

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 1886

Chapter 360, Laws of 2011

62nd Legislature
2011 Regular Session

CRITICAL AREA PROTECTION--VOLUNTARY STEWARDSHIP PROGRAM

EFFECTIVE DATE: 07/22/11

Passed by the House April 14, 2011
Yeas 92 Nays 5

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 6, 2011
Yeas 48 Nays 1

BRAD OWEN

President of the Senate

Approved May 16, 2011, 2:43 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1886** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

May 17, 2011

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1886

AS AMENDED BY THE SENATE

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By House Local Government (originally sponsored by Representatives Takko, Angel, Bailey, and Tharinger)

READ FIRST TIME 02/17/11.

1 AN ACT Relating to implementing recommendations developed in
2 accordance with Substitute Senate Bill No. 5248, chapter 353, Laws of
3 2007; amending RCW 36.70A.280; reenacting and amending RCW 36.70A.130;
4 adding new sections to chapter 36.70A RCW; adding a new section to
5 chapter 43.21C RCW; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** (1) The purpose of this act is to establish
8 the voluntary stewardship program as recommended in the report
9 submitted by the William D. Ruckelshaus Center to the legislature as
10 required by chapter 353, Laws of 2007 and chapter 203, Laws of 2010.

11 (2) It is the intent of this act to:

12 (a) Promote plans to protect and enhance critical areas within the
13 area where agricultural activities are conducted, while maintaining and
14 improving the long-term viability of agriculture in the state of
15 Washington and reducing the conversion of farmland to other uses;

16 (b) Focus and maximize voluntary incentive programs to encourage
17 good riparian and ecosystem stewardship as an alternative to historic
18 approaches used to protect critical areas;

1 (c) Rely upon RCW 36.70A.060 for the protection of critical areas
2 for those counties that do not choose to participate in this program;

3 (d) Leverage existing resources by relying upon existing work and
4 plans in counties and local watersheds, as well as existing state and
5 federal programs to the maximum extent practicable to achieve program
6 goals;

7 (e) Encourage and foster a spirit of cooperation and partnership
8 among county, tribal, environmental, and agricultural interests to
9 better assure the program success;

10 (f) Improve compliance with other laws designed to protect water
11 quality and fish habitat; and

12 (g) Rely upon voluntary stewardship practices as the primary method
13 of protecting critical areas and not require the cessation of
14 agricultural activities.

15 NEW SECTION. **Sec. 2.** The definitions in this section apply to
16 sections 1 through 15 of this act and RCW 36.70A.130 and 36.70A.280
17 unless the context clearly requires otherwise.

18 (1) "Agricultural activities" means all agricultural uses and
19 practices as defined in RCW 90.58.065.

20 (2) "Commission" means the state conservation commission as defined
21 in RCW 89.08.030.

22 (3) "Director" means the executive director of the state
23 conservation commission.

24 (4) "Enhance" or "enhancement" means to improve the processes,
25 structure, and functions existing, as of the effective date of this
26 section, of ecosystems and habitats associated with critical areas.

27 (5) "Participating watershed" means a watershed identified by a
28 county under section 4(1) of this act to participate in the program.

29 (6) "Priority watershed" means a geographic area nominated by the
30 county and designated by the commission.

31 (7) "Program" means the voluntary stewardship program established
32 in section 3 of this act.

33 (8) "Protect" or "protecting" means to prevent the degradation of
34 functions and values existing as of the effective date of this section.

35 (9) "Receipt of funding" means the date a county takes legislative
36 action accepting any funds as required in section 5(1) of this act to
37 implement the program.

1 (10) "Statewide advisory committee" means the statewide advisory
2 committee created in section 11 of this act.

3 (11) "Technical panel" means the directors or director designees of
4 the following agencies: The department of fish and wildlife; the
5 department of agriculture; the department of ecology; and the
6 commission.

7 (12) "Watershed" means a water resource inventory area, salmon
8 recovery planning area, or a subbasin as determined by a county.

9 (13) "Watershed group" means an entity designated by a county under
10 the provisions of section 5 of this act.

11 (14) "Work plan" means a watershed work plan developed under the
12 provisions of section 6 of this act.

13 NEW SECTION. **Sec. 3.** (1) The voluntary stewardship program is
14 established to be administered by the commission. The program shall be
15 designed to protect and enhance critical areas on lands used for
16 agricultural activities through voluntary actions by agricultural
17 operators.

