
SUBSTITUTE HOUSE BILL 1885

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, 90.71.010, 90.71.230, 90.71.250, 90.71.260,
11 90.71.270, 90.71.280, 90.71.290, 90.71.300, 90.71.310, 90.71.370,
12 90.71.340, 90.71.360, 43.155.070, 70.105D.070, 70.146.070, 79.105.150,
13 79A.15.040, and 89.08.520; reenacting and amending RCW 79A.05.030 and
14 77.85.130; and repealing RCW 79A.05.190, 79A.05.195, 79A.05.351,
15 70.95C.250, 70.95H.005, 70.95H.007, 70.95H.010, 70.95H.030, 70.95H.040,
16 70.95H.050, 70.95H.900, 70.95H.901, 70.107.080, 70.93.090, 79.125.730,
17 77.95.140, 77.95.150, 77.95.160, 43.30.345, 43.30.360, 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 ~~(2) ((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 ~~(4) ((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 ~~((or))~~, 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 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 NEW SECTION. Sec. 610. The following acts or parts of acts are
14 each repealed:

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

18 (2) RCW 43.30.360 (Clarke-McNary fund) and 2002 c 371 s 908 & 1986
19 c 100 s 46;

20 (3) RCW 43.30.370 (Cooperative farm forestry funds) and 1986 c 100
21 s 47; and

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

24 PART 7

25 THE PUGET SOUND PARTNERSHIP

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

28 Unless the context clearly requires otherwise, the definitions in
29 this section apply throughout this chapter.

30 (1) "Action agenda" means the comprehensive schedule of projects,
31 programs, and other activities designed to achieve a healthy Puget
32 Sound ecosystem that ~~((is authorized and further described in RCW~~
33 ~~90.71.300 and 90.71.310))~~ was developed under RCW 90.71.300 and
34 90.71.310 by the Puget Sound partnership, approved by the leadership

1 council, and delivered to the legislature in December 2008, along with
2 any subsequent updates.

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

5 (3) "Benchmarks" means measurable interim milestones or
6 achievements established to demonstrate progress towards a goal,
7 objective, or outcome.

8 (4) "Board" means the ecosystem coordination board.

9 (5) "Council" means the leadership council.

10 (6) "Environmental indicator" means a physical, biological, or
11 chemical measurement, statistic, or value that provides a proximate
12 gauge, or evidence of, the state or condition of Puget Sound.

13 (7) "Implementation strategies" means the strategies incorporated
14 on a biennial basis in the action agenda (~~(developed under)~~) pursuant
15 to RCW 90.71.310.

16 (8) "Nearshore" means the area beginning at the crest of coastal
17 bluffs and extending seaward through the marine photics zone, and to
18 the head of tide in coastal rivers and streams. "Nearshore" also means
19 both shoreline and estuaries.

20 (9) "Panel" means the Puget Sound science panel.

21 (10) "Partnership" means the Puget Sound partnership.

22 (11) "Puget Sound" means Puget Sound and related inland marine
23 waters, including all salt waters of the state of Washington inside the
24 international boundary line between Washington and British Columbia,
25 and lying east of the junction of the Pacific Ocean and the Strait of
26 Juan de Fuca, and the rivers and streams draining to Puget Sound as
27 mapped by water resource inventory areas 1 through 19 in WAC
28 173-500-040 as it exists on July 1, 2007.

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

33 (+13)) "Watershed groups" means all groups sponsoring or
34 administering watershed programs, including but not limited to local
35 governments, private sector entities, watershed planning units,
36 watershed councils, shellfish protection areas, regional fishery
37 enhancement groups, marine (~~(resource[s])~~) resources committees

1 including those working with the Northwest straits commission,
2 nearshore groups, and watershed lead entities.

3 ~~((14))~~ (13) "Watershed programs" means and includes all
4 watershed-level plans, programs, projects, and activities that relate
5 to or may contribute to the protection or restoration of Puget Sound
6 waters. Such programs include jurisdiction-wide programs regardless of
7 whether more than one watershed is addressed.

