
SUBSTITUTE HOUSE BILL 2844

State of Washington

60th Legislature

2008 Regular Session

By House Ecology & Parks (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 01/29/08.

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 naturalized trees in urban areas throughout the

1 region has contributed significantly to storm water and flooding
2 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 gases emissions, air pollution, and storm impacts to utility
31 infrastructure.

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

1 of trees that cover the ground when viewed from above and that can be
2 measured as a percentage of a city's land area shaded by trees.

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

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

7 (1) The department (~~may~~) shall establish and maintain a program
8 in community and urban forestry to accomplish the purpose stated in RCW
9 76.15.007. The department may assist municipalities and counties in
10 establishing and maintaining community and urban forestry programs and
11 encourage persons to engage in appropriate and improved tree management
12 and care.

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

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

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

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

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

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

35 (d) The criteria for the statewide community and urban forest
36 inventory may include but not be limited to: Tree size, species,

1 location, site appropriateness, condition and health, contribution to
2 canopy cover and volume, available planting spaces, and ecosystem,
3 economic, social, and monetary value.

4 (6) The department shall, in collaboration with a statewide
5 organization representing urban and community forestry programs, and
6 with the evergreen cities partnership task force established in section
7 16 of this act, conduct an urban forest assessment and develop
8 recommendations to the appropriate committees of the legislature to
9 improve community and urban forestry in Washington.

10 (7) The inventory and assessment required in this section must be
11 designed to facilitate the adoption and implementation of evergreen
12 cities management plans and ordinances described in section 9 of this
13 act.

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

19 (9)(a) The criteria and implementation plan for the statewide
20 community and urban forest inventory and assessment required under this
21 section must be completed by December 1, 2008. Upon the completion of
22 the criteria and implementation plan's development, the department
23 shall report the final product to the appropriate committees of the
24 legislature. Subsequent annual reports must be submitted each December
25 until the statewide assessment required under this section is complete.

26 (b) The final inventory and assessment required by this section
27 must be completed by June 1, 2010.

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

30 (1) The commissioner of public lands shall appoint a technical
31 advisory committee to provide advice to the department during the
32 development of the criteria and implementation plan for the statewide
33 community and urban forest inventory and assessment required under RCW
34 76.15.020.

35 (2) The technical advisory committee must include, but not be
36 limited to, representatives from the following groups: Arborists;

1 municipal foresters; educators; consultants; researchers; public works
2 and utilities professionals; information technology specialists; and
3 other affiliated professionals.

4 (3) The technical advisory committee members shall serve without
5 compensation. Advisory committee members who are not state employees
6 may receive reimbursement for travel expenses as provided by RCW
7 43.03.050 and 43.03.060. Costs associated with the technical advisory
8 committee may be paid from the general fund appropriation made
9 available to the department for community and urban forestry.

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

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

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

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

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

28 (i) The development and implementation of a city tree board or tree
29 department;

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

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

33 (iv) Official recognition of arbor day; and

34 (v) The completion of an updated community and urban forest
35 inventory for the city or the formal adoption of an inventory developed

1 for the city by the department of natural resources pursuant to RCW
2 76.15.020.

3 (c) The second graduated step of designation as an evergreen city
4 includes the adoption of an evergreen cities urban forest management
5 plan that exceeds the minimum standards in the model evergreen city
6 urban forestry management plan adopted by the department under section
7 9 of this act.

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

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

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

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

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

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

23 The department shall manage the application and evaluation of
24 candidates for evergreen city designation under section 6 of this act,
25 and forward its recommendations to the department of community, trade,
26 and economic development.

27 NEW SECTION. **Sec. 8.** (1) The department shall, subject to the
28 availability of amounts appropriated for this specific purpose,
29 coordinate with the department of natural resources and the department
30 of ecology in the development and implementation of a needs-based
31 evergreen cities grant and competitive awards program to provide
32 financial assistance to cities, towns, and counties for the
33 development, adoption, or implementation of evergreen cities management
34 plans or ordinances developed under section 13 of this act.

35 (2) The grant program authorized in this section shall address both

1 the goals of rewarding innovation by successful evergreen cities and of
2 providing resources and assistance to the applicants with the greatest
3 financial need.

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

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

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

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

20 (a) Recognize ecoregional differences in the state;

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

24 (c) Recognize and provide for vegetation management practices and
25 programs that prevent vegetation from interfering with or damaging
26 utilities, public facilities, and solar panels or buildings
27 specifically designed to optimize passive solar energy.