18 (2) In administering the program, the commission must:

19 (a) Establish policies and procedures for implementing the program;

20 (b) Administer funding for counties to implement the program
21 including, but not limited to, funding to develop strategies and
22 incentive programs and to establish local guidelines for watershed
23 stewardship programs;

24 (c) Administer the program's technical assistance funds and
25 coordinate among state agencies and other entities for the
26 implementation of the program;

27 (d) Establish a technical panel;

28 (e) In conjunction with the technical panel, review and evaluate:

29 (i) Work plans submitted for approval under section 6(2)(a) of this
30 act; and (ii) reports submitted under section 6(2)(b) of this act;

31 (f) Review and evaluate the program's success and effectiveness and
32 make appropriate changes to policies and procedures for implementing
33 the program, in consultation with the statewide advisory committee and
34 other affected agencies;

35 (g) Designate priority watersheds based upon the recommendation of
36 the statewide advisory committee. The commission and the statewide
37 advisory committee may only consider watersheds nominated by counties

1 under section 4 of this act. When designating priority watersheds, the
2 commission and the statewide advisory committee shall consider the
3 statewide significance of the criteria listed in section 4(3) of this
4 act;

5 (h) Provide administrative support for the program's statewide
6 advisory committee in its work. The administrative support must be in
7 collaboration with the department of ecology and other agencies
8 involved in the program;

9 (i) Maintain a web site about the program that includes times,
10 locations, and agenda information for meetings of the statewide
11 advisory committee;

12 (j) Report to the legislature on the general status of program
13 implementation by December 1, 2013, and December 1, 2015;

14 (k) In conjunction with the statewide advisory committee, conduct
15 a review of the program beginning in 2017 and every five years
16 thereafter, and report its findings to the legislature by December 1st;
17 and

18 (l) Report to the appropriate committees of the legislature in the
19 format provided in RCW 43.01.036.

20 (3) The department shall assist counties participating in the
21 program to develop plans and development regulations under section 9(1)
22 of this act.

23 (4) The commission, department, department of agriculture,
24 department of fish and wildlife, department of ecology, and other state
25 agencies as directed by the governor shall:

26 (a) Cooperate and collaborate to implement the program; and

27 (b) Develop materials to assist local watershed groups in
28 development of work plans.

29 (5) State agencies conducting new monitoring to implement the
30 program in a watershed must focus on the goals and benchmarks of the
31 work plan.

32 NEW SECTION. **Sec. 4.** (1)(a) As an alternative to protecting
33 critical areas in areas used for agricultural activities through
34 development regulations adopted under RCW 36.70A.060, the legislative
35 authority of a county may elect to protect such critical areas through
36 the program.

1 (b) In order to participate in the program, within six months after
2 the effective date of this section, the legislative authority of a
3 county must adopt an ordinance or resolution that:

4 (i) Elects to have the county participate in the program;

5 (ii) Identifies the watersheds that will participate in the
6 program; and

7 (iii) Based on the criteria in subsection (4) of this section,
8 nominates watersheds for consideration by the commission as state
9 priority watersheds.

10 (2) Before adopting the ordinance or resolution under subsection
11 (1) of this section, the county must (a) confer with tribes, and
12 environmental and agricultural interests; and (b) provide notice
13 following the public participation and notice provisions of RCW
14 36.70A.035 to property owners and other affected and interested
15 individuals, tribes, government agencies, businesses, school districts,
16 and organizations.

17 (3) In identifying watersheds to participate in the program, a
18 county must consider:

19 (a) The role of farming within the watershed, including the number
20 and acreage of farms, the economic value of crops and livestock, and
21 the risk of the conversion of farmland;

22 (b) The overall likelihood of completing a successful program in
23 the watershed; and

24 (c) Existing watershed programs, including those of other
25 jurisdictions in which the watershed has territory.

26 (4) In identifying priority watersheds, a county must consider the
27 following:

28 (a) The role of farming within the watershed, including the number
29 and acreage of farms, the economic value of crops and livestock, and
30 the risk of the conversion of farmland;

31 (b) The importance of salmonid resources in the watershed;

32 (c) An evaluation of the biological diversity of wildlife species
33 and their habitats in the geographic region including their
34 significance and vulnerability;

35 (d) The presence of leadership within the watershed that is
36 representative and inclusive of the interests in the watershed;

37 (e) Integration of regional watershed strategies, including the

1 availability of a data and scientific review structure related to all
2 types of critical areas;

3 (f) The presence of a local watershed group that is willing and
4 capable of overseeing a successful program, and that has the
5 operational structures to administer the program effectively, including
6 professional technical assistance staff, and monitoring and adaptive
7 management structures; and

8 (g) The overall likelihood of completing a successful program in
9 the watershed.

10 (5) Except as otherwise provided in subsection (9) of this section,
11 beginning with the effective date of the ordinance or resolution
12 adopted under subsection (1) of this section, the program applies to
13 all unincorporated property upon which agricultural activities occur
14 within a participating watershed.

15 (6)(a) Except as otherwise provided in (b) of this subsection,
16 within two years after the effective date of this section, a county
17 must review and, if necessary, revise development regulations adopted
18 under this chapter to protect critical areas as they specifically apply
19 to agricultural activities:

20 (i) If the county has not elected to participate in the program,
21 for all unincorporated areas; or

22 (ii) If the county has elected to participate in the program, for
23 any watershed not participating in the program.

24 (b) A county that between July 1, 2003, and June 30, 2007, in
25 accordance with RCW 36.70A.130 completed the review of its development
26 regulations as required by RCW 36.70A.130 to protect critical areas as
27 they specifically apply to agricultural activities is not required to
28 review and revise its development regulations until required by RCW
29 36.70A.130.

30 (c) After the review and amendment required under (a) of this
31 subsection, RCW 36.70A.130 applies to the subsequent review and
32 amendment of development regulations adopted under this chapter to
33 protect critical areas as they specifically apply to agricultural
34 activities.

