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SECOND SUBSTITUTE HOUSE BILL 2844

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State of Washington

60th Legislature

2008 Regular Session

**By** House Appropriations (originally sponsored by Representatives Kagi, Priest, Upthegrove, Campbell, Simpson, Hunt, Blake, Jarrett, Nelson, Rolfes, Dickerson, Appleton, Takko, Loomis, Lantz, Pettigrew, Hunter, Moeller, Hudgins, Quall, O'Brien, Anderson, Kenney, Pedersen, McIntire, and Roberts)

READ FIRST TIME 02/11/08.

1 AN ACT Relating to preventing air and water pollution through urban  
2 forestry partnerships; amending RCW 76.15.020, 35.92.390, 35A.80.040,  
3 80.28.300, 76.15.010, 89.08.520, 79.105.150, and 80.28.010; reenacting  
4 and amending RCW 43.155.070, 70.146.070, and 79A.15.040; adding new  
5 sections to chapter 76.15 RCW; adding a new section to chapter 36.01  
6 RCW; adding a new section to chapter 54.16 RCW; adding a new section to  
7 chapter 43.155 RCW; adding a new section to chapter 70.146 RCW; adding  
8 a new section to chapter 89.08 RCW; adding a new section to chapter  
9 79.105 RCW; adding a new section to chapter 79A.15 RCW; adding a new  
10 chapter to Title 35 RCW; creating new sections; and providing an  
11 expiration date.

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

13 NEW SECTION. **Sec. 1.** (1)(a) The legislature finds that pollution  
14 from storm water runoff is a leading source of pollution in Puget Sound  
15 and in important water bodies in eastern Washington like the Columbia  
16 river. The decisions and actions of those living in adjacent  
17 communities impact the health of these water bodies. The loss of  
18 native and mature nonnative, nonnaturalized trees in urban areas

1 throughout the region has contributed significantly to storm water and  
2 flooding problems in the region.

3 (b) The legislature further finds that the preservation and  
4 enhancement of city trees and urban and community forests are one of  
5 the most cost-effective ways to protect and improve water quality, air  
6 quality, human well-being, and our quality of life.

7 (c) The legislature further finds that appropriate selection,  
8 siting, and installation of trees can reduce heating and cooling energy  
9 costs and related greenhouse gas emissions. Retaining natural soils  
10 and vegetation, managing urban trees, planting additional trees, and  
11 restoring the functionality of forests on public lands can reduce the  
12 amount of pollutants in our communities, reduce utility infrastructure  
13 damage, reduce requirements for storm water retention and treatment  
14 facilities, and reduce flooding caused by major storm events that can  
15 cost the state economy millions of dollars a day. Reforesting urban  
16 stream channels can reduce or eliminate regulatory requirements such as  
17 total maximum daily load requirements.

18 (d) The legislature further finds that there are innovative urban  
19 forest management programs and partnerships led by many cities across  
20 the state. However, there is no statewide inventory or assessment of  
21 our community and urban forests. Few cities have clear goals and  
22 standards for their urban forests. About twelve percent of  
23 Washington's cities have urban forest management plans and less than  
24 half of Washington's communities have tree ordinances. Many  
25 communities report the need for better enforcement.

26 (2) It is the intent of the legislature to:

27 (a) Recognize and support city efforts to conserve, protect,  
28 improve, and expand Washington's urban forest in order to reduce storm  
29 water pollution in Puget Sound, flooding, energy consumption and  
30 greenhouse gas emissions, air pollution, and storm impacts to utility  
31 infrastructure.

32 (b) Assist cities and counties by developing a statewide community  
33 and urban forest inventory, assessment, model plans, and model  
34 ordinances, and by providing technical assistance, incentives, and  
35 resources to help cities become evergreen cities by utilizing these  
36 tools, maintenance programs, new partnerships, and community  
37 involvement.

1 (c) Develop the statewide community and urban forest inventory in  
2 a way that is compatible with emerging reporting protocols and that  
3 could facilitate future access to carbon markets for cities.

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

6 (1) "Community and urban forest assessment" means an analysis of  
7 the community and urban forest inventory to establish the scope and  
8 scale of forest-related benefits and services, the economic valuation  
9 of such benefits, highlight trends and issues of concern, identify high  
10 priority areas to be addressed, outline strategies for addressing the  
11 critical issues and urban landscapes, and identify opportunities for  
12 retaining trees, expanding forest canopy, and planting additional trees  
13 to sustain Washington's urban and community forests.

14 (2) "Community and urban forest inventory" means a management tool  
15 designed to gauge the condition, management status, health, and  
16 diversity of a community and urban forest. An inventory may evaluate  
17 individual trees or groups of trees or canopy cover within community  
18 and urban forests, and will be periodically updated by the department  
19 of natural resources.

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

22 (4) "Evergreen cities ordinances" means ordinances adopted by the  
23 legislative body of a city, town, or county, or other political  
24 subdivision of the state that relate to urban forests and are  
25 consistent with this chapter.

26 (5) "Evergreen city" means a city or county designated as such  
27 under section 6 of this act.

28 (6) "Management plan" means an evergreen cities urban forest  
29 management plan developed pursuant to this chapter.

30 (7) "Public facilities" has the same meaning as defined in RCW  
31 36.70A.030.

32 (8) "Public forest" means urban forests owned by the state, city,  
33 county, or other public entity within or adjacent to the urban growth  
34 areas.

35 (9) "Reforestation" means establishing and maintaining trees and  
36 urban forest canopy in plantable spaces such as street rights-of-way,

1 transportation corridors, urban interchanges and highways, riparian  
2 areas, unstable slopes, shorelines, public lands, and property of  
3 willing private land owners.

4 (10) "Tree canopy" means the layer of leaves, branches, and stems  
5 of trees that cover the ground when viewed from above and that can be  
6 measured as a percentage of a city's land area shaded by trees.

7 (11) "Urban forest" has the same definition as provided for the  
8 term "community and urban forest" in RCW 76.15.010.

9 **Sec. 3.** RCW 76.15.020 and 1991 c 179 s 4 are each amended to read  
10 as follows:

11 (1) The department (~~may~~) shall establish and maintain a program  
12 in community and urban forestry to accomplish the purpose stated in RCW  
13 76.15.007. The department may assist municipalities and counties in  
14 establishing and maintaining community and urban forestry programs and  
15 encourage persons to engage in appropriate and improved tree management  
16 and care.