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

31 (4) After the development of model plans and ordinances under this
32 section, the department shall, in conjunction with the department of
33 natural resources, distribute and provide outreach regarding the model
34 plans and ordinances and associated best management practices to local
35 jurisdictions to aid the local jurisdictions in obtaining evergreen
36 city recognition under section 6 of this act.

1 (5) Model plans and ordinances required under this section must be
2 developed by the department by no later than December 1, 2010.

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

10 (2) By the fifteenth day of each consecutive December leading up to
11 the adoption of the model plan and ordinance, the department of
12 community, trade, and economic development shall deliver a report to
13 the appropriate committees of the legislature outlining progress made
14 towards the development of the model plan and ordinance.

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

19 (1) Inventory and assessment of the jurisdiction's urban and
20 community forests utilized as a dynamic management tool to set goals,
21 implement programs, and monitor outcomes that may be adjusted over
22 time;

23 (2) Canopy cover goals;

24 (3) Plans for reforestation and tree canopy expansion within the
25 jurisdiction's boundaries;

26 (4) Plans for restoration of public forests;

27 (5) Plans to achieve forest stand and diversity goals;

28 (6) Plans to maximize vegetated storm water management with trees
29 and other vegetation that reduces runoff, increases soil infiltration,
30 and reduces storm water pollution;

31 (7) Plans for other environmental health goals specific to air
32 quality, habitat for wildlife, and energy conservation;

33 (8) Plans for vegetation management practices and programs to
34 prevent vegetation from interfering with or damaging utilities and
35 public facilities;

36 (9) Prioritized planting sites;

- 1 (10) Standards for tree selection, siting, planting, and pruning;
- 2 (11) Scheduled maintenance and stewardship for new and established
- 3 trees;
- 4 (12) Staff and volunteer training requirements emphasizing
- 5 appropriate expertise and professionalism;
- 6 (13) Guidelines for protecting existing trees from
- 7 construction-related damage and damage related to preserving
- 8 territorial views;
- 9 (14) Integrated disease and pest management plans;
- 10 (15) Wood waste utilization;
- 11 (16) Plans for community outreach, participation, education
- 12 programs, and partnerships with nongovernment organizations;
- 13 (17) Time frames for achieving plan goals, objectives, and tasks;
- 14 (18) Plans for monitoring and measuring progress toward those
- 15 benchmarks and goals; and
- 16 (19) Plans for maximizing building heating and cooling energy
- 17 efficiency through appropriate siting of trees for summer shading,
- 18 passive solar heating in winter, and for wind breaks.

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

- 23 (1) Tree canopy cover, density, and spacing;
- 24 (2) Tree conservation and retention;
- 25 (3) Vegetated storm water runoff management using native trees and
- 26 appropriate naturalized vegetation;
- 27 (4) Clearing, grading, protection of soils, reductions in soil
- 28 compaction, and use of appropriate soils with low runoff potential and
- 29 high infiltration rates;
- 30 (5) Appropriate tree siting and maintenance for vegetation
- 31 management practices and programs to prevent vegetation from
- 32 interfering with or damaging utilities and public facilities;
- 33 (6) Native species and naturalized species diversity selection to
- 34 reduce disease and pests in urban forests;
- 35 (7) Tree maintenance;
- 36 (8) Street tree installation and maintenance;

1 (9) Tree and vegetation buffers for riparian areas, critical areas,
2 transportation and utility corridors, and commercial and residential
3 areas;

4 (10) Tree assessments for new construction permitting;

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

6 (12) Variances for hardship and safety;

7 (13) Variances to avoid conflicts with renewable solar energy
8 infrastructure, passive solar building design, and locally grown
9 produce; and

10 (14) Permits and appeals.

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

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

19 (3) Management plans developed by cities must be based on urban
20 forest inventories for the jurisdiction covered by the management plan.
21 The city or town developing the management plan may produce independent
22 inventories themselves or rely solely on inventories developed,
23 commissioned, or approved by the department of natural resources under
24 chapter 76.15 RCW.

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

30 (5) Local jurisdictions shall invite the expert advice of utilities
31 serving within their jurisdiction for the purpose of developing and
32 adopting appropriate plans for vegetation management practices and
33 programs to prevent vegetation from interfering with or damaging
34 utilities and public facilities.

