
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2844

State of Washington

60th Legislature

2008 Regular Session

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

READ FIRST TIME 02/11/08.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (iv) Official recognition of arbor day; and

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

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

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

22 (3) The department shall develop gateway signage and logos for
23 evergreen cities and evergreen counties.

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

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

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

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

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

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

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

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

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

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

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

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

31 (a) Recognize ecoregional differences in the state;

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

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

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

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

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

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

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

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

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

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

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

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

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

- 8 (1) Tree canopy cover, density, and spacing;
- 9 (2) Tree conservation and retention;
- 10 (3) Vegetated storm water runoff management using native trees and
11 appropriate nonnative, nonnaturalized vegetation;
- 12 (4) Clearing, grading, protection of soils, reductions in soil
13 compaction, and use of appropriate soils with low runoff potential and
14 high infiltration rates;
- 15 (5) Appropriate tree siting and maintenance for vegetation
16 management practices and programs to prevent vegetation from
17 interfering with or damaging utilities and public facilities;
- 18 (6) Native species and nonnative, nonnaturalized species diversity
19 selection to reduce disease and pests in urban forests;
- 20 (7) Tree maintenance;
- 21 (8) Street tree installation and maintenance;
- 22 (9) Tree and vegetation buffers for riparian areas, critical areas,
23 transportation and utility corridors, and commercial and residential
24 areas;
- 25 (10) Tree assessments for new construction permitting;
- 26 (11) Recommended forest conditions for different land use types;
- 27 (12) Variances for hardship and safety;
- 28 (13) Variances to avoid conflicts with renewable solar energy
29 infrastructure, passive solar building design, and locally grown
30 produce; and
- 31 (14) Permits and appeals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (i) A public works professional;

11 (j) A private utility;

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

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

17 (m) The timber industry.

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

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

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

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

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

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

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

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

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

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

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

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

18 (4) Grants must be awarded on a competitive basis using an
19 application process and criteria developed jointly by the department of
20 community, trade, and economic development and the department of
21 natural resources.

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

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

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

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

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

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

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

6 (c) Donations received under this section do not contribute to the
7 gross income of a light and power business or gas distribution business
8 under chapter 82.16 RCW.

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

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

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

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

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

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

26 (c) Donations received under this section do not contribute to the
27 gross income of a light and power business or gas distribution business
28 under chapter 82.16 RCW.

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

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

35 (2)(a) Gas companies and electrical companies under this chapter
36 may request voluntary donations from their customers for the purposes

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

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

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

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

12 (c) Donations received under this section do not contribute to the
13 gross income of a light and power business or gas distribution business
14 under chapter 82.16 RCW.

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

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

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

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

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

28 (3) Donations received under this section do not contribute to the
29 gross income of a light and power business or gas distribution business
30 under chapter 82.16 RCW.

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

33 Unless the context clearly requires otherwise, the definitions in
34 this section apply throughout this chapter.

35 (1) "Community and urban forest" is that land in and around human
36 settlements ranging from small communities to metropolitan areas,

1 occupied or potentially occupied by trees and associated vegetation.
2 Community and urban forest land may be planted or unplanted, used or
3 unused, and includes public and private lands, lands along
4 transportation and utility corridors, and forested watershed lands
5 within populated areas.

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

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

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

14 ((+3)) (5) "Department" means the department of natural resources.

15 ((+4)) (6) "Municipality" means a city, town, port district,
16 public school district, community college district, irrigation
17 district, weed control district, park district, or other political
18 subdivision of the state.

19 ((+5)) (7) "Person" means an individual, partnership, private or
20 public municipal corporation, Indian tribe, state entity, county or
21 local governmental entity, or association of individuals of whatever
22 nature.

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

- 27 (a) Identify their interests in becoming an evergreen city; and
- 28 (b) Identify community and urban forests within their applicable
29 urban growth areas that are appropriately situated for the local
30 government to assume ownership from willing sellers for urban forest
31 management purposes consistent with this act.

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

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

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

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

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

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

14 (b) The local government must have developed a capital facility
15 plan; and

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

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

35 (3) In considering awarding loans for public facilities to special
36 districts requesting funding for a proposed facility located in a
37 county, city, or town planning under RCW 36.70A.040, the board shall

1 consider whether the county, city, or town planning under RCW
2 36.70A.040 in whose planning jurisdiction the proposed facility is
3 located has adopted a comprehensive plan and development regulations as
4 required by RCW 36.70A.040.

