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**SENATE BILL 6123**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senators Honeyford and Keiser

AN ACT Relating to prohibiting the use of state bond proceeds for state employee compensation; amending RCW 43.83.020, 79A.25.060, 79A.15.020, 79A.15.130, 90.90.010, 43.31.569, 79A.15.030, and 28B.142.010; reenacting and amending RCW 79A.15.120; and adding a new section to chapter 43.88 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 43.88 RCW to read as follows:

Proceeds from the sale of state bonds appropriated in the omnibus capital appropriations act may not be expended for salary, benefits, or other compensation of employees of the state of Washington. This section does not apply to the proceeds from the sale of state bonds appropriated in the omnibus transportation appropriations act.

**Sec.**  RCW 43.83.020 and 2015 1st sp.s. c 4 s 33 are each amended to read as follows:

((~~(1)~~)) The state building construction account is hereby established in the state treasury and shall be used exclusively for the purposes of carrying out the provisions of the capital appropriation acts. Proceeds from the sale of state bonds may not be expended for salary, benefits, or other compensation of employees of the state of Washington.

((~~(2) During the 2003-2005 biennium, the legislature may transfer moneys from the state building construction account to the conservation assistance revolving account such amounts as reflect the excess fund balance of the account.~~))

**Sec.**  RCW 79A.25.060 and 2007 c 241 s 43 are each amended to read as follows:

The outdoor recreation account is created in the state treasury. Moneys in the account are subject to legislative appropriation. The board shall administer the account in accordance with chapter 79A.15 RCW and this chapter, and shall hold it separate and apart from all other money, funds, and accounts of the board. Proceeds from the sale of state bonds may not be expended for salary, benefits, or other compensation of employees of the state of Washington.

Grants, gifts, or other financial assistance, proceeds received from public bodies as administrative cost contributions, and moneys made available to the state of Washington by the federal government for outdoor recreation, may be deposited into the account.

**Sec.**  RCW 79A.15.020 and 2007 c 241 s 27 are each amended to read as follows:

The habitat conservation account is established in the state treasury. The board shall administer the account in accordance with chapter 79A.25 RCW and this chapter, and shall hold it separate and apart from all other money, funds, and accounts of the board. Proceeds from the sale of state bonds may not be expended for salary, benefits, or other compensation of employees of the state of Washington.

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

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

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

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

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

(5) Except as provided in RCW 79A.15.030((~~(7)~~)) (8), moneys appropriated for this section may not be used by the board to fund staff positions or other overhead expenses, or by a state, regional, or local agency to fund operation or maintenance of areas acquired under this chapter. Proceeds from the sale of state bonds may not be expended for salary, benefits, or other compensation of employees of the state of Washington.

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

(7) The board may not approve a local project where the local agency or nonprofit nature conservancy organization or association share is less than the amount to be awarded from the riparian protection account. In-kind contributions, including contributions of a real property interest in land may be used to satisfy the local agency's or nonprofit nature conservancy organization's or association's share.

(8) State agencies receiving grants for acquisition of land under this section must pay an amount in lieu of real property taxes equal to the amount of tax that would be due if the land were taxable as open space land under chapter 84.34 RCW except taxes levied for any state purpose, plus an additional amount for control of noxious weeds equal to that which would be paid if such lands were privately owned. The county assessor and county legislative authority shall assist in determining the appropriate calculation of the amount of tax that would be due.

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

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

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

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

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

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

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

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

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

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

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

**Sec.**  RCW 79A.15.130 and 2016 c 149 s 10 are each amended to read as follows:

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

(2) Moneys appropriated beginning July 1, 2016, for this chapter shall be divided as follows:

(a) Not less than ninety percent for the acquisition and preservation of farmlands.

(b) Not less than ten percent for the acquisition and preservation of forestlands.