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

1 (1) Any county may adopt an evergreen cities ordinance, as that
2 term is defined in section 2 of this act, which the county must apply
3 to new building or land development in the unincorporated portions of
4 the county's urban growth areas, as that term is defined in RCW
5 36.70A.030, and may apply to other areas of the county as deemed
6 appropriate by the county.

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

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

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

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

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

33 (2) At the discretion of the department, the evergreen cities
34 partnership task force may be disbanded once the urban and community
35 forests assessments conducted by the department of natural resources

1 under RCW 76.15.020 and the model management plans and ordinances
2 developed under section 9 of this act are completed.

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

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

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

10 (b) A conservation organization with expertise in Puget Sound storm
11 water management;

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

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

16 (e) Two land development professionals or representative
17 associations representing development professionals affected by tree
18 retention ordinances and storm water management policies;

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

21 (g) A land trust conservation organization facilitating urban
22 forest management partnerships;

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

25 (i) A public works professional;

26 (j) A private utility;

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

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

32 (m) The timber industry.

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

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

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

4 NEW SECTION. **Sec. 17.** Nothing in this chapter may be construed
5 to:

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

11 (2) Apply to lands designated under chapters 76.09, 84.33, and
12 84.34 RCW.

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

18 (2) The legislature intends to match all donations received by
19 utilities under RCW 35.92.390, 35A.80.040, 80.28.300, and section 23 of
20 this act with an equal amount of funding for the evergreen cities
21 program. To aid the legislature with this process, the office of
22 financial management shall, when developing a budget request, include
23 a provision that requests an amount equal to all donations reported to
24 the department under RCW 35.92.390, 35A.80.040, 80.28.300, and section
25 23 of this act be appropriated into the evergreen cities program from
26 the general fund.

27 (3) The department shall compile and make available to the office
28 of financial management and the legislature total receipts of ratepayer
29 urban forestry contributions reported by utilities under RCW 35.92.390,
30 35A.80.040, 80.28.300, and section 23 of this act.

31 NEW SECTION. **Sec. 19.** (1) Prior to department of community,
32 trade, and economic development development of model evergreen cities
33 plans and ordinances under section 9 of this act, money appropriated to
34 the department of community, trade, and economic development for the

1 evergreen cities program created in chapter 35.--- RCW (the new chapter
2 created in section 31 of this act) may be used for an evergreen cities
3 pilot program.

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

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

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

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

13 (4) Grants must be awarded on a competitive basis using an
14 application process and criteria developed jointly by the department of
15 community, trade, and economic development and the department of
16 natural resources.

17 (5) In awarding grants, the department of community, trade, and
18 economic development shall give priority to cities and counties that
19 state an intent to become recognized as an evergreen city under section
20 6 of this act.

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

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

26 (2)(a) Municipal utilities under this chapter are encouraged to
27 request voluntary donations from their customers for the purposes of
28 urban forestry. The request may be in the form of a check-off on the
29 billing statement or other form of request for a voluntary donation.

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

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

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

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

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

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

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

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

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

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

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

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

32 (1) Gas companies and electrical companies under this chapter
33 ~~((may))~~ are encouraged to provide information to their customers
34 regarding landscaping that includes tree planting for energy
35 conservation.

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

6 (b) Voluntary donations collected by gas companies and electrical
7 companies under this section may be used by the gas companies and
8 electrical companies to:

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

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

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

20 NEW SECTION. Sec. 23. A new section is added to chapter 54.16 RCW
21 to read as follows:

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

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

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

33 (3) Public utility districts shall annually report to the
34 department of community, trade, and economic development the total
35 amount of voluntary donations received under this section as well as
36 whether the utility provided a match for the donations received.

1 Donations reported under this section do not contribute to the gross
2 income of a light and power business or gas distribution business under
3 chapter 82.16 RCW.

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

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

8 (1) "Community and urban forest" is that land in and around human
9 settlements ranging from small communities to metropolitan areas,
10 occupied or potentially occupied by trees and associated vegetation.
11 Community and urban forest land may be planted or unplanted, used or
12 unused, and includes public and private lands, lands along
13 transportation and utility corridors, and forested watershed lands
14 within populated areas.

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

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

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

23 ~~((3))~~ (5) "Department" means the department of natural resources.

24 ~~((4))~~ (6) "Municipality" means a city, town, port district,
25 public school district, community college district, irrigation
26 district, weed control district, park district, or other political
27 subdivision of the state.

28 ~~((5))~~ (7) "Person" means an individual, partnership, private or
29 public municipal corporation, Indian tribe, state entity, county or
30 local governmental entity, or association of individuals of whatever
31 nature.