35 (7)(a) A county that has made the election under subsection (1) of
36 this section may withdraw a participating watershed from the program by
37 adopting an ordinance or resolution withdrawing the watershed from the

1 program. A county may withdraw a watershed from the program at the end
2 of three years, five years, or eight years after receipt of funding, or
3 any time after ten years from receipt of funding.

4 (b) Within eighteen months after withdrawing a participating
5 watershed from the program, the county must review and, if necessary,
6 revise its development regulations that protect critical areas in that
7 watershed as they specifically apply to agricultural activities. The
8 development regulations must protect the critical area functions and
9 values as they existed on the effective date of this section. RCW
10 36.70A.130 applies to the subsequent review and amendment of
11 development regulations adopted under this chapter to protect critical
12 areas as they specifically apply to agricultural activities.

13 (8) A county that has made the election under subsection (1) of
14 this section is eligible for a share of the funding made available to
15 implement the program, subject to funding availability from the state.

16 (9) A county that has made the election under subsection (1) of
17 this section is not required to implement the program in a
18 participating watershed until adequate funding for the program in that
19 watershed is provided to the county.

20 NEW SECTION. **Sec. 5.** (1) When the commission makes funds
21 available to a county that has made the election provided in section
22 4(1) of this act, the county must within sixty days:

23 (a) Acknowledge the receipt of funds; and

24 (b) Designate a watershed group and an entity to administer funds
25 for each watershed for which funding has been provided.

26 (2) A county must confer with tribes and interested stakeholders
27 before designating or establishing a watershed group.

28 (3) The watershed group must include broad representation of key
29 watershed stakeholders and, at a minimum, representatives of
30 agricultural and environmental groups and tribes that agree to
31 participate. The county should encourage existing lead entities,
32 watershed planning units, or other integrating organizations to serve
33 as the watershed group.

34 (4) The county may designate itself, a tribe, or another entity to
35 coordinate the local watershed group.

1 NEW SECTION. **Sec. 6.** (1) A watershed group designated by a county
2 under section 5 of this act must develop a work plan to protect
3 critical areas while maintaining the viability of agriculture in the
4 watershed. The work plan must include goals and benchmarks for the
5 protection and enhancement of critical areas. In developing and
6 implementing the work plan, the watershed group must:

7 (a) Review and incorporate applicable water quality, watershed
8 management, farmland protection, and species recovery data and plans;

9 (b) Seek input from tribes, agencies, and stakeholders;

10 (c) Develop goals for participation by agricultural operators
11 conducting commercial and noncommercial agricultural activities in the
12 watershed necessary to meet the protection and enhancement benchmarks
13 of the work plan;

14 (d) Ensure outreach and technical assistance is provided to
15 agricultural operators in the watershed;

16 (e) Create measurable benchmarks that, within ten years after the
17 receipt of funding, are designed to result in (i) the protection of
18 critical area functions and values and (ii) the enhancement of critical
19 area functions and values through voluntary, incentive-based measures;

20 (f) Designate the entity or entities that will provide technical
21 assistance;

22 (g) Work with the entity providing technical assistance to ensure
23 that individual stewardship plans contribute to the goals and
24 benchmarks of the work plan;

25 (h) Incorporate into the work plan any existing development
26 regulations relied upon to achieve the goals and benchmarks for
27 protection;

28 (i) Establish baseline monitoring for: (i) Participation
29 activities and implementation of the voluntary stewardship plans and
30 projects; (ii) stewardship activities; and (iii) the effects on
31 critical areas and agriculture relevant to the protection and
32 enhancement benchmarks developed for the watershed;

33 (j) Conduct periodic evaluations, institute adaptive management,
34 and provide a written report of the status of plans and accomplishments
35 to the county and to the commission within sixty days after the end of
36 each biennium;

37 (k) Assist state agencies in their monitoring programs; and

38 (l) Satisfy any other reporting requirements of the program.

1 (2)(a) The watershed group shall develop and submit the work plan
2 to the director for approval as provided in section 7 of this act.

3 (b)(i) Not later than five years after the receipt of funding for
4 a participating watershed, the watershed group must report to the
5 director and the county on whether it has met the work plan's
6 protection and enhancement goals and benchmarks.

7 (ii) If the watershed group determines the protection goals and
8 benchmarks have been met, and the director concurs under section 8 of
9 this act, the watershed group shall continue to implement the work
10 plan.

11 (iii) If the watershed group determines the protection goals and
12 benchmarks have not been met, it must propose and submit to the
13 director an adaptive management plan to achieve the goals and
14 benchmarks that were not met. If the director does not approve the
15 adaptive management plan under section 8 of this act, the watershed is
16 subject to section 9 of this act.

17 (iv) If the watershed group determines the enhancement goals and
18 benchmarks have not been met, the watershed group must determine what
19 additional voluntary actions are needed to meet the benchmarks,
20 identify the funding necessary to implement these actions, and
21 implement these actions when funding is provided.

22 (c)(i) Not later than ten years after receipt of funding for a
23 participating watershed, and every five years thereafter, the watershed
24 group must report to the director and the county on whether it has met
25 the protection and enhancement goals and benchmarks of the work plan.

