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SENATE BILL 5825

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State of Washington

62nd Legislature

2011 Regular Session

By Senators Kilmer and Parlette; by request of Office of Financial Management

Read first time 02/17/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to grant and loan programs; amending RCW  
2 43.330.005, 79A.15.070, 79A.15.130, 43.63A.125, 43.63A.135, 43.63A.750,  
3 and 27.34.330; and reenacting and amending RCW 79A.15.060 and  
4 79A.15.120.

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

6 **Sec. 1.** RCW 43.330.005 and 2010 c 271 s 2 are each amended to read  
7 as follows:

8 (1) The legislature finds that the long-term economic health of the  
9 state and its citizens depends upon the strength and vitality of its  
10 communities and businesses. It is the intent of this chapter to create  
11 a department of commerce that fosters new partnerships for strong and  
12 sustainable communities. The mission of the department is to grow and  
13 improve jobs in Washington and facilitate innovation. To carry out its  
14 mission, the department will bring together focused efforts to:  
15 Streamline access to business assistance and economic development  
16 services by providing them through sector-based, cluster-based, and  
17 regional partners; provide focused and flexible responses to changing  
18 economic conditions; generate greater local capacity to respond to both  
19 economic growth and environmental challenges; increase accountability

1 to the public, the executive branch, and the legislature; manage growth  
2 and achieve sustainable development; diversify the state's economy and  
3 export goods and services; provide greater access to economic  
4 opportunity; stimulate private sector investment and entrepreneurship;  
5 provide stable family-wage jobs and meet the diverse needs of families;  
6 provide affordable housing and housing services; and construct public  
7 infrastructure.

8 (2) The legislature further finds that as a result of the rapid  
9 pace of global social and economic change, the state and local  
10 communities will require coordinated and creative responses by every  
11 segment of the community. The state can play a role in assisting such  
12 local efforts by reorganizing state assistance efforts to promote such  
13 partnerships. The department has a primary responsibility to provide  
14 financial and technical assistance to the communities of the state, to  
15 assist in improving the delivery of federal, state, and local programs,  
16 and to provide communities with opportunities for productive and  
17 coordinated development beneficial to the well-being of communities and  
18 their residents. It is the intent of the legislature in creating the  
19 department to maximize the use of local expertise and resources in the  
20 delivery of community and economic development services.

21 (3)(a) In providing financial assistance, the department may not  
22 execute a contract until the following requirements are met:

23 (i) Local match funding is secured;

24 (ii) The project is ready to proceed with either the  
25 preconstruction or construction phase; and

26 (iii) The local agency has committed to make timely use of state  
27 funds.

28 (b) The contract must be for either preconstruction activities or  
29 for the construction phase of the project. In no event may a contract  
30 be executed or funds awarded for both preconstruction activities and  
31 the construction phase at the same time. If a project has both a  
32 preconstruction and a construction phase, funding for the construction  
33 phase may not be awarded until the preconstruction activities are  
34 complete.

35 (c) As used in this subsection:

36 (i) "Construction phase" means activities directly related to the  
37 building of the project and includes site clearing and grading and

1 construction of the foundation. "Construction phase" does not include  
2 preconstruction activities.

3 (ii) "Preconstruction activities" means the activities that occur  
4 prior to the bid phase of a publicly bid project or prior to any self-  
5 performed construction activities. Preconstruction activities  
6 typically include schematic design, design development, environmental  
7 studies, right-of-way acquisition, and construction document services  
8 that are required in order to obtain construction permits for a  
9 project.

10 (iii) "Timely use of state funds" means the full expenditure of  
11 state funds within the biennium for which funds are appropriated or  
12 requiring no more than one reappropriation for a subsequent two-year  
13 period.

14 **Sec. 2.** RCW 79A.15.060 and 2009 c 341 s 3 and 2009 c 16 s 1 are  
15 each reenacted and amended to read as follows:

16 (1) The board may adopt rules establishing acquisition policies and  
17 priorities for distributions from the habitat conservation account.

18 (2) Except as provided in RCW 79A.15.030(7), moneys appropriated  
19 for this chapter may not be used by the board to fund staff positions  
20 or other overhead expenses, or by a state, regional, or local agency to  
21 fund operation or maintenance of areas acquired under this chapter.

22 (3) Moneys appropriated for this chapter may be used by grant  
23 recipients for costs incidental to acquisition, including, but not  
24 limited to, surveying expenses, fencing, and signing.

25 (4) The board may not approve a local project where the local  
26 agency share is less than the amount to be awarded from the habitat  
27 conservation account.

28 (5)(a) The board may not execute a contract until the state or  
29 local agency has demonstrated that the following requirements are met:

30 (i) The agency share of the project funding is secured;

31 (ii) The project is ready to proceed with either the  
32 preconstruction or construction phase; and

33 (iii) The agency has committed to make timely use of state funds.

34 (b) The contract must be for either preconstruction activities or  
35 for the construction phase of the project. In no event may a contract  
36 be executed or funds awarded for both preconstruction activities and  
37 the construction phase at the same time. If a project has both a

1 preconstruction and a construction phase, funding for the construction  
2 phase may not be awarded until the preconstruction activities are  
3 complete.

4 (c) As used in this subsection:

5 (i) "Construction phase" means activities directly related to the  
6 building of the project and includes site clearing and grading and  
7 construction of the foundation. "Construction phase" does not include  
8 preconstruction activities.

