
SENATE BILL 5396

State of Washington 59th Legislature 2005 Regular Session

By Senators Fraser, Esser, Jacobsen, Oke, Regala, Swecker,
Rockefeller, Spanel, Pridemore, Thibaudeau, Haugen and Kline

Read first time 01/24/2005. Referred to Committee on Natural
Resources, Ocean & Recreation.

1 AN ACT Relating to expanding the criteria for habitat conservation
2 programs; amending RCW 79A.15.010, 79A.15.030, 79A.15.040, 79A.15.050,
3 79A.15.060, 79A.15.070, 79A.15.080, 84.33.140, and 77.12.203; adding
4 new sections to chapter 79A.15 RCW; adding a new section to chapter
5 79.70 RCW; adding a new section to chapter 79.71 RCW; creating a new
6 section; providing effective dates; providing an expiration date; and
7 declaring an emergency.

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

9 **Sec. 1.** RCW 79A.15.010 and 1990 1st ex.s. c 14 s 2 are each
10 amended to read as follows:

11 The definitions set forth in this section apply throughout this
12 chapter.

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

17 (2) "Committee" means the interagency committee for outdoor
18 recreation.

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

6 (4) "Farmlands" means any land defined as "farm and agricultural
7 land" in RCW 84.34.020(2).

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

12 ((+5)) (6) "Natural areas" means areas that have, to a significant
13 degree, retained their natural character and are important in
14 preserving rare or vanishing flora, fauna, geological, natural
15 historical, or similar features of scientific or educational value.

16 ((+6)) (7) "Riparian habitat" means land adjacent to water bodies,
17 as well as submerged land such as streambeds, which can provide
18 functional habitat for salmonids and other fish and wildlife species.
19 Riparian habitat includes, but is not limited to, shorelines and near-
20 shore marine habitat, estuaries, lakes, wetlands, streams, and rivers.

21 (8) "Special needs populations" means physically restricted people
22 or people of limited means.

23 ((+7)) (9) "State agencies" means the state parks and recreation
24 commission, the department of natural resources, the department of
25 general administration, and the department of fish and wildlife.

26 (10) "Trails" means public ways constructed for and open to
27 pedestrians, equestrians, or bicyclists, or any combination thereof,
28 other than a sidewalk constructed as a part of a city street or county
29 road for exclusive use of pedestrians.

30 ((+8)) (11) "Urban wildlife habitat" means lands that provide
31 habitat important to wildlife in proximity to a metropolitan area.

32 ((+9)) (12) "Water access" means boat or foot access to marine
33 waters, lakes, rivers, or streams.

34 **Sec. 2.** RCW 79A.15.030 and 2000 c 11 s 66 are each amended to read
35 as follows:

36 (1) Moneys appropriated for this chapter shall be divided ((equally

1 ~~between the habitat conservation and outdoor recreation accounts and~~
2 ~~shall be used exclusively for the purposes specified in this chapter))~~
3 as follows:

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

7 (b) If appropriations for a biennium total more than forty million
8 dollars, the money must be allocated as follows: (i) Twenty million
9 dollars to the habitat conservation account and twenty million dollars
10 to the outdoor recreation account; (ii) any amount over forty million
11 dollars up to fifty million dollars shall be allocated as follows: (A)
12 Ten percent to the habitat conservation account; (B) ten percent to the
13 outdoor recreation account; (C) forty percent to the riparian
14 protection account; and (D) forty percent to the farmlands preservation
15 account; and (iii) any amounts over fifty million dollars must be
16 allocated as follows: (A) Thirty percent to the habitat conservation
17 account; (B) thirty percent to the outdoor recreation account; (C)
18 thirty percent to the riparian protection account; and (D) ten percent
19 to the farmlands preservation account.

20 (2) Except as otherwise provided in this act, moneys deposited in
21 these accounts shall be invested as authorized for other state funds,
22 and any earnings on them shall be credited to the respective account.

23 (3) All moneys deposited in the habitat conservation ((and)),
24 outdoor recreation, riparian protection, and farmlands preservation
25 accounts shall be allocated as provided under RCW 79A.15.040 ((and)),
26 79A.15.050, and sections 5 and 6 of this act as grants to state or
27 local agencies for acquisition, development, and renovation within the
28 jurisdiction of those agencies, subject to legislative appropriation.
29 The committee may use or permit the use of any funds appropriated for
30 this chapter as matching funds where federal, local, or other funds are
31 made available for projects within the purposes of this chapter.

32 (4) Projects receiving grants under this chapter that are developed
33 or otherwise accessible for public recreational uses shall be available
34 to the public ((on a nondiscriminatory basis)).

35 (5) The committee may make grants to an eligible project from
36 ((both)) the habitat conservation ((and)), outdoor recreation, riparian
37 protection, and farmlands preservation accounts and any one or more of

1 the applicable categories under such accounts described in RCW
2 79A.15.040 (~~and~~), 79A.15.050, and sections 5 and 6 of this act.