26 (ii) If the watershed group determines the protection goals and
27 benchmarks have been met, and the director concurs under section 8 of
28 this act, the watershed group shall continue to implement the work
29 plan.

30 (iii) If the watershed group determines the protection goals and
31 benchmarks have not been met, the watershed is subject to section 9 of
32 this act.

33 (iv) If the watershed group determines the enhancement goals and
34 benchmarks have not been met, the watershed group must determine what
35 additional voluntary actions are needed to meet the benchmarks,
36 identify the funding necessary to implement these actions, and
37 implement these actions when funding is provided.

1 (3) Following approval of a work plan, a county or watershed group
2 may request a state or federal agency to focus existing enforcement
3 authority in that participating watershed, if the action will
4 facilitate progress toward achieving work plan protection goals and
5 benchmarks.

6 (4) The commission may provide priority funding to any watershed
7 designated under the provisions of section 3(2)(g) of this act. The
8 director, in consultation with the statewide advisory committee, shall
9 work with the watershed group to develop an accelerated implementation
10 schedule for watersheds that receive priority funding.

11 (5) Commercial and noncommercial agricultural operators
12 participating in the program are eligible to receive funding and
13 assistance under watershed programs.

14 NEW SECTION. **Sec. 7.** (1) Upon receipt of a work plan submitted to
15 the director under section 6(2)(a) of this act, the director must
16 submit the work plan to the technical panel for review.

17 (2) The technical panel shall review the work plan and report to
18 the director within forty-five days after the director receives the
19 work plan. The technical panel shall assess whether at the end of ten
20 years after receipt of funding, the work plan, in conjunction with
21 other existing plans and regulations, will protect critical areas while
22 maintaining and enhancing the viability of agriculture in the
23 watershed.

24 (3)(a) If the technical panel determines the proposed work plan
25 will protect critical areas while maintaining and enhancing the
26 viability of agriculture in the watershed:

27 (i) It must recommend approval of the work plan; and

28 (ii) The director must approve the work plan.

29 (b) If the technical panel determines the proposed work plan will
30 not protect critical areas while maintaining and enhancing the
31 viability of agriculture in the watershed:

32 (i) It must identify the reasons for its determination; and

33 (ii) The director must advise the watershed group of the reasons
34 for disapproval.

35 (4) The watershed group may modify and resubmit its work plan for
36 review and approval consistent with this section.

1 (5) If the director does not approve a work plan submitted under
2 this section within two years and nine months after receipt of funding,
3 the director shall submit the work plan to the statewide advisory
4 committee for resolution. If the statewide advisory committee
5 recommends approval, the director must approve the work plan.

6 (6) If the director does not approve a work plan for a watershed
7 within three years after receipt of funding, the provisions of section
8 9(2) of this act apply to the watershed.

9 NEW SECTION. **Sec. 8.** (1) Upon receipt of a report by a watershed
10 group under section 6(2)(b) of this act that the work plan goals and
11 benchmarks have been met, the director must consult with the statewide
12 advisory committee. If the director concurs with the watershed group
13 report, the watershed group shall continue to implement the work plan.
14 If the director does not concur with the watershed group report, the
15 director shall consult with the statewide advisory committee following
16 the procedures in subsection (2) of this section.

17 (2) If either the director, following receipt of a report under
18 subsection (1) of this section, or the watershed group, in the report
19 submitted to the director under section 6(2)(b) of this act, concludes
20 that the work plan goals and benchmarks for protection have not been
21 met, the director must consult with the statewide advisory committee
22 for a recommendation on how to proceed. If the director, acting upon
23 recommendation from the statewide advisory committee, determines that
24 the watershed is likely to meet the goals and benchmarks with an
25 additional six months of planning and implementation time, the director
26 must grant an extension. If the director, acting upon a recommendation
27 from the statewide advisory committee, determines that the watershed is
28 unlikely to meet the goals and benchmarks within six months, the
29 watershed is subject to section 9 of this act.

30 (3) A watershed that fails to meet its goals and benchmarks for
31 protection within the six-month time extension under subsection (2) of
32 this section is subject to section 9 of this act.

33 NEW SECTION. **Sec. 9.** (1) Within eighteen months after one of the
34 events in subsection (2) of this section, a county must:

35 (a) Develop, adopt, and implement a watershed work plan approved by
36 the department that protects critical areas in areas used for

1 agricultural activities while maintaining the viability of agriculture
2 in the watershed. The department shall consult with the departments of
3 agriculture, ecology, and fish and wildlife and the commission, and
4 other relevant state agencies before approving or disapproving the
5 proposed work plan. The appeal of the department's decision under this
6 subsection is subject to appeal under RCW 36.70A.280;

7 (b) Adopt development regulations previously adopted under this
8 chapter by another local government for the purpose of protecting
9 critical areas in areas used for agricultural activities. Regulations
10 adopted under this subsection (1)(b) must be from a region with similar
11 agricultural activities, geography, and geology and must: (i) Be from
12 Clallam, Clark, King, or Whatcom counties; or (ii) have been upheld by
13 a growth management hearings board or court after July 1, 2011, where
14 the board or court determined that the provisions adequately protected
15 critical areas functions and values in areas used for agricultural
16 activities;