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

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

11 (a) Provide leadership and have responsibility for the functions of
12 the partnership, including adopting, revising, and guiding the
13 implementation of the action agenda, allocating funds for Puget Sound
14 recovery, providing progress and other reports, setting strategic
15 priorities and benchmarks, adopting and applying accountability
16 measures, and making appointments to the board and panel;

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

18 (c) Create subcommittees and advisory committees as appropriate to
19 assist the council;

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

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

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

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

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

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

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

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

4 (3) The council shall work closely with existing organizations and
5 all levels of government to ensure that the action agenda and its
6 implementation are scientifically sound, efficient, and achieve
7 necessary results to accomplish recovery of Puget Sound to health by
8 2020.

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

11 (5) When working with federally recognized Indian tribes to
12 (~~develop~~) update and implement the action agenda, the council shall
13 conform to the procedures and standards required in a government-to-
14 governmental relationship with tribes under the 1989 Centennial Accord
15 between the state of Washington and the sovereign tribal governments in
16 the state of Washington.

17 (6) Members of the council shall be compensated in accordance with
18 RCW 43.03.220 and be reimbursed for travel expenses in accordance with
19 RCW 43.03.050 and 43.03.060.

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

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

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

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

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

32 (c) Two members representing environmental interests, appointed by
33 the council;

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

36 (e) One representative each from counties, cities, and port

1 districts, appointed by the council from nominations submitted by
2 statewide associations representing such local governments;

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

7 (g) Three representatives of federal agencies with environmental
8 management responsibilities in Puget Sound, representing the interests
9 of all federal agencies and invited by the governor to participate as
10 members of the board.

11 ~~((+3))~~ (2) The president of the senate shall appoint two senators,
12 one from each major caucus, as legislative liaisons to the board. The
13 speaker of the house of representatives shall appoint two
14 representatives, one from each major caucus, as legislative liaisons to
15 the board.

16 ~~((+4))~~ (3) The board shall elect one of its members as chair, and
17 one of its members as vice-chair.

18 ~~((+5))~~ (4) The board shall advise and assist the council in
19 carrying out its responsibilities in implementing this chapter,
20 including ~~((development and))~~:

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

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

27 ~~(b) ((Upon request of the council, reviewing and making~~
28 ~~recommendations regarding activities, projects, and programs proposed~~
29 ~~for inclusion in the action agenda, including assessing existing~~
30 ~~ecosystem scale management, restoration and protection plan elements,~~
31 ~~activities, projects, and programs for inclusion in the action agenda;~~

32 ~~(c))~~ Seeking public and private funding and the commitment of
33 other resources for ~~((plan))~~ action agenda implementation;

34 ~~((+d))~~ (c) Assisting the council in conducting public education
35 activities regarding threats to Puget Sound and about local
36 implementation strategies to support the action agenda; and

37 ~~((+e))~~ (d) Recruiting the active involvement of and encouraging

1 the collaboration and communication among governmental and
2 nongovernmental entities, the private sector, and citizens working to
3 achieve the recovery of Puget Sound.

4 ~~((+6+))~~ (5) Members of the board, except for federal and state
5 employees, shall be reimbursed for travel expenses in accordance with
6 RCW 43.03.050 and 43.03.060.

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

9 (1) The partnership shall ~~((develop))~~ pursue the implementation of
10 the action agenda in part upon the foundation of existing watershed
11 programs that address or contribute to the health of Puget Sound. To
12 ensure full consideration of these watershed programs ~~((in a timely~~
13 ~~manner to meet the required date for adoption of the action agenda))~~,
14 the partnership shall rely largely upon local watershed groups, tribes,
15 cities, counties, special purpose districts, and the private sector,
16 who are engaged in developing and implementing these programs.

17 (2) The partnership shall organize ~~((this work))~~ the implementation
18 of the action agenda by working with these groups in the following
19 geographic action areas of Puget Sound, which collectively encompass
20 all of the Puget Sound basin and include the areas draining to the
21 marine waters in these action areas:

- 22 (a) Strait of Juan de Fuca;
- 23 (b) The San Juan Islands;
- 24 (c) Whidbey Island;
- 25 (d) North central Puget Sound;
- 26 (e) South central Puget Sound;
- 27 (f) South Puget Sound; and
- 28 (g) Hood Canal.