3 (6) The committee may accept private donations to the habitat
4 conservation account, the outdoor recreation account, the riparian
5 protection account, and the farmlands preservation account for the
6 purposes specified in this chapter.

7 (7) The committee may apply up to three percent of the funds
8 appropriated for this chapter for the administration of the programs
9 and purposes specified in this chapter.

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

15 **Sec. 3.** RCW 79A.15.040 and 1999 c 379 s 917 are each amended to
16 read as follows:

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

19 (a) Not less than (~~thirty-five~~) forty-five percent for the
20 acquisition and development of critical habitat;

21 (b) Not less than (~~twenty~~) thirty percent for the acquisition and
22 development of natural areas;

23 (c) Not less than (~~fifteen~~) twenty percent for the acquisition
24 and development of urban wildlife habitat; and

25 (d) (~~The remaining amount shall be considered unallocated and~~)
26 Not less than five percent shall be used by the committee to fund
27 (~~high priority acquisition and development needs for critical habitat,~~
28 ~~natural areas, and urban wildlife habitat. During the fiscal biennium~~
29 ~~ending June 30, 2001, the remaining amount reappropriated from the~~
30 ~~fiscal biennium ending June 30, 1999, may be allocated for matching~~
31 ~~grants for riparian zone habitat protection projects that implement~~
32 ~~watershed plans under the program established in section 329(6),~~
33 ~~chapter 235, Laws of 1997)) restoration and enhancement projects on
34 state lands. Only the department of natural resources and the
35 department of fish and wildlife may apply for these funds to be used on
36 existing habitat and natural area lands.~~

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

5 (3) Only state agencies may apply for acquisition and development
6 funds for ~~((critical habitat and))~~ natural areas projects under
7 subsection (1)~~((a),)~~ (b)~~((, and (d)))~~ of this section.

8 (4) State and local agencies may apply for acquisition and
9 development funds for critical habitat and urban wildlife habitat
10 projects under subsection (1)(a) and (c) ~~((and (d)))~~ of this section.

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

15 (b) Any lands that have been acquired with grants under this
16 section by the department of natural resources are subject to payments
17 in the amounts required under the provisions of sections 10 and 11 of
18 this act.

19 **Sec. 4.** RCW 79A.15.050 and 2003 c 184 s 1 are each amended to read
20 as follows:

21 (1) Moneys appropriated for this chapter to the outdoor recreation
22 account shall be distributed in the following way:

23 (a) Not less than ~~((twenty-five))~~ thirty percent to the state parks
24 and recreation commission for the acquisition and development of state
25 parks, with at least ~~((seventy-five))~~ fifty percent of ~~((this))~~ the
26 money for acquisition costs~~((.~~ ~~However, between July 27, 2003, and~~
27 ~~June 30, 2009, at least fifty percent of this money for the acquisition~~
28 ~~and development of state parks must be used for acquisition costs))~~;

29 (b) Not less than ~~((twenty-five))~~ thirty percent for the
30 acquisition, development, and renovation of local parks, with at least
31 fifty percent of this money for acquisition costs;

32 (c) Not less than ~~((fifteen))~~ twenty percent for the acquisition
33 ~~((and)),~~ renovation, or development of trails;

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

1 (e) (~~The remaining amount shall be considered unallocated and~~
2 ~~shall be distributed by the committee to state and local agencies to~~
3 ~~fund high priority acquisition and development needs for parks, trails,~~
4 ~~and water access sites)) Not less than five percent for development and
5 renovation projects on state recreation lands. Only the department of
6 natural resources and the department of fish and wildlife may apply for
7 these funds to be used on their existing recreation lands.~~

8 (2) In distributing these funds, the committee retains discretion
9 to meet the most pressing needs for state and local parks, trails, and
10 water access sites, and is not required to meet the percentages
11 described in subsection (1) of this section in any one biennium.

12 (3) Only local agencies may apply for acquisition, development, or
13 renovation funds for local parks under subsection (1)(b) of this
14 section.

15 (4) Only state and local agencies may apply for funds for trails
16 under subsection (1)(c) of this section.

17 (5) Only state and local agencies may apply for funds for water
18 access sites under subsection (1)(d) of this section.

19 NEW SECTION. Sec. 5. A new section is added to chapter 79A.15 RCW
20 to read as follows:

21 (1) The riparian protection account is established in the state
22 treasury. The committee must administer the account in accordance with
23 chapter 79A.25 RCW and this chapter, and hold it separate and apart
24 from all other money, funds, and accounts of the committee.

25 (2) Moneys appropriated for this chapter to the riparian protection
26 account must be distributed for the acquisition and enhancement or
27 restoration of riparian habitat. All enhancement or restoration
28 projects, except those qualifying under subsection (9)(a) of this
29 section, must include the acquisition of a real property interest in
30 order to be eligible. At least fifty percent of riparian protection
31 account funds must be used for the acquisition of real property
32 interests.

