
HOUSE BILL 2277

State of Washington

62nd Legislature

2012 Regular Session

By Representatives Upthegrove, Tharinger, Jinkins, Moscoso, Hudgins, and Fitzgibbon

Read first time 01/11/12. Referred to Committee on Environment.

1 AN ACT Relating to updating the statutes controlling the Puget
2 Sound partnership to reflect the transition from developing the action
3 agenda to implementing the action agenda; amending RCW 90.71.010,
4 90.71.230, 90.71.250, 90.71.260, 90.71.270, 90.71.280, 90.71.290,
5 90.71.300, 90.71.310, 90.71.370, 90.71.340, 90.71.360, 43.155.070,
6 70.146.070, 77.85.130, 79.105.150, 79A.15.040, and 89.08.520;
7 reenacting and amending RCW 70.105D.070; and repealing RCW 43.155.110,
8 70.105D.120, 70.146.110, 77.85.240, 79.105.610, 79A.15.140, 89.08.580,
9 and 90.50A.080.

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

11 **Sec. 1.** RCW 90.71.010 and 2007 c 341 s 2 are each amended to read
12 as follows:

13 Unless the context clearly requires otherwise, the definitions in
14 this section apply throughout this chapter.

15 (1) "Action agenda" means the comprehensive schedule of projects,
16 programs, and other activities designed to achieve a healthy Puget
17 Sound ecosystem that (~~is authorized and further described in RCW~~
18 ~~90.71.300 and 90.71.310~~) was developed under RCW 90.71.300 and

1 90.71.310 by the Puget Sound partnership, approved by the leadership
2 council, and delivered to the legislature in December 2008, along with
3 any subsequent updates.

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

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

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

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

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

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

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

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

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

23 (11) "Puget Sound" means Puget Sound and related inland marine
24 waters, including all salt waters of the state of Washington inside the
25 international boundary line between Washington and British Columbia,
26 and lying east of the junction of the Pacific Ocean and the Strait of
27 Juan de Fuca, and the rivers and streams draining to Puget Sound as
28 mapped by water resource inventory areas 1 through 19 in WAC
29 173-500-040 as it exists on July 1, 2007.

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

34 (+13)) "Watershed groups" means all groups sponsoring or
35 administering watershed programs, including but not limited to local
36 governments, private sector entities, watershed planning units,
37 watershed councils, shellfish protection areas, regional fishery

1 enhancement groups, marine (~~resource[s]~~) resources committees
2 including those working with the Northwest straits commission,
3 nearshore groups, and watershed lead entities.

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

9 **Sec. 2.** RCW 90.71.230 and 2007 c 341 s 5 are each amended to read
10 as follows:

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

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

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

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

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

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

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

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

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

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

36 (j) (~~Such~~) Perform other powers and duties as are necessary and
37 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. 3.** RCW 90.71.250 and 2007 c 341 s 7 are each amended to read
21 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. 4.** RCW 90.71.260 and 2007 c 341 s 8 are each amended to read
8 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. 5.** RCW 90.71.270 and 2007 c 341 s 9 are each amended to read
2 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. 6.** 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. 7.** RCW 90.71.290 and 2007 c 341 s 11 are each amended to read
12 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. 8.** RCW 90.71.300 and 2007 c 341 s 12 are each amended to read
29 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. 9.** 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 2012, 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 (5) The joint legislative audit and review committee shall review
28 and report on the extent to which the partnership's 2012 action agenda,
29 state of the sound report, and other activities implement the
30 recommendations of the committee's 2011 audit entitled "Processes
31 required to measure Puget Sound restoration are not yet in place." A
32 report must be provided to the relevant policy committee of the senate
33 and house of representatives by January 1, 2013.

34 **Sec. 10.** RCW 90.71.370 and 2011 1st sp.s. c 50 s 977 are each
35 amended to read as follows:

36 (1) By ~~((December 1, 2008, and by))~~ September 1st of each even-
37 numbered year beginning in 2010, the council shall provide to the

1 governor and the appropriate fiscal committees of the senate and house
2 of representatives its recommendations for the funding necessary to
3 implement the action agenda in the succeeding biennium. The
4 recommendations shall:

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

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

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

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

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

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

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

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

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

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

36 (f) An identification of all funds provided to the partnership, and
37 recommendations as to how future state expenditures for all entities,

1 including the partnership, could better match the priorities of the
2 action agenda.