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

33 ~~((The executive director, working with the board~~
34 ~~representatives from each action area, shall invite appropriate tribes,~~
35 ~~local governments, and watershed groups to convene for the purpose of~~
36 ~~compiling the existing watershed programs relating or contributing to~~
37 ~~the health of Puget Sound. The participating groups should work to~~

1 ~~identify the applicable local plan elements, projects, and programs,~~
2 ~~together with estimated budget, timelines, and proposed funding~~
3 ~~sources, that are suitable for adoption into the action agenda. This~~
4 ~~may include a prioritization among plan elements, projects, and~~
5 ~~programs.~~

6 (+5)) The partnership may provide assistance to watershed groups in
7 those action areas that are developing and implementing programs
8 included within the action agenda, and to improve coordination among
9 the groups to improve and accelerate the implementation of the action
10 agenda.

11 ((+6)) (5) The executive director, working with the board, shall
12 also compile and assess ecosystem scale management, restoration, and
13 protection plans for the Puget Sound basin.

14 (a) At a minimum, the compilation shall include the Puget Sound
15 nearshore estuary project, clean-up plans for contaminated aquatic
16 lands and shorelands, aquatic land management plans, state resource
17 management plans, habitat conservation plans, and recovery plans for
18 salmon, orca, and other species in Puget Sound that are listed under
19 the federal endangered species act.

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

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

28 (d) If it determines that doing so will increase the likelihood of
29 restoring Puget Sound by 2020, the partnership may explore the utility
30 of federal assurances under the endangered species act, 16 U.S.C. Sec.
31 1531 et seq., and shall confer with the federal services administering
32 that act.

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

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

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

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

23 (3) The panel shall select a chair and a vice chair. Panel members
24 shall serve four-year terms, except that the council shall determine
25 initial terms of two, three, and four years to provide for staggered
26 terms. The council shall determine reappointments and select
27 replacements or additional members of the panel. No panel member may
28 serve longer than twelve years.

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

34 (5) The executive director of the partnership and the science panel
35 shall explore a shared state and federal responsibility for the
36 staffing and administration of the panel. In the event that a
37 federally sponsored Puget Sound recovery office is created, the council

1 may propose that such office provide for staffing and administration of
2 the panel.

3 (6) The panel shall assist the council in (~~developing and~~)
4 revising the action agenda, making recommendations to the action
5 agenda, and making recommendations to the council for updates or
6 revisions.

7 (7) Members of the panel shall be reimbursed for travel expenses
8 under RCW 43.03.050 and 43.03.060, and based upon the availability of
9 funds, the council may contract with members of the panel for
10 compensation for their services under chapter 39.29 RCW. If appointees
11 to the panel are employed by the federal, state, tribal, or local
12 governments, the council may enter into interagency personnel
13 agreements.

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

16 (1) The panel shall:

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

20 (b) As provided in RCW 90.71.290, assist the partnership in
21 (~~developing~~) maintaining an ecosystem level strategic science program
22 that:

23 (i) Addresses monitoring, modeling, data management, and research;
24 and

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

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

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

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

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

36 (2) The panel should collaborate with other scientific groups and
37 consult other scientists in conducting its work. To the maximum extent

1 possible, the panel should seek to integrate the state-sponsored Puget
2 Sound science program with the Puget Sound science activities of
3 federal agencies, including working toward an integrated research
4 agenda and Puget Sound science work plan.

5 (3) (~~By July 31, 2008,~~) The panel shall identify environmental
6 indicators measuring the health of Puget Sound, and recommend
7 environmental benchmarks that need to be achieved to meet the goals of
8 the action agenda. The council shall confer with the panel on
9 incorporating the indicators and benchmarks, as necessary, into any
10 updates of the action agenda.

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

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

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

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

23 (c) Recommendations regarding data collection and management to
24 facilitate easy access and use of data by all participating agencies
25 and the public; and

26 (d) A list of critical research needs.

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

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

35 (a) Describe the current scientific understanding of various
36 physical attributes of Puget Sound;

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

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

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

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

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

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

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

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

20 (c) A description of whether the ongoing work addresses the
21 recommendations and, if not, identification of necessary actions to
22 fill gaps;

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

26 (e) Recommendations for improvements to the ongoing science work in
27 Puget Sound.