17 (2) The department (~~may~~) shall advise, encourage, and assist  
18 municipalities, counties, and other public and private entities in the  
19 development and coordination of policies, programs, and activities for  
20 the promotion of community and urban forestry.

21 (3) The department may appoint a committee or council, in addition  
22 to the technical advisory committee created in section 4 of this act to  
23 advise the department in establishing and carrying out a program in  
24 community and urban forestry.

25 (4) The department may assist municipal and county tree maintenance  
26 programs by making surplus equipment available on loan where feasible  
27 for community and urban forestry programs and cooperative projects.

28 (5)(a) The department shall, in collaboration with educational  
29 institutions, municipalities, corporations, the technical advisory  
30 committee created in section 4 of this act, state and national service  
31 organizations, and environmental organizations, conduct a prioritized  
32 statewide inventory of community and urban forests.

33 (b) For purposes of efficiency, existing data and current inventory  
34 technologies must be utilized in the development of the inventory.  
35 Statewide data must be maintained and periodically updated by the  
36 department and made available to every municipality in the state.

1       (c) The criteria established for the statewide community and urban  
2 forest inventory must support the planning needs of local governments.

3       (d) The criteria for the statewide community and urban forest  
4 inventory may include but not be limited to: Tree size, species,  
5 location, site appropriateness, condition and health, contribution to  
6 canopy cover and volume, available planting spaces, and ecosystem,  
7 economic, social, and monetary value.

8       (e) In developing the statewide community and urban forest  
9 inventory, the department shall strive to enable Washington cities'  
10 urban forest managers to access carbon markets by working to ensure the  
11 inventory developed under this section is compatible with existing and  
12 developing urban forest reporting protocols designed to facilitate  
13 access to those carbon markets.

14       (6) The department shall, in collaboration with a statewide  
15 organization representing urban and community forestry programs, and  
16 with the evergreen cities partnership task force established in section  
17 16 of this act, conduct an urban forest assessment and develop  
18 recommendations to the appropriate committees of the legislature to  
19 improve community and urban forestry in Washington.

20       (7) The inventory and assessment required in this section must be  
21 capable of supporting the adoption and implementation of evergreen  
22 cities management plans and ordinances described in section 9 of this  
23 act.

24       (8) The department shall, in collaboration with municipalities, the  
25 technical advisory committee created in section 4 of this act, and a  
26 statewide organization representing urban and community forestry  
27 programs, develop an implementation plan for the inventory and  
28 assessment of the community and urban forests in Washington.

29       (9)(a) The criteria and implementation plan for the statewide  
30 community and urban forest inventory and assessment required under this  
31 section must be completed by December 1, 2008. Upon the completion of  
32 the criteria and implementation plan's development, the department  
33 shall report the final product to the appropriate committees of the  
34 legislature. Subsequent annual reports must be submitted each December  
35 until the statewide assessment required under this section is complete.

36       (b) An initial inventory and assessment, consisting of the  
37 community and urban forests of the willing municipalities located in

1 one county located east of the crest of the Cascade mountains and the  
2 willing municipalities located in one county located west of the crest  
3 of the Cascade mountains must be completed by June 1, 2010.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 76.15 RCW  
5 to read as follows:

6 (1) The commissioner of public lands shall appoint a technical  
7 advisory committee to provide advice to the department during the  
8 development of the criteria and implementation plan for the statewide  
9 community and urban forest inventory and assessment required under RCW  
10 76.15.020.

11 (2) The technical advisory committee must include, but not be  
12 limited to, representatives from the following groups: Arborists;  
13 municipal foresters; educators; consultants; researchers; public works  
14 and utilities professionals; information technology specialists; and  
15 other affiliated professionals.

16 (3) The technical advisory committee members shall serve without  
17 compensation. Advisory committee members who are not state employees  
18 may receive reimbursement for travel expenses as provided by RCW  
19 43.03.050 and 43.03.060. Costs associated with the technical advisory  
20 committee may be paid from the general fund appropriation made  
21 available to the department for community and urban forestry.

22 (4) The technical advisory committee created in this section must  
23 be disbanded by the commissioner upon the completion of the criteria  
24 and implementation plan for the statewide community and urban forest  
25 inventory and assessment required under RCW 76.15.020.

26 NEW SECTION. **Sec. 5.** The department shall, in the implementation  
27 of this chapter, coordinate with the department of natural resources.

28 NEW SECTION. **Sec. 6.** (1) The department, with the advice of the  
29 evergreen cities partnership task force created in section 16 of this  
30 act, shall develop the criteria for an evergreen cities recognition  
31 program whereby the state can recognize cities and counties, to be  
32 designated as evergreen cities, who are developing excellent urban  
33 forest management programs that include urban forestry inventories,  
34 assessments, plans, ordinances, maintenance programs, partnerships, and  
35 community involvement.

1 (2)(a) Designation as an evergreen city must include no fewer than  
2 two graduated steps.

3 (b) The first graduated step of designation as an evergreen city  
4 includes satisfaction of the following requirements:

5 (i) The development and implementation of a city tree board or tree  
6 department;

7 (ii) The development of a tree care ordinance;

8 (iii) The implementation of a community forestry program with an  
9 annual budget of at least two dollars for every city resident;

10 (iv) Official recognition of arbor day; and

11 (v) The completion of an updated community and urban forest  
12 inventory for the city or the formal adoption of an inventory developed  
13 for the city by the department of natural resources pursuant to RCW  
14 76.15.020.

15 (c) The second graduated step of designation as an evergreen city  
16 includes the adoption of an evergreen cities urban forest management  
17 plan that exceeds the minimum standards in the model evergreen city  
18 urban forestry management plan adopted by the department under section  
19 9 of this act.

20 (d) The department may require additional graduated steps and  
21 establish the minimum requirements for each recognized step.

22 (3) The department shall develop an evergreen cities logo and  
23 signage for designated evergreen cities' gateway signage.

24 (4) The department shall, unless the duty is assumed by the  
25 governor, recognize, certify, and designate cities satisfying the  
26 criteria developed under this section as evergreen cities.