9 (ii) "Preconstruction activities" means the activities that occur  
10 prior to the bid phase of a publicly bid project or prior to any self-  
11 performed construction activities. Preconstruction activities  
12 typically include schematic design, design development, environmental  
13 studies, right-of-way acquisition, and construction document services  
14 that are required in order to obtain construction permits for a  
15 project.

16 (iii) "Timely use of state funds" means the full expenditure of  
17 state funds within the biennium for which funds are appropriated or  
18 requiring no more than one reappropriation for a subsequent two-year  
19 period.

20 (6) In determining acquisition priorities with respect to the  
21 habitat conservation account, the board shall consider, at a minimum,  
22 the following criteria:

23 (a) For critical habitat and natural areas proposals:

24 (i) Community support for the project;

25 (ii) The project proposal's ongoing stewardship program that  
26 includes control of noxious weeds, detrimental invasive species, and  
27 that identifies the source of the funds from which the stewardship  
28 program will be funded;

29 (iii) Recommendations as part of a watershed plan or habitat  
30 conservation plan, or a coordinated regionwide prioritization effort,  
31 and for projects primarily intended to benefit salmon, limiting  
32 factors, or critical pathways analysis;

33 (iv) Immediacy of threat to the site;

34 (v) Uniqueness of the site;

35 (vi) Diversity of species using the site;

36 (vii) Quality of the habitat;

37 (viii) Long-term viability of the site;

38 (ix) Presence of endangered, threatened, or sensitive species;

- 1 (x) Enhancement of existing public property;
- 2 (xi) Consistency with a local land use plan, or a regional or  
3 statewide recreational or resource plan, including projects that assist  
4 in the implementation of local shoreline master plans updated according  
5 to RCW 90.58.080 or local comprehensive plans updated according to RCW  
6 36.70A.130;
- 7 (xii) Educational and scientific value of the site;
- 8 (xiii) Integration with recovery efforts for endangered,  
9 threatened, or sensitive species;
- 10 (xiv) For critical habitat proposals by local agencies, the  
11 statewide significance of the site.
- 12 (b) For urban wildlife habitat proposals, in addition to the  
13 criteria of (a) of this subsection:
- 14 (i) Population of, and distance from, the nearest urban area;
- 15 (ii) Proximity to other wildlife habitat;
- 16 (iii) Potential for public use; and
- 17 (iv) Potential for use by special needs populations.
- 18 ~~((+6))~~ (7) Before November 1st of each even-numbered year, the  
19 board shall recommend to the governor a prioritized list of all state  
20 agency and local projects to be funded under RCW 79A.15.040(1) (a),  
21 (b), and (c). The governor may remove projects from the list  
22 recommended by the board and shall submit this amended list in the  
23 capital budget request to the legislature. The list shall include, but  
24 not be limited to, a description of each project and any particular  
25 match requirement, and describe for each project any anticipated  
26 restrictions upon recreational activities allowed prior to the project.

27 **Sec. 3.** RCW 79A.15.070 and 2007 c 241 s 33 are each amended to  
28 read as follows:

29 (1) In determining which state parks proposals and local parks  
30 proposals to fund, the board shall use existing policies and  
31 priorities.

32 (2) Except as provided in RCW 79A.15.030(7), moneys appropriated  
33 for this chapter may not be used by the board to fund staff or other  
34 overhead expenses, or by a state, regional, or local agency to fund  
35 operation or maintenance of areas acquired under this chapter.

36 (3) Moneys appropriated for this chapter may be used by grant

1 recipients for costs incidental to acquisition and development,  
2 including, but not limited to, surveying expenses, fencing, and  
3 signing.

4 (4) The board may not approve a project of a local agency where the  
5 share contributed by the local agency is less than the amount to be  
6 awarded from the outdoor recreation account.

7 (5)(a) The board may not execute a contract until the state or  
8 local agency has demonstrated that the following requirements are met:

9 (i) The agency share of the project funding is secured;

10 (ii) The project is ready to proceed with either the  
11 preconstruction or construction phase; and

12 (iii) The agency has committed to make timely use of state funds.

13 (b) The contract must be for either preconstruction activities or  
14 for the construction phase of the project. In no event may a contract  
15 be executed or funds awarded for both preconstruction activities and  
16 the construction phase at the same time. If a project has both a  
17 preconstruction and a construction phase, funding for the construction  
18 phase may not be awarded until the preconstruction activities are  
19 complete.

20 (c) As used in this subsection:

21 (i) "Construction phase" means activities directly related to the  
22 building of the project and includes site clearing and grading and  
23 construction of the foundation. "Construction phase" does not include  
24 preconstruction activities.

25 (ii) "Preconstruction activities" means the activities that occur  
26 prior to the bid phase of a publicly bid project or prior to any self-  
27 performed construction activities. Preconstruction activities  
28 typically include schematic design, design development, environmental  
29 studies, right-of-way acquisition, and construction document services  
30 that are required in order to obtain construction permits for a  
31 project.

32 (iii) "Timely use of state funds" means the full expenditure of  
33 state funds within the biennium for which funds are appropriated or  
34 requiring no more than one reappropriation for a subsequent two-year  
35 period.

36 (6) The board may adopt rules establishing acquisition policies and  
37 priorities for the acquisition and development of trails and water

1 access sites to be financed from moneys in the outdoor recreation  
2 account.