17 (c) Adopt development regulations certified by the department as
18 protective of critical areas in areas used for agricultural activities
19 as required by this chapter. The county may submit existing or amended
20 regulations for certification. The department must make its decision
21 on whether to certify the development regulations within ninety days
22 after the county submits its request. If the department denies the
23 certification, the county shall take an action under (a), (b), or (d)
24 of this subsection. The department must consult with the departments
25 of agriculture, ecology, and fish and wildlife and the commission
26 before making a certification under this section. The appeal of the
27 department's decision under this subsection (1)(c) is subject to appeal
28 under RCW 36.70A.280; or

29 (d) Review and, if necessary, revise development regulations
30 adopted under this chapter to protect critical areas as they relate to
31 agricultural activities.

32 (2) A participating watershed is subject to this section if:

33 (a) The work plan is not approved by the director as provided in
34 section 7 of this act;

35 (b) The work plan's goals and benchmarks for protection have not
36 been met as provided in section 6 of this act;

37 (c) The commission has determined under section 10 of this act that

1 the county, department, commission, or departments of agriculture,
2 ecology, or fish and wildlife have not received adequate funding to
3 implement a program in the watershed; or

4 (d) The commission has determined under section 10 of this act that
5 the watershed has not received adequate funding to implement the
6 program.

7 (3) The department shall adopt rules to implement subsection (1)(a)
8 and (c) of this section.

9 NEW SECTION. **Sec. 10.** (1) By July 31, 2015, the commission must:

10 (a) In consultation with each county that has elected under section
11 4 of this act to participate in the program, determine which
12 participating watersheds received adequate funding to establish and
13 implement the program in a participating watershed by July 1, 2015; and

14 (b) In consultation with other state agencies, for each
15 participating watershed determine whether state agencies required to
16 take action under the provisions of sections 1 through 15 of this act
17 have received adequate funding to support the program by July 1, 2015.

18 (2) By July 31, 2017, and every two years thereafter, in
19 consultation with each county that has elected under section 4 of this
20 act to participate in the program and other state agencies, the
21 commission shall determine for each participating watershed whether
22 adequate funding to implement the program was provided during the
23 preceding biennium as provided in subsection (1) of this section.

24 (3) If the commission determines under subsection (1) or (2) of
25 this section that a participating watershed has not received adequate
26 funding, the watershed is subject to the provisions of section 9 of
27 this act.

28 (4) In consultation with the statewide advisory committee and other
29 state agencies, not later than August 31, 2015, and each August 31st
30 every two years thereafter, the commission shall report to the
31 legislature and each county that has elected under section 4 of this
32 act to participate in the program on the participating watersheds that
33 have received adequate funding to establish and implement the program.

34 NEW SECTION. **Sec. 11.** (1)(a) From the nominations made under (b)
35 of this subsection, the commission shall appoint a statewide advisory
36 committee, consisting of: Two persons representing county government,

1 two persons representing agricultural organizations, and two persons
2 representing environmental organizations. The commission, in
3 conjunction with the governor's office, shall also invite participation
4 by two representatives of tribal governments.

5 (b) Organizations representing county, agricultural, and
6 environmental organizations shall submit nominations of their
7 representatives to the commission within ninety days of the effective
8 date of this section. Members of the statewide advisory committee
9 shall serve two-year terms except that for the first year, one
10 representative from each of the sectors shall be appointed to the
11 statewide advisory committee for a term of one year. Members may be
12 reappointed by the commission for additional two-year terms and
13 replacement members shall be appointed in accordance with the process
14 for selection of the initial members of the statewide advisory
15 committee.

16 (c) Upon notification of the commission by an appointed member, the
17 appointed member may designate a person to serve as an alternate.

18 (d) The executive director of the commission shall serve as a
19 nonvoting chair of the statewide advisory committee.

20 (e) Members of the statewide advisory committee shall serve without
21 compensation and, unless serving as a state officer or employee, are
22 not eligible for reimbursement for subsistence, lodging, and travel
23 expenses under RCW 43.03.050 and 43.03.060.

24 (2) The role of the statewide advisory committee is to advise the
25 commission and other agencies involved in development and operation of
26 the program.

27 NEW SECTION. **Sec. 12.** (1) Agricultural operators implementing an
28 individual stewardship plan consistent with a work plan are presumed to
29 be working toward the protection and enhancement of critical areas.

30 (2) If the watershed group determines that additional or different
31 practices are needed to achieve the work plan's goals and benchmarks,
32 the agricultural operator may not be required to implement those
33 practices but may choose to implement the revised practices on a
34 voluntary basis and is eligible for funding to revise the practices.

35 NEW SECTION. **Sec. 13.** In developing stewardship practices to

1 implement the work plan, to the maximum extent practical the watershed
2 group should:

3 (1) Avoid management practices that may have unintended adverse
4 consequences for other habitats, species, and critical areas functions
5 and values; and

6 (2) Administer the program in a manner that allows participants to
7 be eligible for public or private environmental protection and
8 enhancement incentives while protecting and enhancing critical area
9 functions and values.

