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SENATE BILL 5713

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State of Washington

62nd Legislature

2011 Regular Session

By Senators Haugen, Delvin, Hatfield, Shin, and Parlette

Read first time 02/08/11. Referred to Committee on Agriculture & Rural Economic Development.

1 AN ACT Relating to implementing recommendations developed in  
2 accordance with Substitute Senate Bill No. 5248, chapter 353, Laws of  
3 2007; amending RCW 36.70A.280; reenacting and amending RCW 36.70A.130;  
4 and adding new sections to chapter 36.70A RCW.

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

6 NEW SECTION. **Sec. 1.** (1) The purpose of this act is to establish  
7 the statewide voluntary stewardship program as recommended in the  
8 report submitted by the William D. Ruckelshaus Center to the  
9 legislature as required by chapter 353, Laws of 2007 and chapter 203,  
10 Laws of 2010.

11 (2) It is the intent of this act to:

12 (a) Promote plans to protect and enhance critical areas within the  
13 area where agricultural activities are conducted, while maintaining and  
14 improving the long-term viability of agriculture in the state of  
15 Washington and reducing the conversion of farmland to other uses;

16 (b) Focus and maximize voluntary incentive programs to encourage  
17 good riparian and ecosystem stewardship as an alternative to historic  
18 approaches used to protect critical areas;

1 (c) Rely upon RCW 36.70A.060 for the protection of critical areas  
2 for those counties that do not choose to participate in this program;

3 (d) Leverage existing resources by relying upon existing work and  
4 plans in counties and local watersheds, as well as existing state and  
5 federal programs to the maximum extent practicable to achieve program  
6 goals;

7 (e) Foster a spirit of cooperation among diverse interest groups to  
8 better assure the program success; and

9 (f) Rely upon voluntary stewardship practices as the primary method  
10 of protecting critical areas and not require the cessation of  
11 agricultural activities.

12 NEW SECTION. **Sec. 2.** The definitions in this section apply to  
13 sections 1 through 15 of this act and RCW 36.70A.130 and 36.70A.280  
14 unless the context clearly requires otherwise.

15 (1) "Agricultural activities" means all agricultural uses and  
16 practices as defined in RCW 90.58.065.

17 (2) "Commission" means the state conservation commission as defined  
18 in RCW 89.08.030.

19 (3) "Director" means the executive director of the state  
20 conservation commission.

21 (4) "Enhance" or "enhancement" means to improve the processes,  
22 structure, and functions of ecosystems and habitats associated with  
23 critical areas existing as of the effective date of this section.

24 (5) "Participating watershed" means a watershed identified by a  
25 county under section 4(1) of this act to participate in the program.

26 (6) "Priority watershed" means a geographic area nominated by the  
27 county and designated by the commission.

28 (7) "Program" means the statewide agriculture and critical areas  
29 voluntary stewardship program.

30 (8) "Protect" or "protecting" means to prevent the degradation of  
31 functions and values existing as of the effective date of this section.

32 (9) "Receipt of funding" means the date a county takes legislative  
33 action accepting any funds as required in section 5(1) of this act to  
34 implement this chapter.

35 (10) "Statewide advisory committee" means the statewide advisory  
36 committee created in section 11 of this act.

1 (11) "Technical panel" means the directors or director designees of  
2 the following agencies: The department of fish and wildlife; the  
3 department of agriculture; the department of ecology; and the  
4 commission.

5 (12) "Watershed" means a water resource inventory area, salmon  
6 recovery planning area, or a subbasin as determined by a county.

7 (13) "Watershed group" means an entity designated by a county under  
8 the provisions of section 5 of this act.

9 (14) "Work plan" means a watershed work plan developed under the  
10 provisions of section 6 of this act.

11 NEW SECTION. **Sec. 3.** (1) The agriculture and critical areas  
12 voluntary stewardship program is established to be administered by the  
13 commission. The program shall be designed to protect and enhance  
14 critical areas on lands used for agricultural activities through  
15 voluntary actions by agricultural operators.

16 (2) In administering the program, the commission must:

17 (a) Establish policies and procedures for implementing the program;

18 (b) Administer funding for counties to implement the program  
19 including, but not limited to, funding to develop strategies and  
20 incentive programs and to establish local guidelines for watershed  
21 stewardship programs;

22 (c) Administer the program's technical assistance funds and  
23 coordinate among state agencies and other entities for the  
24 implementation of the program;

25 (d) Establish a technical panel;

26 (e) In conjunction with the technical panel, review and evaluate:

27 (i) Watershed work plans submitted for approval under section 6(2)(a)  
28 of this act; and (ii) reports submitted under section 6(2)(b) of this  
29 act;

30 (f) Review and evaluate the program's success and effectiveness and  
31 make appropriate changes to policies and procedures for implementing  
32 the program, in consultation with the statewide advisory committee and  
33 other affected agencies;

34 (g) Designate priority watersheds based upon the recommendation of  
35 the statewide advisory committee. The commission and the statewide  
36 advisory committee may only consider watersheds nominated by counties  
37 under section 4 of this act. When designating priority watersheds, the