3 ~~((+6))~~ (7) In determining the acquisition and development  
4 priorities, the board shall consider, at a minimum, the following  
5 criteria:

6 (a) For trails proposals:

7 (i) Community support for the project;

8 (ii) Immediacy of threat to the site;

9 (iii) Linkage between communities;

10 (iv) Linkage between trails;

11 (v) Existing or potential usage;

12 (vi) Consistency with a local land use plan, or a regional or  
13 statewide recreational or resource plan, including projects that assist  
14 in the implementation of local shoreline master plans updated according  
15 to RCW 90.58.080 or local comprehensive plans updated according to RCW  
16 36.70A.130;

17 (vii) Availability of water access or views;

18 (viii) Enhancement of wildlife habitat; and

19 (ix) Scenic values of the site.

20 (b) For water access proposals:

21 (i) Community support for the project;

22 (ii) Distance from similar water access opportunities;

23 (iii) Immediacy of threat to the site;

24 (iv) Diversity of possible recreational uses;

25 (v) Public demand in the area; and

26 (vi) Consistency with a local land use plan, or a regional or  
27 statewide recreational or resource plan, including projects that assist  
28 in the implementation of local shoreline master plans updated according  
29 to RCW 90.58.080 or local comprehensive plans updated according to RCW  
30 36.70A.130.

31 ~~((+7))~~ (8) Before November 1st of each even-numbered year, the  
32 board shall recommend to the governor a prioritized list of all state  
33 agency and local projects to be funded under RCW 79A.15.050(1) (a),  
34 (b), (c), and (d). The governor may remove projects from the list  
35 recommended by the board and shall submit this amended list in the  
36 capital budget request to the legislature. The list shall include, but  
37 not be limited to, a description of each project and any particular

1 match requirement, and describe for each project any anticipated  
2 restrictions upon recreational activities allowed prior to the project.

3 **Sec. 4.** RCW 79A.15.120 and 2009 c 341 s 4 and 2009 c 16 s 2 are  
4 each reenacted and amended to read as follows:

5 (1) The riparian protection account is established in the state  
6 treasury. The board must administer the account in accordance with  
7 chapter 79A.25 RCW and this chapter, and hold it separate and apart  
8 from all other money, funds, and accounts of the board.

9 (2) Moneys appropriated for this chapter to the riparian protection  
10 account must be distributed for the acquisition or enhancement or  
11 restoration of riparian habitat. All enhancement or restoration  
12 projects, except those qualifying under subsection (~~(9)~~) (10)(a) of  
13 this section, must include the acquisition of a real property interest  
14 in order to be eligible.

15 (3) State and local agencies and lead entities under chapter 77.85  
16 RCW, nonprofit nature conservancy organizations or associations, and  
17 the conservation commission may apply for acquisition and enhancement  
18 or restoration funds for riparian habitat projects under subsection (1)  
19 of this section. Other state agencies not defined in RCW 79A.15.010,  
20 such as the department of transportation and the department of  
21 corrections, may enter into interagency agreements with state agencies  
22 to apply in partnership for funds under this section.

23 (4) The board may adopt rules establishing acquisition policies and  
24 priorities for distributions from the riparian protection account.

25 (5) Except as provided in RCW 79A.15.030(7), moneys appropriated  
26 for this section may not be used by the board to fund staff positions  
27 or other overhead expenses, or by a state, regional, or local agency to  
28 fund operation or maintenance of areas acquired under this chapter.

29 (6) Moneys appropriated for this section may be used by grant  
30 recipients for costs incidental to restoration and acquisition,  
31 including, but not limited to, surveying expenses, fencing, and  
32 signing.

33 (7) The board may not approve a local project where the local  
34 agency or nonprofit nature conservancy organization or association  
35 share is less than the amount to be awarded from the riparian  
36 protection account. In-kind contributions, including contributions of



1 a real property interest in land may be used to satisfy the local  
2 agency's or nonprofit nature conservancy organization's or  
3 association's share.

4 (8)(a) The board may not execute a contract until the state or  
5 local agency or the nature conservancy organization or association has  
6 demonstrated that the following requirements are met:

7 (i) The agency nonprofit nature conservancy organization or  
8 association share of the required match funding is secured;

9 (ii) The project is ready to proceed with either the  
10 preconstruction or construction phase; and

11 (iii) The agency or nonprofit nature conservancy organization or  
12 association has committed to make timely use of state funds.

13 (b) The contract must be for either preconstruction activities or  
14 for the construction phase of the project. In no event may a contract  
15 be executed or funds awarded for both preconstruction activities and  
16 the construction phase at the same time. If a project has both a  
17 preconstruction and a construction phase, funding for the construction  
18 phase may not be awarded until the preconstruction activities are  
19 complete.

20 (c) As used in this subsection:

21 (i) "Construction phase" means activities directly related to the  
22 building of the project and includes site clearing and grading and  
23 construction of the foundation. "Construction phase" does not include  
24 preconstruction activities.

25 (ii) "Preconstruction activities" means the activities that occur  
26 prior to the bid phase of a publicly bid project or prior to any self-  
27 performed construction activities. Preconstruction activities  
28 typically include schematic design, design development, environmental  
29 studies, right-of-way acquisition, and construction document services  
30 that are required in order to obtain construction permits for a  
31 project.