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

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

15 (b) Except as otherwise conditioned by RCW 43.155.110, whether the
16 entity receiving assistance is a Puget Sound partner, as defined in RCW
17 90.71.010;

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

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

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

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

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

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

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

34 (j) Except as otherwise conditioned by section 31 of this act, and
35 effective one calendar year following the development of model
36 evergreen cities management plans and ordinances under section 9 of
37 this act, whether the entity receiving assistance has been recognized,

1 and what gradation of recognition was received, in the evergreen cities
2 recognition program created in section 6 of this act;

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (c) Actions required under federal and state permits and compliance
20 orders;

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

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

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

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

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

1 programs to mitigate nonpoint pollution of the surface or subterranean
2 water sought to be protected by the water pollution control facility
3 named in the application for state assistance; and

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

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

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

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

35 **Sec. 28.** RCW 89.08.520 and 2007 c 341 s 28 are each amended to
36 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 and statewide availability of
11 model evergreen cities management plans and ordinances under section 9
12 of this act, whether the applicant is an entity that has been
13 recognized, and what gradation of recognition was received, in the
14 evergreen cities recognition program created in section 6 of this act;
15 and

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

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

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

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

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

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

1 is hereby created in the state treasury. After appropriation, these
2 funds shall be used solely for aquatic lands enhancement projects; for
3 the purchase, improvement, or protection of aquatic lands for public
4 purposes; for providing and improving access to the lands; and for
5 volunteer cooperative fish and game projects.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (b) Any lands that have been acquired with grants under this
34 section by the department of natural resources are subject to payments
35 in the amounts required under the provisions of RCW 79.70.130 and
36 79.71.130.

37 (6)((~~a~~)) Except as otherwise conditioned by RCW 79A.15.140 or

1 section 35 of this act, the ((committee)) board in its evaluating
2 process shall consider the following in determining distribution
3 priority:

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

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

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

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

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

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

26 NEW SECTION. Sec. 32. A new section is added to chapter 70.146
27 RCW to read as follows:

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

34 NEW SECTION. Sec. 33. A new section is added to chapter 89.08 RCW
35 to read as follows:

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

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

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

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

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

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

25 (1) All charges made, demanded or received by any gas company,
26 electrical company or water company for gas, electricity or water, or
27 for any service rendered or to be rendered in connection therewith,
28 shall be just, fair, reasonable and sufficient. Reasonable charges
29 necessary to cover the cost of administering the collection of
30 voluntary donations for the purposes of urban forestry under RCW
31 80.28.300 shall be deemed as prudent and necessary for the operation of
32 a utility.

33 (2) Every gas company, electrical company and water company shall
34 furnish and supply such service, instrumentalities and facilities as

1 shall be safe, adequate and efficient, and in all respects just and
2 reasonable.

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

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

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

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

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

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

32 (e) Agrees to a payment plan and agrees to maintain the payment
33 plan. The plan will be designed both to pay the past due bill by the
34 following October 15 and to pay for continued utility service. If the
35 past due bill is not paid by the following October 15, the customer
36 shall not be eligible for protections under this chapter until the past
37 due bill is paid. The plan shall not require monthly payments in
38 excess of seven percent of the customer's monthly income plus one-

1 twelfth of any arrearage accrued from the date application is made and
2 thereafter during November 15 through March 15. A customer may agree
3 to pay a higher percentage during this period, but shall not be in
4 default unless payment during this period is less than seven percent of
5 monthly income plus one-twelfth of any arrearage accrued from the date
6 application is made and thereafter. If assistance payments are
7 received by the customer subsequent to implementation of the plan, the
8 customer shall contact the utility to reformulate the plan; and

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

10 (5) The utility shall:

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

14 (b) Assist the customer in fulfilling the requirements under this
15 section;

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

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

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

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

34 (7) Every gas company and electrical company shall offer
35 residential customers the option of a budget billing or equal payment
36 plan. The budget billing or equal payment plan shall be offered low-
37 income customers eligible under the state's plan for low-income energy
38 assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without

1 limiting availability to certain months of the year, without regard to
2 the length of time the customer has occupied the premises, and without
3 regard to whether the customer is the tenant or owner of the premises
4 occupied.

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

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

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

16 NEW SECTION. **Sec. 37.** Sections 1, 2, 5, 6, 8, 9, 11 through 13,
17 15 through 18, and 25 of this act constitute a new chapter in Title 35
18 RCW.

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

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

--- END ---