1 commission and the statewide advisory committee shall consider the  
2 statewide significance of the criteria listed in section 4(3) of this  
3 act;

4 (h) Provide administrative support for the program's statewide  
5 advisory committee in its work. The administrative support must be in  
6 collaboration with the department of ecology and other agencies  
7 involved in the program;

8 (i) Maintain a web site about the program that includes times,  
9 locations, and agenda information for meetings of the statewide  
10 advisory committee;

11 (j) Report to the legislature on the general status of program  
12 implementation by December 1, 2013, and December 1, 2015;

13 (k) In conjunction with the statewide advisory committee, conduct  
14 a review of the program beginning in 2017 and every five years  
15 thereafter, and report its findings to the legislature by December 1st;  
16 and

17 (1) Report to the appropriate committees of the legislature in the  
18 format provided in RCW 43.01.036.

19 (3) The department shall assist counties participating in the  
20 program to develop plans and development regulations under section 9(1)  
21 of this act.

22 (4) The commission, department, department of agriculture,  
23 department of fish and wildlife, department of ecology, and other state  
24 agencies as directed by the governor shall:

- 25 (a) Cooperate and collaborate to implement the program; and
- 26 (b) Develop materials to assist local watershed groups in  
27 development of work plans.

28 (5) State agencies conducting new monitoring to implement the  
29 program in a watershed must focus on the goals and benchmarks of the  
30 watershed work plan.

31 NEW SECTION. **Sec. 4.** (1)(a) As an alternative to protecting  
32 critical areas in areas used for agricultural activities through  
33 development regulations adopted under RCW 36.70A.060, the legislative  
34 authority of a county may elect to protect such critical areas through  
35 the program.

36 (b) In order to participate in the program, within six months after

1 the effective date of this section, the legislative authority of a  
2 county must adopt an ordinance or resolution that:

3 (i) Elects to have the county participate in the program;

4 (ii) Identifies the watersheds that will participate in the  
5 program; and

6 (iii) Based on the criteria in subsection (4) of this section,  
7 nominates watersheds for consideration by the commission as state  
8 priority watersheds.

9 (2) Before adopting the ordinance or resolution under subsection  
10 (1) of this section, the county must provide notice to property owners  
11 and other affected and interested individuals, tribes, government  
12 agencies, businesses, school districts, and organizations.

13 (3) In identifying watersheds to participate in the program, a  
14 county must consider:

15 (a) The role of farming within the watershed, including the number  
16 and acreage of farms, the economic value of crops and livestock, and  
17 the risk of the conversion of farmland; and

18 (b) Existing watershed programs, including those of other  
19 jurisdictions in which the watershed has territory.

20 (4) In identifying priority watersheds, a county must consider the  
21 following:

22 (a) The role of farming within the watershed, including the number  
23 and acreage of farms, the economic value of crops and livestock, and  
24 the risk of the conversion of farmland;

25 (b) The importance of salmonid resources in the watershed;

26 (c) An evaluation of the biological diversity of wildlife species  
27 and their habitats in the geographic region including their  
28 significance and vulnerability;

29 (d) The presence of leadership within the watershed that is  
30 representative and inclusive of the interests in the watershed;

31 (e) Integration of regional watershed strategies, including the  
32 availability of a data and scientific review structure related to all  
33 types of critical areas;

34 (f) The presence of a local watershed group that is willing and  
35 capable of overseeing a successful program, and the operational  
36 structures to administer the program effectively, including  
37 professional technical assistance staff, and monitoring and adaptive  
38 management structures; and

1 (g) The overall likelihood of completing a successful program in  
2 the watershed.

3 (5) Except as otherwise provided in subsection (8) of this section,  
4 beginning with the effective date of the ordinance or resolution  
5 adopted under subsection (1) of this section, the program applies to  
6 all unincorporated property upon which agricultural activities occur  
7 within a participating watershed.

8 (6)(a) Except as otherwise provided in (b) of this subsection,  
9 within two years after the effective date of this section, a county  
10 must review and, if necessary, revise development regulations adopted  
11 under this chapter to protect critical areas as they specifically apply  
12 to agricultural activities:

13 (i) If the county has not elected to participate in the program,  
14 for all unincorporated areas; and

15 (ii) If the county has elected to participate in the program, for  
16 any watershed not participating in the program.

17 (b) A county that between July 1, 2003, and June 30, 2007, in  
18 accordance with RCW 36.70A.130 completed the review of its development  
19 regulations as required by RCW 36.70A.130 to protect critical areas as  
20 they specifically apply to agricultural activities is not required to  
21 review and revise its development regulations until required by RCW  
22 36.70A.130.

23 (c) After the review and amendment required under (a) of this  
24 subsection, RCW 36.70A.130 applies to the subsequent review and  
25 amendment of development regulations adopted under this chapter to  
26 protect critical areas as they specifically apply to agricultural  
27 activities.

28 (7)(a) A county that has made the election under subsection (1) of  
29 this section may withdraw a participating watershed from the program by  
30 adopting an ordinance or resolution withdrawing the watershed from the  
31 program. A county may withdraw a watershed from the program at the end  
32 of three years, five years, or eight years from receipt of funding, or  
33 any time after ten years from receipt of funding.