27 (5) Applications for evergreen city status must be submitted to and  
28 evaluated by the department of natural resources.

29 (6) Any county may apply for evergreen city designation and receive  
30 the recognition and benefits that come with the designation. Applying  
31 counties must be held to the same standards and requirements under this  
32 chapter as cities.

33 NEW SECTION. **Sec. 7.** A new section is added to chapter 76.15 RCW  
34 to read as follows:

35 The department shall manage the application and evaluation of  
36 candidates for evergreen city designation under section 6 of this act,

1 and forward its recommendations to the department of community, trade,  
2 and economic development.

3 NEW SECTION. **Sec. 8.** (1) The department shall, subject to the  
4 availability of amounts appropriated for this specific purpose,  
5 coordinate with the department of natural resources in the development  
6 and implementation of a needs-based evergreen cities grant and  
7 competitive awards program to provide financial assistance to cities,  
8 towns, and counties for the development, adoption, or implementation of  
9 evergreen cities management plans or ordinances developed under section  
10 13 of this act.

11 (2) The grant program authorized in this section shall address both  
12 the goals of rewarding innovation by successful evergreen cities and of  
13 providing resources and assistance to the applicants with the greatest  
14 financial need.

15 (3) The department may only provide grants to cities, towns,  
16 counties under this chapter if the local government is recognized as an  
17 evergreen city consistent with section 6 of this act, or is applying  
18 for funds that would aid them in their pursuit of evergreen city  
19 recognition.

20 (4) Prior to receiving a grant under this section, a city, town, or  
21 county must demonstrate to the department's satisfaction that it has  
22 developed or is in the process of developing partnerships with local  
23 not-for-profit organizations that contribute to urban forest or habitat  
24 expertise, education programs, or volunteers.

25 NEW SECTION. **Sec. 9.** (1) The department shall develop model  
26 evergreen city urban forest management plans and ordinances pursuant to  
27 sections 11 and 12 of this act with measurable goals and timelines to  
28 guide local government plan and ordinance adoption or development  
29 consistent with section 13 of this act.

30 (2) Model plans and ordinances developed under this section must:

31 (a) Recognize ecoregional differences in the state;

32 (b) Provide flexibility for the diversity of urban character and  
33 relative differences in density and zoning found in Washington's towns,  
34 cities, and counties;

35 (c) Recognize and provide for vegetation management practices and



1 programs that prevent vegetation from interfering with or damaging  
2 utilities, public facilities, and solar panels or buildings  
3 specifically designed to optimize passive solar energy; and

4 (d) Provide for vegetation management practices and programs that  
5 reflect and are consistent with the priorities and goals of the growth  
6 management act, chapter 36.70A RCW.

7 (3) All model plans and ordinances developed by the department must  
8 be developed in conjunction with the evergreen cities partnership task  
9 force created in section 16 of this act.

10 (4) After the development of model plans and ordinances under this  
11 section, the department shall, in conjunction with the department of  
12 natural resources, distribute and provide outreach regarding the model  
13 plans and ordinances and associated best management practices to local  
14 jurisdictions to aid the local jurisdictions in obtaining evergreen  
15 city recognition under section 6 of this act.

16 (5) By December 1, 2010, the department shall, at a minimum,  
17 develop the model plans and ordinances required under this section for  
18 areas of the state where the department of natural resources has  
19 completed community and urban forest inventories pursuant to RCW  
20 76.15.020.

21 NEW SECTION. **Sec. 10.** (1) The department of community, trade, and  
22 economic development shall deliver a report to the appropriate  
23 committees of the legislature following the development of the model  
24 plan and ordinance under section 9 of this act recommending any next  
25 steps and additional incentives to increase voluntary participation by  
26 local governments in the evergreen cities program established in  
27 section 6 of this act.

28 (2) By the fifteenth day of each consecutive December leading up to  
29 the adoption of the model plan and ordinance, the department of  
30 community, trade, and economic development shall deliver a report to  
31 the appropriate committees of the legislature outlining progress made  
32 towards the development of the model plan and ordinance.

33 NEW SECTION. **Sec. 11.** In the development of model evergreen  
34 cities management plans under section 9 of this act, the department  
35 shall consider including, but not be limited to considering, the  
36 following elements:

- 1 (1) Inventory and assessment of the jurisdiction's urban and  
2 community forests utilized as a dynamic management tool to set goals,  
3 implement programs, and monitor outcomes that may be adjusted over  
4 time;
- 5 (2) Canopy cover goals;
- 6 (3) Plans for reforestation and tree canopy expansion within the  
7 jurisdiction's boundaries;
- 8 (4) Plans for restoration of public forests;
- 9 (5) Plans to achieve forest stand and diversity goals;
- 10 (6) Plans to maximize vegetated storm water management with trees  
11 and other vegetation that reduces runoff, increases soil infiltration,  
12 and reduces storm water pollution;
- 13 (7) Plans for other environmental health goals specific to air  
14 quality, habitat for wildlife, and energy conservation;
- 15 (8) Plans for vegetation management practices and programs to  
16 prevent vegetation from interfering with or damaging utilities and  
17 public facilities;
- 18 (9) Prioritized planting sites;
- 19 (10) Standards for tree selection, siting, planting, and pruning;
- 20 (11) Scheduled maintenance and stewardship for new and established  
21 trees;
- 22 (12) Staff and volunteer training requirements emphasizing  
23 appropriate expertise and professionalism;
- 24 (13) Guidelines for protecting existing trees from  
25 construction-related damage and damage related to preserving  
26 territorial views;
- 27 (14) Integrated disease and pest management plans;
- 28 (15) Wood waste utilization;
- 29 (16) Plans for community outreach, participation, education  
30 programs, and partnerships with nongovernment organizations;
- 31 (17) Time frames for achieving plan goals, objectives, and tasks;
- 32 (18) Plans for monitoring and measuring progress toward those  
33 benchmarks and goals; and
- 34 (19) Consistency with the urban wildland interface codes developed  
35 by the state building code council;
- 36 (20) An emphasis on landscape and revegetation plans in residential  
37 and commercial development areas where tree retention objectives are  
38 challenging to achieve; and

1 (21) Plans for maximizing building heating and cooling energy  
2 efficiency through appropriate siting of trees for summer shading,  
3 passive solar heating in winter, and for wind breaks.