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

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

16 (i) Water pollution control facilities financing, chapter 70.146
17 RCW;

18 (ii) The water pollution control revolving fund, chapter 90.50A
19 RCW;

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

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

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

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

26 (vii) The salmon recovery funding board, RCW 77.85.110 through
27 77.85.150;

28 (viii) The community economic revitalization board, chapter 43.160
29 RCW;

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

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

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

36 (i) Determining the level of funding and types of projects and
37 activities funded through the programs that contribute to
38 implementation of the action agenda;

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

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

9 (iv) Modifying funding criteria so that projects, programs, and
10 activities that are inconsistent with the action agenda are ineligible
11 for funding;

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

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

25 (6) During the 2011-2013 fiscal biennium, the council shall by
26 November 1, 2012, produce the state of the Sound report as defined in
27 subsection (3) of this section.

28 **Sec. 11.** RCW 90.71.340 and 2007 c 341 s 16 are each amended to
29 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

27 **Sec. 13.** RCW 43.155.070 and 2009 c 518 s 16 are each amended to
28 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 **Sec. 14.** RCW 70.105D.070 and 2011 1st sp.s. c 50 s 964 are each
34 reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

25 (vii) Hazardous materials emergency response training;

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

28 (ix) Programs authorized under chapter 70.146 RCW;

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

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

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

4 (xiii) During the 2009-2011 and 2011-2013 fiscal biennia, shoreline
5 update technical assistance;

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

8 (xv) During the 2011-2013 fiscal biennium, actions for reducing
9 public exposure to toxic air pollution.

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

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

17 (i) Remedial actions;

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

19 (iii) Solid waste plans and programs under chapters 70.95, 70.95C,
20 70.95I, and 70.105 RCW;

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

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

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

1 process. During the 2007-2009 fiscal biennium, moneys in the account
2 may also be used for grants to local governments to retrofit public
3 sector diesel equipment and for storm water planning and implementation
4 activities.

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

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

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

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

17 (C) Funding would create an opportunity for acquisition and
18 redevelopment of vacant, orphaned, or abandoned property under RCW
19 70.105D.040(5) that would not otherwise occur;

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

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

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

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

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

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

6 (6) No moneys deposited into either the state or local toxics
7 control account may be used for solid waste incinerator feasibility
8 studies, construction, maintenance, or operation, or, after January 1,
9 2010, for projects designed to address the restoration of Puget Sound,
10 funded in a competitive grant process, that are in conflict with the
11 action agenda developed by the Puget Sound partnership under RCW
12 90.71.310.

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

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

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

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

27 (11) During the 2011-2013 fiscal biennium, the local toxics control
28 account may also be used for local government shoreline update grants
29 and actions for reducing public exposure to toxic air pollution.

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

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

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

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

1 (c) Actions required under federal and state permits and compliance
2 orders;

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

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

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

10 ~~((g))~~ (f) Except as otherwise provided in RCW 70.146.120, and
11 effective one calendar year following the development and statewide
12 availability of model evergreen community management plans and
13 ordinances under RCW 35.105.050, whether the project is sponsored by an
14 entity that has been recognized, and what gradation of recognition was
15 received, in the evergreen community recognition program created in RCW
16 35.105.030;

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

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

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

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

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

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

16 **Sec. 16.** RCW 77.85.130 and 2011 c 20 s 16 are each amended to read
17 as follows:

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

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

33 (i) Are based upon the limiting factors analysis identified under
34 RCW 77.85.060;

35 (ii) Provide a greater benefit to salmon recovery based upon the
36 stock status information contained in the department of fish and

1 wildlife salmonid stock inventory (SASSI), the salmon and steelhead
2 habitat inventory and assessment project (SSHIAP), and any comparable
3 science-based assessment when available;

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

5 (iv) Will preserve high quality salmonid habitat;

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

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

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

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

15 (i) Are the most cost-effective;

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

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

19 (iv) Involve members of the Washington conservation corps
20 established in chapter 43.220 RCW or the veterans conservation corps
21 established in RCW 43.60A.150; and

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

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

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

1 consistent with this chapter, including the types of projects funded,
2 project outcomes, monitoring results, and administrative costs.

3 (5) The board may waive or modify portions of the allocation
4 procedures and standards adopted under this section in the award of
5 grants or loans to conform to legislative appropriations directing an
6 alternative award procedure or when the funds to be awarded are from
7 federal or other sources requiring other allocation procedures or
8 standards as a condition of the board's receipt of the funds. The
9 board shall develop an integrated process to manage the allocation of
10 funding from federal and state sources to minimize delays in the award
11 of funding while recognizing the differences in state and legislative
12 appropriation timing.

