
SUBSTITUTE HOUSE BILL 2509

State of Washington 64th Legislature 2016 Regular Session

By House Capital Budget (originally sponsored by Representatives Tharinger, DeBolt, Blake, and Zeiger; by request of Recreation and Conservation Office)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to implementing the recommendations of the 2015
2 review of the Washington wildlife and recreation program; amending
3 RCW 79A.15.010, 79A.15.030, 79A.15.040, 79A.15.050, 79A.15.070,
4 79A.15.080, 79A.15.110, and 79A.15.130; reenacting and amending RCW
5 79A.15.060; creating new sections; repealing RCW 79A.15.120; and
6 declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** In section 3163, chapter 3, Laws of 2015
9 3rd sp. sess., the legislature directed the recreation and
10 conservation office to review and make recommendations for changes to
11 the Washington wildlife and recreation program. The recreation and
12 conservation office conducted the review and this act details the
13 proposed recommendations for statutory revisions to chapter 79A.15
14 RCW that will ensure continued success of the program for future
15 generations.

16 **Sec. 2.** RCW 79A.15.010 and 2015 c 225 s 126 are each amended to
17 read as follows:

18 The definitions in this section apply throughout this chapter
19 unless the context clearly requires otherwise.

1 (1) "Acquisition" means the purchase on a willing seller basis of
2 fee or less than fee interests in real property. These interests
3 include, but are not limited to, options, rights of first refusal,
4 conservation easements, leases, and mineral rights.

5 (2) "Board" means the recreation and conservation funding board.

6 (3) "Critical habitat" means lands important for the protection,
7 management, or public enjoyment of certain wildlife species or groups
8 of species, including, but not limited to, wintering range for deer,
9 elk, and other species, waterfowl and upland bird habitat, fish
10 habitat, and habitat for endangered, threatened, or sensitive
11 species.

12 (4) "Farmlands" means any land defined as: (a) "Farm and
13 agricultural land" in RCW 84.34.020(2); and (b) "farm and
14 agricultural conservation land" in RCW 84.34.020(8).

15 (5) "Local agencies" means a city, county, town, federally
16 recognized Indian tribe, special purpose district, port district, or
17 other political subdivision of the state providing services to less
18 than the entire state.

19 (6) "Natural areas" means areas that have, to a significant
20 degree, retained their natural character and are important in
21 preserving rare or vanishing flora, fauna, geological, natural
22 historical, or similar features of scientific or educational value.

23 (7) "Nonprofit nature (~~(conservancy corporation or association)~~)
24 conservancies means ((~~an~~)) organizations as defined in RCW 84.34.250.

25 (8) "Riparian habitat" means land adjacent to water bodies, as
26 well as submerged land such as streambeds, which can provide
27 functional habitat for salmonids and other fish and wildlife species.
28 Riparian habitat includes, but is not limited to, shorelines and
29 near-shore marine habitat, estuaries, lakes, wetlands, streams, and
30 rivers.

31 (9) "Special needs populations" means physically restricted
32 people or people of limited means.

33 (10) "State agencies" means the state parks and recreation
34 commission, the department of natural resources, the department of
35 enterprise services, and the department of fish and wildlife.

36 (11) "Trails" means public ways constructed for and open to
37 pedestrians, equestrians, or bicyclists, or any combination thereof,
38 other than a sidewalk constructed as a part of a city street or
39 county road for exclusive use of pedestrians.

1 (12) "Urban wildlife habitat" means lands that provide habitat
2 important to wildlife in proximity to a metropolitan area.

3 (13) "Water access" means boat or foot access to marine waters,
4 lakes, rivers, or streams.

5 (14) "Confer" means to hold a dialogue between state agency
6 sponsors and local county and city officials with the purpose of
7 early review of potential projects. The dialogue may include any
8 matter relevant to a particular project, which may include but need
9 not be limited to: Project purpose and scope; project elements;
10 estimated project cost; costs and benefits to the community; plans
11 for project management and maintenance; and public access.

12 (15) "Forest lands" means any land defined as "timberland" in RCW
13 84.34.020(3).

14 (16) "Multiple benefits" means recreational uses that are
15 compatible with habitat conservation or resource uses or management
16 practices that are compatible with and provide the ability to achieve
17 additional conservation benefits.