4 NEW SECTION. **Sec. 12.** The department shall, in the development of  
5 model evergreen cities tree ordinances under section 9 of this act,  
6 consider including, but not be limited to considering, the following  
7 policy elements:

8 (1) Tree canopy cover, density, and spacing;

9 (2) Tree conservation and retention;

10 (3) Vegetated storm water runoff management using native trees and  
11 appropriate nonnative, nonnaturalized vegetation;

12 (4) Clearing, grading, protection of soils, reductions in soil  
13 compaction, and use of appropriate soils with low runoff potential and  
14 high infiltration rates;

15 (5) Appropriate tree siting and maintenance for vegetation  
16 management practices and programs to prevent vegetation from  
17 interfering with or damaging utilities and public facilities;

18 (6) Native species and nonnative, nonnaturalized species diversity  
19 selection to reduce disease and pests in urban forests;

20 (7) Tree maintenance;

21 (8) Street tree installation and maintenance;

22 (9) Tree and vegetation buffers for riparian areas, critical areas,  
23 transportation and utility corridors, and commercial and residential  
24 areas;

25 (10) Tree assessments for new construction permitting;

26 (11) Recommended forest conditions for different land use types;

27 (12) Variances for hardship and safety;

28 (13) Variances to avoid conflicts with renewable solar energy  
29 infrastructure, passive solar building design, and locally grown  
30 produce; and

31 (14) Permits and appeals.

32 NEW SECTION. **Sec. 13.** (1) A local jurisdiction may adopt an  
33 evergreen cities ordinance and an evergreen cities urban forest  
34 management plan, including enforcement mechanisms and civil penalties  
35 for violations of their jurisdiction's evergreen city ordinance.

1 (2) Ordinances adopted under this section may not prohibit or  
2 conflict with vegetation management practices and programs undertaken  
3 to prevent vegetation from interfering with or damaging utilities and  
4 public facilities.

5 (3) Management plans developed by cities must be based on urban  
6 forest inventories for the jurisdiction covered by the management plan.  
7 The city or town developing the management plan may produce independent  
8 inventories themselves or rely solely on inventories developed,  
9 commissioned, or approved by the department of natural resources under  
10 chapter 76.15 RCW.

11 (4) Local jurisdictions may establish a local evergreen cities  
12 advisory board or utilize existing citizen boards focused on municipal  
13 tree issues to achieve appropriate expert and stakeholder participation  
14 in the adoption and development of inventories, assessments,  
15 ordinances, and plans consistent with this chapter.

16 (5) Local jurisdictions shall invite the expert advice of utilities  
17 serving within their jurisdiction for the purpose of developing and  
18 adopting appropriate plans for vegetation management practices and  
19 programs to prevent vegetation from interfering with or damaging  
20 utilities and public facilities.

21 NEW SECTION. **Sec. 14.** A new section is added to chapter 36.01 RCW  
22 to read as follows:

23 (1) Any county may adopt an evergreen cities ordinance, as that  
24 term is defined in section 2 of this act, which the county must apply  
25 to new building or land development in the unincorporated portions of  
26 the county's urban growth areas, as that term is defined in RCW  
27 36.70A.030, and may apply to other areas of the county as deemed  
28 appropriate by the county.

29 (2) As an alternative to subsection (1) of this section, a city may  
30 request that the county in which it is located apply to any new  
31 building or land development permit in the unincorporated portions of  
32 the urban growth areas, as defined in RCW 36.70A.030, the evergreen  
33 cities ordinance standards adopted under section 13 of this act by the  
34 city or town in the county located closest to the proposed building or  
35 development.

1        NEW SECTION.    **Sec. 15.**    (1) A local jurisdiction seeking evergreen  
2 cities recognition under section 6 of this act shall submit their  
3 management plan and evergreen cities ordinance to the department for  
4 review and comment at least sixty days prior to its planned  
5 implementation date.

6        (2) The department shall, together with the department of natural  
7 resources, review any evergreen cities ordinances or urban forest  
8 management plans submitted. When reviewing an ordinance or plan under  
9 this section, the department shall focus its review on the plan's  
10 consistency with this chapter and the model evergreen cities management  
11 plans and ordinances adopted under section 9 of this act. Both  
12 departments may provide written comments on either plans or ordinances.

13        (3) Together with the department of natural resources, the  
14 department may offer technical assistance in the development of  
15 evergreen cities ordinances and management plans.

16        NEW SECTION.    **Sec. 16.**    (1) The director of the department shall  
17 assemble and convene the evergreen cities partnership task force of no  
18 more than twenty-five individuals to aid and advise the department in  
19 the administration of this chapter.

20        (2) At the discretion of the department, the evergreen cities  
21 partnership task force may be disbanded once the urban and community  
22 forests assessments conducted by the department of natural resources  
23 under RCW 76.15.020 and the model management plans and ordinances  
24 developed under section 9 of this act are completed.

25        (3) Representatives of the department of natural resources and the  
26 department of ecology shall participate in the evergreen cities  
27 partnership task force.

28        (4) The department shall invite individuals representing the  
29 following entities to serve on the task force:

30        (a) A statewide council representing urban and community forestry  
31 programs authorized under RCW 76.15.020;

32        (b) A conservation organization with expertise in Puget Sound storm  
33 water management;

34        (c) At least two cities, one from a city east and one from a city  
35 west of the crest of the Cascade mountains;

36        (d) At least two counties, one from a county east and one from a  
37 county west of the crest of the Cascade mountains;

1 (e) Two land development professionals or representative  
2 associations representing development professionals affected by tree  
3 retention ordinances and storm water management policies;

4 (f) A national conservation organization with a network of chapter  
5 volunteers working to conserve habitat for birds and wildlife;

6 (g) A land trust conservation organization facilitating urban  
7 forest management partnerships;

8 (h) A national conservation organization with expertise in  
9 backyard, schoolyard, and community wildlife habitat development;

10 (i) A public works professional;

11 (j) A private utility;

12 (k) A national forest land trust exclusively dedicated to  
13 sustaining America's vast and vital private forests and safeguarding  
14 their many public benefits;

15 (l) Professionals with expertise in local land use planning,  
16 housing, or infrastructure; and

17 (m) The timber industry.