34 (b) Within eighteen months after withdrawing a participating  
35 watershed from the program, the county must review and, if necessary,  
36 revise its development regulations that protect critical areas in that  
37 watershed as they specifically apply to agricultural activities. The  
38 development regulations must protect the critical area functions and

1 values as they existed on the effective date of this section. RCW  
2 36.70A.130 applies to the subsequent review and amendment of  
3 development regulations adopted under this chapter to protect critical  
4 areas as they specifically apply to agricultural activities.

5 (8) A county that has made the election under subsection (1) of  
6 this section is eligible for a share of the funding made available to  
7 implement the program, subject to funding availability from the state.

8 (9) A county that has made the election under subsection (1) of  
9 this section is not required to implement the program in a  
10 participating watershed until adequate funding for the program in that  
11 watershed is provided to the county.

12 NEW SECTION. **Sec. 5.** (1) When the commission makes funds  
13 available to a county that has made the election provided in section  
14 4(1) of this act, the county must within sixty days:

- 15 (a) Acknowledge the receipt of funds; and
- 16 (b) Designate a watershed group and an entity to administer funds  
17 for each watershed for which funding has been provided.

18 (2) A county must confer with tribes and interested stakeholders  
19 before designating or establishing a watershed group.

20 (3) The watershed group must include broad representation of key  
21 watershed stakeholders and, at a minimum, representatives of  
22 agricultural and environmental groups. The county should encourage  
23 existing lead entities, watershed planning units, or other integrating  
24 organizations to serve as the watershed group.

25 (4) The county may designate itself, a tribe, or another entity to  
26 coordinate the local watershed group.

27 NEW SECTION. **Sec. 6.** (1) A watershed group designated by a county  
28 under section 5 of this act must develop a work plan to protect  
29 critical areas while maintaining the viability of agriculture in the  
30 watershed. The work plan must include goals and benchmarks for the  
31 protection and enhancement of critical areas. In developing the work  
32 plan, the watershed group must:

- 33 (a) Review and incorporate applicable water quality, watershed  
34 management, farmland protection, and species recovery data and plans;
- 35 (b) Seek input from tribes, agencies, and stakeholders;

1 (c) Develop goals for participation by agricultural operators  
2 conducting commercial and noncommercial agricultural activities in the  
3 watershed necessary to meet the protection and enhancement benchmarks  
4 of the work plan;

5 (d) Ensure outreach and technical assistance is provided to  
6 agricultural operators in the watershed;

7 (e) Create measurable benchmarks that are designed to result in (i)  
8 the protection of critical area functions and values and (ii) the  
9 enhancement of critical area functions and values through voluntary,  
10 incentive-based measures, within ten years after receipt of funding;

11 (f) Designate the entity or entities that will provide technical  
12 assistance;

13 (g) Work with the entity providing technical assistance to ensure  
14 that individual stewardship plans contribute to the goals and  
15 benchmarks of the work plan;

16 (h) Incorporate into the work plan any existing development  
17 regulations relied upon to achieve the goals and benchmarks for  
18 protection;

19 (i) Establish baseline monitoring for: (i) Participation  
20 activities and implementation of the voluntary stewardship plans and  
21 projects; (ii) stewardship activities; and (iii) the effects on  
22 critical areas and agriculture relevant to the protection and  
23 enhancement benchmarks developed for the watershed;

24 (j) Conduct periodic evaluations, institute adaptive management,  
25 and provide a written report of the status of plans and accomplishments  
26 to the county and to the commission within sixty days after the end of  
27 each biennium;

28 (k) Assist state agencies in their monitoring programs; and

29 (l) Satisfy any other reporting requirements of this chapter.

30 (2)(a) The watershed group shall develop and submit the work plan  
31 to the director for approval as provided in section 8 of this act.

32 (b)(i) Not later than five years after the receipt of funding for  
33 a participating watershed, the watershed group must report to the  
34 director and the county on whether it has met the work plan's  
35 protection and enhancement goals and benchmarks.

36 (ii) If the watershed group determines the protection goals and  
37 benchmarks have been met, and the director concurs under section 8 of



1 this act, the watershed group shall continue to implement the work  
2 plan.

3 (iii) If the watershed group determines the protection goals and  
4 benchmarks have not been met, it must propose and submit to the  
5 director an adaptive management plan to achieve the goals and  
6 benchmarks that were not met. If the director does not approve the  
7 adaptive management plan under section 8 of this act, the watershed is  
8 subject to section 9 of this act.

9 (iv) If the watershed group determines the enhancement goals and  
10 benchmarks have not been met, the watershed group must determine what  
11 additional voluntary actions are needed to meet the benchmarks,  
12 identify the funding necessary to implement these actions, and  
13 implement these actions.

14 (c)(i) Not later than ten years after receipt of funding for a  
15 participating watershed, and every five years thereafter, the watershed  
16 group must report to the director and the county on whether it has met  
17 the protection and enhancement goals and benchmarks of the work plan.