18 **Sec. 3.** RCW 79A.15.030 and 2015 c 183 s 1 are each amended to
19 read as follows:

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

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

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

38 (2) (~~Except as otherwise provided in chapter 303, Laws of~~
39 ~~2005,~~) Beginning July 1, 2016, moneys appropriated for this chapter

1 must be allocated as follows: (a) Forty-five percent to the habitat
2 conservation account; (b) forty-five percent to the outdoor
3 recreation account; and (c) ten percent to the farm and forest
4 account.

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

8 ~~((+3))~~ (4) All moneys deposited in the habitat conservation,
9 outdoor recreation, (~~(riparian protection, and farmlands~~
10 ~~preservation)~~ and farm and forest accounts shall be allocated as
11 provided under RCW 79A.15.040, 79A.15.050, (~~(79A.15.120,)~~ and
12 79A.15.130 as grants to state or local agencies or nonprofit nature
13 (~~(conservancy organizations or associations)~~ conservancies for
14 acquisition, development, and renovation within the jurisdiction of
15 those agencies, subject to legislative appropriation. The board may
16 use or permit the use of any funds appropriated for this chapter as
17 matching funds where federal, local, or other funds are made
18 available for projects within the purposes of this chapter. Moneys
19 appropriated to these accounts that are not obligated to a specific
20 project may be used to fund projects from lists of alternate projects
21 from the same account in biennia succeeding the biennium in which the
22 moneys were originally appropriated.

23 ~~((+4))~~ (5) Projects receiving grants (~~(under this chapter that~~
24 ~~are developed or otherwise accessible for public recreational uses~~
25 ~~shall be available to the public)~~ for development, recreational
26 access, or fee simple acquisition of land under this chapter must be
27 accessible for public recreation and outdoor education unless the
28 board specifically approves limiting public access in order to
29 protect sensitive species, water quality, or public safety.

30 ~~((+5))~~ (6) The board may make grants to an eligible project from
31 the habitat conservation, outdoor recreation, (~~(riparian protection,~~
32 ~~and farmlands preservation)~~ and farm and forest accounts and any one
33 or more of the applicable categories under such accounts described in
34 RCW 79A.15.040, 79A.15.050, (~~(79A.15.120,)~~ and 79A.15.130.

35 ~~((+6))~~ (7) The board may accept private donations to the habitat
36 conservation account, the outdoor recreation account, (~~(the riparian~~
37 ~~protection account,)~~ and the (~~(farmlands preservation)~~ farm and
38 forest account for the purposes specified in this chapter.

39 ~~((+7))~~ (8) The board may retain a portion of the funds
40 appropriated for this chapter for its office for the administration

1 of the programs and purposes specified in this chapter. The portion
2 of the funds retained for administration may not exceed: (a) The
3 actual administration costs averaged over the previous five biennia
4 as a percentage of the legislature's new appropriation for this
5 chapter; or (b) the amount specified in the appropriation, if any.
6 Each biennium the percentage specified under (a) of this subsection
7 must be approved by the office of financial management and submitted
8 along with the prioritized lists of projects to be funded in RCW
9 79A.15.060(~~((+6))~~), 79A.15.070(~~((+7))~~), (~~((79A.15.120(10)+))~~) and
10 79A.15.130(~~((+11))~~).

11 (~~((+8))~~) (9) Habitat and recreation land and facilities acquired
12 or developed with moneys appropriated for this chapter may not,
13 without prior approval of the board, be converted to a use other than
14 that for which funds were originally approved. The board shall adopt
15 rules and procedures governing the approval of such a conversion.

16 **Sec. 4.** RCW 79A.15.040 and 2008 c 299 s 29 are each amended to
17 read as follows:

18 (1) Moneys appropriated for this chapter prior to July 1, 2016,
19 to the habitat conservation account shall be distributed in the
20 following way:

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

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

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

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

34 (2) Moneys appropriated beginning July 1, 2016, for this chapter
35 to the habitat conservation account shall be distributed in the
36 following way:

37 (a) Not less than thirty-five percent for the acquisition and
38 development of critical habitat;

1 (b) Not less than twenty-five percent for the acquisition and
2 development of natural areas;

3 (c) Not less than fifteen percent for the acquisition or
4 enhancement or restoration of riparian habitat;

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

7 (e) Not less than ten percent or three million dollars, whichever
8 is less, for the board to fund restoration and enhancement projects
9 on state lands. Any amount above three million dollars must be
10 distributed for the purposes of (c) of this subsection.