18 (5) The department is encouraged to recruit task force members who  
19 are able to represent two or more of the stakeholder groups listed in  
20 subsection (4) of this section.

21 (6) In assembling the task force, the director of the department  
22 shall strive to achieve representation from as many of the state's  
23 major ecoregions as possible.

24 (7) Each member of the task force shall serve without compensation.  
25 Task force members that are not state employees may be reimbursed for  
26 travel expenses as authorized in RCW 43.03.050 and 43.03.060.

27 NEW SECTION. **Sec. 17.** Nothing in this chapter may be construed  
28 to:

29 (1) Conflict or supersede with any requirements, duties, or  
30 objectives placed on local governments under chapter 36.70A RCW with  
31 specific emphasis on allowing cities and unincorporated urban growth  
32 areas to achieve their desired residential densities in a manner and  
33 character consistent with RCW 36.70A.110; or

34 (2) Apply to lands designated under chapters 76.09, 79.70, 79.71,  
35 84.33, and 84.34 RCW.

1        NEW SECTION.    **Sec. 18.**    (1) The department is authorized to spend  
2 moneys appropriated by the legislature or any other moneys contributed  
3 for the purpose of supporting cities being recognized as evergreen  
4 cities under section 6 of this act or to implement evergreen cities  
5 management plans under section 13 of this act.

6        (2) The department shall compile and make available to the office  
7 of financial management and the legislature total receipts of ratepayer  
8 urban forestry contributions reported by utilities under RCW 35.92.390,  
9 35A.80.040, 80.28.300, and section 23 of this act.

10       NEW SECTION.    **Sec. 19.**    (1) Moneys appropriated to the department  
11 of natural resources for the evergreen cities program must be used for  
12 an evergreen cities pilot program.

13       (2) The evergreen cities pilot program is to be designed so as to  
14 encourage, through grants, cities and counties to be recognized as an  
15 evergreen city under section 6 of this act.

16       (3) Grants may be awarded in the following priority order:

17       (a) To cities and counties for public involvement and assessments  
18 of community tree goals and values or for local tree inventories that  
19 integrate with the statewide inventory in RCW 76.15.020; and

20       (b) To cities and counties for forest management plans, tree  
21 maintenance, and planting.

22       (4) Grants must be awarded on a competitive basis using an  
23 application process and criteria developed jointly by the department of  
24 community, trade, and economic development and the department of  
25 natural resources.

26       (5) In awarding grants, the department of natural resources shall  
27 give priority to cities and counties that state an intent to become  
28 recognized as an evergreen city under section 6 of this act.

29       **Sec. 20.**    RCW 35.92.390 and 1993 c 204 s 2 are each amended to read  
30 as follows:

31       (1) Municipal utilities under this chapter are encouraged to  
32 provide information to their customers regarding landscaping that  
33 includes tree planting for energy conservation.

34       (2)(a) Municipal utilities under this chapter are encouraged to  
35 request voluntary donations from their customers for the purposes of

1 urban forestry. The request may be in the form of a check-off on the  
2 billing statement or other form of request for a voluntary donation.

3 (b) Voluntary donations collected by municipal utilities under this  
4 section may be used by the municipal utility to:

5 (i) Support the development and implementation of evergreen cities  
6 ordinances, as that term is defined in section 2 of this act, for  
7 cities, towns, or counties within their service areas; or

8 (ii) Complete projects consistent with the model urban forest  
9 management plans and ordinances developed under section 9 of this act.

10 (c) Municipal utilities shall annually report to the department of  
11 revenue the total amount of voluntary donations received under this  
12 section as well as whether the municipal utility provided a match for  
13 the donations received. Donations reported under this section do not  
14 contribute to the gross income of a light and power business or gas  
15 distribution business under chapter 82.16 RCW.

16 **Sec. 21.** RCW 35A.80.040 and 1993 c 204 s 3 are each amended to  
17 read as follows:

18 (1) Code cities providing utility services under this chapter are  
19 encouraged to provide information to their customers regarding  
20 landscaping that includes tree planting for energy conservation.

21 (2)(a) Code cities providing utility services under this chapter  
22 are encouraged to request voluntary donations from their customers for  
23 the purposes of urban forestry. The request may be in the form of a  
24 check-off on the billing statement or other form of a request for a  
25 voluntary donation.

26 (b) Voluntary donations collected by code cities under this section  
27 may be used by the code city to:

28 (i) Support the development and implementation of evergreen cities  
29 ordinances, as that term is defined in section 2 of this act, for  
30 cities, towns, or counties within their service areas; or

31 (ii) Complete projects consistent with the model urban forest  
32 management plans and ordinances developed under section 9 of this act.

33 (c) Code cities shall annually report to the department of revenue  
34 the total amount of voluntary donations received under this section as  
35 well as whether the code city provided a match for the donations  
36 received. Donations reported under this section do not contribute to



1 the gross income of a light and power business or gas distribution  
2 business under chapter 82.16 RCW.

3 **Sec. 22.** RCW 80.28.300 and 1993 c 204 s 4 are each amended to read  
4 as follows:

5 (1) Gas companies and electrical companies under this chapter  
6 (~~may~~) are encouraged to provide information to their customers  
7 regarding landscaping that includes tree planting for energy  
8 conservation.

9 (2)(a) Gas companies and electrical companies under this chapter  
10 may request voluntary donations from their customers for the purposes  
11 of urban forestry. The request may be in the form of a check-off on  
12 the billing statement or other form of a request for a voluntary  
13 donation.

14 (b) Voluntary donations collected by gas companies and electrical  
15 companies under this section may be used by the gas companies and  
16 electrical companies to:

17 (i) Support the development and implementation of evergreen cities  
18 ordinances, as that term is defined in section 2 of this act, for  
19 cities, towns, or counties within their service areas; or

20 (ii) Complete projects consistent with the model urban forest  
21 management plans and ordinances developed under section 9 of this act.

22 (c) Gas companies and electrical companies shall annually report to  
23 the department of revenue the total amount of voluntary donations  
24 received under this section as well as whether the utility provided a  
25 match for the donations received. Donations reported under this  
26 section do not contribute to the gross income of a light and power  
27 business or gas distribution business under chapter 82.16 RCW.