32 NEW SECTION. **Sec. 25.** (1) Cities or towns pursuing designation as
33 an evergreen city under section 6 of this act are encouraged to
34 identify community and urban forests within their applicable urban
35 growth areas that are appropriately situated for the local government
36 to assume ownership from willing sellers.

1 (2) Cities or towns opting to provide a list of identified
2 properties under this section must provide that information to the
3 department of community, trade, and economic development by October 31,
4 2008.

5 (3) The department of community, trade, and economic development
6 must report a summary of the properties reported to it under this
7 section, along with the estimated costs involved with the purchases, to
8 the appropriate committees of the legislature by December 15, 2008.

9 (4) This section expires July 31, 2019.

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

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

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

17 (b) The local government must have developed a capital facility
18 plan; and

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

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

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

8 (4) The board shall develop a priority process for public works
9 projects as provided in this section. The intent of the priority
10 process is to maximize the value of public works projects accomplished
11 with assistance under this chapter. The board shall attempt to assure
12 a geographical balance in assigning priorities to projects. The board
13 shall consider at least the following factors in assigning a priority
14 to a project:

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

18 (b) Except as otherwise conditioned by RCW 43.155.110, whether the
19 entity receiving assistance is a Puget Sound partner, as defined in RCW
20 90.71.010;

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

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

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

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

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

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

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

37 (j) Except as otherwise conditioned by section 31 of this act, and
38 effective one calendar year following the development of model

1 evergreen cities management plans and ordinances under section 9 of
2 this act, whether the entity receiving assistance has been recognized,
3 and what gradation of recognition was received, in the evergreen cities
4 recognition program created in section 6 of this act;

5 (k) The relative benefit of the project to the community,
6 considering the present level of economic activity in the community and
7 the existing local capacity to increase local economic activity in
8 communities that have low economic growth; and

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

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

15 (6) Before November 1st of each year, the board shall develop and
16 submit to the appropriate fiscal committees of the senate and house of
17 representatives a description of the loans made under RCW 43.155.065,
18 43.155.068, and subsection (9) of this section during the preceding
19 fiscal year and a prioritized list of projects which are recommended
20 for funding by the legislature, including one copy to the staff of each
21 of the committees. The list shall include, but not be limited to, a
22 description of each project and recommended financing, the terms and
23 conditions of the loan or financial guarantee, the local government
24 jurisdiction and unemployment rate, demonstration of the jurisdiction's
25 critical need for the project and documentation of local funds being
26 used to finance the public works project. The list shall also include
27 measures of fiscal capacity for each jurisdiction recommended for
28 financial assistance, compared to authorized limits and state averages,
29 including local government sales taxes; real estate excise taxes;
30 property taxes; and charges for or taxes on sewerage, water, garbage,
31 and other utilities.

32 (7) The board shall not sign contracts or otherwise financially
33 obligate funds from the public works assistance account before the
34 legislature has appropriated funds for a specific list of public works
35 projects. The legislature may remove projects from the list
36 recommended by the board. The legislature shall not change the order
37 of the priorities recommended for funding by the board.

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

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

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

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

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

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

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

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

21 (c) Actions required under federal and state permits and compliance
22 orders;

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

25 (e) Except as otherwise conditioned by RCW 70.146.110, whether the
26 entity receiving assistance is a Puget Sound partner, as defined in RCW
27 90.71.010;

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

30 (g) Except as otherwise provided in section 32 of this act, and
31 effective one calendar year following the development of model
32 evergreen cities management plans and ordinances under section 9 of
33 this act, whether the project is sponsored by an entity that has been
34 recognized, and what gradation of recognition was received, in the
35 evergreen cities recognition program created in section 6 of this act;

36 (h) The extent to which the applicant county or city, or if the
37 applicant is another public body, the extent to which the county or

1 city in which the applicant public body is located, has established
2 programs to mitigate nonpoint pollution of the surface or subterranean
3 water sought to be protected by the water pollution control facility
4 named in the application for state assistance; and

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

9 (2) Except where necessary to address a public health need or
10 substantial environmental degradation, a county, city, or town planning
11 under RCW 36.70A.040 may not receive a grant or loan for water
12 pollution control facilities unless it has adopted a comprehensive
13 plan, including a capital facilities plan element, and development
14 regulations as required by RCW 36.70A.040. This subsection does not
15 require any county, city, or town planning under RCW 36.70A.040 to
16 adopt a comprehensive plan or development regulations before requesting
17 or receiving a grant or loan under this chapter if such request is made
18 before the expiration of the time periods specified in RCW 36.70A.040.
19 A county, city, or town planning under RCW 36.70A.040 which has not
20 adopted a comprehensive plan and development regulations within the
21 time periods specified in RCW 36.70A.040 is not prohibited from
22 receiving a grant or loan under this chapter if the comprehensive plan
23 and development regulations are adopted as required by RCW 36.70A.040
24 before submitting a request for a grant or loan.

