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**SUBSTITUTE SENATE BILL 5353**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senate Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Wagoner, Van De Wege, Dozier, Salomon, Short, Warnick, and J. Wilson)

READ FIRST TIME 02/10/23.

1 AN ACT Relating to the voluntary stewardship program; and  
2 amending RCW 36.70A.710 and 36.70A.740.

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

4 **Sec. 1.** RCW 36.70A.710 and 2011 c 360 s 4 are each amended to  
5 read as follows:

6 (1)(a) As an alternative to protecting critical areas in areas  
7 used for agricultural activities through development regulations  
8 adopted under RCW 36.70A.060, the legislative authority of a county  
9 may elect to protect such critical areas through the program.

10 (b) In order to participate in the program, (~~within six months~~  
11 ~~after July 22, 2011,~~) the legislative authority of a county must  
12 adopt an ordinance or resolution that:

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

14 (ii) Identifies the watersheds that will participate in the  
15 program; and

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

19 (2) Before adopting the ordinance or resolution under subsection  
20 (1) of this section, the county must (a) confer with tribes, and  
21 environmental and agricultural interests; and (b) provide notice

1 following the public participation and notice provisions of RCW  
2 36.70A.035 to property owners and other affected and interested  
3 individuals, tribes, government agencies, businesses, school  
4 districts, and organizations.

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

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

10 (b) The overall likelihood of completing a successful program in  
11 the watershed; and

12 (c) Existing watershed programs, including those of other  
13 jurisdictions in which the watershed has territory.

14 (4) In identifying priority watersheds, a county must consider  
15 the following:

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

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

20 (c) An evaluation of the biological diversity of wildlife species  
21 and their habitats in the geographic region including their  
22 significance and vulnerability;

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

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

28 (f) The presence of a local watershed group that is willing and  
29 capable of overseeing a successful program, and that has the  
30 operational structures to administer the program effectively,  
31 including professional technical assistance staff, and monitoring and  
32 adaptive management structures; and

33 (g) The overall likelihood of completing a successful program in  
34 the watershed.

35 (5) Except as otherwise provided in subsection (9) of this  
36 section, beginning with the effective date of the ordinance or  
37 resolution adopted under subsection (1) of this section, the program  
38 applies to all unincorporated property upon which agricultural  
39 activities occur within a participating watershed.

1 (6) (a) Except as otherwise provided in (b) of this subsection,  
2 within two years after July 22, 2011, a county must review and, if  
3 necessary, revise development regulations adopted under this chapter  
4 to protect critical areas as they specifically apply to agricultural  
5 activities:

6 (i) If the county has not elected to participate in the program,  
7 for all unincorporated areas; or

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

10 (b) A county that between July 1, 2003, and June 30, 2007, in  
11 accordance with RCW 36.70A.130 completed the review of its  
12 development regulations as required by RCW 36.70A.130 to protect  
13 critical areas as they specifically apply to agricultural activities  
14 is not required to review and revise its development regulations  
15 until required by RCW 36.70A.130.

16 (c) After the review and amendment required under (a) of this  
17 subsection, RCW 36.70A.130 applies to the subsequent review and  
18 amendment of development regulations adopted under this chapter to  
19 protect critical areas as they specifically apply to agricultural  
20 activities.

21 (7) (a) A county that has made the election under subsection (1)  
22 of this section may withdraw a participating watershed from the  
23 program by adopting an ordinance or resolution withdrawing the  
24 watershed from the program. A county may withdraw a watershed from  
25 the program at the end of three years, five years, or eight years  
26 after receipt of funding, or any time after ten years from receipt of  
27 funding.

28 (b) Within (~~eighteen~~) 18 months after withdrawing a  
29 participating watershed from the program, the county must review and,  
30 if necessary, revise its development regulations that protect  
31 critical areas in that watershed as they specifically apply to  
32 agricultural activities. The development regulations must protect the  
33 critical area functions and values as they existed on July 22, 2011.  
34 RCW 36.70A.130 applies to the subsequent review and amendment of  
35 development regulations adopted under this chapter to protect  
36 critical areas as they specifically apply to agricultural activities.

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

1 (b) A county that has made the election under subsection (1) of  
2 this section and after the effective date of this section is eligible  
3 for a share of the funding made available to implement the program,  
4 subject to funding availability from the state.

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

9 (b) A county that has made the election under subsection (1) of  
10 this section and after the effective date of this section is not  
11 required to implement the program in a participating watershed until  
12 adequate funding for the program in that watershed is provided to the  
13 county. The election under subsection (1) of this section may not  
14 take effect until new adequate funding for the program in that  
15 watershed is provided to the county.

16 **Sec. 2.** RCW 36.70A.740 and 2011 c 360 s 10 are each amended to  
17 read as follows:

18 (1) (~~By July 31, 2015, the~~) The commission must:

19 (a) In consultation with each county that has elected under RCW  
20 36.70A.710 to participate in the program, determine which  
21 participating watersheds received adequate funding to establish and  
22 implement the program in a participating watershed (~~by July 1,~~  
23 ~~2015~~); and

24 (b) In consultation with other state agencies, for each  
25 participating watershed determine whether state agencies required to  
26 take action under the provisions of RCW 36.70A.700 through 36.70A.760  
27 have received adequate funding to support the program (~~by July 1,~~  
28 ~~2015~~)).

29 (2) By July 31, (~~2017~~) 2023, and every two years thereafter, in  
30 consultation with each county that has elected under RCW 36.70A.710  
31 to participate in the program and other state agencies, the  
32 commission shall determine for each participating watershed whether  
33 adequate funding to implement the program was provided during the  
34 preceding biennium as provided in subsection (1) of this section.

35 (3) If the commission determines under subsection (1) or (2) of  
36 this section that a participating watershed has not received adequate  
37 funding, the watershed is subject to the provisions of RCW  
38 36.70A.735.

1           (4) In consultation with the statewide advisory committee and  
2 other state agencies, not later than August 31, 2015, and each August  
3 31st every two years thereafter, the commission shall report to the  
4 legislature and each county that has elected under RCW 36.70A.710 to  
5 participate in the program on the participating watersheds that have  
6 received adequate funding to establish and implement the program.

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