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HOUSE BILL 1999

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State of Washington

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By Representatives P. Sullivan, Priest, Appleton, Morrell, Simpson and Linville

Read first time 02/05/2007. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to creating a state revolving loan fund to provide  
2 financial assistance to local governments for the conservation of  
3 working farms and forests; reenacting and amending RCW 43.79A.040; and  
4 adding a new chapter to Title 43 RCW.

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

6 NEW SECTION. **Sec. 1.** The long-range health and environmental  
7 well-being of the state requires the conservation of the state's farms  
8 and forests for the economic, environmental, and recreational benefit  
9 of its people. It is the purpose of this chapter to provide an account  
10 to receive funds to provide financial assistance to local governments  
11 for the conservation of working farms and forests.

12 NEW SECTION. **Sec. 2.** The definitions in this section apply  
13 throughout this chapter unless the context clearly requires otherwise.

14 (1) "Conservation projects" means any acquisition by a public body  
15 of conservation land that provides multiple public benefits for  
16 habitat, water quality and quantity protection, recreation, or scenic  
17 character, while continuing to be worked economically for agricultural

1 or timber production, that results in permanent conservation from  
2 conversion to other than farm or forest uses.

3 (2) "Conservation land" means any working farm or forest property,  
4 including without limitation any conservation easement or other  
5 property interest or development rights therein, and improvements  
6 necessary for or incidental to such a purpose.

7 (3) "Department" means the department of community, trade, and  
8 economic development.

9 (4) "Director" means the director of the department of community,  
10 trade, and economic development.

11 (5) "Eligible cost" means any cost of farm or forest conservation  
12 activities.

13 (6) "Farm or forest conservation activities" means actions taken by  
14 a public body for the following purposes: (a) To finance conservation  
15 projects; or (b) to steward or manage conservation land for  
16 environmental protection or enhancement and health or human safety  
17 either directly or by contract with another public body, nonprofit  
18 corporation, or other entity.

19 (7) "Fund" means the farm and forest conservation revolving fund in  
20 the custody of the state treasurer.

21 (8) "Public body" means any state agency, county, city or town,  
22 other political subdivision of the state, municipal corporation or  
23 quasi-municipal corporation, public corporation, commission or  
24 authority under RCW 35.21.730, and those Indian tribes now or hereafter  
25 recognized as such by the federal government.

26 NEW SECTION. **Sec. 3.** (1) The farm and forest conservation  
27 revolving fund is created in the custody of the state treasurer. All  
28 receipts from subsection (2) of this section must be deposited into the  
29 fund. Expenditures from the fund may be used only for purposes of this  
30 chapter. Only the director or the director's designee may authorize  
31 expenditures from the fund. The fund is subject to allotment  
32 procedures under chapter 43.88 RCW, but an appropriation is not  
33 required for expenditures.

34 (2) The fund shall consist of:

35 (a) All funds appropriated or authorized by the legislature for  
36 deposit to the fund;

1 (b) Any other revenues derived from gifts or bequests pledged or  
2 donated to the state for the purpose of providing financial assistance  
3 for farm or forest conservation activities;

4 (c) All repayments of moneys borrowed from the fund;

5 (d) All interest payments made by borrowers from the fund; and

6 (e) Any other fee or charge levied in conjunction with  
7 administration of the fund.

8 (3) In administering the fund, the department shall:

9 (a) Use accounting, audit, and fiscal procedures that conform to  
10 generally accepted government accounting standards;

11 (b) Adopt by rule any procedures or standards necessary to carry  
12 out the provisions of this chapter; and

13 (c) Cooperate with local, regional, and interstate entities  
14 regarding priority farm and forest conservation priorities.