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

16 (b) If not enough project applications are submitted in a
17 category within the habitat conservation account to meet the
18 percentages described in subsections (1) and (2) of this section in
19 any biennium, the board retains discretion to distribute any
20 remaining funds to the other categories within the account.

21 ~~((3) Only))~~ (4) State agencies and nonprofit nature
22 conservancies may apply for acquisition and development funds for
23 natural areas projects under subsection (1)(b) of this section.

24 ~~((4))~~ (5) State and local agencies and nonprofit nature
25 conservancies may apply for acquisition and development funds for
26 critical habitat ~~(and)~~, urban wildlife habitat, and riparian
27 protection projects under ~~(subsection (1)(a) and (c) of)~~ this
28 section. Other state agencies not defined in RCW 79A.15.010, such as
29 the department of transportation and the department of corrections,
30 may enter into interagency agreements with state agencies to apply in
31 partnership for riparian protection funds under this section.

32 (6) The department of natural resources, the department of fish
33 and wildlife, and the state parks and recreation commission may apply
34 for restoration and enhancement funds to be used on existing state-
35 owned lands.

36 ~~((5))~~ (7)(a) Any lands that have been acquired with grants
37 under this section by the department of fish and wildlife are subject
38 to an amount in lieu of real property taxes and an additional amount
39 for control of noxious weeds as determined by RCW 77.12.203.

1 (b) Any lands that have been acquired with grants under this
2 section by the department of natural resources are subject to
3 payments in the amounts required under the provisions of RCW
4 79.70.130 and 79.71.130.

5 ~~((+6+))~~ (8) Except as otherwise conditioned by RCW 79A.15.140 or
6 79A.15.150, the board in its evaluating process shall consider the
7 following in determining distribution priority:

8 (a) Whether the entity applying for funding is a Puget Sound
9 partner, as defined in RCW 90.71.010;

10 (b) Effective one calendar year following the development and
11 statewide availability of model evergreen community management plans
12 and ordinances under RCW 35.105.050, whether the entity receiving
13 assistance has been recognized, and what gradation of recognition was
14 received, in the evergreen community recognition program created in
15 RCW 35.105.030; and

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

18 ~~((+7+))~~ (9) After January 1, 2010, any project designed to
19 address the restoration of Puget Sound may be funded under this
20 chapter only if the project is not in conflict with the action agenda
21 developed by the Puget Sound partnership under RCW 90.71.310.

22 **Sec. 5.** RCW 79A.15.050 and 2007 c 241 s 30 are each amended to
23 read as follows:

24 (1) Moneys appropriated prior to July 1, 2016, for this chapter
25 to the outdoor recreation account shall be distributed in the
26 following way:

27 (a) Not less than thirty percent to the state parks and
28 recreation commission for the acquisition and development of state
29 parks, with at least fifty percent of the money for acquisition
30 costs;

31 (b) Not less than thirty percent for the acquisition,
32 development, and renovation of local parks, with at least fifty
33 percent of this money for acquisition costs;

34 (c) Not less than twenty percent for the acquisition, renovation,
35 or development of trails;

36 (d) Not less than fifteen percent for the acquisition,
37 renovation, or development of water access sites, with at least
38 seventy-five percent of this money for acquisition costs; and

1 (e) Not less than five percent for development and renovation
2 projects on state recreation lands. Only the department of natural
3 resources and the department of fish and wildlife may apply for these
4 funds to be used on their existing recreation lands.

5 (2) Moneys appropriated beginning July 1, 2016, for this chapter
6 to the outdoor recreation account shall be distributed in the
7 following way:

8 (a) Not less than thirty percent to the state parks and
9 recreation commission for the acquisition and development of state
10 parks, with at least forty percent but no more than fifty percent of
11 the money for acquisition costs;

12 (b) Not less than thirty percent for the acquisition,
13 development, and renovation of local parks, with at least forty
14 percent but no more than fifty percent of this money for acquisition
15 costs;

16 (c) Not less than twenty percent for the acquisition, renovation,
17 or development of trails;

18 (d) Not less than ten percent for the acquisition, renovation, or
19 development of water access sites, with at least seventy-five percent
20 of this money for acquisition costs; and

21 (e) Not less than ten percent or three million dollars, whichever
22 is less, for development and renovation projects on state recreation
23 lands. Any amount above three million dollars must be distributed for
24 the purposes of (d) of this subsection.