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

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

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

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

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

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

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

8 (f) Fresh and marine waters and sediments of a sufficient quality
9 so that the waters in the region are safe for drinking, swimming,
10 shellfish harvest and consumption, and other human uses and enjoyment,
11 and are not harmful to the native marine mammals, fish, birds, and
12 shellfish of the region.

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

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

16 (b) Restore habitat functions and values;

17 (c) Significantly reduce toxics entering Puget Sound fresh and
18 marine waters;

19 (d) Significantly reduce nutrients and pathogens entering Puget
20 Sound fresh and marine waters;

21 (e) Improve water quality and habitat by managing storm water
22 runoff;

23 (f) Provide water for people, fish and wildlife, and the
24 environment;

25 (g) Protect ecosystem biodiversity and recover imperiled species;
26 and

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

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

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

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

36 (b) Describe the problems affecting Puget Sound's health using
37 supporting scientific data, and provide a summary of the historical

1 environmental health conditions of Puget Sound so as to determine past
2 levels of pollution and restorative actions that have established the
3 current health conditions of Puget Sound;

4 (c) Meet the goals and objectives described in RCW 90.71.300,
5 including measurable outcomes for each goal and objective specifically
6 describing what will be achieved, how it will be quantified, and how
7 progress towards outcomes will be measured. The action agenda shall
8 include near-term and long-term benchmarks designed to ensure
9 continuous progress needed to reach the goals, objectives, and
10 designated outcomes by 2020. The council shall consult with the panel
11 in developing these elements of the plan;

12 (d) Identify and prioritize the strategies and actions necessary to
13 restore and protect Puget Sound and to achieve the goals and objectives
14 described in RCW 90.71.300;

15 (e) Identify the agency, entity, or person responsible for
16 completing the necessary strategies and actions, and potential sources
17 of funding;

18 (f) Include prioritized actions identified through the assembled
19 proposals from each of the seven action areas and the identification
20 and assessment of ecosystem scale programs as provided in RCW
21 90.71.260;

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

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

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

27 (2) In ~~((developing))~~ revising the action agenda ~~((and any~~
28 ~~subsequent—revisions))~~, the council shall, when appropriate,
29 incorporate the following:

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

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

36 (c) Existing plans and agreements signed by the governor, the
37 commissioner of public lands, other state officials, or by federal
38 agencies(+

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

3 ~~(3) ((Until the action agenda is adopted, the existing Puget Sound~~
4 ~~management plan and the 2007-09 Puget Sound biennial plan shall remain~~
5 ~~in effect. The existing Puget Sound management plan shall also~~
6 ~~continue to serve as the comprehensive conservation and management plan~~
7 ~~for the purposes of the national estuary program described in section~~
8 ~~320 of the federal clean water act, until replaced by the action agenda~~
9 ~~and approved by the United States environmental protection agency as~~
10 ~~the new comprehensive conservation and management plan.~~

11 ~~(4) The council shall adopt the action agenda by December 1,~~
12 ~~2008.))~~ The council shall revise the action agenda as needed, and,
13 beginning in 2011, revise the implementation strategies every two years
14 using an adaptive management process informed by tracking actions and
15 monitoring results in Puget Sound. In revising the action agenda and
16 the implementation strategies, the council shall consult the panel and
17 the board and provide opportunity for public review and comment.
18 Biennial updates shall:

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

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

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

25 ~~((+5))~~ (4) The action agenda shall be ~~((organized and))~~ maintained
26 in a single document to facilitate public accessibility to the plan.

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

29 (1) By ~~((December 1, 2008, and by))~~ September 1st of each even-
30 numbered year beginning in 2010, the council shall provide to the
31 governor and the appropriate fiscal committees of the senate and house
32 of representatives its recommendations for the funding necessary to
33 implement the action agenda in the succeeding biennium. The
34 recommendations shall:

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

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

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

4 (2) In the 2008 report required under subsection (1) of this
5 section, the council shall include recommendations for projected
6 funding needed through 2020 to implement the action agenda; funding
7 needs for science panel staff; identify methods to secure stable and
8 sufficient funding to meet these needs; and include proposals for new
9 sources of funding to be dedicated to Puget Sound protection and
10 recovery. In preparing the science panel staffing proposal, the
11 council shall consult with the panel.