10 NEW SECTION. **Sec. 14.** An agricultural operator participating in
11 the program may withdraw from the program and is not required to
12 continue voluntary measures after the expiration of an applicable
13 contract. The watershed group must account for any loss of protection
14 resulting from withdrawals when establishing goals and benchmarks for
15 protection and a work plan under section 6 of this act.

16 NEW SECTION. **Sec. 15.** Nothing in sections 1 through 14 of this
17 act may be construed to:

18 (1) Interfere with or supplant the ability of any agricultural
19 operator to work cooperatively with a conservation district or
20 participate in state or federal conservation programs;

21 (2) Require an agricultural operator to discontinue agricultural
22 activities legally existing before the effective date of this section;

23 (3) Prohibit the voluntary sale or leasing of land for conservation
24 purposes, either in fee or as an easement;

25 (4) Grant counties or state agencies additional authority to
26 regulate critical areas on lands used for agricultural activities; and

27 (5) Limit the authority of a state agency, local government, or
28 landowner to carry out its obligations under any other federal, state,
29 or local law.

30 **Sec. 16.** RCW 36.70A.130 and 2010 c 216 s 1 and 2010 c 211 s 2 are
31 each reenacted and amended to read as follows:

32 (1)(a) Each comprehensive land use plan and development regulations
33 shall be subject to continuing review and evaluation by the county or
34 city that adopted them. Except as otherwise provided, a county or city
35 shall take legislative action to review and, if needed, revise its

1 comprehensive land use plan and development regulations to ensure the
2 plan and regulations comply with the requirements of this chapter
3 according to the deadlines in subsections (4) and (5) of this section.

4 (b) Except as otherwise provided, a county or city not planning
5 under RCW 36.70A.040 shall take action to review and, if needed, revise
6 its policies and development regulations regarding critical areas and
7 natural resource lands adopted according to this chapter to ensure
8 these policies and regulations comply with the requirements of this
9 chapter according to the deadlines in subsections (4) and (5) of this
10 section. Legislative action means the adoption of a resolution or
11 ordinance following notice and a public hearing indicating at a
12 minimum, a finding that a review and evaluation has occurred and
13 identifying the revisions made, or that a revision was not needed and
14 the reasons therefor.

15 (c) The review and evaluation required by this subsection may be
16 combined with the review required by subsection (3) of this section.
17 The review and evaluation required by this subsection shall include,
18 but is not limited to, consideration of critical area ordinances and,
19 if planning under RCW 36.70A.040, an analysis of the population
20 allocated to a city or county from the most recent ten-year population
21 forecast by the office of financial management.

22 (d) Any amendment of or revision to a comprehensive land use plan
23 shall conform to this chapter. Any amendment of or revision to
24 development regulations shall be consistent with and implement the
25 comprehensive plan.

26 (2)(a) Each county and city shall establish and broadly disseminate
27 to the public a public participation program consistent with RCW
28 36.70A.035 and 36.70A.140 that identifies procedures and schedules
29 whereby updates, proposed amendments, or revisions of the comprehensive
30 plan are considered by the governing body of the county or city no more
31 frequently than once every year. "Updates" means to review and revise,
32 if needed, according to subsection (1) of this section, and the
33 deadlines in subsections (4) and (5) of this section or in accordance
34 with the provisions of subsection (6) of this section. Amendments may
35 be considered more frequently than once per year under the following
36 circumstances:

37 (i) The initial adoption of a subarea plan. Subarea plans adopted
38 under this subsection (2)(a)(i) must clarify, supplement, or implement

1 jurisdiction-wide comprehensive plan policies, and may only be adopted
2 if the cumulative impacts of the proposed plan are addressed by
3 appropriate environmental review under chapter 43.21C RCW;

4 (ii) The development of an initial subarea plan for economic
5 development located outside of the one hundred year floodplain in a
6 county that has completed a state-funded pilot project that is based on
7 watershed characterization and local habitat assessment;

8 (iii) The adoption or amendment of a shoreline master program under
9 the procedures set forth in chapter 90.58 RCW;

10 (iv) The amendment of the capital facilities element of a
11 comprehensive plan that occurs concurrently with the adoption or
12 amendment of a county or city budget; or

13 (v) The adoption of comprehensive plan amendments necessary to
14 enact a planned action under RCW 43.21C.031(2), provided that
15 amendments are considered in accordance with the public participation
16 program established by the county or city under this subsection (2)(a)
17 and all persons who have requested notice of a comprehensive plan
18 update are given notice of the amendments and an opportunity to
19 comment.

20 (b) Except as otherwise provided in (a) of this subsection, all
21 proposals shall be considered by the governing body concurrently so the
22 cumulative effect of the various proposals can be ascertained.
23 However, after appropriate public participation a county or city may
24 adopt amendments or revisions to its comprehensive plan that conform
25 with this chapter whenever an emergency exists or to resolve an appeal
26 of a comprehensive plan filed with the growth management hearings board
27 or with the court.

28 (3)(a) Each county that designates urban growth areas under RCW
29 36.70A.110 shall review, at least every ten years, its designated urban
30 growth area or areas, and the densities permitted within both the
31 incorporated and unincorporated portions of each urban growth area. In
32 conjunction with this review by the county, each city located within an
33 urban growth area shall review the densities permitted within its
34 boundaries, and the extent to which the urban growth occurring within
35 the county has located within each city and the unincorporated portions
36 of the urban growth areas.