25 (3)(a) In distributing these funds, the board retains discretion
26 to meet the most pressing needs for state and local parks, trails,
27 and water access sites, and is not required to meet the percentages
28 described in subsections (1) and (2) of this section in any one
29 biennium.

30 (b) If not enough project applications are submitted in a
31 category within the outdoor recreation account to meet the
32 percentages described in subsections (1) and (2) of this section in
33 any biennium, the board retains discretion to distribute any
34 remaining funds to the other categories within the account.

35 ~~((+3))~~ (4) Only the state parks and recreation commission may
36 apply for acquisition and development funds for state parks under
37 subsections (1)(a) and (2)(a) of this section.

38 (5) Only local agencies may apply for acquisition, development,
39 or renovation funds for local parks under subsections (1)(b) and
40 (2)(b) of this section.

1 ~~((4))~~ (6) Only state and local agencies may apply for funds for
2 trails under subsections (1)(c) and (2)(c) of this section.

3 ~~((5))~~ (7) Only state and local agencies may apply for funds for
4 water access sites under subsections (1)(d) and (2)(d) of this
5 section.

6 (8) Only the department of natural resources and the department
7 of fish and wildlife may apply for funds for development and
8 renovation projects on existing state recreation lands under
9 subsections (1)(e) and (2)(e) of this section.

10 **Sec. 6.** RCW 79A.15.060 and 2009 c 341 s 3 and 2009 c 16 s 1 are
11 each reenacted and amended to read as follows:

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

15 (2) Except as provided in RCW 79A.15.030~~((7))~~ (8), moneys
16 appropriated for this chapter may not be used by the board to fund
17 staff positions or other overhead expenses, or by a state, regional,
18 or local agency to fund operation or maintenance of areas acquired
19 under this chapter.

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

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

27 (5) In determining acquisition priorities with respect to the
28 habitat conservation account, the board shall consider, at a minimum,
29 the following criteria:

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

31 (i) Multiple benefits for the project;

32 (ii) Whether, and extent to which, a conservation easement can be
33 used to meet the purposes for the project;

34 (iii) Community support for the project based on input from local
35 citizens, local organizations, and local elected officials;

36 ~~((ii))~~ (iv) The project proposal's ongoing stewardship program
37 that includes estimated costs of maintaining and operating the
38 project including, but not limited to, control of noxious weeds((7))

1 and detrimental invasive species, and that identifies the source of
2 the funds from which the stewardship program will be funded;

3 ~~((iii))~~ (v) Recommendations as part of a watershed plan or
4 habitat conservation plan, or a coordinated regionwide prioritization
5 effort, and for projects primarily intended to benefit salmon,
6 limiting factors, or critical pathways analysis;

7 ~~((iv))~~ (vi) Immediacy of threat to the site;

8 ~~((v))~~ (vii) Uniqueness of the site;

9 ~~((vi))~~ (viii) Diversity of species using the site;

10 ~~((vii))~~ (ix) Quality of the habitat;

11 ~~((viii))~~ (x) Long-term viability of the site;

12 ~~((ix))~~ (xi) Presence of endangered, threatened, or sensitive
13 species;

14 ~~((x))~~ (xii) Enhancement of existing public property;

15 ~~((xi))~~ (xiii) Consistency with a local land use plan, or a
16 regional or statewide recreational or resource plan, including
17 projects that assist in the implementation of local shoreline master
18 plans updated according to RCW 90.58.080 or local comprehensive plans
19 updated according to RCW 36.70A.130;

20 ~~((xii))~~ (xiv) Educational and scientific value of the site;

21 ~~((xiii))~~ (xv) Integration with recovery efforts for endangered,
22 threatened, or sensitive species;

23 ~~((xiv) For critical habitat proposals by local agencies, the))~~
24 (xvi) Statewide significance of the site.

25 (b) For urban wildlife habitat proposals, in addition to the
26 criteria of (a) of this subsection:

27 (i) Population of, and distance from, the nearest urban area;

28 (ii) Proximity to other wildlife habitat;

29 (iii) Potential for public use; and

30 (iv) Potential for use by special needs populations.