(3) Moneys appropriated for this chapter to the farm and forest account may be distributed for: (a) The acquisition of a less than fee simple interest in farmlands or forestland, such as a conservation easement or lease; (b) the enhancement or restoration of ecological functions on those properties; or (c) both. In order for a farmland or forestland preservation grant to provide for an environmental enhancement or restoration project, the project must include the acquisition of a real property interest.

(4) Cities, counties, nonprofit nature conservancies, and the conservation commission may apply for acquisition and enhancement or restoration funds for farmland or forestland preservation projects within their jurisdictions under subsection (1) of this section.

(5) The board may adopt rules establishing acquisition and enhancement or restoration policies and priorities for distributions from the farm and forest account.

(6) The acquisition of a property interest in a project under this section does not provide a right of access to the property by the public unless explicitly provided for in a conservation easement or other form of deed restriction.

(7) Except as provided in RCW 79A.15.030(8), moneys appropriated for this section may not be used by the board to fund staff positions or other overhead expenses, or by cities, counties, nonprofit nature conservancies, or the conservation commission to fund operation or maintenance of areas acquired under this chapter. Proceeds from the sale of state bonds may not be expended for salary, benefits, or other compensation of employees of the state of Washington.

(8) Moneys appropriated for this section may be used by grant recipients for costs incidental to restoration and acquisition, including, but not limited to, surveying expenses, fencing, noxious weed control, and signing.

(9) The board may not approve a local project where the local agency's or nonprofit nature conservancies' share is less than the amount to be awarded from the farm and forest account. In-kind contributions, including contributions of a real property interest in land, may be used to satisfy the local agency's or nonprofit nature conservancies' share.

(10) In determining the acquisition priorities for farmland projects, the board must consider, at a minimum, the following criteria:

(a) Community support for the project;

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

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

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

(e) Benefits to salmonids;

(f) Benefits to other fish and wildlife habitat;

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

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

(i) Soil types;

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

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

(iv) Farm-to-market access;

(v) Water availability; and

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

(i) Viewshed;

(ii) Aquifer recharge;

(iii) Occasional or periodic collector for stormwater runoff;

(iv) Agricultural sector job creation;

(v) Migratory bird habitat and forage area; and

(vi) Educational and curriculum potential.

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

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

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

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

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

(12) In determining the acquisition priorities for forestland projects, the board must consider, at a minimum, the following criteria:

(a) Community support for the project;

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

(c) The likelihood of conversion of the site to nontimber or more highly developed use;

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

(e) Multiple benefits of the project;

(f) Project attributes, including but not limited to:

(i) Clean air and water;

(ii) Stormwater management;

(iii) Wildlife habitat; and

(iv) Potential for carbon sequestration.

(13) In allotting funds for environmental enhancement or restoration projects, the board must require the projects to meet the following criteria:

(a) Enhancement or restoration projects must further the ecological functions of the forestlands;

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

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

(d) The projects should enhance the viability of the preserved forestland to provide timber production while conforming to any legal requirements for habitat protection.

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

**Sec.**  RCW 90.90.010 and 2011 c 83 s 1 are each amended to read as follows:

(1) The Columbia river basin water supply development account is created in the state treasury. The account may receive direct appropriations from the legislature, receipts of any funds pursuant to RCW 90.90.020 and 90.90.030, or funds from any other sources. The account is intended to fund projects using tax exempt bonds. Proceeds from the sale of state bonds may not be expended for salary, benefits, or other compensation of employees of the state of Washington.

(2)(a) Expenditures from the Columbia river basin water supply development account may be used to assess, plan, and develop new storage, improve or alter operations of existing storage facilities, implement conservation projects, develop pump exchanges, or any other actions designed to provide access to new water supplies within the Columbia river basin for both instream and out‑of‑stream uses. Except for the development of new storage projects and pump exchanges, there shall be no expenditures from this account for water acquisition or transfers from one water resource inventory area to another without specific legislative authority. For purposes of this chapter, "pump exchanges" means water supply development projects that exchange water from one source to another or relocate an existing diversion downstream, with resulting instream benefit.