32 (iii) "Timely use of state funds" means the full expenditure of  
33 state funds within the biennium for which funds are appropriated or  
34 requiring no more than one reappropriation for a subsequent two-year  
35 period.

36 (9) State agencies receiving grants for acquisition of land under  
37 this section must pay an amount in lieu of real property taxes equal to  
38 the amount of tax that would be due if the land were taxable as open

1 space land under chapter 84.34 RCW except taxes levied for any state  
2 purpose, plus an additional amount for control of noxious weeds equal  
3 to that which would be paid if such lands were privately owned. The  
4 county assessor and county legislative authority shall assist in  
5 determining the appropriate calculation of the amount of tax that would  
6 be due.

7 ~~((+9))~~ (10) In determining acquisition priorities with respect to  
8 the riparian protection account, the board must consider, at a minimum,  
9 the following criteria:

10 (a) Whether the project continues the conservation reserve  
11 enhancement program. Applications that extend the duration of leases  
12 of riparian areas that are currently enrolled in the conservation  
13 reserve enhancement program shall be eligible. Such applications are  
14 eligible for a conservation lease extension of at least twenty-five  
15 years of duration;

16 (b) Whether the projects are identified or recommended in a  
17 watershed planning process under chapter 247, Laws of 1998, salmon  
18 recovery planning under chapter 77.85 RCW, or other local plans, such  
19 as habitat conservation plans, and these must be highly considered in  
20 the process;

21 (c) Whether there is community support for the project;

22 (d) Whether the proposal includes an ongoing stewardship program  
23 that includes control of noxious weeds, detrimental invasive species,  
24 and that identifies the source of the funds from which the stewardship  
25 program will be funded;

26 (e) Whether there is an immediate threat to the site;

27 (f) Whether the quality of the habitat is improved or, for projects  
28 including restoration or enhancement, the potential for restoring  
29 quality habitat including linkage of the site to other high quality  
30 habitat;

31 (g) Whether the project is consistent with a local land use plan,  
32 or a regional or statewide recreational or resource plan. The projects  
33 that assist in the implementation of local shoreline master plans  
34 updated according to RCW 90.58.080 or local comprehensive plans updated  
35 according to RCW 36.70A.130 must be highly considered in the process;

36 (h) Whether the site has educational or scientific value; and

37 (i) Whether the site has passive recreational values for walking  
38 trails, wildlife viewing, or the observation of natural settings.

1        (~~(+10)~~) (11) Before November 1st of each even-numbered year, the  
2 board will recommend to the governor a prioritized list of projects to  
3 be funded under this section. The governor may remove projects from  
4 the list recommended by the board and will submit this amended list in  
5 the capital budget request to the legislature. The list must include,  
6 but not be limited to, a description of each project and any particular  
7 match requirement.

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

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

18        (2)(a) Moneys appropriated for this chapter to the farmlands  
19 preservation account may be distributed for (i) the fee simple or less  
20 than fee simple acquisition of farmlands; (ii) the enhancement or  
21 restoration of ecological functions on those properties; or (iii) both.  
22 In order for a farmland preservation grant to provide for an  
23 environmental enhancement or restoration project, the project must  
24 include the acquisition of a real property interest.

25        (b) If a city, county, nonprofit nature conservancy organization or  
26 association, or the conservation commission acquires a property through  
27 this program in fee simple, the city, county, nonprofit nature  
28 conservancy organization or association, or the conservation commission  
29 shall endeavor to secure preservation of the property through placing  
30 a conservation easement, or other form of deed restriction, on the  
31 property which dedicates the land to agricultural use and retains one  
32 or more property rights in perpetuity. Once an easement or other form  
33 of deed restriction is placed on the property, the city, county,  
34 nonprofit nature conservancy organization or association, or the  
35 conservation commission shall seek to sell the property, at fair market  
36 value, to a person or persons who will maintain the property in  
37 agricultural production. Any moneys from the sale of the property

1 shall either be used to purchase interests in additional properties  
2 which meet the criteria in subsection (~~(+9+)~~) (10) of this section, or  
3 to repay the grant from the state which was originally used to purchase  
4 the property.

5 (3) Cities, counties, nonprofit nature conservancy organizations or  
6 associations, and the conservation commission may apply for acquisition  
7 and enhancement or restoration funds for farmland preservation projects  
8 within their jurisdictions under subsection (1) of this section.

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

12 (5) The acquisition of a property right in a project under this  
13 section by a county, city, nonprofit nature conservancy organization or  
14 association, or the conservation commission does not provide a right of  
15 access to the property by the public unless explicitly provided for in  
16 a conservation easement or other form of deed restriction.

17 (6) Except as provided in RCW 79A.15.030(7), moneys appropriated  
18 for this section may not be used by the board to fund staff positions  
19 or other overhead expenses, or by a city, county, nonprofit nature  
20 conservancy organization or association, or the conservation commission  
21 to fund operation or maintenance of areas acquired under this chapter.

22 (7) Moneys appropriated for this section may be used by grant  
23 recipients for costs incidental to restoration and acquisition,  
24 including, but not limited to, surveying expenses, fencing, and  
25 signing.