37 (b) The county comprehensive plan designating urban growth areas,
38 and the densities permitted in the urban growth areas by the

1 comprehensive plans of the county and each city located within the
2 urban growth areas, shall be revised to accommodate the urban growth
3 projected to occur in the county for the succeeding twenty-year period.
4 The review required by this subsection may be combined with the review
5 and evaluation required by RCW 36.70A.215.

6 (4) Except as provided in subsection (6) of this section, counties
7 and cities shall take action to review and, if needed, revise their
8 comprehensive plans and development regulations to ensure the plan and
9 regulations comply with the requirements of this chapter as follows:

10 (a) On or before December 1, 2004, for Clallam, Clark, Jefferson,
11 King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the
12 cities within those counties;

13 (b) On or before December 1, 2005, for Cowlitz, Island, Lewis,
14 Mason, San Juan, Skagit, and Skamania counties and the cities within
15 those counties;

16 (c) On or before December 1, 2006, for Benton, Chelan, Douglas,
17 Grant, Kittitas, Spokane, and Yakima counties and the cities within
18 those counties; and

19 (d) On or before December 1, 2007, for Adams, Asotin, Columbia,
20 Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan,
21 Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman
22 counties and the cities within those counties.

23 (5) Except as otherwise provided in subsections (6) and (8) of this
24 section, following the review of comprehensive plans and development
25 regulations required by subsection (4) of this section, counties and
26 cities shall take action to review and, if needed, revise their
27 comprehensive plans and development regulations to ensure the plan and
28 regulations comply with the requirements of this chapter as follows:

29 (a) On or before December 1, 2014, and every seven years
30 thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce,
31 Snohomish, Thurston, and Whatcom counties and the cities within those
32 counties;

33 (b) On or before December 1, 2015, and every seven years
34 thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and
35 Skamania counties and the cities within those counties;

36 (c) On or before December 1, 2016, and every seven years
37 thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and
38 Yakima counties and the cities within those counties; and

1 (d) On or before December 1, 2017, and every seven years
2 thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield,
3 Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille,
4 Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities
5 within those counties.

6 (6)(a) Nothing in this section precludes a county or city from
7 conducting the review and evaluation required by this section before
8 the deadlines established in subsections (4) and (5) of this section.
9 Counties and cities may begin this process early and may be eligible
10 for grants from the department, subject to available funding, if they
11 elect to do so.

12 (b) A county that is subject to a deadline established in
13 subsection (4)(b) through (d) of this section and meets the following
14 criteria may comply with the requirements of this section at any time
15 within the thirty-six months following the deadline established in
16 subsection (4) of this section: The county has a population of less
17 than fifty thousand and has had its population increase by no more than
18 seventeen percent in the ten years preceding the deadline established
19 in subsection (4) of this section as of that date.

20 (c) A city that is subject to a deadline established in subsection
21 (4)(b) through (d) of this section and meets the following criteria may
22 comply with the requirements of this section at any time within the
23 thirty-six months following the deadline established in subsection (4)
24 of this section: The city has a population of no more than five
25 thousand and has had its population increase by the greater of either
26 no more than one hundred persons or no more than seventeen percent in
27 the ten years preceding the deadline established in subsection (4) of
28 this section as of that date.

29 (d) A county or city that is subject to a deadline established in
30 subsection (4)(d) of this section and that meets the criteria
31 established in subsection (6)(b) or (c) of this section may comply with
32 the requirements of subsection (4)(d) of this section at any time
33 within the thirty-six months after the extension provided in subsection
34 (6)(b) or (c) of this section.

35 (e) State agencies are encouraged to provide technical assistance
36 to the counties and cities in the review of critical area ordinances,
37 comprehensive plans, and development regulations.

1 (7)(a) The requirements imposed on counties and cities under this
2 section shall be considered "requirements of this chapter" under the
3 terms of RCW 36.70A.040(1). Only those counties and cities that meet
4 the following criteria may receive grants, loans, pledges, or financial
5 guarantees under chapter 43.155 or 70.146 RCW:

6 (i) Complying with the deadlines in this section;

7 (ii) Demonstrating substantial progress towards compliance with the
8 schedules in this section for development regulations that protect
9 critical areas; or

10 (iii) Complying with the extension provisions of subsection (6)(b),
11 (c), or (d) of this section.

12 (b) A county or city that is fewer than twelve months out of
13 compliance with the schedules in this section for development
14 regulations that protect critical areas is making substantial progress
15 towards compliance. Only those counties and cities in compliance with
16 the schedules in this section may receive preference for grants or
17 loans subject to the provisions of RCW 43.17.250.

18 (8)(a) Except as otherwise provided in (c) of this subsection, if
19 a participating watershed is achieving benchmarks and goals for the
20 protection of critical areas functions and values, the county is not
21 required to update development regulations to protect critical areas as
22 they specifically apply to agricultural activities in that watershed.

