, in the evergreen community recognition  
28 program created in RCW 35.105.030 in its prioritization and selection  
29 process; and

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

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

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

37 (5) 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. 718.** RCW 79A.15.040 and 2008 c 299 s 29 are each amended to  
5 read as follows:

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

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

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

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

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

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

25 (b) If not enough project applications are submitted in a category  
26 within the habitat conservation account to meet the percentages  
27 described in subsection (1) of this section in any biennium, the board  
28 retains discretion to distribute any remaining funds to the other  
29 categories within the account.

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

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

36 (5)(a) Any lands that have been acquired with grants under this



1 section by the department of fish and wildlife are subject to an amount  
2 in lieu of real property taxes and an additional amount for control of  
3 noxious weeds as determined by RCW 77.12.203.

4 (b) Any lands that have been acquired with grants under this  
5 section by the department of natural resources are subject to payments  
6 in the amounts required under the provisions of RCW 79.70.130 and  
7 79.71.130.

8 (6) Except as otherwise conditioned by RCW (~~79A.15.140 or~~)  
9 79A.15.150, the board in its evaluating process shall consider the  
10 following in determining distribution priority:

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

13 ~~(b))~~) Effective one calendar year following the development and  
14 statewide availability of model evergreen community management plans  
15 and ordinances under RCW 35.105.050, whether the entity receiving  
16 assistance has been recognized, and what gradation of recognition was  
17 received, in the evergreen community recognition program created in RCW  
18 35.105.030; and

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

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

25 **Sec. 719.** RCW 89.08.520 and 2008 c 299 s 27 are each amended to  
26 read as follows:

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

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

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

32 (i) The statement of environmental benefits;

33 (ii) Whether, except as (~~conditioned by RCW 89.08.580, the  
34 applicant is a Puget Sound partner, as defined in RCW 90.71.010, and~~

35 ~~except as~~) otherwise provided in RCW 89.08.590, and effective one  
36 calendar year following the development and statewide availability of  
37 model evergreen community management plans and ordinances under RCW

1 35.105.050, (~~whether~~) the applicant is an entity that has been  
2 recognized, and what gradation of recognition was received, in the  
3 evergreen community recognition program created in RCW 35.105.030; and

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

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

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

13 (b) The commission shall work with the districts to develop uniform  
14 performance measures across participating districts and, to the extent  
15 possible, the commission should coordinate its performance measure  
16 system with other natural resource-related agencies as defined in RCW  
17 43.41.270. The commission shall consult with affected interest groups  
18 in implementing this section.

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

21 (1) RCW 43.155.110 (Puget Sound partners) and 2007 c 341 s 25;

22 (2) RCW 70.105D.120 (Puget Sound partners) and 2007 c 341 s 31;

23 (3) RCW 70.146.110 (Puget Sound partners) and 2007 c 341 s 27;

24 (4) RCW 77.85.240 (Puget Sound partners) and 2007 c 341 s 37;

25 (5) RCW 79.105.610 (Puget Sound partners) and 2007 c 341 s 33;

26 (6) RCW 79A.15.140 (Puget Sound partners) and 2007 c 341 s 35;

27 (7) RCW 89.08.580 (Puget Sound partners) and 2007 c 341 s 29; and

28 (8) RCW 90.50A.080 (Puget Sound partners) and 2007 c 341 s 40.

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