(b) Two-thirds of the funds placed in the account shall be used to support the development of new storage facilities and pump exchanges; the remaining one-third shall be used for the other purposes listed in this section.

(3)(a) Funds may not be expended from this account for the construction of a new storage facility until the department of ecology evaluates the following:

(i) Water uses to be served by the facility;

(ii) The quantity of water necessary to meet those uses;

(iii) The benefits and costs to the state of meeting those uses, including short-term and long-term economic, cultural, and environmental effects; and

(iv) Alternative means of supplying water to meet those uses, including the costs of those alternatives and an analysis of the extent to which long‑term water supply needs can be met using these alternatives.

(b) The department of ecology may rely on studies and information developed through compliance with other state and federal permit requirements and other sources. The department shall compile its findings and conclusions, and provide a summary of the information it reviewed.

(c) Before finalizing its evaluation under the provisions of this section, the department of ecology shall make the preliminary evaluation available to the public. Public comment may be made to the department within thirty days of the date the preliminary evaluation is made public.

(4) Net water savings achieved through conservation measures funded by the account shall be placed in trust in proportion to the state funding provided to implement a project.

(5) Net water savings achieved through conservation measures funded by the account developed within the boundaries of the federal Columbia river reclamation project and directed to the Odessa subarea to reduce the use of groundwater for existing irrigation is exempt from the provisions of subsection (4) of this section.

(6) The department of ecology may enter into water service contracts with applicants receiving water from the program to recover all or a portion of the cost of developing the water supply. Costs recovered under water service contracts does not include staff time expended by the department on developing the water supply. With the applicant's concurrence, the department may receive power revenue generated by the water supply developed by the department through water service contracts. The department may deny an application if the applicant does not enter into a water service contract. Revenue collected from water service contracts must be deposited into the Columbia river basin water supply revenue recovery account created in RCW 90.90.100. The department may adopt rules describing the methodology as to how charges will be established and direct costs recovered for water supply developed under the Columbia river basin water supply program. Water service contracts with federal agencies under RCW 90.42.150 are not required to be established by rule.

(7) Moneys in the Columbia river basin water supply development account created in this section may be spent only after appropriation.

(8) Interest earned by deposits in the account will be retained in the account.

**Sec.**  RCW 43.31.569 and 2017 3rd sp.s. c 12 s 4 are each amended to read as follows:

(1) The early learning facilities revolving account and the early learning facilities development account are created in the state treasury.

(2) Revenues to the early learning facilities revolving account shall consist of appropriations by the legislature, early learning facilities grant and loan repayments, taxable bond proceeds, and all other sources deposited in the account.

(3) Revenues to the early learning facilities development account shall consist of tax exempt bond proceeds.

(4) Expenditures from the accounts shall be used, in combination with other private and public funding, for state matching funds for the planning, renovation, purchase, and construction of early learning facilities as established in RCW 43.31.573 through 43.31.583 and 43.84.092. Proceeds from the sale of state bonds may not be expended for salary, benefits, or other compensation of employees of the state of Washington.

(5) Expenditures from the accounts are subject to appropriation and the allotment provisions of chapter 43.88 RCW.

**Sec.**  RCW 79A.15.030 and 2016 c 149 s 3 are each amended to read as follows:

(1) Moneys appropriated prior to July 1, 2016, for this chapter shall be divided as follows:

(a) Appropriations for a biennium of forty million dollars or less must be allocated equally between the habitat conservation account and the outdoor recreation account.