18 (ii) If the watershed group determines the protection goals and  
19 benchmarks have been met, and the director concurs under section 8 of  
20 this act, the watershed group shall continue to implement the work  
21 plan.

22 (iii) If the watershed group determines the protection goals and  
23 benchmarks have not been met, the watershed is subject to section 9 of  
24 this act.

25 (iv) If the watershed group determines the enhancement goals and  
26 benchmarks have not been met, the watershed group must determine what  
27 additional voluntary actions are needed to meet the benchmarks,  
28 identify the funding necessary to implement these actions, and  
29 implement these actions when funding is provided.

30 (3) Following approval of a work plan, a county or watershed group  
31 may request a state or federal agency to focus existing enforcement  
32 authority in that participating watershed, if the action will  
33 facilitate progress toward achieving work plan protection goals and  
34 benchmarks.

35 (4) The commission may provide priority funding to any watershed  
36 designated under the provisions of section 3(2)(g) of this act. The  
37 director, in consultation with the statewide advisory committee, shall

1 work with the watershed group to develop an accelerated implementation  
2 schedule for watersheds that receive priority funding.

3 (5) Commercial and noncommercial agricultural operators  
4 participating in the program are eligible to receive funding and  
5 assistance under watershed programs.

6 NEW SECTION. **Sec. 7.** (1) Upon receipt of a work plan submitted to  
7 the director under section 6(2)(a) of this act, the director must  
8 submit the work plan to the technical panel for review.

9 (2) The technical panel shall review the work plan and report to  
10 the commission within forty-five days after the commission receives the  
11 work plan. The technical panel shall assess whether at the end of ten  
12 years after receipt of funding, the work plan, in conjunction with  
13 other existing plans and regulations, will protect critical areas while  
14 maintaining and enhancing the viability of agriculture in the  
15 watershed.

16 (3)(a) If the technical panel determines the proposed work plan  
17 will protect critical areas while maintaining and enhancing the  
18 viability of agriculture in the watershed:

19 (i) It must recommend approval of the work plan; and

20 (ii) The director must approve the work plan.

21 (b) If the technical panel determines the proposed work plan will  
22 not protect critical areas while maintaining and enhancing the  
23 viability of agriculture in the watershed:

24 (i) It must identify the reasons for its determination; and

25 (ii) The director must advise the watershed group of the reasons  
26 for disapproval.

27 (4) The watershed group may modify and resubmit its work plan for  
28 review and approval consistent with this section.

29 (5) If the director does not approve a work plan submitted under  
30 this section within two years and nine months after receipt of funding,  
31 the director shall submit the work plan to the statewide advisory  
32 committee for resolution. If the statewide advisory committee  
33 recommends approval, the director must approve the work plan.

34 (6) If the director does not approve a work plan for a watershed  
35 within three years after receipt of funding, the provisions of section  
36 9(2) of this act apply to the watershed.

1        NEW SECTION.    **Sec. 8.**    (1) Upon receipt of a report by a watershed  
2 group under section 6(2)(b) of this act, the director must consult with  
3 the statewide advisory committee to determine if the goals and  
4 benchmarks have been met.

5        (a) If the report concludes that the work plan goals and benchmarks  
6 have been met and the director concurs, the watershed group shall  
7 continue to implement the work plan.

8        (b) If the report concludes that the work plan goals and benchmarks  
9 have been met but the director does not concur, the director shall  
10 consult with the technical panel following the procedures in subsection  
11 (2) of this section.

12        (c) If the report concludes that the work plan goals and benchmarks  
13 have not been met and the director concurs, the director shall consult  
14 with the technical panel following the procedures in section 7(3)(b) of  
15 this act.

16        (2) If the watershed group or the director concludes that the work  
17 plan goals and benchmarks for protection have not been met, the  
18 director must consult with the statewide advisory committee for a  
19 recommendation on how to proceed. If the director, acting upon  
20 recommendation from the statewide advisory committee, determines that  
21 the watershed is likely to meet the goals and benchmarks with an  
22 additional six months of planning and implementation time, the director  
23 must grant an extension. If the director, acting upon a recommendation  
24 from the statewide advisory committee, determines that the watershed is  
25 unlikely to meet the goals and benchmarks within six months, the  
26 watershed is subject to section 9 of this act.

27        (3) A watershed that fails to meet its goals and benchmarks for  
28 protection within the six-month time extension under subsection (2) of  
29 this section is subject to section 9 of this act.

