
HOUSE BILL 2352

State of Washington

64th Legislature

2016 Regular Session

By Representatives Stanford, Fitzgibbon, Ryu, Peterson, Riccelli, and Tarleton

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1 AN ACT Relating to riparian restoration and planting on
2 farmlands; and amending RCW 79A.15.130.

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

4 **Sec. 1.** RCW 79A.15.130 and 2009 c 341 s 5 are each amended to
5 read as follows:

6 (1) The farmlands preservation account is established in the
7 state treasury. The board will administer the account in accordance
8 with chapter 79A.25 RCW and this chapter, and hold it separate and
9 apart from all other money, funds, and accounts of the board. Moneys
10 appropriated for this chapter to the farmlands preservation account
11 must be distributed for the acquisition and preservation of farmlands
12 in order to maintain the opportunity for agricultural activity upon
13 these lands.

14 (2)(a) Moneys appropriated for this chapter to the farmlands
15 preservation account may be distributed for (i) the fee simple or
16 less than fee simple acquisition of farmlands; (ii) the enhancement
17 or restoration of ecological functions on those properties, including
18 but not limited to riparian restoration and planting; or (iii) both.
19 In order for a farmland preservation grant to provide for an
20 environmental enhancement or restoration project, the project must
21 include the acquisition of a real property interest.

1 (b) If a city, county, federally recognized Indian tribe in the
2 state, nonprofit nature conservancy organization or association, or
3 the conservation commission acquires a property through this program
4 in fee simple, the city, county, federally recognized Indian tribe in
5 the state, nonprofit nature conservancy organization or association,
6 or the conservation commission shall endeavor to secure preservation
7 of the property through placing a conservation easement, or other
8 form of deed restriction, on the property which dedicates the land to
9 agricultural use and retains one or more property rights in
10 perpetuity. Once an easement or other form of deed restriction is
11 placed on the property, the city, county, federally recognized Indian
12 tribe in the state, nonprofit nature conservancy organization or
13 association, or the conservation commission shall seek to sell the
14 property, at fair market value, to a person or persons who will
15 maintain the property in agricultural production. Any moneys from the
16 sale of the property shall either be used to purchase interests in
17 additional properties which meet the criteria in subsection (9) of
18 this section, or to repay the grant from the state which was
19 originally used to purchase the property.

20 (3) Cities, counties, federally recognized Indian tribes in the
21 state, nonprofit nature conservancy organizations or associations,
22 and the conservation commission may apply for acquisition and
23 enhancement or restoration funds for farmland preservation projects
24 within their jurisdictions under subsection (1) of this section.

25 (4) The board may adopt rules establishing acquisition and
26 enhancement or restoration policies and priorities for distributions
27 from the farmlands preservation account.

28 (5) The acquisition of a property right in a project under this
29 section by a county, city, federally recognized Indian tribe in the
30 state, nonprofit nature conservancy organization or association, or
31 the conservation commission does not provide a right of access to the
32 property by the public unless explicitly provided for in a
33 conservation easement or other form of deed restriction.

34 (6) Except as provided in RCW 79A.15.030(7), moneys appropriated
35 for this section may not be used by the board to fund staff positions
36 or other overhead expenses, or by a city, county, federally
37 recognized Indian tribe in the state, nonprofit nature conservancy
38 organization or association, or the conservation commission to fund
39 operation or maintenance of areas acquired under this chapter.

1 (7) Moneys appropriated for this section may be used by grant
2 recipients for costs incidental to restoration and acquisition,
3 including, but not limited to, surveying expenses, fencing, and
4 signing.

5 (8) The board may not approve a local project where the local
6 agency's, Indian tribe's, or nonprofit nature conservancy
7 organization's or association's share is less than the amount to be
8 awarded from the farmlands preservation account. In-kind
9 contributions, including contributions of a real property interest in
10 land, may be used to satisfy the local agency's, Indian tribe's, or
11 nonprofit nature conservancy organization's or association's share.

12 (9) In determining the acquisition priorities, the board must
13 consider, at a minimum, the following criteria:

14 (a) Community support for the project;

15 (b) A recommendation as part of a limiting factors or critical
16 pathways analysis, a watershed plan or habitat conservation plan, or
17 a coordinated regionwide prioritization effort;

18 (c) The likelihood of the conversion of the site to
19 nonagricultural or more highly developed usage;

20 (d) Consistency with a local land use plan, or a regional or
21 statewide recreational or resource plan. The projects that assist in
22 the implementation of local shoreline master plans updated according
23 to RCW 90.58.080 or local comprehensive plans updated according to
24 RCW 36.70A.130 must be highly considered in the process;

25 (e) Benefits to salmonids;

26 (f) Benefits to other fish and wildlife habitat;

27 (g) Integration with recovery efforts for endangered, threatened,
28 or sensitive species;

29 (h) The viability of the site for continued agricultural
30 production, including, but not limited to:

31 (i) Soil types;

32 (ii) On-site production and support facilities such as barns,
33 irrigation systems, crop processing and storage facilities, wells,
34 housing, livestock sheds, and other farming infrastructure;

35 (iii) Suitability for producing different types or varieties of
36 crops;

37 (iv) Farm-to-market access;

38 (v) Water availability; and

39 (i) Other community values provided by the property when used as
40 agricultural land, including, but not limited to:

1 (i) Viewshed;
2 (ii) Aquifer recharge;
3 (iii) Occasional or periodic collector for storm water runoff;
4 (iv) Agricultural sector job creation;
5 (v) Migratory bird habitat and forage area; and
6 (vi) Educational and curriculum potential.

7 (10) In allotting funds for environmental enhancement or
8 restoration projects, the board will require the projects to meet the
9 following criteria:

10 (a) Enhancement or restoration projects must further the
11 ecological functions of the farmlands;

12 (b) The projects, such as fencing, bridging watercourses,
13 replanting native vegetation, replacing culverts, clearing of
14 waterways, etc., must be less than fifty percent of the acquisition
15 cost of the project including any in-kind contribution by any party;

16 (c) The projects should be based on accepted methods of achieving
17 beneficial enhancement or restoration results; (~~and~~)

18 (d) The projects should enhance the viability of the preserved
19 farmland to provide agricultural production while conforming to any
20 legal requirements for habitat protection; and

21 (e) Projects with salmon habitats must restore or provide
22 riparian buffers consistent with the national marine fisheries
23 service buffer guidance.

24 (11) In allotting funds for acquisition projects with salmon
25 habitats, the board must require the projects to include riparian
26 buffers consistent with the national marine fisheries service buffer
27 guidance.

28 (12) Before November 1st of each even-numbered year, the board
29 will recommend to the governor a prioritized list of all projects to
30 be funded under this section. The governor may remove projects from
31 the list recommended by the board and must submit this amended list
32 in the capital budget request to the legislature. The list must
33 include, but not be limited to, a description of each project and any
34 particular match requirement.

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