
SUBSTITUTE SENATE BILL 6227

State of Washington

64th Legislature

2016 Regular Session

By Senate Natural Resources & Parks (originally sponsored by Senators Honeyford, Keiser, Rolfes, Conway, Ranker, McAuliffe, Mullet, and Chase; by request of Recreation and Conservation Office)

READ FIRST TIME 01/28/16.

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 a new section; 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 promote habitat conservation, outdoor recreation,
15 working lands preservation, property rights, coordination between the
16 state and local governments, and ensure continued success of the
17 program for future generations.

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

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

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

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

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

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

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

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

25 (7) "Nonprofit nature (~~(conservancy corporation or association)~~)
26 conservancies means (~~(a)~~) organizations as defined in RCW 84.34.250.

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

33 (9) "Special needs populations" means physically restricted
34 people or people of limited means.

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

38 (11) "Trails" means public ways constructed for and open to
39 pedestrians, equestrians, or bicyclists, or any combination thereof,

1 other than a sidewalk constructed as a part of a city street or
2 county road for exclusive use of pedestrians.

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

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

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

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

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

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

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

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

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

1 (2) ~~((Except as otherwise provided in chapter 303, Laws of~~
2 ~~2005,)) Beginning July 1, 2016, moneys appropriated for this chapter~~
3 ~~must be allocated as follows: (a) Forty-five percent to the habitat~~
4 ~~conservation account; (b) forty-five percent to the outdoor~~
5 ~~recreation account; and (c) ten percent to the farm and forest~~
6 ~~account.~~

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

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

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

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

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

1 ~~((7))~~ (8) The board may retain a portion of the funds
2 appropriated for this chapter for its office for the administration
3 of the programs and purposes specified in this chapter. The portion
4 of the funds retained for administration may not exceed: (a) The
5 actual administration costs averaged over the previous five biennia
6 as a percentage of the legislature's new appropriation for this
7 chapter; or (b) the amount specified in the appropriation, if any.
8 Each biennium the percentage specified under (a) of this subsection
9 must be approved by the office of financial management and submitted
10 along with the prioritized lists of projects to be funded in RCW
11 79A.15.060~~((6))~~, 79A.15.070~~((7))~~, ~~((79A.15.120(10))~~) and
12 79A.15.130~~((11))~~.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 ~~((5))~~ (7)(a) Any lands that have been acquired with grants
39 under this section by the department of fish and wildlife are subject

1 to an amount in lieu of real property taxes and an additional amount
2 for control of noxious weeds as determined by RCW 77.12.203.

3 (b) Any lands that have been acquired with grants under this
4 section by the department of natural resources are subject to
5 payments in the amounts required under the provisions of RCW
6 79.70.130 and 79.71.130.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 ~~((3))~~ (4) Only the state parks and recreation commission may
39 apply for acquisition and development funds for state parks under
40 subsections (1)(a) and (2)(a) of this section.

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

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

6 ~~((5))~~ (7) Only state and local agencies may apply for funds for
7 water access sites under subsections (1)(d) and (2)(d) of this
8 section.

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

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

15 (1) The board may adopt rules establishing acquisition policies
16 and priorities for distributions from the habitat conservation
17 account.

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

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

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

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

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

34 (i) Multiple benefits for the project;

35 (ii) Community support for the project;

36 ~~((ii))~~ (iii) The project proposal's ongoing stewardship program
37 that includes control of noxious weeds, detrimental invasive species,
38 and that identifies the source of the funds from which the
39 stewardship program will be funded;

1 ~~((iii))~~ (iv) Recommendations as part of a watershed plan or
2 habitat conservation plan, or a coordinated regionwide prioritization
3 effort, and for projects primarily intended to benefit salmon,
4 limiting factors, or critical pathways analysis;
5 ~~((iv))~~ (v) Immediacy of threat to the site;
6 ~~((v))~~ (vi) Uniqueness of the site;
7 ~~((vi))~~ (vii) Diversity of species using the site;
8 ~~((vii))~~ (viii) Quality of the habitat;
9 ~~((viii))~~ (ix) Long-term viability of the site;
10 ~~((ix))~~ (x) Presence of endangered, threatened, or sensitive
11 species;
12 ~~((x))~~ (xi) Enhancement of existing public property;
13 ~~((xi))~~ (xii) Consistency with a local land use plan, or a
14 regional or statewide recreational or resource plan, including
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;
18 ~~((xii))~~ (xiii) Educational and scientific value of the site;
19 ~~((xiii))~~ (xiv) Integration with recovery efforts for
20 endangered, threatened, or sensitive species;
21 ~~((xiv) For critical habitat proposals by local agencies,)~~ (xv)
22 The statewide significance of the site.
23 (b) For urban wildlife habitat proposals, in addition to the
24 criteria of (a) of this subsection:
25 (i) Population of, and distance from, the nearest urban area;
26 (ii) Proximity to other wildlife habitat;
27 (iii) Potential for public use; and
28 (iv) Potential for use by special needs populations.
29 (c) For riparian protection proposals, the board must consider,
30 at a minimum, the following criteria:
31 (i) Whether the project continues the conservation reserve
32 enhancement program. Applications that extend the duration of leases
33 of riparian areas that are currently enrolled in the conservation
34 reserve enhancement program are eligible. These applications are
35 eligible for a conservation lease extension of at least twenty-five
36 years of duration;
37 (ii) Whether the projects are identified or recommended in a
38 watershed plan, salmon recovery plan, or other local plans, such as
39 habitat conservation plans, and these must be highly considered in
40 the process;