30        NEW SECTION.    **Sec. 9.**    (1) Within eighteen months after one of the  
31 events in subsection (2) of this section, a county must:

32        (a) Develop, adopt, and implement a watershed work plan approved by  
33 the department that protects critical areas in areas used for  
34 agricultural activities while maintaining the viability of agriculture  
35 in the watershed. The department shall consult with the departments of  
36 agriculture, ecology, and fish and wildlife and the commission, and

1 other relevant state agencies before approving or disapproving the  
2 proposed work plan. The appeal of the department's decision under this  
3 subsection is subject to appeal under RCW 36.70A.280;

4 (b) Adopt development regulations previously adopted under this  
5 chapter by another local government for the purpose of protecting  
6 critical areas in areas used for agricultural activities. Regulations  
7 adopted under this subsection (1)(b) must be from a region with similar  
8 agricultural activities, geography, and geology and must: (i) Be from  
9 Clallam, Clark, King, or Whatcom counties; or (ii) have been upheld by  
10 a growth management hearings board or court after July 1, 2011, where  
11 the board or court determined that the provisions adequately protected  
12 critical areas functions and values in areas used for agricultural  
13 activities;

14 (c) Adopt development regulations certified by the department as  
15 protective of critical areas in areas used for agricultural activities  
16 as required by this chapter. The county may submit existing or amended  
17 regulations for certification. The department must make its decision  
18 on whether to certify the development regulations within ninety days  
19 after the county submits its request. If the department does not make  
20 the certification, the county shall take an action under (a), (b), or  
21 (d) of this subsection. The department must consult with the  
22 departments of agriculture, ecology, and fish and wildlife and the  
23 commission before making a certification under this section. The  
24 appeal of the department's decision under this subsection (1)(c) is  
25 subject to appeal under RCW 36.70A.280; or

26 (d) Review and, if necessary, revise development regulations  
27 adopted under this chapter to protect critical areas as they relate to  
28 agricultural activities.

29 (2) A participating watershed is subject to this section if:

30 (a) The watershed work plan is not approved by the director as  
31 provided in section 7 of this act;

32 (b) The work plan's goals and benchmarks for protection have not  
33 been met as provided in section 6 of this act;

34 (c) The commission has determined under section 10 of this act that  
35 the county, department, commission, or departments of agriculture,  
36 ecology, or fish and wildlife have not received adequate funding to  
37 implement a program in the watershed;

1 (d) The commission has determined under section 10 of this act that  
2 the watershed has not received adequate funding to implement the  
3 program; or

4 (e) The county withdraws the watershed from the program under  
5 section 4(7) of this act.

6 (3) The department shall adopt rules to implement subsection (1)(a)  
7 and (c) of this section.

8 NEW SECTION. **Sec. 10.** (1) By July 31, 2015, the commission must:

9 (a) In consultation with each county that has elected under section  
10 4 of this act to participate in the program, determine which  
11 participating watersheds received adequate funding to establish and  
12 implement the program in a participating watershed by July 1, 2015; and

13 (b) In consultation with other state agencies, for each  
14 participating watershed determine whether state agencies required to  
15 take action under the provisions of this chapter have received adequate  
16 funding to support the program by July 1, 2015.

17 (2) By July 31, 2017, and every two years thereafter, in  
18 consultation with each county that has elected under section 4 of this  
19 act to participate in the program and other state agencies, the  
20 commission shall determine for each participating watershed whether  
21 adequate funding to implement the program was provided during the  
22 preceding biennium as provided in subsection (1) of this section.

23 (3) If the commission determines under subsection (1) or (2) of  
24 this section that a participating watershed has not received adequate  
25 funding, the watershed is subject to the provisions of section 9 of  
26 this act.

27 (4) In consultation with the statewide advisory committee and other  
28 state agencies, not later than August 31, 2015, and each August 31st  
29 every two years thereafter, the commission shall report to the  
30 legislature and each county that has elected under section 4 of this  
31 act to participate in the program on the participating watersheds that  
32 have received adequate funding to establish and implement the program.

33 NEW SECTION. **Sec. 11.** (1)(a) From the nominations made under (b)  
34 of this subsection, the commission shall appoint a statewide advisory  
35 committee, consisting of: Two persons representing county government,  
36 two persons representing agricultural organizations, and two persons

1 representing environmental organizations. The commission, in  
2 conjunction with the governor's office, shall also invite participation  
3 by two representatives of tribal governments.

4 (b) Organizations representing county, agricultural, and  
5 environmental organizations shall submit nominations of their  
6 representatives to the commission within ninety days of the effective  
7 date of this section. Members of the statewide advisory committee  
8 shall serve two-year terms except that for the first year, one  
9 representative from each of the sectors shall be appointed to the  
10 statewide advisory committee for a term of one year. Members may be  
11 reappointed by the commission for additional two-year terms and  
12 replacement members shall be appointed in accordance with the process  
13 for selection of the initial members of the statewide advisory  
14 committee.

15 (c) Upon notification of the commission by an appointed member, the  
16 appointed member may designate a person to serve as an alternate.

17 (d) The executive director of the commission shall serve as a  
18 nonvoting chair of the statewide advisory committee.

19 (e) Members of the statewide advisory committee shall serve without  
20 compensation and, unless serving as a state officer or employee, are  
21 not eligible for reimbursement for subsistence, lodging, and travel  
22 expenses under RCW 43.03.050 and 43.03.060.

23 (2) The role of the statewide advisory committee is to advise the  
24 commission and other agencies involved in development and operation of  
25 the program.

26 NEW SECTION. **Sec. 12.** (1) Agricultural operators implementing an  
27 individual stewardship plan consistent with a work plan are presumed to  
28 be working toward the protection and enhancement of critical areas.