31 (c) For riparian protection proposals, the board must consider,
32 at a minimum, the following criteria:

33 (i) Whether the project continues the conservation reserve
34 enhancement program. Applications that extend the duration of leases
35 of riparian areas that are currently enrolled in the conservation
36 reserve enhancement program are eligible. These applications are
37 eligible for a conservation lease extension of at least twenty-five
38 years of duration;

39 (ii) Whether the projects are identified or recommended in a
40 watershed plan, salmon recovery plan, or other local plans, such as

1 habitat conservation plans, and these must be highly considered in
2 the process;

3 (iii) Whether there is community support for the project;

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

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

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

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

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

20 (ix) Whether the site has passive recreational values for walking
21 trails, wildlife viewing, the observation of natural settings, or
22 other multiple benefits.

23 (d) Moneys appropriated for this chapter to riparian protection
24 projects must be distributed for the acquisition or enhancement or
25 restoration of riparian habitat. All enhancement or restoration
26 projects, except those qualifying under (c)(i) of this subsection,
27 must include the acquisition of a real property interest in order to
28 be eligible.

29 (6) Before November 1st of each even-numbered year, the board
30 shall recommend to the governor a prioritized list of all (~~state~~
31 ~~agency and local~~) projects to be funded under RCW 79A.15.040(~~(1)~~
32 ~~(a), (b), and (c)~~). The governor may remove projects from the list
33 recommended by the board and shall submit this amended list in the
34 capital budget request to the legislature. The list shall include,
35 but not be limited to, a description of each project and any
36 particular match requirement, and describe for each project any
37 anticipated restrictions upon recreational activities allowed prior
38 to the project.

1 **Sec. 7.** RCW 79A.15.070 and 2007 c 241 s 33 are each amended to
2 read as follows:

3 (1) In determining which state parks proposals and local parks
4 proposals to fund, the board shall use existing policies and
5 priorities.

6 (2) Except as provided in RCW 79A.15.030(~~(+7)~~) (8), moneys
7 appropriated for this chapter may not be used by the board to fund
8 staff or other overhead expenses, or by a state, regional, or local
9 agency to fund operation or maintenance of areas acquired under this
10 chapter.

11 (3) Moneys appropriated for this chapter may be used by grant
12 recipients for costs incidental to acquisition and development,
13 including, but not limited to, surveying expenses, fencing, and
14 signing.

15 (4) The board may not approve a project of a local agency where
16 the share contributed by the local agency is less than the amount to
17 be awarded from the outdoor recreation account. The local agency's
18 share may be reduced or waived if the project meets the needs of an
19 underserved population or a community in need, as defined by the
20 board.

21 (5) The board may adopt rules establishing acquisition policies
22 and priorities for the acquisition and development of trails and
23 water access sites to be financed from moneys in the outdoor
24 recreation account.

25 (6) In determining the acquisition and development priorities,
26 the board shall consider, at a minimum, the following criteria:

27 (a) For trails proposals:

28 (i) Community support for the project;

29 (ii) Immediacy of threat to the site;

30 (iii) Linkage between communities;

31 (iv) Linkage between trails;

32 (v) Existing or potential usage;

33 (vi) Consistency with a local land use plan, or a regional or
34 statewide recreational or resource plan, including projects that
35 assist in the implementation of local shoreline master plans updated
36 according to RCW 90.58.080 or local comprehensive plans updated
37 according to RCW 36.70A.130;

38 (vii) Availability of water access or views;

39 (viii) Enhancement of wildlife habitat; and

40 (ix) Scenic values of the site.

1 (b) For water access proposals:
2 (i) Community support for the project;
3 (ii) Distance from similar water access opportunities;
4 (iii) Immediacy of threat to the site;
5 (iv) Diversity of possible recreational uses;
6 (v) Public demand in the area; and
7 (vi) Consistency with a local land use plan, or a regional or
8 statewide recreational or resource plan, including projects that
9 assist in the implementation of local shoreline master plans updated
10 according to RCW 90.58.080 or local comprehensive plans updated
11 according to RCW 36.70A.130.

12 (7) Before November 1st of each even-numbered year, the board
13 shall recommend to the governor a prioritized list of all (~~state~~
14 ~~agency and local~~) projects to be funded under RCW 79A.15.050(~~(1)~~
15 ~~(a), (b), (c), and (d)~~). The governor may remove projects from the
16 list recommended by the board and shall submit this amended list in
17 the capital budget request to the legislature. The list shall
18 include, but not be limited to, a description of each project and any
19 particular match requirement, and describe for each project any
20 anticipated restrictions upon recreational activities allowed prior
21 to the project.