26 (8) The board may not approve a local project where the local  
27 agency's or nonprofit nature conservancy organization's or  
28 association's share is less than the amount to be awarded from the  
29 farmlands preservation account. In-kind contributions, including  
30 contributions of a real property interest in land, may be used to  
31 satisfy the local agency's or nonprofit nature conservancy  
32 organization's or association's share.

33 (9)(a) The board may not execute a contract until the state or  
34 local agency or nonprofit nature conservancy organization or  
35 association has demonstrated that the following requirements are met:

36 (i) The agency or nonprofit nature conservancy organization or  
37 association share of the required match funding is secured;

1       (ii) The project is ready to proceed with either the  
2 preconstruction or construction phase; and

3       (iii) The agency or nonprofit nature conservancy organization or  
4 association has committed to make timely use of state funds.

5       (b) The contract must be for either preconstruction activities or  
6 for the construction phase of the project. In no event may a contract  
7 be executed or funds awarded for both preconstruction activities and  
8 the construction phase at the same time. If a project has both a  
9 preconstruction and a construction phase, funding for the construction  
10 phase may not be awarded until the preconstruction activities are  
11 complete.

12       (c) As used in this subsection:

13       (i) "Construction phase" means activities directly related to the  
14 building of the project and includes site clearing and grading and  
15 construction of the foundation. "Construction phase" does not include  
16 preconstruction activities.

17       (ii) "Preconstruction activities" means the activities that occur  
18 prior to the bid phase of a publicly bid project or prior to any self-  
19 performed construction activities. Preconstruction activities  
20 typically include schematic design, design development, environmental  
21 studies, right-of-way acquisition, and construction document services  
22 that are required in order to obtain construction permits for a  
23 project.

24       (iii) "Timely use of state funds" means the full expenditure of  
25 state funds within the biennium for which funds are appropriated or  
26 requiring no more than one reappropriation for a subsequent two-year  
27 period.

28       (10) In determining the acquisition priorities, the board must  
29 consider, at a minimum, the following criteria:

30       (a) Community support for the project;

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

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

36       (d) Consistency with a local land use plan, or a regional or  
37 statewide recreational or resource plan. The projects that assist in

1 the implementation of local shoreline master plans updated according to  
2 RCW 90.58.080 or local comprehensive plans updated according to RCW  
3 36.70A.130 must be highly considered in the process;

4 (e) Benefits to salmonids;

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

6 (g) Integration with recovery efforts for endangered, threatened,  
7 or sensitive species;

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

10 (i) Soil types;

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

14 (iii) Suitability for producing different types or varieties of  
15 crops;

16 (iv) Farm-to-market access;

17 (v) Water availability; and

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

20 (i) Viewshed;

21 (ii) Aquifer recharge;

22 (iii) Occasional or periodic collector for storm water runoff;

23 (iv) Agricultural sector job creation;

24 (v) Migratory bird habitat and forage area; and

25 (vi) Educational and curriculum potential.

26 (~~((+10))~~) (11) In allotting funds for environmental enhancement or  
27 restoration projects, the board will require the projects to meet the  
28 following criteria:

29 (a) Enhancement or restoration projects must further the ecological  
30 functions of the farmlands;

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

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

37 (d) The projects should enhance the viability of the preserved

1 farmland to provide agricultural production while conforming to any  
2 legal requirements for habitat protection.

3 ~~((+11+))~~ (12) Before November 1st of each even-numbered year, the  
4 board will recommend to the governor a prioritized list of all projects  
5 to be funded under this section. The governor may remove projects from  
6 the list recommended by the board and must submit this amended list in  
7 the capital budget request to the legislature. The list must include,  
8 but not be limited to, a description of each project and any particular  
9 match requirement.

10 **Sec. 6.** RCW 43.63A.125 and 2008 c 327 s 15 are each amended to  
11 read as follows:

12 (1) The department shall establish the building communities fund  
13 program. Under the program, capital and technical assistance grants  
14 may be made to nonprofit organizations for acquiring, constructing, or  
15 rehabilitating facilities used for the delivery of nonresidential  
16 community services, including social service centers and multipurpose  
17 community centers, including those serving a distinct or ethnic  
18 population. Such facilities must be located in a distressed community  
19 or serve a substantial number of low-income or disadvantaged persons.

20 (2) The department shall establish a competitive process to solicit  
21 and evaluate applications for the building communities fund program as  
22 follows:

23 (a) The department shall conduct a statewide solicitation of  
24 project applications from nonprofit organizations.

25 (b) The department shall evaluate applications in consultation with  
26 a citizen advisory committee using objective criteria. To be  
27 considered qualified, applicants must demonstrate that the proposed  
28 project:

29 (i) Will increase the range, efficiency, or quality of the services  
30 provided to citizens;

31 (ii) Will be located in a distressed community or will serve a  
32 substantial number of low-income or disadvantaged persons;

33 (iii) Will offer a diverse set of activities that meet multiple  
34 community service objectives, including but not limited to: Providing  
35 social services; expanding employment opportunities for or increasing  
36 the employability of community residents; or offering educational or

1 recreational opportunities separate from the public school system or  
2 private schools, as long as recreation is not the sole purpose of the  
3 facility;

4 (iv) Reflects a long-term vision for the development of the  
5 community, shared by residents, businesses, leaders, and partners;

6 (v) Requires state funding to accomplish a discrete, usable phase  
7 of the project;

8 (vi) Is ready to proceed and will make timely use of the funds;

9 (vii) Is sponsored by one or more entities that have the  
10 organizational and financial capacity to fulfill the terms of the grant  
11 agreement and to maintain the project into the future;

12 (viii) Fills an unmet need for community services;

13 (ix) Will achieve its stated objectives; and

14 (x) Is a community priority as shown through tangible commitments  
15 of existing or future assets made to the project by community  
16 residents, leaders, businesses, and government partners.