(b) If appropriations for a biennium total more than forty million dollars, the money must be allocated as follows: (i) Twenty million dollars to the habitat conservation account and twenty million dollars to the outdoor recreation account; (ii) any amount over forty million dollars up to fifty million dollars shall be allocated as follows: (A) Ten percent to the habitat conservation account; (B) ten percent to the outdoor recreation account; (C) forty percent to the riparian protection account; and (D) forty percent to the farmlands preservation account; and (iii) any amounts over fifty million dollars must be allocated as follows: (A) Thirty percent to the habitat conservation account; (B) thirty percent to the outdoor recreation account; (C) thirty percent to the riparian protection account; and (D) ten percent to the farmlands preservation account.

(2) Beginning July 1, 2016, moneys appropriated for this chapter must be allocated as follows: (a) Forty-five percent to the habitat conservation account; (b) forty-five percent to the outdoor recreation account; and (c) ten percent to the farm and forest account.

(3) Moneys deposited in these accounts shall be invested as authorized for other state funds, and any earnings on them shall be credited to the respective account.

(4) All moneys deposited in the habitat conservation, outdoor recreation, and farm and forest accounts shall be allocated as provided under RCW 79A.15.040, 79A.15.050, and 79A.15.130 as grants to state or local agencies or nonprofit nature conservancies for acquisition, development, and renovation within the jurisdiction of those agencies, subject to legislative appropriation. The board may use or permit the use of any funds appropriated for this chapter as matching funds where federal, local, or other funds are made available for projects within the purposes of this chapter. Moneys appropriated to these accounts that are not obligated to a specific project may be used to fund projects from lists of alternate projects from the same account in biennia succeeding the biennium in which the moneys were originally appropriated.

(5) Projects receiving grants for development, recreational access, or fee simple acquisition of land under this chapter must be accessible for public recreation and outdoor education unless the board specifically approves limiting public access in order to protect sensitive species, water quality, or public safety.

(6) The board may make grants to an eligible project from the habitat conservation, outdoor recreation, and farm and forest accounts and any one or more of the applicable categories under such accounts described in RCW 79A.15.040, 79A.15.050, and 79A.15.130.

(7) The board may accept private donations to the habitat conservation account, the outdoor recreation account, and the farm and forest account for the purposes specified in this chapter.

(8) The board may retain a portion of the funds appropriated for this chapter for its office for the administration of the programs and purposes specified in this chapter. Proceeds from the sale of state bonds may not be expended for salary, benefits, or other compensation of employees of the state of Washington. The portion of the funds retained for administration may not exceed: (a) The actual administration costs averaged over the previous five biennia as a percentage of the legislature's new appropriation for this chapter; or (b) the amount specified in the appropriation, if any. Each biennium the percentage specified under (a) of this subsection must be approved by the office of financial management and submitted along with the prioritized lists of projects to be funded in RCW 79A.15.060, 79A.15.070, and 79A.15.130.

(9) Habitat and recreation land and facilities acquired or developed with moneys appropriated for this chapter may not, without prior approval of the board, be converted to a use other than that for which funds were originally approved. The board shall adopt rules and procedures governing the approval of such a conversion.

**Sec.**  RCW 28B.142.010 and 2009 c 500 s 4 are each amended to read as follows:

The board of regents of the University of Washington and Washington State University may issue bonds, notes, or other evidences of indebtedness for any university purpose. The board of regents of the University of Washington and Washington State University may obligate all or a component of the fees and revenues of the university for the payment of such bonds, notes, or evidences of indebtedness: PROVIDED, That such fees and revenues are not subject to appropriation by the legislature and do not constitute general state revenues as defined in Article VIII, section 1 of the state Constitution. Such bonds, notes, and other indebtedness shall not constitute bonds, notes, or other evidences of indebtedness secured by the full faith and credit of the state or required to be paid, directly or indirectly, from general state revenues. Bonds, notes, or other evidences of indebtedness issued under this chapter shall be issued in accordance with the procedures in RCW 28B.10.310 and 28B.10.315 or the provisions applicable to either the state or local governments under chapter 39.46 or 39.53 RCW. Proceeds from the sale of state bonds may not be expended for salary, benefits, or other compensation of employees of the state of Washington.

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