22 **Sec. 8.** RCW 79A.15.080 and 2007 c 241 s 34 are each amended to
23 read as follows:

24 The board shall not sign contracts or otherwise financially
25 obligate funds from the habitat conservation account, the outdoor
26 recreation account, (~~the riparian protection account,~~) or the
27 (~~farmlands preservation~~) farm and forest account as provided in
28 this chapter before the legislature has appropriated funds for a
29 specific list of projects. The legislature may remove projects from
30 the list recommended by the governor.

31 **Sec. 9.** RCW 79A.15.110 and 2007 c 241 s 36 are each amended to
32 read as follows:

33 ((A)) State or local ((agency)) agencies or nonprofit nature
34 conservancies shall review the proposed project application and
35 confer with the county or city with jurisdiction over the project
36 area prior to applying for funds for the acquisition of property
37 under this chapter. The appropriate county or city legislative
38 authority may, at its discretion, submit a letter to the board

1 identifying the authority's position with regard to the acquisition
2 project. The board shall make the letters received under this section
3 available to the governor and the legislature when the prioritized
4 project list is submitted under (~~RCW 79A.15.120, 79A.15.060, and~~
5 ~~79A.15.070~~) this chapter.

6 **Sec. 10.** RCW 79A.15.130 and 2009 c 341 s 5 are each amended to
7 read as follows:

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

17 (2)(~~(a) Moneys appropriated for this chapter to the farmlands~~
18 ~~preservation account may be distributed for (i) the fee simple or~~
19 ~~less than fee simple acquisition of farmlands; (ii) the enhancement~~
20 ~~or restoration of ecological functions on those properties; or (iii)~~
21 ~~both~~) Moneys appropriated beginning July 1, 2016, for this chapter
22 shall be divided as follows:

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

25 (b) Not less than ten percent for the acquisition and
26 preservation of forest lands.

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

35 (~~(b) If a city, county, nonprofit nature conservancy~~
36 ~~organization or association, or the conservation commission acquires~~
37 ~~a property through this program in fee simple, the city, county,~~
38 ~~nonprofit nature conservancy organization or association, or the~~
39 ~~conservation commission shall endeavor to secure preservation of the~~

1 ~~property through placing a conservation easement, or other form of~~
2 ~~deed restriction, on the property which dedicates the land to~~
3 ~~agricultural use and retains one or more property rights in~~
4 ~~perpetuity. Once an easement or other form of deed restriction is~~
5 ~~placed on the property, the city, county, nonprofit nature~~
6 ~~conservancy organization or association, or the conservation~~
7 ~~commission shall seek to sell the property, at fair market value, to~~
8 ~~a person or persons who will maintain the property in agricultural~~
9 ~~production. Any moneys from the sale of the property shall either be~~
10 ~~used to purchase interests in additional properties which meet the~~
11 ~~criteria in subsection (9) of this section, or to repay the grant~~
12 ~~from the state which was originally used to purchase the property.~~

13 ~~(3))~~ (4) Cities, counties, nonprofit nature ~~((conservancy~~
14 ~~organizations or associations))~~ conservancies, and the conservation
15 commission may apply for acquisition and enhancement or restoration
16 funds for farmland or forest land preservation projects within their
17 jurisdictions under subsection (1) of this section.

18 ~~((4))~~ (5) The board may adopt rules establishing acquisition
19 and enhancement or restoration policies and priorities for
20 distributions from the ~~((farmlands preservation))~~ farm and forest
21 account.

22 ~~((5))~~ (6) The acquisition of a property ~~((right))~~ interest in a
23 project under this section ~~((by a county, city, nonprofit nature~~
24 ~~conservancy organization or association, or the conservation~~
25 ~~commission))~~ does not provide a right of access to the property by
26 the public unless explicitly provided for in a conservation easement
27 or other form of deed restriction.

28 ~~((6))~~ (7) Except as provided in RCW 79A.15.030~~((7))~~ (8),
29 moneys appropriated for this section may not be used by the board to
30 fund staff positions or other overhead expenses, or by ~~((a city,~~
31 ~~county, nonprofit nature conservancy organization or association))~~
32 cities, counties, nonprofit nature conservancies, or the conservation
33 commission to fund operation or maintenance of areas acquired under
34 this chapter.