15 NEW SECTION. **Sec. 4.** The department shall use the moneys in the  
16 farm and forest conservation revolving fund to provide financial  
17 assistance to public bodies for eligible costs as follows:

18 (1) To make loans to public bodies to pay eligible costs with the  
19 following terms:

20 (a) The loans shall be made at or below market interest rates, and  
21 may be interest free loans, for terms not to exceed fifty years;

22 (b) Annual principal and interest payments, if any, on loans made  
23 from the fund shall commence not later than one year after completion  
24 of any conservation project funded with loan proceeds. All loans shall  
25 be fully amortized within their term. Annual principal or interest  
26 payments, if any, otherwise required to be made in a year may be  
27 deferred for one or more years if the department certifies that the  
28 conservation land failed to generate sufficient positive cash flow to  
29 fund payments in those years;

30 (c) The outstanding loan balance including accrued interest is due  
31 and payable in full if ownership of the conservation land is  
32 transferred to a party other than a public body. If ownership of the  
33 conservation land is transferred to a public body, the loan may be  
34 assigned to that public body with the written consent of the  
35 department;

36 (d) A loan is a general obligation or special fund obligation of  
37 the recipient. The recipient of a loan shall pledge revenues derived

1 from conservation land for repayment of loans that are a special fund  
2 obligation of the recipient. Conservation land revenues may be pledged  
3 to repayment of loans under this chapter on a basis subordinate to the  
4 costs of operating and maintaining the conservation land and to the  
5 payment of bonds, notes, or other obligations issued by the public  
6 body.

7 (2) The department may also use the moneys in the fund for the  
8 following purposes:

9 (a) To purchase insurance for obligations issued by public bodies  
10 for farm or forest conservation activities if the insurance would  
11 improve credit market access or reduce interest rates, or to provide  
12 loans to a public body for this purpose;

13 (b) As a source of revenue or security for the payment of principal  
14 and interest on revenue or general obligation bonds issued by the state  
15 if the proceeds of the sale of the bonds will be deposited in the fund;

16 (c) To earn interest on fund accounts; and

17 (d) To pay the expenses of the department in administering the  
18 fund.

19 (3) Beginning with the biennium ending June 30, 2009, the  
20 department shall present a biennial progress report on the use of  
21 moneys from the fund to the chairs of the senate committee on ways and  
22 means and the house of representatives committee on appropriations.  
23 The first report is due June 30, 2009, and the report for each  
24 succeeding biennium is due December 31st of the odd-numbered year. The  
25 report shall consist of a list of each recipient, project description,  
26 and amount of the loan.

27 (4) The department may not use the money in the fund for grants.

28 NEW SECTION. **Sec. 5.** Any public body seeking a loan from the fund  
29 shall:

30 (1) Submit an application to the department demonstrating that the  
31 farm or forest conservation activity will achieve multiple public  
32 benefits if the conservation land is protected as an economically  
33 active farm or forest property, as shown by letters of support from  
34 stakeholders and qualified experts or inclusion in conservation  
35 priority processes such as county comprehensive plans, salmon recovery  
36 plans, or other habitat or biodiversity management plans; and

1 (2) Demonstrate to the satisfaction of the department that it has  
2 sufficient legal authority to incur the debt for which it is applying.

3 NEW SECTION. **Sec. 6.** Loans made under this chapter may be secured  
4 by interests in the conservation land as the public body is otherwise  
5 authorized by law to grant including without limitation, a deed of  
6 trust in the conservation land granted on a priority or subordinate  
7 basis or a lease of, easement in, or other property interest in the  
8 conservation land. If a public body defaults on payments due to the  
9 fund, the state may pursue its remedies under the loan agreement,  
10 enforce any interest in the conservation land, and withhold any amounts  
11 otherwise due to the public body and legally available for repayment of  
12 loans under this chapter and direct that the funds be applied for this  
13 purpose.

14 NEW SECTION. **Sec. 7.** The department shall establish by rule  
15 policies for reviewing loan applications, establishing loan terms, and  
16 administering loans made from the fund to assure that the objectives of  
17 this chapter are met.

18 NEW SECTION. **Sec. 8.** Loans made to public bodies under this  
19 chapter do not constitute indebtedness for the purpose of any statutory  
20 limitation upon indebtedness.