28 NEW SECTION. **Sec. 23.** A new section is added to chapter 54.16 RCW  
29 to read as follows:

30 (1) Public utility districts may request voluntary donations from  
31 their customers for the purposes of urban forestry. The request may be  
32 in the form of a check-off on the billing statement or other form of a  
33 request for a voluntary donation.

34 (2) Voluntary donations collected by public utility districts under  
35 this section may be used by the public utility district to:

1 (a) Support the development and implementation of evergreen cities  
2 ordinances, as that term is defined in section 2 of this act, for  
3 cities, towns, or counties within their service areas; or

4 (b) Complete projects consistent with the model urban forest  
5 management plans and ordinances developed under section 9 of this act.

6 (3) Public utility districts shall annually report to the  
7 department of community, trade, and economic development the total  
8 amount of voluntary donations received under this section as well as  
9 whether the utility provided a match for the donations received.  
10 Donations reported under this section do not contribute to the gross  
11 income of a light and power business or gas distribution business under  
12 chapter 82.16 RCW.

13 **Sec. 24.** RCW 76.15.010 and 2000 c 11 s 15 are each amended to read  
14 as follows:

15 Unless the context clearly requires otherwise, the definitions in  
16 this section apply throughout this chapter.

17 (1) "Community and urban forest" is that land in and around human  
18 settlements ranging from small communities to metropolitan areas,  
19 occupied or potentially occupied by trees and associated vegetation.  
20 Community and urban forest land may be planted or unplanted, used or  
21 unused, and includes public and private lands, lands along  
22 transportation and utility corridors, and forested watershed lands  
23 within populated areas.

24 (2) "Community and urban forest assessment" has the same meaning as  
25 defined in section 2 of this act.

26 (3) "Community and urban forest inventory" has the same meaning as  
27 defined in section 2 of this act.

28 (4) "Community and urban forestry" means the planning,  
29 establishment, protection, care, and management of trees and associated  
30 plants individually, in small groups, or under forest conditions within  
31 municipalities and counties.

32 ((+3)) (5) "Department" means the department of natural resources.

33 ((+4)) (6) "Municipality" means a city, town, port district,  
34 public school district, community college district, irrigation  
35 district, weed control district, park district, or other political  
36 subdivision of the state.

1       (~~(5)~~) (7) "Person" means an individual, partnership, private or  
2 public municipal corporation, Indian tribe, state entity, county or  
3 local governmental entity, or association of individuals of whatever  
4 nature.

5       NEW SECTION.   **Sec. 25.** (1) In an effort to better understand the  
6 needs of cities, towns, and counties interested in pursuing designation  
7 as an evergreen city under section 6 of this act, the legislature  
8 intends to encourage local governments to:

9       (a) Identify their interests in becoming an evergreen city; and

10       (b) Identify community and urban forests within their applicable  
11 urban growth areas that are appropriately situated for the local  
12 government to assume ownership from willing sellers for urban forest  
13 management purposes consistent with this act.

14       (2) If a local government opts to provide a list of identified  
15 properties under this section, including the estimated value of the  
16 properties and documentation on the owner's willingness to participate,  
17 the information must be provided to the department of community, trade,  
18 and economic development by October 31, 2008.

19       (3) The department of community, trade, and economic development  
20 must report a summary of the properties reported to it under this  
21 section, along with the itemized and summarized estimated costs  
22 involved with the purchases, to the appropriate committees of the  
23 legislature by December 15, 2008.

24       (4) This section expires July 31, 2009.

25       **Sec. 26.** RCW 43.155.070 and 2007 c 341 s 24 and 2007 c 231 s 2 are  
26 each reenacted and amended to read as follows:

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

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

32       (b) The local government must have developed a capital facility  
33 plan; and

34       (c) The local government must be using all local revenue sources  
35 which are reasonably available for funding public works, taking into  
36 consideration local employment and economic factors.

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

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

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

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

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

37 (c) Whether the project is referenced in the action agenda  
38 developed by the Puget Sound partnership under RCW 90.71.310;

1 (d) Whether the project is critical in nature and would affect the  
2 health and safety of a great number of citizens;

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

6 (f) The cost of the project compared to the size of the local  
7 government and amount of loan money available;

8 (g) The number of communities served by or funding the project;

9 (h) Whether the project is located in an area of high unemployment,  
10 compared to the average state unemployment;

11 (i) Whether the project is the acquisition, expansion, improvement,  
12 or renovation by a local government of a public water system that is in  
13 violation of health and safety standards, including the cost of  
14 extending existing service to such a system;

15 (j) Except as otherwise conditioned by section 31 of this act, and  
16 effective one calendar year following the development of model  
17 evergreen cities management plans and ordinances under section 9 of  
18 this act, whether the entity receiving assistance has been recognized,  
19 and what gradation of recognition was received, in the evergreen cities  
20 recognition program created in section 6 of this act;

21 (k) The relative benefit of the project to the community,  
22 considering the present level of economic activity in the community and  
23 the existing local capacity to increase local economic activity in  
24 communities that have low economic growth; and

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

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

31 (6) Before November 1st of each year, the board shall develop and  
32 submit to the appropriate fiscal committees of the senate and house of  
33 representatives a description of the loans made under RCW 43.155.065,  
34 43.155.068, and subsection (9) of this section during the preceding  
35 fiscal year and a prioritized list of projects which are recommended  
36 for funding by the legislature, including one copy to the staff of each  
37 of the committees. The list shall include, but not be limited to, a  
38 description of each project and recommended financing, the terms and

1 conditions of the loan or financial guarantee, the local government  
2 jurisdiction and unemployment rate, demonstration of the jurisdiction's  
3 critical need for the project and documentation of local funds being  
4 used to finance the public works project. The list shall also include  
5 measures of fiscal capacity for each jurisdiction recommended for  
6 financial assistance, compared to authorized limits and state averages,  
7 including local government sales taxes; real estate excise taxes;  
8 property taxes; and charges for or taxes on sewerage, water, garbage,  
9 and other utilities.