29 (2) If the watershed group determines that additional or different  
30 practices are needed to achieve the work plan's goals and benchmarks,  
31 the agricultural operator may not be required to implement those  
32 practices but may choose to implement the revised practices on a  
33 voluntary basis and is eligible for funding to revise the practices.

34 NEW SECTION. **Sec. 13.** In developing stewardship practices to  
35 implement the work plan, to the maximum extent practical the watershed  
36 work group should:

1 (1) Avoid management practices that may have unintended adverse  
2 consequences for other habitats, species, and critical areas functions  
3 and values; and

4 (2) Administer the program in a manner that allows participants to  
5 be eligible for public or private environmental protection and  
6 enhancement incentives while protecting and enhancing critical area  
7 functions and values.

8 NEW SECTION. **Sec. 14.** An agricultural operator participating in  
9 the program may withdraw from the program and is not required to  
10 continue voluntary measures after the expiration of an applicable  
11 contract. The watershed group must account for any loss of protection  
12 resulting from withdrawals when establishing goals and benchmarks for  
13 protection and a work plan under section 6 of this act.

14 NEW SECTION. **Sec. 15.** Nothing in this chapter may be construed  
15 to:

16 (1) Interfere with or supplant the ability of any agricultural  
17 operator to work cooperatively with a conservation district or  
18 participate in state or federal conservation programs;

19 (2) Require an agricultural operator to discontinue agricultural  
20 activities legally existing before the effective date of this section;

21 (3) Prohibit the voluntary sale or leasing of land for conservation  
22 purposes, either in fee or as an easement;

23 (4) Grant counties or state agencies additional authority to  
24 regulate critical areas on lands used for agricultural activities; and

25 (5) Limit the authority of a state agency, local government, or  
26 landowner to carry out its obligations under any other federal, state,  
27 or local law.

28 **Sec. 16.** RCW 36.70A.130 and 2010 c 216 s 1 and 2010 c 211 s 2 are  
29 each reenacted and amended to read as follows:

30 (1)(a) Each comprehensive land use plan and development regulations  
31 shall be subject to continuing review and evaluation by the county or  
32 city that adopted them. Except as otherwise provided, a county or city  
33 shall take legislative action to review and, if needed, revise its  
34 comprehensive land use plan and development regulations to ensure the

1 plan and regulations comply with the requirements of this chapter  
2 according to the deadlines in subsections (4) and (5) of this section.

3 (b) Except as otherwise provided, a county or city not planning  
4 under RCW 36.70A.040 shall take action to review and, if needed, revise  
5 its policies and development regulations regarding critical areas and  
6 natural resource lands adopted according to this chapter to ensure  
7 these policies and regulations comply with the requirements of this  
8 chapter according to the deadlines in subsections (4) and (5) of this  
9 section. Legislative action means the adoption of a resolution or  
10 ordinance following notice and a public hearing indicating at a  
11 minimum, a finding that a review and evaluation has occurred and  
12 identifying the revisions made, or that a revision was not needed and  
13 the reasons therefor.

14 (c) The review and evaluation required by this subsection may be  
15 combined with the review required by subsection (3) of this section.  
16 The review and evaluation required by this subsection shall include,  
17 but is not limited to, consideration of critical area ordinances and,  
18 if planning under RCW 36.70A.040, an analysis of the population  
19 allocated to a city or county from the most recent ten-year population  
20 forecast by the office of financial management.

21 (d) Any amendment of or revision to a comprehensive land use plan  
22 shall conform to this chapter. Any amendment of or revision to  
23 development regulations shall be consistent with and implement the  
24 comprehensive plan.

25 (2)(a) Each county and city shall establish and broadly disseminate  
26 to the public a public participation program consistent with RCW  
27 36.70A.035 and 36.70A.140 that identifies procedures and schedules  
28 whereby updates, proposed amendments, or revisions of the comprehensive  
29 plan are considered by the governing body of the county or city no more  
30 frequently than once every year. "Updates" means to review and revise,  
31 if needed, according to subsection (1) of this section, and the  
32 deadlines in subsections (4) and (5) of this section or in accordance  
33 with the provisions of subsection (6) of this section. Amendments may  
34 be considered more frequently than once per year under the following  
35 circumstances:

36 (i) The initial adoption of a subarea plan. Subarea plans adopted  
37 under this subsection (2)(a)(i) must clarify, supplement, or implement



1 jurisdiction-wide comprehensive plan policies, and may only be adopted  
2 if the cumulative impacts of the proposed plan are addressed by  
3 appropriate environmental review under chapter 43.21C RCW;

4 (ii) The development of an initial subarea plan for economic  
5 development located outside of the one hundred year floodplain in a  
6 county that has completed a state-funded pilot project that is based on  
7 watershed characterization and local habitat assessment;

8 (iii) The adoption or amendment of a shoreline master program under  
9 the procedures set forth in chapter 90.58 RCW;

10 (iv) The amendment of the capital facilities element of a  
11 comprehensive plan that occurs concurrently with the adoption or  
12 amendment of a county or city budget; or

13 (v) The adoption of comprehensive plan amendments necessary to  
14 enact a planned action under RCW 43.21C.031(2), provided that  
15 amendments are considered in accordance with the public participation  
16 program established by the county or city under this subsection (2)(a)  
17 and all persons who have requested notice of a comprehensive plan  
18 update are given notice of the amendments and an opportunity to  
19 comment.