17 (c) The evaluation process shall also include an examination of  
18 existing assets that applicants may apply to projects. Grant  
19 assistance under this section shall not exceed twenty-five percent of  
20 the total cost of the project, except, under exceptional circumstances,  
21 the department may reduce the amount of nonstate match required. The  
22 nonstate portion of the total project cost may include cash, the value  
23 of real property when acquired solely for the purpose of the project,  
24 and in-kind contributions.

25 (d) The department may not set a monetary limit to funding  
26 requests.

27 (3)(a) The department may not execute a contract until the  
28 applicant has demonstrated that the following requirements are met:

29 (i) The applicant share of the nonstate match funding for the  
30 project is secured;

31 (ii) The project is ready to proceed with either the  
32 preconstruction or construction phase; and

33 (iii) The applicant has committed to make timely use of state  
34 funds.

35 (b) The contract must be for either preconstruction activities or  
36 for the construction phase of the project. In no event may a contract  
37 be executed or funds awarded for both preconstruction activities and  
38 the construction phase at the same time. If a project has both a



1 preconstruction and a construction phase, funding for the construction  
2 phase may not be awarded until the preconstruction activities are  
3 complete.

4 (c) As used in this subsection:

5 (i) "Construction phase" means activities directly related to the  
6 building of the project and includes site clearing and grading and  
7 construction of the foundation. "Construction phase" does not include  
8 preconstruction activities.

9 (ii) "Preconstruction activities" means the activities that occur  
10 prior to the bid phase of a publicly bid project or prior to any self-  
11 performed construction activities. Preconstruction activities  
12 typically include schematic design, design development, environmental  
13 studies, right-of-way acquisition, and construction document services  
14 that are required in order to obtain construction permits for a  
15 project.

16 (iii) "Timely use of state funds" means the full expenditure of  
17 state funds within the biennium for which funds are appropriated or  
18 requiring no more than one reappropriation for a subsequent two-year  
19 period.

20 (4) The department shall submit annually to the governor and the  
21 legislature in the department's capital budget request an unranked list  
22 of the qualified eligible projects for which applications were  
23 received. The list must include a description of each project, its  
24 total cost, and the amount of state funding requested. The appropriate  
25 fiscal committees of the legislature shall use this list to determine  
26 building communities fund projects that may receive funding in the  
27 capital budget. The total amount of state capital funding available  
28 for all projects on the annual list shall be determined by the capital  
29 budget beginning with the 2009-2011 biennium and thereafter. In  
30 addition, if cash funds have been appropriated, up to three million  
31 dollars may be used for technical assistance grants. The department  
32 shall not sign contracts or otherwise financially obligate funds under  
33 this section until the legislature has approved a specific list of  
34 projects.

35 ((+4)) (5) In addition to the list of qualified eligible projects,  
36 the department shall submit to the appropriate fiscal committees of the  
37 legislature a summary report that describes the solicitation and

1 evaluation processes, including but not limited to the number of  
2 applications received, the total amount of funding requested, issues  
3 encountered, if any, and any recommendations for process improvements.

4 ~~((+5))~~ (6) After the legislature has approved a specific list of  
5 projects in law, the department shall develop and manage appropriate  
6 contracts with the selected applicants; monitor project expenditures  
7 and grantee performance; report project and contract information; and  
8 exercise due diligence and other contract management responsibilities  
9 as required.

10 ~~((+6))~~ (7) In contracts for grants authorized under this section  
11 the department shall include provisions which require that capital  
12 improvements shall be held by the grantee for a specified period of  
13 time appropriate to the amount of the grant and that facilities shall  
14 be used for the express purpose of the grant. If the grantee is found  
15 to be out of compliance with provisions of the contract, the grantee  
16 shall repay to the state general fund the principal amount of the grant  
17 plus interest calculated at the rate of interest on state of Washington  
18 general obligation bonds issued most closely to the date of  
19 authorization of the grant.

20 **Sec. 7.** RCW 43.63A.135 and 2006 c 371 s 234 are each amended to  
21 read as follows:

22 (1) The department of ~~((community, trade, and economic  
23 development))~~ commerce must establish a competitive process to solicit  
24 proposals for and prioritize projects whose primary objective is to  
25 assist nonprofit youth organizations in acquiring, constructing, or  
26 rehabilitating facilities used for the delivery of nonresidential  
27 services, excluding outdoor athletic fields.

28 (2) The department of ~~((community, trade, and economic  
29 development))~~ commerce must establish a competitive process to  
30 prioritize applications for the assistance as follows:

31 (a) The department of ~~((community, trade, and economic  
32 development))~~ commerce must conduct a statewide solicitation of project  
33 applications from local governments, nonprofit organizations, and other  
34 entities, as determined by the department of ~~((community, trade, and  
35 economic development))~~ commerce. The department of ~~((community, trade,  
36 and economic development))~~ commerce must evaluate and rank applications  
37 in consultation with a citizen advisory committee using objective

1 criteria. Projects must have a major recreational component, and must  
2 have either an educational or social service component. At a minimum,  
3 applicants must demonstrate that the requested assistance will increase  
4 the efficiency or quality of the services it provides to youth. The  
5 evaluation and ranking process must also include an examination of  
6 existing assets that applicants may apply to projects. Grant  
7 assistance under this section may not exceed twenty-five percent of the  
8 total cost of the project. The nonstate portion of the total project  
9 cost may include cash, the value of real property when acquired solely  
10 for the purpose of the project, and in-kind contributions.