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

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

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

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

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

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

29 (f) An identification of all funds provided to the partnership, and
30 recommendations as to how future state expenditures for all entities,
31 including the partnership, could better match the priorities of the
32 action agenda.

33 (4)(a) The council shall review state programs that fund facilities
34 and activities that may contribute to action agenda implementation. By
35 November 1, 2009, the council shall provide initial recommendations
36 regarding program changes to the governor and appropriate fiscal and
37 policy committees of the senate and house of representatives. By
38 November 1, 2010, the council shall provide final recommendations

1 regarding program changes, including proposed legislation to implement
2 the recommendation, to the governor and appropriate fiscal and policy
3 committees of the senate and house of representatives.

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

8 (i) Water pollution control facilities financing, chapter 70.146
9 RCW;

10 (ii) The water pollution control revolving fund, chapter 90.50A
11 RCW;

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

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

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

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

18 (vii) The salmon recovery funding board, RCW 77.85.110 through
19 77.85.150;

20 (viii) The community economic revitalization board, chapter 43.160
21 RCW;

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

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

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

28 (i) Determining the level of funding and types of projects and
29 activities funded through the programs that contribute to
30 implementation of the action agenda;

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

34 (iii) Assessing methods for ensuring that the goals and priorities
35 of the action agenda are given priority when program funding decisions
36 are made regarding water quality-related projects and activities in the
37 Puget Sound basin and habitat-related projects and activities in the
38 Puget Sound basin;

1 (iv) Modifying funding criteria so that projects, programs, and
2 activities that are inconsistent with the action agenda are ineligible
3 for funding;

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

8 (5) During the 2009-2011 fiscal biennium, the council's review must
9 result in a ranking of projects affecting the protection and recovery
10 of the Puget Sound basin that are proposed in the governor's capital
11 budget submitted under RCW 43.88.060. The ranking shall include
12 recommendations for reallocation of total requested funds for Puget
13 Sound basin projects to achieve the greatest positive outcomes for
14 protection and recovery of Puget Sound and shall be submitted to the
15 appropriate fiscal committees of the legislature no later than February
16 1, 2011.

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

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

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

24 (b) Aligning environmental investments with strategic priorities of
25 the action agenda; and

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

28 (2) The council shall adopt measures to ensure that funds
29 appropriated for implementation of the action agenda and identified by
30 proviso or specifically referenced in the omnibus appropriations act
31 pursuant to RCW 43.88.030(1)(g) are expended in a manner that will
32 achieve the intended results. In developing such performance measures,
33 the council shall establish criteria for the expenditure of the funds
34 consistent with the responsibilities and timelines under the action
35 agenda, and require reporting and tracking of funds expended. The
36 council may adopt other measures, such as requiring interagency

1 agreements regarding the expenditure of provided or specifically
2 referenced Puget Sound funds.

3 (3) The partnership shall work with other state agencies providing
4 grant and loan funds or other financial assistance for projects and
5 activities that impact the health of the Puget Sound ecosystem under
6 chapters 43.155, 70.105D, 70.146, 77.85, 79.105, 79A.15, 89.08, and
7 90.50A RCW to, within the authorities of the programs, develop
8 consistent funding criteria that prohibits funding projects and
9 activities that are in conflict with the action agenda.

10 ~~(4) ((The partnership shall develop a process and criteria by which~~
11 ~~entities that consistently achieve outstanding progress in implementing~~
12 ~~the action agenda are designated as Puget Sound partners. State~~
13 ~~agencies shall work with the partnership to revise their grant, loan,~~
14 ~~or other financial assistance allocation criteria to create a~~
15 ~~preference for entities designated as Puget Sound partners for funds~~
16 ~~allocated to the Puget Sound basin, pursuant to RCW 43.155.070,~~
17 ~~70.105D.070, 70.146.070, 77.85.130, 79.105.150, 79A.15.040, 89.08.520,~~
18 ~~and 90.50A.040. This process shall be developed on a timeline that~~
19 ~~takes into consideration state grant and loan funding cycles.~~

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

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

26 (1) The partnership shall not have regulatory authority nor
27 authority to transfer the responsibility for, or implementation of, any
28 state regulatory program, unless otherwise specifically authorized by
29 the legislature.