21 **Sec. 9.** RCW 43.79A.040 and 2006 c 311 s 21 and 2006 c 120 s 2 are  
22 each reenacted and amended to read as follows:

23 (1) Money in the treasurer's trust fund may be deposited, invested,  
24 and reinvested by the state treasurer in accordance with RCW 43.84.080  
25 in the same manner and to the same extent as if the money were in the  
26 state treasury.

27 (2) All income received from investment of the treasurer's trust  
28 fund shall be set aside in an account in the treasury trust fund to be  
29 known as the investment income account.

30 (3) The investment income account may be utilized for the payment  
31 of purchased banking services on behalf of treasurer's trust funds  
32 including, but not limited to, depository, safekeeping, and  
33 disbursement functions for the state treasurer or affected state  
34 agencies. The investment income account is subject in all respects to

1 chapter 43.88 RCW, but no appropriation is required for payments to  
2 financial institutions. Payments shall occur prior to distribution of  
3 earnings set forth in subsection (4) of this section.

4 (4)(a) Monthly, the state treasurer shall distribute the earnings  
5 credited to the investment income account to the state general fund  
6 except under (b) and (c) of this subsection.

7 (b) The following accounts and funds shall receive their  
8 proportionate share of earnings based upon each account's or fund's  
9 average daily balance for the period: The Washington promise  
10 scholarship account, the college savings program account, the  
11 Washington advanced college tuition payment program account, the  
12 agricultural local fund, the American Indian scholarship endowment  
13 fund, the foster care scholarship endowment fund, the foster care  
14 endowed scholarship trust fund, the students with dependents grant  
15 account, the basic health plan self-insurance reserve account, the  
16 contract harvesting revolving account, the Washington state combined  
17 fund drive account, the commemorative works account, the Washington  
18 international exchange scholarship endowment fund, the developmental  
19 disabilities endowment trust fund, the energy account, the fair fund,  
20 the fruit and vegetable inspection account, the future teachers  
21 conditional scholarship account, the game farm alternative account, the  
22 grain inspection revolving fund, the juvenile accountability incentive  
23 account, the law enforcement officers' and fire fighters' plan 2  
24 expense fund, the local tourism promotion account, the produce railcar  
25 pool account, the regional transportation investment district account,  
26 the rural rehabilitation account, the stadium and exhibition center  
27 account, the youth athletic facility account, the self-insurance  
28 revolving fund, the sulfur dioxide abatement account, the children's  
29 trust fund, the Washington horse racing commission Washington bred  
30 owners' bonus fund account, the Washington horse racing commission  
31 class C purse fund account, the individual development account program  
32 account, the Washington horse racing commission operating account  
33 (earnings from the Washington horse racing commission operating account  
34 must be credited to the Washington horse racing commission class C  
35 purse fund account), the life sciences discovery fund, the farm and  
36 forest conservation revolving fund, and the reading achievement  
37 account. However, the earnings to be distributed shall first be

1 reduced by the allocation to the state treasurer's service fund  
2 pursuant to RCW 43.08.190.

3 (c) The following accounts and funds shall receive eighty percent  
4 of their proportionate share of earnings based upon each account's or  
5 fund's average daily balance for the period: The advanced right of way  
6 revolving fund, the advanced environmental mitigation revolving  
7 account, the city and county advance right-of-way revolving fund, the  
8 federal narcotics asset forfeitures account, the high occupancy vehicle  
9 account, the local rail service assistance account, and the  
10 miscellaneous transportation programs account.

11 (5) In conformance with Article II, section 37 of the state  
12 Constitution, no trust accounts or funds shall be allocated earnings  
13 without the specific affirmative directive of this section.

14 NEW SECTION. **Sec. 10.** If any provision of this act or its  
15 application to any person or circumstance is held invalid, the  
16 remainder of the act or the application of the provision to other  
17 persons or circumstances is not affected.

18 NEW SECTION. **Sec. 11.** Sections 1 through 8 of this act constitute  
19 a new chapter in Title 43 RCW.

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