11 (b)(i) The department may not execute a contract until the  
12 applicant has demonstrated that the following requirements are met:

13 (A) The applicant share of the required match funding is secured;

14 (B) The project is ready to proceed with either the preconstruction  
15 or construction phase; and

16 (C) The applicant has committed to make timely use of state funds.

17 (ii) The contract must be for either preconstruction activities or  
18 for the construction phase of the project. In no event may a contract  
19 be executed or funds awarded for both preconstruction activities and  
20 the construction phase at the same time. If a project has both a  
21 preconstruction and a construction phase, funding for the construction  
22 phase may not be awarded until the preconstruction activities are  
23 complete.

24 (iii) As used in this subsection (2)(b):

25 (A) "Construction phase" means activities directly related to the  
26 building of the project and includes site clearing and grading and  
27 construction of the foundation. "Construction phase" does not include  
28 preconstruction activities.

29 (B) "Preconstruction activities" means the activities that occur  
30 prior to the bid phase of a publicly bid project or prior to any self-  
31 performed construction activities. Preconstruction activities  
32 typically include schematic design, design development, environmental  
33 studies, right-of-way acquisition, and construction document services  
34 that are required in order to obtain construction permits for a  
35 project.

36 (C) "Timely use of state funds" means the full expenditure of state  
37 funds within the biennium for which funds are appropriated or requiring  
38 no more than one reappropriation for a subsequent two-year period.

1       (c) The department of (~~community, trade, and economic~~  
2 ~~development~~) commerce must submit a prioritized list of recommended  
3 projects to the governor and the legislature in the (~~department of~~  
4 ~~community, trade, and economic development's~~) department's biennial  
5 capital budget request beginning with the 2005-2007 biennium and  
6 thereafter. The list must include a description of each project, the  
7 amount of recommended state funding, and documentation of nonstate  
8 funds to be used for the project. The total amount of recommended  
9 state funding for projects on a biennial project list must not exceed  
10 eight million dollars. The department of (~~community, trade, and~~  
11 ~~economic development~~) commerce may not sign contracts or otherwise  
12 financially obligate funds under this section until the legislature has  
13 approved a specific list of projects.

14       (~~(e)~~) (d) In contracts for grants authorized under this section  
15 the department of (~~community, trade, and economic development~~)  
16 commerce must include provisions that require that capital improvements  
17 be held by the grantee for a specified period of time appropriate to  
18 the amount of the grant and that facilities be used for the express  
19 purpose of the grant. If the grantee is found to be out of compliance  
20 with provisions of the contract, the grantee must repay to the state  
21 general fund the principal amount of the grant plus interest calculated  
22 at the rate of interest on state of Washington general obligation bonds  
23 issued most closely to the date of authorization of the grant.

24       **Sec. 8.** RCW 43.63A.750 and 2006 c 371 s 235 are each amended to  
25 read as follows:

26       (1) A competitive grant program to assist nonprofit organizations  
27 in acquiring, constructing, or rehabilitating performing arts, art  
28 museums, and cultural facilities is created.

29       (2)(a) The department shall submit a list of recommended performing  
30 arts, art museum projects, and cultural organization projects eligible  
31 for funding to the governor and the legislature in the department's  
32 biennial capital budget request beginning with the 2001-2003 biennium  
33 and thereafter. The list, in priority order, shall include a  
34 description of each project, the amount of recommended state funding,  
35 and documentation of nonstate funds to be used for the project. The  
36 total amount of recommended state funding for projects on a biennial  
37 project list shall not exceed twelve million dollars.

1 (b) The department shall establish a competitive process to  
2 prioritize applications for state assistance as follows:

3 (i) The department shall conduct a statewide solicitation of  
4 project applications from nonprofit organizations, local governments,  
5 and other entities, as determined by the department. The department  
6 shall evaluate and rank applications in consultation with a citizen  
7 advisory committee, including a representative from the state arts  
8 commission, using objective criteria. The evaluation and ranking  
9 process shall also consider local community support for projects and an  
10 examination of existing assets that applicants may apply to projects.

11 (ii) The department may establish the amount of state grant  
12 assistance for individual project applications but the amount shall not  
13 exceed twenty percent of the estimated total capital cost or actual  
14 cost of a project, whichever is less. The remaining portions of the  
15 project capital cost shall be a match from nonstate sources. The  
16 nonstate match may include cash, the value of real property when  
17 acquired solely for the purpose of the project, and in-kind  
18 contributions. The department is authorized to set matching  
19 requirements for individual projects. State assistance may be used to  
20 fund separate definable phases of a project if the project demonstrates  
21 adequate progress and has secured the necessary match funding.