30 (2) The action agenda ((~~may~~)) does not create a legally enforceable
31 duty to review or approve permits, or to adopt plans or regulations.
32 The action agenda ((~~may~~)) does not authorize the adoption of rules
33 under chapter 34.05 RCW creating a legally enforceable duty applicable
34 to the review or approval of permits or to the adoption of plans or
35 regulations. No action of the partnership may alter the forest
36 practices rules adopted pursuant to chapter 76.09 RCW, or any
37 associated habitat conservation plan. Any changes in forest practices

1 identified by the processes established in this chapter as necessary to
2 fully recover the health of Puget Sound by 2020 may only be realized
3 through the processes established in RCW 76.09.370 and other designated
4 processes established in Title 76 RCW. Nothing in this subsection or
5 subsection (1) of this section limits the accountability provisions of
6 this chapter.

7 (3) Nothing in this chapter limits or alters the existing legal
8 authority of local governments, nor does it create a legally
9 enforceable duty upon local governments. When a local government
10 proposes to take an action inconsistent with the action agenda, it
11 shall inform the council and identify the reasons for taking the
12 action. If a local government chooses to take an action inconsistent
13 with the action agenda or chooses not to take action required by the
14 action agenda, it will be subject to the accountability measures in
15 this chapter which can be used at the discretion of the council.

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

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

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

23 (b) The local government must have developed a capital facility
24 plan; and

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

28 (2) Except where necessary to address a public health need or
29 substantial environmental degradation, a county, city, or town planning
30 under RCW 36.70A.040 must have adopted a comprehensive plan, including
31 a capital facilities plan element, and development regulations as
32 required by RCW 36.70A.040. This subsection does not require any
33 county, city, or town planning under RCW 36.70A.040 to adopt a
34 comprehensive plan or development regulations before requesting or
35 receiving a loan or loan guarantee under this chapter if such request
36 is made before the expiration of the time periods specified in RCW
37 36.70A.040. A county, city, or town planning under RCW 36.70A.040

1 which has not adopted a comprehensive plan and development regulations
2 within the time periods specified in RCW 36.70A.040 is not prohibited
3 from receiving a loan or loan guarantee under this chapter if the
4 comprehensive plan and development regulations are adopted as required
5 by RCW 36.70A.040 before submitting a request for a loan or loan
6 guarantee.

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

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

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

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

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

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

31 ~~((e))~~ (d) Whether the applicant has developed and adhered to
32 guidelines regarding its permitting process for those applying for
33 development permits consistent with section 1(2), chapter 231, Laws of
34 2007;

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

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

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

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

7 ~~((j))~~ (i) Except as otherwise conditioned by RCW 43.155.120, and
8 effective one calendar year following the development of model
9 evergreen community management plans and ordinances under RCW
10 35.105.050, whether the entity receiving assistance has been
11 recognized, and what gradation of recognition was received, in the
12 evergreen community recognition program created in RCW 35.105.030;

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

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

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

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

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

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

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

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

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

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

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

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

26 (2) The following moneys shall be deposited into the state toxics
27 control account: (a) Those revenues which are raised by the tax
28 imposed under RCW 82.21.030 and which are attributable to that portion
29 of the rate equal to thirty-three one-hundredths of one percent; (b)
30 the costs of remedial actions recovered under this chapter or chapter
31 70.105A RCW; (c) penalties collected or recovered under this chapter;
32 and (d) any other money appropriated or transferred to the account by
33 the legislature. Moneys in the account may be used only to carry out
34 the purposes of this chapter, including but not limited to the
35 following activities:

36 (i) The state's responsibility for hazardous waste planning,

1 management, regulation, enforcement, technical assistance, and public
2 education required under chapter 70.105 RCW;

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

6 (iii) The hazardous waste cleanup program required under this
7 chapter;

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

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

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

14 (vii) Hazardous materials emergency response training;

15 (viii) Water and environmental health protection and monitoring
16 programs;

17 (ix) Programs authorized under chapter 70.146 RCW;

18 (x) A public participation program, including regional citizen
19 advisory committees;

20 (xi) Public funding to assist potentially liable persons to pay for
21 the costs of remedial action in compliance with cleanup standards under
22 RCW 70.105D.030(2)(e) but only when the amount and terms of such
23 funding are established under a settlement agreement under RCW
24 70.105D.040(4) and when the director has found that the funding will
25 achieve both (A) a substantially more expeditious or enhanced cleanup
26 than would otherwise occur, and (B) the prevention or mitigation of
27 unfair economic hardship;

28 (xii) Development and demonstration of alternative management
29 technologies designed to carry out the hazardous waste management
30 priorities of RCW 70.105.150;

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

33 (xiv) During the 2009-2011 fiscal biennium, multijurisdictional
34 permitting teams.