20 (b) Except as otherwise provided in (a) of this subsection, all  
21 proposals shall be considered by the governing body concurrently so the  
22 cumulative effect of the various proposals can be ascertained.  
23 However, after appropriate public participation a county or city may  
24 adopt amendments or revisions to its comprehensive plan that conform  
25 with this chapter whenever an emergency exists or to resolve an appeal  
26 of a comprehensive plan filed with the growth management hearings board  
27 or with the court.

28 (3)(a) Each county that designates urban growth areas under RCW  
29 36.70A.110 shall review, at least every ten years, its designated urban  
30 growth area or areas, and the densities permitted within both the  
31 incorporated and unincorporated portions of each urban growth area. In  
32 conjunction with this review by the county, each city located within an  
33 urban growth area shall review the densities permitted within its  
34 boundaries, and the extent to which the urban growth occurring within  
35 the county has located within each city and the unincorporated portions  
36 of the urban growth areas.

37 (b) The county comprehensive plan designating urban growth areas,  
38 and the densities permitted in the urban growth areas by the

1 comprehensive plans of the county and each city located within the  
2 urban growth areas, shall be revised to accommodate the urban growth  
3 projected to occur in the county for the succeeding twenty-year period.  
4 The review required by this subsection may be combined with the review  
5 and evaluation required by RCW 36.70A.215.

6 (4) Except as provided in subsection (6) of this section, counties  
7 and cities shall take action to review and, if needed, revise their  
8 comprehensive plans and development regulations to ensure the plan and  
9 regulations comply with the requirements of this chapter as follows:

10 (a) On or before December 1, 2004, for Clallam, Clark, Jefferson,  
11 King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the  
12 cities within those counties;

13 (b) On or before December 1, 2005, for Cowlitz, Island, Lewis,  
14 Mason, San Juan, Skagit, and Skamania counties and the cities within  
15 those counties;

16 (c) On or before December 1, 2006, for Benton, Chelan, Douglas,  
17 Grant, Kittitas, Spokane, and Yakima counties and the cities within  
18 those counties; and

19 (d) On or before December 1, 2007, for Adams, Asotin, Columbia,  
20 Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan,  
21 Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman  
22 counties and the cities within those counties.

23 (5) Except as otherwise provided in subsections (6) and (8) of this  
24 section, following the review of comprehensive plans and development  
25 regulations required by subsection (4) of this section, counties and  
26 cities shall take action to review and, if needed, revise their  
27 comprehensive plans and development regulations to ensure the plan and  
28 regulations comply with the requirements of this chapter as follows:

29 (a) On or before December 1, 2014, and every seven years  
30 thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce,  
31 Snohomish, Thurston, and Whatcom counties and the cities within those  
32 counties;

33 (b) On or before December 1, 2015, and every seven years  
34 thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and  
35 Skamania counties and the cities within those counties;

36 (c) On or before December 1, 2016, and every seven years  
37 thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and  
38 Yakima counties and the cities within those counties; and

1 (d) On or before December 1, 2017, and every seven years  
2 thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield,  
3 Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille,  
4 Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities  
5 within those counties.

6 (6)(a) Nothing in this section precludes a county or city from  
7 conducting the review and evaluation required by this section before  
8 the deadlines established in subsections (4) and (5) of this section.  
9 Counties and cities may begin this process early and may be eligible  
10 for grants from the department, subject to available funding, if they  
11 elect to do so.

12 (b) A county that is subject to a deadline established in  
13 subsection (4)(b) through (d) of this section and meets the following  
14 criteria may comply with the requirements of this section at any time  
15 within the thirty-six months following the deadline established in  
16 subsection (4) of this section: The county has a population of less  
17 than fifty thousand and has had its population increase by no more than  
18 seventeen percent in the ten years preceding the deadline established  
19 in subsection (4) of this section as of that date.

20 (c) A city that is subject to a deadline established in subsection  
21 (4)(b) through (d) of this section and meets the following criteria may  
22 comply with the requirements of this section at any time within the  
23 thirty-six months following the deadline established in subsection (4)  
24 of this section: The city has a population of no more than five  
25 thousand and has had its population increase by the greater of either  
26 no more than one hundred persons or no more than seventeen percent in  
27 the ten years preceding the deadline established in subsection (4) of  
28 this section as of that date.

29 (d) A county or city that is subject to a deadline established in  
30 subsection (4)(d) of this section and that meets the criteria  
31 established in subsection (6)(b) or (c) of this section may comply with  
32 the requirements of subsection (4)(d) of this section at any time  
33 within the thirty-six months after the extension provided in subsection  
34 (6)(b) or (c) of this section.

35 (e) State agencies are encouraged to provide technical assistance  
36 to the counties and cities in the review of critical area ordinances,  
37 comprehensive plans, and development regulations.