22 (iii) The department shall not sign contracts or otherwise  
23 financially obligate funds under this section until the legislature has  
24 approved a specific list of projects. In contracts for grants  
25 authorized under this section, the department shall include provisions  
26 requiring that capital improvements be held by the grantee for a  
27 specified period of time appropriate to the amount of the grant and  
28 that facilities be used for the express purpose of the grant. If the  
29 grantee is found to be out of compliance with provisions of the  
30 contract, the grantee shall repay to the state general fund the  
31 principal amount of the grant plus interest calculated at the rate of  
32 interest on state of Washington general obligation bonds issued most  
33 closely to the date of authorization of the grant.

34 (3)(a) In providing funding under this section, the department may  
35 not execute a contract until the applicant has demonstrated that the  
36 following requirements are met:

37 (i) The applicant share of the required match funding is secured;

1        (ii) The project is ready to proceed with either the  
2 preconstruction or construction phase; and

3        (iii) The applicant has committed to make timely use of state  
4 funds.

5        (b) The contract must be for either preconstruction activities or  
6 for the construction phase of the project. In no event may a contract  
7 be executed or funds awarded for both preconstruction activities and  
8 the construction phase at the same time. If a project has both a  
9 preconstruction and a construction phase, funding for the construction  
10 phase may not be awarded until the preconstruction activities are  
11 complete.

12        (c) As used in this subsection:

13        (i) "Construction phase" means activities directly related to the  
14 building of the project and includes site clearing and grading and  
15 construction of the foundation. "Construction phase" does not include  
16 preconstruction activities.

17        (ii) "Preconstruction activities" means the activities that occur  
18 prior to the bid phase of a publicly bid project or prior to any self-  
19 performed construction activities. Preconstruction activities  
20 typically include schematic design, design development, environmental  
21 studies, right-of-way acquisition, and construction document services  
22 that are required in order to obtain construction permits for a  
23 project.

24        (iii) "Timely use of state funds" means the full expenditure of  
25 state funds within the biennium for which funds are appropriated or  
26 requiring no more than one reappropriation for a subsequent two-year  
27 period.

28        **Sec. 9.** RCW 27.34.330 and 2006 c 371 s 232 are each amended to  
29 read as follows:

30        (1) The Washington state historical society shall establish a  
31 competitive process to solicit proposals for and prioritize heritage  
32 capital projects for potential funding in the state capital budget.  
33 The society shall adopt rules governing project eligibility and  
34 evaluation criteria. Application for funding of specific projects may  
35 be made to the society by local governments, public development  
36 authorities, nonprofit corporations, tribal governments, and other  
37 entities, as determined by the society. The society, with the advice

1 of leaders in the heritage field, including but not limited to  
2 representatives from the office of the secretary of state, the eastern  
3 Washington state historical society, and the department of archaeology  
4 and historic preservation, shall establish and submit a prioritized  
5 list of heritage capital projects to the governor and the legislature  
6 in the society's biennial capital budget request. The list shall  
7 include a description of each project, the amount of recommended state  
8 funding, and documentation of nonstate funds to be used for the  
9 project. The total amount of recommended state funding for projects on  
10 a biennial project list shall not exceed ten million dollars. The  
11 prioritized list shall be developed through open and public meetings  
12 and the amount of state funding shall not exceed thirty-three percent  
13 of the total cost of the project. The nonstate portion of the total  
14 project cost may include cash, the value of real property when acquired  
15 solely for the purpose of the project, and in-kind contributions. The  
16 department shall not sign contracts or otherwise financially obligate  
17 funds under this section until the legislature has approved a specific  
18 list of projects. In contracts for grants authorized under this  
19 section, the society shall include provisions requiring that capital  
20 improvements be held by the grantee for a specified period of time  
21 appropriate to the amount of the grant and that facilities be used for  
22 the express purpose of the grant. If the grantee is found to be out of  
23 compliance with provisions of the contract, the grantee shall repay to  
24 the state general fund the principal amount of the grant plus interest  
25 calculated at the rate of interest on state of Washington general  
26 obligation bonds issued most closely to the date of authorization of  
27 the grant.

28 (2)(a) The historical society may not execute a contract until the  
29 applicant has demonstrated that the following requirements are met:

30 (i) The applicant share of the required match funding is secured;

31 (ii) The project is ready to proceed with either the  
32 preconstruction or construction phase; and

33 (iii) The applicant has committed to make timely use of state  
34 funds.

35 (b) The contract must be for either preconstruction activities or  
36 for the construction phase of the project. In no event may a contract  
37 be executed or funds awarded for both preconstruction activities and  
38 the construction phase at the same time. If a project has both a

1 preconstruction and a construction phase, funding for the construction  
2 phase may not be awarded until the preconstruction activities are  
3 complete.

4 (c) As used in this subsection:

5 (i) "Construction phase" means activities directly related to the  
6 building of the project and includes site clearing and grading and  
7 construction of the foundation. "Construction phase" does not include  
8 preconstruction activities.

9 (ii) "Preconstruction activities" means the activities that occur  
10 prior to the bid phase of a publicly bid project or prior to any self-  
11 performed construction activities. Preconstruction activities  
12 typically include schematic design, design development, environmental  
13 studies, right-of-way acquisition, and construction document services  
14 that are required in order to obtain construction permits for a  
15 project.

16 (iii) "Timely use of state funds" means the full expenditure of  
17 state funds within the biennium for which funds are appropriated or  
18 requiring no more than one reappropriation for a subsequent two-year  
19 period.

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