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

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

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

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

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

29 **Sec. 27.** RCW 70.146.070 and 2007 c 341 s 60 and 2007 c 341 s 26  
30 are each reenacted and amended to read as follows:

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

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

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

36 (c) Actions required under federal and state permits and compliance  
37 orders;

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

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

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

8 (g) Except as otherwise provided in section 32 of this act, and  
9 effective one calendar year following the development and statewide  
10 availability of model evergreen cities management plans and ordinances  
11 under section 9 of this act, whether the project is sponsored by an  
12 entity that has been recognized, and what gradation of recognition was  
13 received, in the evergreen cities recognition program created in  
14 section 6 of this act;

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

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

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

1 receiving a grant or loan under this chapter if the comprehensive plan  
2 and development regulations are adopted as required by RCW 36.70A.040  
3 before submitting a request for a grant or loan.

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

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

15 **Sec. 28.** RCW 89.08.520 and 2007 c 341 s 28 are each amended to  
16 read as follows:

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

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

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

22 (i) The statement of environmental benefits;

23 (ii) Whether, except as conditioned by RCW 89.08.580, the applicant  
24 is a Puget Sound partner, as defined in RCW 90.71.010, and except as  
25 otherwise provided in section 33 of this act, and effective one  
26 calendar year following the development and statewide availability of  
27 model evergreen cities management plans and ordinances under section 9  
28 of this act, whether the applicant is an entity that has been  
29 recognized, and what gradation of recognition was received, in the  
30 evergreen cities recognition program created in section 6 of this act;

31 and

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

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



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

4 (b) The commission shall work with the districts to develop uniform  
5 performance measures across participating districts and, to the extent  
6 possible, the commission should coordinate its performance measure  
7 system with other natural resource-related agencies as defined in RCW  
8 43.41.270. The commission shall consult with affected interest groups  
9 in implementing this section.

10 **Sec. 29.** RCW 79.105.150 and 2007 c 341 s 32 are each amended to  
11 read as follows:

12 (1) After deduction for management costs as provided in RCW  
13 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys  
14 received by the state from the sale or lease of state-owned aquatic  
15 lands and from the sale of valuable material from state-owned aquatic  
16 lands shall be deposited in the aquatic lands enhancement account which  
17 is hereby created in the state treasury. After appropriation, these  
18 funds shall be used solely for aquatic lands enhancement projects; for  
19 the purchase, improvement, or protection of aquatic lands for public  
20 purposes; for providing and improving access to the lands; and for  
21 volunteer cooperative fish and game projects.

22 (2) In providing grants for aquatic lands enhancement projects, the  
23 (~~interagency committee for outdoor~~) recreation and conservation  
24 funding board shall:

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

27 (b) Utilize the statement of environmental benefits, consideration,  
28 except as provided in RCW 79.105.610, of whether the applicant is a  
29 Puget Sound partner, as defined in RCW 90.71.010, (~~and~~) whether a  
30 project is referenced in the action agenda developed by the Puget Sound  
31 partnership under RCW 90.71.310, and except as otherwise provided in  
32 section 34 of this act, and effective one calendar year following the  
33 development and statewide availability of model evergreen cities  
34 management plans and ordinances under section 9 of this act, whether  
35 the applicant is an entity that has been recognized, and what gradation  
36 of recognition was received, in the evergreen cities recognition

1 program created in section 6 of this act in its prioritization and  
2 selection process; and

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

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

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

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

14 **Sec. 30.** RCW 79A.15.040 and 2007 c 341 s 34 and 2007 c 241 s 29  
15 are each reenacted and amended to read as follows:

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

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

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

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

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

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

35 (b) If not enough project applications are submitted in a category  
36 within the habitat conservation account to meet the percentages

1 described in subsection (1) of this section in any biennium, the board  
2 retains discretion to distribute any remaining funds to the other  
3 categories within the account.

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

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

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

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

18 (6)~~((a))~~ Except as otherwise conditioned by RCW 79A.15.140 or  
19 section 35 of this act, the ~~((committee))~~ board in its evaluating  
20 process shall consider the following in determining distribution  
21 priority:

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

24 ~~((ii))~~ (b) Effective one calendar year following the development  
25 and statewide availability of model evergreen cities management plans  
26 and ordinances under section 9 of this act, whether the entity  
27 receiving assistance has been recognized, and what gradation of  
28 recognition was received, in the evergreen cities recognition program  
29 created in section 6 of this act; and

30 (c) Whether the project is referenced in the action agenda  
31 developed by the Puget Sound partnership under RCW 90.71.310.

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

36 NEW SECTION. Sec. 31. A new section is added to chapter 43.155  
37 RCW to read as follows:

1           When administering funds under this chapter, the board shall give  
2 preference only to evergreen cities recognized under section 6 of this  
3 act in comparison to other entities that are eligible to receive  
4 evergreen city designation. Entities not eligible for designation as  
5 an evergreen city shall not be given less preferential treatment than  
6 evergreen cities.

7           NEW SECTION.   **Sec. 32.** A new section is added to chapter 70.146  
8 RCW to read as follows:

9           When administering funds under this chapter, the department shall  
10 give preference only to evergreen cities recognized under section 6 of  
11 this act in comparison to other entities that are eligible to receive  
12 evergreen city designation. Entities not eligible for designation as  
13 an evergreen city shall not be given less preferential treatment than  
14 evergreen cities.

15           NEW SECTION.   **Sec. 33.** A new section is added to chapter 89.08 RCW  
16 to read as follows:

17           When administering funds under this chapter, the commission shall  
18 give preference only to evergreen cities recognized under section 6 of  
19 this act in comparison to other entities that are eligible to receive  
20 evergreen city designation. Entities not eligible for designation as  
21 an evergreen city shall not be given less preferential treatment than  
22 evergreen cities.

23           NEW SECTION.   **Sec. 34.** A new section is added to chapter 79.105  
24 RCW to read as follows:

25           When administering funds under this chapter, the recreation and  
26 conservation funding board shall give preference only to evergreen  
27 cities recognized under section 6 of this act in comparison to other  
28 entities that are eligible to receive evergreen city designation.  
29 Entities not eligible for designation as an evergreen city shall not be  
30 given less preferential treatment than evergreen cities.