1 (7)(a) The requirements imposed on counties and cities under this  
2 section shall be considered "requirements of this chapter" under the  
3 terms of RCW 36.70A.040(1). Only those counties and cities that meet  
4 the following criteria may receive grants, loans, pledges, or financial  
5 guarantees under chapter 43.155 or 70.146 RCW:

6 (i) Complying with the deadlines in this section;

7 (ii) Demonstrating substantial progress towards compliance with the  
8 schedules in this section for development regulations that protect  
9 critical areas; or

10 (iii) Complying with the extension provisions of subsection (6)(b),  
11 (c), or (d) of this section.

12 (b) A county or city that is fewer than twelve months out of  
13 compliance with the schedules in this section for development  
14 regulations that protect critical areas is making substantial progress  
15 towards compliance. Only those counties and cities in compliance with  
16 the schedules in this section may receive preference for grants or  
17 loans subject to the provisions of RCW 43.17.250.

18 (8)(a) Except as otherwise provided in (c) of this subsection, if  
19 a participating watershed in a county making the election under section  
20 4(1) of this act that is achieving benchmarks and goals for the  
21 protection of critical areas functions and values, the county is not  
22 required to update development regulations to protect critical areas as  
23 they specifically apply to agricultural activities in that watershed.

24 (b) A county that has made the election under section 4(1) of this  
25 act may only adopt or amend development regulations to protect critical  
26 areas as they specifically apply to agricultural activities in a  
27 participating watershed if:

28 (i) A watershed work plan has been approved for that watershed in  
29 accordance with section 7 of this act;

30 (ii) The local watershed group for that watershed has requested the  
31 county to adopt or amend development regulations as part of a work plan  
32 developed under section 6 of this act;

33 (iii) The adoption or amendment of the development regulations is  
34 necessary to enable the county to respond to an order of the growth  
35 management hearings board or court;

36 (iv) The adoption or amendment of development regulations is  
37 necessary to address a threat to human health or safety; or

38 (v) Three or more years have elapsed since the receipt of funding.

1 (c) Beginning ten years of the date of receipt of funding, a county  
2 that has made the election under section 4(1) of this act must review  
3 and, if necessary, revise development regulations to protect critical  
4 areas as they specifically apply to agricultural activities in a  
5 participating watershed in accordance with the review and revision  
6 requirements and timeline in subsection (5) of this section. This  
7 subsection (8)(c) does not apply to a participating watershed that has  
8 determined under section 6(2)(c)(ii) of this act that the watershed's  
9 goals and benchmarks for protection have been met.

10 (d) "Agricultural activities," "participating watershed," "receipt  
11 of funding," and "work plan" for purposes of this subsection (8) have  
12 the definitions in section 2 of this act.

13 **Sec. 17.** RCW 36.70A.280 and 2010 c 211 s 7 are each amended to  
14 read as follows:

15 (1) The growth management hearings board shall hear and determine  
16 only those petitions alleging either:

17 (a) That, except as provided otherwise by this subsection, a state  
18 agency, county, or city planning under this chapter is not in  
19 compliance with the requirements of this chapter, chapter 90.58 RCW as  
20 it relates to the adoption of shoreline master programs or amendments  
21 thereto, or chapter 43.21C RCW as it relates to plans, development  
22 regulations, or amendments, adopted under RCW 36.70A.040 or chapter  
23 90.58 RCW. Nothing in this subsection authorizes the board to hear  
24 petitions alleging noncompliance with RCW 36.70A.5801; ((~~or~~))

25 (b) That the twenty-year growth management planning population  
26 projections adopted by the office of financial management pursuant to  
27 RCW 43.62.035 should be adjusted;

28 (c) That the approval of a plan adopted under section 9(1)(a) of  
29 this act is not in compliance with the requirements of the program  
30 established under section 4 of this act;

31 (d) That regulations adopted under section 9(1)(b) of this act are  
32 not regionally applicable and cannot be adopted, wholly or partially,  
33 by another jurisdiction; or

34 (e) That a department certification under section 9(1)(c) of this  
35 act is erroneous.

36 (2) A petition may be filed only by: (a) The state, or a county or  
37 city that plans under this chapter; (b) a person who has participated

1 orally or in writing before the county or city regarding the matter on  
2 which a review is being requested; (c) a person who is certified by the  
3 governor within sixty days of filing the request with the board; or (d)  
4 a person qualified pursuant to RCW 34.05.530.

5 (3) For purposes of this section "person" means any individual,  
6 partnership, corporation, association, state agency, governmental  
7 subdivision or unit thereof, or public or private organization or  
8 entity of any character.

9 (4) To establish participation standing under subsection (2)(b) of  
10 this section, a person must show that his or her participation before  
11 the county or city was reasonably related to the person's issue as  
12 presented to the board.

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

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

20 If adjusted by the board, a county growth management planning  
21 population projection shall only be used for the planning purposes set  
22 forth in this chapter and shall be known as the "board adjusted  
23 population projection." None of these changes shall affect the  
24 official state and county population forecasts prepared by the office  
25 of financial management, which shall continue to be used for state  
26 budget and planning purposes.

27 NEW SECTION. **Sec. 18.** Sections 1 through 15 of this act are each  
28 added to chapter 36.70A RCW.

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