1 (iii) Whether there is community support for the project;
2 (iv) Whether the proposal includes an ongoing stewardship program
3 that includes control of noxious weeds, detrimental invasive species,
4 and that identifies the source of the funds from which the
5 stewardship program will be funded;

6 (v) Whether there is an immediate threat to the site;
7 (vi) Whether the quality of the habitat is improved or, for
8 projects including restoration or enhancement, the potential for
9 restoring quality habitat including linkage of the site to other high
10 quality habitat;

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

17 (viii) Whether the site has educational or scientific value; and
18 (ix) Whether the site has passive recreational values for walking
19 trails, wildlife viewing, the observation of natural settings, or
20 other multiple benefits.

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

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

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

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

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

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

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

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

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

25 (a) For trails proposals:

26 (i) Community support for the project;

27 (ii) Immediacy of threat to the site;

28 (iii) Linkage between communities;

29 (iv) Linkage between trails;

30 (v) Existing or potential usage;

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

36 (vii) Availability of water access or views;

37 (viii) Enhancement of wildlife habitat; and

38 (ix) Scenic values of the site.

39 (b) For water access proposals:

40 (i) Community support for the project;

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

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

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

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

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

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

1 available to the governor and the legislature when the prioritized
2 project list is submitted under ((RCW 79A.15.120, 79A.15.060, and
3 79A.15.070)) this chapter.

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

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

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

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

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

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

33 ((~~(b) If a city, county, nonprofit nature conservancy
34 organization or association, or the conservation commission acquires
35 a property through this program in fee simple, the city, county,
36 nonprofit nature conservancy organization or association, or the
37 conservation commission shall endeavor to secure preservation of the
38 property through placing a conservation easement, or other form of
39 deed restriction, on the property which dedicates the land to~~

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

11 ~~(3))~~ (4) Cities, counties, nonprofit nature ~~((conservancy~~
12 ~~organizations or associations))~~ conservancies, and the conservation
13 commission may apply for acquisition and enhancement or restoration
14 funds for farmland or forest land preservation projects within their
15 jurisdictions under subsection (1) of this section.

16 ~~((4))~~ (5) The board may adopt rules establishing acquisition
17 and enhancement or restoration policies and priorities for
18 distributions from the ~~((farmlands preservation))~~ farm and forest
19 account.

20 ~~((5))~~ (6) The acquisition of a property ~~((right))~~ interest in a
21 project under this section ~~((by a county, city, nonprofit nature~~
22 ~~conservancy organization or association, or the conservation~~
23 ~~commission))~~ does not provide a right of access to the property by
24 the public unless explicitly provided for in a conservation easement
25 or other form of deed restriction.

26 ~~((6))~~ (7) Except as provided in RCW 79A.15.030~~((7))~~ (8),
27 moneys appropriated for this section may not be used by the board to
28 fund staff positions or other overhead expenses, or by ~~((a city,~~
29 ~~county, nonprofit nature conservancy organization or association))~~
30 cities, counties, nonprofit nature conservancies, or the conservation
31 commission to fund operation or maintenance of areas acquired under
32 this chapter.

33 ~~((7))~~ (8) Moneys appropriated for this section may be used by
34 grant recipients for costs incidental to restoration and acquisition,
35 including, but not limited to, surveying expenses, fencing, noxious
36 weed control, and signing.

37 ~~((8))~~ (9) The board may not approve a local project where the
38 local agency's or nonprofit nature ~~((conservancy organization's or~~
39 ~~association's))~~ conservancies' share is less than the amount to be
40 awarded from the ~~((farmlands preservation))~~ farm and forest account.

1 In-kind contributions, including contributions of a real property
2 interest in land, may be used to satisfy the local agency's or
3 nonprofit nature (~~(conservancy organization's or association's)~~)
4 conservancies' share.

5 ~~((+9))~~ (10) In determining the acquisition priorities for
6 farmland projects, the board must consider, at a minimum, the
7 following criteria:

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

1 ~~((10))~~ (11) In allotting funds for environmental enhancement or
2 restoration projects, the board will require the projects to meet the
3 following criteria:

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

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

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

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

15 ~~((11))~~ (12) In determining the acquisition priorities for
16 forest land projects, the board must consider, at a minimum, the
17 following criteria:

18 (a) Community support for the project;

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

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

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

29 (e) Multiple benefits of the project;

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

31 (i) Clean air and water;

32 (ii) Storm water management;

33 (iii) Wildlife habitat; and

34 (iv) Potential for carbon sequestration.

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

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

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

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

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

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

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

20 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
21 preservation of the public peace, health, or safety, or support of
22 the state government and its existing public institutions, and takes
23 effect immediately.

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