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

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

31 (8) Any project sponsor receiving funding from the salmon recovery
32 funding board that is not subject to disclosure under chapter 42.56 RCW
33 must, as a mandatory contractual prerequisite to receiving the funding,
34 agree to disclose any information in regards to the expenditure of that
35 funding as if the project sponsor was subject to the requirements of
36 chapter 42.56 RCW.

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

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

4 **Sec. 17.** RCW 79.105.150 and 2011 2nd sp.s. c 9 s 911 are each
5 amended to read as follows:

6 (1) After deduction for management costs as provided in RCW
7 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys
8 received by the state from the sale or lease of state-owned aquatic
9 lands and from the sale of valuable material from state-owned aquatic
10 lands shall be deposited in the aquatic lands enhancement account which
11 is hereby created in the state treasury. After appropriation, these
12 funds shall be used solely for aquatic lands enhancement projects; for
13 the purchase, improvement, or protection of aquatic lands for public
14 purposes; for providing and improving access to the lands; and for
15 volunteer cooperative fish and game projects. During the 2009-2011 and
16 2011-2013 fiscal biennia, the aquatic lands enhancement account may
17 also be used for scientific research as part of the adaptive management
18 process and for developing a planning report for McNeil Island. During
19 the 2009-2011 and 2011-2013 fiscal biennia, the legislature may
20 transfer from the aquatic lands enhancement account to the state
21 general fund such amounts as reflect excess fund balance of the
22 account. During the 2011-2013 fiscal biennium, the aquatic lands
23 enhancement account may be used to support the shellfish program, the
24 ballast water program, and the Puget Sound toxic sampling program at
25 the department of fish and wildlife, and the knotweed program at the
26 department of agriculture.

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

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

31 (b) Utilize the statement of environmental benefits,
32 consideration(~~(, except as provided in RCW 79.105.610, of whether the~~
33 ~~applicant is a Puget Sound partner, as defined in RCW 90.71.010,))~~ of
34 whether a project is referenced in the action agenda developed by the
35 Puget Sound partnership under RCW 90.71.310, and except as otherwise
36 provided in RCW 79.105.630, and effective one calendar year following
37 the development and statewide availability of model evergreen community

1 management plans and ordinances under RCW 35.105.050, whether the
2 applicant is an entity that has been recognized, and what gradation of
3 recognition was received, in the evergreen community recognition
4 program created in RCW 35.105.030 in its prioritization and selection
5 process; and

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

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

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

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

17 **Sec. 18.** RCW 79A.15.040 and 2008 c 299 s 29 are each amended to
18 read as follows:

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

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

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

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

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

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

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

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

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

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

16 (b) Any lands that have been acquired with grants under this
17 section by the department of natural resources are subject to payments
18 in the amounts required under the provisions of RCW 79.70.130 and
19 79.71.130.

20 (6) Except as otherwise conditioned by RCW (~~79A.15.140 or~~)
21 79A.15.150, the board in its evaluating process shall consider the
22 following in determining distribution priority:

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

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

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

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

1 **Sec. 19.** RCW 89.08.520 and 2008 c 299 s 27 are each amended to
2 read as follows:

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

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

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

8 (i) The statement of environmental benefits;

9 (ii) Whether, except as ~~((conditioned by RCW 89.08.580, the~~
10 ~~applicant is a Puget Sound partner, as defined in RCW 90.71.010, and~~
11 ~~except as))~~ otherwise provided in RCW 89.08.590, and effective one
12 calendar year following the development and statewide availability of
13 model evergreen community management plans and ordinances under RCW
14 35.105.050, ~~((whether))~~ the applicant is an entity that has been
15 recognized, and what gradation of recognition was received, in the
16 evergreen community recognition program created in RCW 35.105.030; and

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

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

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

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

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

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

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

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

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

- 1 (5) RCW 79.105.610 (Puget Sound partners) and 2007 c 341 s 33;
- 2 (6) RCW 79A.15.140 (Puget Sound partners) and 2007 c 341 s 35;
- 3 (7) RCW 89.08.580 (Puget Sound partners) and 2007 c 341 s 29; and
- 4 (8) RCW 90.50A.080 (Puget Sound partners) and 2007 c 341 s 40.

--- END ---