35 ~~((7))~~ (8) Moneys appropriated for this section may be used by
36 grant recipients for costs incidental to restoration and acquisition,
37 including, but not limited to, surveying expenses, fencing, noxious
38 weed control, and signing.

39 ~~((8))~~ (9) The board may not approve a local project where the
40 local agency's or nonprofit nature ~~((conservancy organization's or~~

1 ~~association's))~~ conservancies' share is less than the amount to be
2 awarded from the (~~farmlands preservation~~) farm and forest account.
3 In-kind contributions, including contributions of a real property
4 interest in land, may be used to satisfy the local agency's or
5 nonprofit nature (~~conservancy organization's or association's~~)
6 conservancies' share.

7 (~~(+9))~~) (10) In determining the acquisition priorities for
8 farmland projects, the board must consider, at a minimum, the
9 following criteria:

- 10 (a) Community support for the project;
- 11 (b) A recommendation as part of a limiting factors or critical
12 pathways analysis, a watershed plan or habitat conservation plan, or
13 a coordinated regionwide prioritization effort;
- 14 (c) The likelihood of the conversion of the site to
15 nonagricultural or more highly developed usage;
- 16 (d) Consistency with a local land use plan, or a regional or
17 statewide recreational or resource plan. The projects that assist in
18 the implementation of local shoreline master plans updated according
19 to RCW 90.58.080 or local comprehensive plans updated according to
20 RCW 36.70A.130 must be highly considered in the process;
- 21 (e) Benefits to salmonids;
- 22 (f) Benefits to other fish and wildlife habitat;
- 23 (g) Integration with recovery efforts for endangered, threatened,
24 or sensitive species;
- 25 (h) The viability of the site for continued agricultural
26 production, including, but not limited to:
 - 27 (i) Soil types;
 - 28 (ii) On-site production and support facilities such as barns,
29 irrigation systems, crop processing and storage facilities, wells,
30 housing, livestock sheds, and other farming infrastructure;
 - 31 (iii) Suitability for producing different types or varieties of
32 crops;
 - 33 (iv) Farm-to-market access;
 - 34 (v) Water availability; and
- 35 (i) Other community values provided by the property when used as
36 agricultural land, including, but not limited to:
 - 37 (i) Viewshed;
 - 38 (ii) Aquifer recharge;
 - 39 (iii) Occasional or periodic collector for storm water runoff;
 - 40 (iv) Agricultural sector job creation;

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

2 (vi) Educational and curriculum potential.

3 ~~((10))~~ (11) In allotting funds for environmental enhancement or
4 restoration projects, the board will require the projects to meet the
5 following criteria:

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

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

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

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

17 ~~((11))~~ (12) In determining the acquisition priorities for
18 forest land projects, the board must consider, at a minimum, the
19 following criteria:

20 (a) Community support for the project;

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

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

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

31 (e) Multiple benefits of the project;

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

33 (i) Clean air and water;

34 (ii) Stormwater management;

35 (iii) Wildlife habitat; and

36 (iv) Potential for carbon sequestration.

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

1 (a) Enhancement or restoration projects must further the
2 ecological functions of the forest lands;

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

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

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

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

19 NEW SECTION. **Sec. 11.** RCW 79A.15.120 (Riparian protection
20 account—Use of funds) and 2009 c 341 s 4, 2009 c 16 s 2, 2007 c 241 s
21 37, & 2005 c 303 s 6 are each repealed.

22 NEW SECTION. **Sec. 12.** The allocations in sections 3, 4, and 5
23 of this act apply to the prioritized list of all projects submitted
24 by November 1, 2016. The eligibility provisions in sections 4 and 5
25 of this act for nonprofit nature conservancies as defined in RCW
26 84.34.250, and eligibility provisions in section 10 of this act are
27 effective for projects submitted in 2016. The board shall provide a
28 prioritized list of projects to be funded under RCW 79A.15.130(2)(b)
29 by November 1, 2017. All other provisions of this act apply to
30 subsequent grant cycles.

31 NEW SECTION. **Sec. 13.** This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of
33 the state government and its existing public institutions, and takes
34 effect immediately.

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