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

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

4 (i) Remedial actions;

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

6 (iii) Solid waste plans and programs under chapters 70.95, 70.95C,
7 70.95I, and 70.105 RCW;

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

12 (v) Cleanup and disposal of hazardous substances from abandoned or
13 derelict vessels, defined for the purposes of this section as vessels
14 that have little or no value and either have no identified owner or
15 have an identified owner lacking financial resources to clean up and
16 dispose of the vessel, that pose a threat to human health or the
17 environment.

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

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

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

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

1 (B) Funding would create new substantial economic development,
2 public recreational, or habitat restoration opportunities that would
3 not otherwise occur; or

4 (C) Funding would create an opportunity for acquisition and
5 redevelopment of vacant, orphaned, or abandoned property under RCW
6 70.105D.040(5) that would not otherwise occur;

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

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

10 (d) To facilitate and expedite cleanups using funds from the local
11 toxics control account, during the 2009-2011 fiscal biennium the
12 director may establish grant-funded accounts to hold and disperse local
13 toxics control account funds and funds from local governments to be
14 used for remedial actions.

15 (4) Except for unanticipated receipts under RCW 43.79.260 through
16 43.79.282, moneys in the state and local toxics control accounts may be
17 spent only after appropriation by statute.

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

31 (6) No moneys deposited into either the state or local toxics
32 control account may be used for solid waste incinerator feasibility
33 studies, construction, maintenance, or operation, or, after January 1,
34 2010, for projects designed to address the restoration of Puget Sound,
35 funded in a competitive grant process, that are in conflict with the
36 action agenda developed by the Puget Sound partnership under RCW
37 90.71.310.

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

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

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

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

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

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

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

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

22 (c) Actions required under federal and state permits and compliance
23 orders;

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

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

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

31 ~~((g))~~ (f) Except as otherwise provided in RCW 70.146.120, and
32 effective one calendar year following the development and statewide
33 availability of model evergreen community management plans and
34 ordinances under RCW 35.105.050, whether the project is sponsored by an
35 entity that has been recognized, and what gradation of recognition was
36 received, in the evergreen community recognition program created in RCW
37 35.105.030;

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

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

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

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

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

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

3 (1) The salmon recovery funding board shall develop procedures and
4 criteria for allocation of funds for salmon habitat projects and salmon
5 recovery activities on a statewide basis to address the highest
6 priorities for salmon habitat protection and restoration. To the
7 extent practicable the board shall adopt an annual allocation of
8 funding. The allocation should address both protection and restoration
9 of habitat, and should recognize the varying needs in each area of the
10 state on an equitable basis. The board has the discretion to partially
11 fund, or to fund in phases, salmon habitat projects. The board may
12 annually establish a maximum amount of funding available for any
13 individual project, subject to available funding. No projects required
14 solely as a mitigation or a condition of permitting are eligible for
15 funding.

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

18 (i) Are based upon the limiting factors analysis identified under
19 RCW 77.85.060;

20 (ii) Provide a greater benefit to salmon recovery based upon the
21 stock status information contained in the department of fish and
22 wildlife salmonid stock inventory (SASSI), the salmon and steelhead
23 habitat inventory and assessment project (SSHIAP), and any comparable
24 science-based assessment when available;

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

26 (iv) Will preserve high quality salmonid habitat;

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

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

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

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

36 (i) Are the most cost-effective;

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

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

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

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

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

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

23 (5) The board may waive or modify portions of the allocation
24 procedures and standards adopted under this section in the award of
25 grants or loans to conform to legislative appropriations directing an
26 alternative award procedure or when the funds to be awarded are from
27 federal or other sources requiring other allocation procedures or
28 standards as a condition of the board's receipt of the funds. The
29 board shall develop an integrated process to manage the allocation of
30 funding from federal and state sources to minimize delays in the award
31 of funding while recognizing the differences in state and legislative
32 appropriation timing.