23 (b) A county that has made the election under section 4(1) of this
24 act may only adopt or amend development regulations to protect critical
25 areas as they specifically apply to agricultural activities in a
26 participating watershed if:

27 (i) A work plan has been approved for that watershed in accordance
28 with section 7 of this act;

29 (ii) The local watershed group for that watershed has requested the
30 county to adopt or amend development regulations as part of a work plan
31 developed under section 6 of this act;

32 (iii) The adoption or amendment of the development regulations is
33 necessary to enable the county to respond to an order of the growth
34 management hearings board or court;

35 (iv) The adoption or amendment of development regulations is
36 necessary to address a threat to human health or safety; or

37 (v) Three or more years have elapsed since the receipt of funding.

1 (c) Beginning ten years from the date of receipt of funding, a
2 county that has made the election under section 4(1) of this act must
3 review and, if necessary, revise development regulations to protect
4 critical areas as they specifically apply to agricultural activities in
5 a participating watershed in accordance with the review and revision
6 requirements and timeline in subsection (5) of this section. This
7 subsection (8)(c) does not apply to a participating watershed that has
8 determined under section 6(2)(c)(ii) of this act that the watershed's
9 goals and benchmarks for protection have been met.

10 **Sec. 17.** RCW 36.70A.280 and 2010 c 211 s 7 are each amended to
11 read as follows:

12 (1) The growth management hearings board shall hear and determine
13 only those petitions alleging either:

14 (a) That, except as provided otherwise by this subsection, a state
15 agency, county, or city planning under this chapter is not in
16 compliance with the requirements of this chapter, chapter 90.58 RCW as
17 it relates to the adoption of shoreline master programs or amendments
18 thereto, or chapter 43.21C RCW as it relates to plans, development
19 regulations, or amendments, adopted under RCW 36.70A.040 or chapter
20 90.58 RCW. Nothing in this subsection authorizes the board to hear
21 petitions alleging noncompliance with RCW 36.70A.5801; (~~or~~)

22 (b) That the twenty-year growth management planning population
23 projections adopted by the office of financial management pursuant to
24 RCW 43.62.035 should be adjusted;

25 (c) That the approval of a work plan adopted under section 9(1)(a)
26 of this act is not in compliance with the requirements of the program
27 established under section 4 of this act;

28 (d) That regulations adopted under section 9(1)(b) of this act are
29 not regionally applicable and cannot be adopted, wholly or partially,
30 by another jurisdiction; or

31 (e) That a department certification under section 9(1)(c) of this
32 act is erroneous.

33 (2) A petition may be filed only by: (a) The state, or a county or
34 city that plans under this chapter; (b) a person who has participated
35 orally or in writing before the county or city regarding the matter on
36 which a review is being requested; (c) a person who is certified by the

1 governor within sixty days of filing the request with the board; or (d)
2 a person qualified pursuant to RCW 34.05.530.

3 (3) For purposes of this section "person" means any individual,
4 partnership, corporation, association, state agency, governmental
5 subdivision or unit thereof, or public or private organization or
6 entity of any character.

7 (4) To establish participation standing under subsection (2)(b) of
8 this section, a person must show that his or her participation before
9 the county or city was reasonably related to the person's issue as
10 presented to the board.

11 (5) When considering a possible adjustment to a growth management
12 planning population projection prepared by the office of financial
13 management, the board shall consider the implications of any such
14 adjustment to the population forecast for the entire state.

15 The rationale for any adjustment that is adopted by the board must
16 be documented and filed with the office of financial management within
17 ten working days after adoption.

18 If adjusted by the board, a county growth management planning
19 population projection shall only be used for the planning purposes set
20 forth in this chapter and shall be known as the "board adjusted
21 population projection." None of these changes shall affect the
22 official state and county population forecasts prepared by the office
23 of financial management, which shall continue to be used for state
24 budget and planning purposes.

25 NEW SECTION. **Sec. 18.** Sections 1 through 15 of this act are each
26 added to chapter 36.70A RCW under the subchapter heading "voluntary
27 stewardship program."

28 NEW SECTION. **Sec. 19.** A new section is added to chapter 43.21C
29 RCW to read as follows:

30 (1) Decisions made under section 6 of this act pertaining to work
31 plans, as defined in section 2 of this act, are not subject to the
32 requirements of RCW 43.21C.030(2)(c).

33 (2) Decisions made by a county under section 4 of this act on
34 whether to participate in the voluntary stewardship program established
35 by section 3 of this act are not subject to the requirements of RCW
36 43.21C.030(2)(c).

1 NEW SECTION. **Sec. 20.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 21.** If any part of this act is found to be in
6 conflict with federal requirements that are a prescribed condition to
7 the allocation of federal funds to the state, the conflicting part of
8 this act is inoperative solely to the extent of the conflict and with
9 respect to the agencies directly affected, and this finding does not
10 affect the operation of the remainder of this act in its application to
11 the agencies concerned. Rules adopted under this act must meet federal
12 requirements that are a necessary condition to the receipt of federal
13 funds by the state.

 Passed by the House April 14, 2011.

 Passed by the Senate April 6, 2011.

 Approved by the Governor May 16, 2011.

 Filed in Office of Secretary of State May 17, 2011.