25 (3) Whenever the department is considering awarding grants or loans
26 for public facilities to special districts requesting funding for a
27 proposed facility located in a county, city, or town planning under RCW
28 36.70A.040, it shall consider whether the county, city, or town
29 planning under RCW 36.70A.040 in whose planning jurisdiction the
30 proposed facility is located has adopted a comprehensive plan and
31 development regulations as required by RCW 36.70A.040.

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

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

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

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

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

6 (i) The statement of environmental benefits;

7 (ii) Whether, except as conditioned by RCW 89.08.580, the applicant
8 is a Puget Sound partner, as defined in RCW 90.71.010, and except as
9 otherwise provided in section 33 of this act, and effective one
10 calendar year following the development of model evergreen cities
11 management plans and ordinances under section 9 of this act, whether
12 the applicant is an entity that has been recognized, and what gradation
13 of recognition was received, in the evergreen cities recognition
14 program created in section 6 of this act; and

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

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

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

24 (b) The commission shall work with the districts to develop uniform
25 performance measures across participating districts and, to the extent
26 possible, the commission should coordinate its performance measure
27 system with other natural resource-related agencies as defined in RCW
28 43.41.270. The commission shall consult with affected interest groups
29 in implementing this section.

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

32 (1) After deduction for management costs as provided in RCW
33 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys
34 received by the state from the sale or lease of state-owned aquatic
35 lands and from the sale of valuable material from state-owned aquatic
36 lands shall be deposited in the aquatic lands enhancement account which
37 is hereby created in the state treasury. After appropriation, these

1 funds shall be used solely for aquatic lands enhancement projects; for
2 the purchase, improvement, or protection of aquatic lands for public
3 purposes; for providing and improving access to the lands; and for
4 volunteer cooperative fish and game projects.

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

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

10 (b) Utilize the statement of environmental benefits, consideration,
11 except as provided in RCW 79.105.610, of whether the applicant is a
12 Puget Sound partner, as defined in RCW 90.71.010, (~~and~~) whether a
13 project is referenced in the action agenda developed by the Puget Sound
14 partnership under RCW 90.71.310, and except as otherwise provided in
15 section 34 of this act, and effective one calendar year following the
16 development of model evergreen cities management plans and ordinances
17 under section 9 of this act, whether the applicant is an entity that
18 has been recognized, and what gradation of recognition was received, in
19 the evergreen cities recognition program created in section 6 of this
20 act in its prioritization and selection process; and

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

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

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

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

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

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

36 (a) Not less than forty percent through June 30, 2011, at which

1 time the amount shall become forty-five percent, for the acquisition
2 and development of critical habitat;

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

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

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

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

17 (b) If not enough project applications are submitted in a category
18 within the habitat conservation account to meet the percentages
19 described in subsection (1) of this section in any biennium, the board
20 retains discretion to distribute any remaining funds to the other
21 categories within the account.

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

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

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

32 (b) Any lands that have been acquired with grants under this
33 section by the department of natural resources are subject to payments
34 in the amounts required under the provisions of RCW 79.70.130 and
35 79.71.130.

36 (6)((~~a~~)) Except as otherwise conditioned by RCW 79A.15.140 or
37 section 35 of this act, the ((~~committee~~)) board shall consider the
38 following in determining distribution priority:

1 ~~((i))~~ (a) Whether the entity applying for funding is a Puget
2 Sound partner, as defined in RCW 90.71.010; ~~((and~~
3 ~~((ii))~~ (b) Effective one calendar year following the development of
4 model evergreen cities management plans and ordinances under section 9
5 of this act, whether the entity receiving assistance has been
6 recognized, and what gradation of recognition was received, in the
7 evergreen cities recognition program created in section 6 of this act;
8 and

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

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

15 NEW SECTION. **Sec. 31.** A new section is added to chapter 43.155
16 RCW to read as follows:

17 When administering funds under this chapter, the board shall give
18 preference only to evergreen cities recognized under section 6 of this
19 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. 32.** A new section is added to chapter 70.146
24 RCW to read as follows:

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

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

33 When administering funds under this chapter, the commission shall
34 give preference only to evergreen cities recognized under section 6 of
35 this act in comparison to other entities that are eligible to receive

1 evergreen city designation. Entities not eligible for designation as
2 an evergreen city shall not be given less preferential treatment than
3 evergreen cities.