33 (6) The board may award a grant or loan for a salmon recovery
34 project on private or public land when the landowner has a legal
35 obligation under local, state, or federal law to perform the project,
36 when expedited action provides a clear benefit to salmon recovery, and
37 there will be harm to salmon recovery if the project is delayed. For

1 purposes of this subsection, a legal obligation does not include a
2 project required solely as a mitigation or a condition of permitting.

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

14 (8) Any project sponsor receiving funding from the salmon recovery
15 funding board that is not subject to disclosure under chapter 42.56 RCW
16 must, as a mandatory contractual prerequisite to receiving the funding,
17 agree to disclose any information in regards to the expenditure of that
18 funding as if the project sponsor was subject to the requirements of
19 chapter 42.56 RCW.

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

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

26 (1) After deduction for management costs as provided in RCW
27 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys
28 received by the state from the sale or lease of state-owned aquatic
29 lands and from the sale of valuable material from state-owned aquatic
30 lands shall be deposited in the aquatic lands enhancement account which
31 is hereby created in the state treasury. After appropriation, these
32 funds shall be used solely for aquatic lands enhancement projects; for
33 the purchase, improvement, or protection of aquatic lands for public
34 purposes; for providing and improving access to the lands; and for
35 volunteer cooperative fish and game projects. During the 2009-2011
36 fiscal biennium, the aquatic lands enhancement account may also be used
37 for scientific research as part of the adaptive management process.

1 During the 2009-11 fiscal biennium, the legislature may transfer from
2 the aquatic lands enhancement account to the state general fund such
3 amounts as reflect excess fund balance of the account.

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

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

8 (b) Utilize the statement of environmental benefits,
9 consideration(~~(, except as provided in RCW 79.105.610, of whether the~~
10 ~~applicant is a Puget Sound partner, as defined in RCW 90.71.010,)~~) of
11 whether a project is referenced in the action agenda developed by the
12 Puget Sound partnership under RCW 90.71.310, and except as otherwise
13 provided in RCW 79.105.630, and effective one calendar year following
14 the development and statewide availability of model evergreen community
15 management plans and ordinances under RCW 35.105.050, whether the
16 applicant is an entity that has been recognized, and what gradation of
17 recognition was received, in the evergreen community recognition
18 program created in RCW 35.105.030 in its prioritization and selection
19 process; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (6) Except as otherwise conditioned by RCW (~~79A.15.140 or~~)
35 79A.15.150, the board in its evaluating process shall consider the
36 following in determining distribution priority:

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

1 ~~(b)~~) Effective one calendar year following the development and
2 statewide availability of model evergreen community management plans
3 and ordinances under RCW 35.105.050, whether the entity receiving
4 assistance has been recognized, and what gradation of recognition was
5 received, in the evergreen community recognition program created in RCW
6 35.105.030; and

7 ~~((e))~~ (b) Whether the project is referenced in the action agenda
8 developed by the Puget Sound partnership under RCW 90.71.310.

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

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

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

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

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

20 (i) The statement of environmental benefits;

21 (ii) Whether, except as ~~((conditioned by RCW 89.08.580, the~~
22 ~~applicant is a Puget Sound partner, as defined in RCW 90.71.010, and~~
23 ~~except as))~~ otherwise provided in RCW 89.08.590, and effective one
24 calendar year following the development and statewide availability of
25 model evergreen community management plans and ordinances under RCW
26 35.105.050, ~~((whether))~~ the applicant is an entity that has been
27 recognized, and what gradation of recognition was received, in the
28 evergreen community recognition program created in RCW 35.105.030; and

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

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

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

1 (b) The commission shall work with the districts to develop uniform
2 performance measures across participating districts and, to the extent
3 possible, the commission should coordinate its performance measure
4 system with other natural resource-related agencies as defined in RCW
5 43.41.270. The commission shall consult with affected interest groups
6 in implementing this section.

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

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

--- END ---