31           NEW SECTION.   **Sec. 35.** A new section is added to chapter 79A.15  
32 RCW to read as follows:

33           When administering funds under this chapter, the recreation and  
34 conservation funding board shall give preference only to evergreen

1 cities recognized under section 6 of this act in comparison to other  
2 entities that are eligible to receive evergreen city designation.  
3 Entities not eligible for designation as an evergreen city shall not be  
4 given less preferential treatment than evergreen cities.

5 **Sec. 36.** RCW 80.28.010 and 1995 c 399 s 211 are each amended to  
6 read as follows:

7 (1) All charges made, demanded or received by any gas company,  
8 electrical company or water company for gas, electricity or water, or  
9 for any service rendered or to be rendered in connection therewith,  
10 shall be just, fair, reasonable and sufficient. Reasonable charges  
11 necessary to cover the cost of administering the collection of  
12 voluntary donations for the purposes of urban forestry under RCW  
13 80.28.300 shall be deemed as prudent and necessary for the operation of  
14 a utility.

15 (2) Every gas company, electrical company and water company shall  
16 furnish and supply such service, instrumentalities and facilities as  
17 shall be safe, adequate and efficient, and in all respects just and  
18 reasonable.

19 (3) All rules and regulations issued by any gas company, electrical  
20 company or water company, affecting or pertaining to the sale or  
21 distribution of its product, shall be just and reasonable.

22 (4) Utility service for residential space heating shall not be  
23 terminated between November 15 through March 15 if the customer:

24 (a) Notifies the utility of the inability to pay the bill,  
25 including a security deposit. This notice should be provided within  
26 five business days of receiving a payment overdue notice unless there  
27 are extenuating circumstances. If the customer fails to notify the  
28 utility within five business days and service is terminated, the  
29 customer can, by paying reconnection charges, if any, and fulfilling  
30 the requirements of this section, receive the protections of this  
31 chapter;

32 (b) Provides self-certification of household income for the prior  
33 twelve months to a grantee of the department of community, trade, and  
34 economic development which administers federally funded energy  
35 assistance programs. The grantee shall determine that the household  
36 income does not exceed the maximum allowed for eligibility under the  
37 state's plan for low-income energy assistance under 42 U.S.C. 8624 and

1 shall provide a dollar figure that is seven percent of household  
2 income. The grantee may verify information provided in the self-  
3 certification;

4 (c) Has applied for home heating assistance from applicable  
5 government and private sector organizations and certifies that any  
6 assistance received will be applied to the current bill and future  
7 utility bills;

8 (d) Has applied for low-income weatherization assistance to the  
9 utility or other appropriate agency if such assistance is available for  
10 the dwelling;

11 (e) Agrees to a payment plan and agrees to maintain the payment  
12 plan. The plan will be designed both to pay the past due bill by the  
13 following October 15 and to pay for continued utility service. If the  
14 past due bill is not paid by the following October 15, the customer  
15 shall not be eligible for protections under this chapter until the past  
16 due bill is paid. The plan shall not require monthly payments in  
17 excess of seven percent of the customer's monthly income plus one-  
18 twelfth of any arrearage accrued from the date application is made and  
19 thereafter during November 15 through March 15. A customer may agree  
20 to pay a higher percentage during this period, but shall not be in  
21 default unless payment during this period is less than seven percent of  
22 monthly income plus one-twelfth of any arrearage accrued from the date  
23 application is made and thereafter. If assistance payments are  
24 received by the customer subsequent to implementation of the plan, the  
25 customer shall contact the utility to reformulate the plan; and

26 (f) Agrees to pay the moneys owed even if he or she moves.

27 (5) The utility shall:

28 (a) Include in any notice that an account is delinquent and that  
29 service may be subject to termination, a description of the customer's  
30 duties in this section;

31 (b) Assist the customer in fulfilling the requirements under this  
32 section;

33 (c) Be authorized to transfer an account to a new residence when a  
34 customer who has established a plan under this section moves from one  
35 residence to another within the same utility service area;

36 (d) Be permitted to disconnect service if the customer fails to  
37 honor the payment program. Utilities may continue to disconnect  
38 service for those practices authorized by law other than for nonpayment

1 as provided for in this subsection. Customers who qualify for payment  
2 plans under this section who default on their payment plans and are  
3 disconnected can be reconnected and maintain the protections afforded  
4 under this chapter by paying reconnection charges, if any, and by  
5 paying all amounts that would have been due and owing under the terms  
6 of the applicable payment plan, absent default, on the date on which  
7 service is reconnected; and

8 (e) Advise the customer in writing at the time it disconnects  
9 service that it will restore service if the customer contacts the  
10 utility and fulfills the other requirements of this section.

11 (6) A payment plan implemented under this section is consistent  
12 with RCW 80.28.080.

13 (7) Every gas company and electrical company shall offer  
14 residential customers the option of a budget billing or equal payment  
15 plan. The budget billing or equal payment plan shall be offered low-  
16 income customers eligible under the state's plan for low-income energy  
17 assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without  
18 limiting availability to certain months of the year, without regard to  
19 the length of time the customer has occupied the premises, and without  
20 regard to whether the customer is the tenant or owner of the premises  
21 occupied.

22 (8) Every gas company, electrical company and water company shall  
23 construct and maintain such facilities in connection with the  
24 manufacture and distribution of its product as will be efficient and  
25 safe to its employees and the public.

26 (9) An agreement between the customer and the utility, whether oral  
27 or written, shall not waive the protections afforded under this  
28 chapter.

29 (10) In establishing rates or charges for water service, water  
30 companies as defined in RCW 80.04.010 may consider the achievement of  
31 water conservation goals and the discouragement of wasteful water use  
32 practices.

33 NEW SECTION. **Sec. 37.** Sections 1, 2, 5, 6, 8, 9, 11 through 13,  
34 15 through 18, and 25 of this act constitute a new chapter in Title 35  
35 RCW.

1        NEW SECTION.   **Sec. 38.**   This act may be known and cited as the  
2   evergreen cities act.

3        NEW SECTION.   **Sec. 39.**   If specific funding for the purposes of  
4   this act, referencing this act by bill or chapter number, is not  
5   provided by June 30, 2008, in the omnibus appropriations act, this act  
6   is null and void.

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