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

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

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

14 When administering funds under this chapter, the recreation and
15 conservation funding board shall give preference only to evergreen
16 cities recognized under section 6 of this act in comparison to other
17 entities that are eligible to receive evergreen city designation.
18 Entities not eligible for designation as an evergreen city shall not be
19 given less preferential treatment than evergreen cities.

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

22 (1) All charges made, demanded or received by any gas company,
23 electrical company or water company for gas, electricity or water, or
24 for any service rendered or to be rendered in connection therewith,
25 shall be just, fair, reasonable and sufficient. Reasonable charges
26 necessary to cover the cost of administering the collection of
27 voluntary donations for the purposes of urban forestry under RCW
28 80.28.300 shall be deemed as prudent and necessary for the operation of
29 a utility.

30 (2) Every gas company, electrical company and water company shall
31 furnish and supply such service, instrumentalities and facilities as
32 shall be safe, adequate and efficient, and in all respects just and
33 reasonable.

34 (3) All rules and regulations issued by any gas company, electrical

1 company or water company, affecting or pertaining to the sale or
2 distribution of its product, shall be just and reasonable.

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

5 (a) Notifies the utility of the inability to pay the bill,
6 including a security deposit. This notice should be provided within
7 five business days of receiving a payment overdue notice unless there
8 are extenuating circumstances. If the customer fails to notify the
9 utility within five business days and service is terminated, the
10 customer can, by paying reconnection charges, if any, and fulfilling
11 the requirements of this section, receive the protections of this
12 chapter;

13 (b) Provides self-certification of household income for the prior
14 twelve months to a grantee of the department of community, trade, and
15 economic development which administers federally funded energy
16 assistance programs. The grantee shall determine that the household
17 income does not exceed the maximum allowed for eligibility under the
18 state's plan for low-income energy assistance under 42 U.S.C. 8624 and
19 shall provide a dollar figure that is seven percent of household
20 income. The grantee may verify information provided in the self-
21 certification;

22 (c) Has applied for home heating assistance from applicable
23 government and private sector organizations and certifies that any
24 assistance received will be applied to the current bill and future
25 utility bills;

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

29 (e) Agrees to a payment plan and agrees to maintain the payment
30 plan. The plan will be designed both to pay the past due bill by the
31 following October 15 and to pay for continued utility service. If the
32 past due bill is not paid by the following October 15, the customer
33 shall not be eligible for protections under this chapter until the past
34 due bill is paid. The plan shall not require monthly payments in
35 excess of seven percent of the customer's monthly income plus one-
36 twelfth of any arrearage accrued from the date application is made and
37 thereafter during November 15 through March 15. A customer may agree
38 to pay a higher percentage during this period, but shall not be in

1 default unless payment during this period is less than seven percent of
2 monthly income plus one-twelfth of any arrearage accrued from the date
3 application is made and thereafter. If assistance payments are
4 received by the customer subsequent to implementation of the plan, the
5 customer shall contact the utility to reformulate the plan; and

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

7 (5) The utility shall:

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

11 (b) Assist the customer in fulfilling the requirements under this
12 section;

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

16 (d) Be permitted to disconnect service if the customer fails to
17 honor the payment program. Utilities may continue to disconnect
18 service for those practices authorized by law other than for nonpayment
19 as provided for in this subsection. Customers who qualify for payment
20 plans under this section who default on their payment plans and are
21 disconnected can be reconnected and maintain the protections afforded
22 under this chapter by paying reconnection charges, if any, and by
23 paying all amounts that would have been due and owing under the terms
24 of the applicable payment plan, absent default, on the date on which
25 service is reconnected; and

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

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

31 (7) Every gas company and electrical company shall offer
32 residential customers the option of a budget billing or equal payment
33 plan. The budget billing or equal payment plan shall be offered low-
34 income customers eligible under the state's plan for low-income energy
35 assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without
36 limiting availability to certain months of the year, without regard to
37 the length of time the customer has occupied the premises, and without

1 regard to whether the customer is the tenant or owner of the premises
2 occupied.

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

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

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

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

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

--- END ---