33 (3) State and local agencies and lead entities under chapter 77.85
34 RCW may apply for acquisition and enhancement or restoration funds for
35 riparian habitat projects under subsection (1) of this section. Other
36 state agencies not defined in RCW 79A.15.010, such as the department of

1 transportation and the department of corrections, may enter into
2 interagency agreements with state agencies to apply in partnership for
3 funds under this section.

4 (4) The committee may adopt rules establishing acquisition policies
5 and priorities for distributions from the riparian protection account.

6 (5) Except as provided in RCW 79A.15.030(7), moneys appropriated
7 for this section may not be used by the committee to fund staff
8 positions 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 (6) Moneys appropriated for this section may be used by grant
12 recipients for costs incidental to restoration and acquisition,
13 including, but not limited to, surveying expenses, fencing, and
14 signing.

15 (7) The committee may not approve a local project where the local
16 agency share is less than the amount to be awarded from the riparian
17 protection account. In-kind contributions, including contributions of
18 a real property interest in land may be used to satisfy the local
19 agency's share.

20 (8) State agencies receiving grants for acquisition of land under
21 this section must pay an amount in lieu of real property taxes equal to
22 the amount of tax that would be due if the land were taxable as open
23 space land under chapter 84.34 RCW, plus an additional amount for
24 control of noxious weeds equal to that which would be paid if such
25 lands were privately owned. The county assessor and county legislative
26 authority shall assist in determining the appropriate calculation of
27 the amount of tax that would be due under chapter 84.34 RCW.

28 (9) In determining acquisition priorities with respect to the
29 riparian protection account, the committee must consider, at a minimum,
30 the following criteria:

31 (a) 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 shall be eligible. Such applications are
35 eligible for a conservation lease extension of at least twenty-five
36 years of duration;

37 (b) Whether the projects are identified or recommended in a
38 watershed planning process under chapter 247, Laws of 1998, salmon

1 recovery planning under chapter 77.85 RCW, or other local plans, such
2 as habitat conservation plans, and these must be highly considered in
3 the process;

4 (c) Whether there is community support for the project;

5 (d) Whether there is an immediate threat to the site;

6 (e) Whether the quality of the habitat is improved or, for projects
7 including restoration or enhancement, the potential for restoring
8 quality habitat including linkage of the site to other high quality
9 habitat;

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

15 (g) Whether the site has educational or scientific value; and

16 (h) Whether the site has passive recreational values for walking
17 trails, wildlife viewing, or the observation of natural settings.

18 (10) Before November 1st of each even-numbered year, the committee
19 will recommend to the governor a prioritized list of projects to be
20 funded under this section. The governor may remove projects from the
21 list recommended by the committee and will submit this amended list in
22 the capital budget request to the legislature. The list must include,
23 but not be limited to, a description of each project and any particular
24 match requirement.

25 NEW SECTION. **Sec. 6.** A new section is added to chapter 79A.15 RCW
26 to read as follows:

27 (1) The farmlands preservation account is established in the state
28 treasury. The committee will administer the account in accordance with
29 chapter 79A.25 RCW and this chapter, and hold it separate and apart
30 from all other money, funds, and accounts of the committee. Moneys
31 appropriated for this chapter to the farmlands preservation account
32 must be distributed for the acquisition and preservation of farmlands
33 in order to maintain the opportunity for agricultural activity upon
34 these lands.

35 (2) Moneys appropriated for this chapter to the farmlands
36 preservation account must be distributed for the fee simple or less
37 than fee simple acquisition of farmlands, and for the enhancement or

1 restoration of ecological functions on those properties. In order for
2 a farmland preservation grant to provide for an environmental
3 enhancement or restoration project, the project must include the
4 acquisition of a real property interest in perpetuity. If a city or
5 county acquires a property through this program in fee simple, the city
6 or county shall endeavor to secure preservation of the property through
7 placing a conservation easement, or other form of deed restriction, on
8 the property which dedicates the land to agricultural use and retains
9 one or more property rights in perpetuity. Once an easement or other
10 form of deed restriction is placed on the property, the city or county
11 shall seek to sell the property, at fair market value, to a person or
12 persons who will maintain the property in agricultural production. Any
13 moneys from the sale of the property shall either be used to purchase
14 interests in additional properties which meet the criteria in
15 subsection (8) of this section, or to repay the grant from the state
16 which was originally used to purchase the property.

17 (3) Cities and counties may apply for acquisition and enhancement
18 or restoration funds for farmland preservation projects within their
19 jurisdictions under subsection (1) of this section.

20 (4) The committee may adopt rules establishing acquisition and
21 enhancement or restoration policies and priorities for distributions
22 from the farmlands preservation account.

23 (5) Except as provided in RCW 79A.15.030(7), moneys appropriated
24 for this section may not be used by the committee to fund staff
25 positions or other overhead expenses, or by a city or county to fund
26 operation or maintenance of areas acquired under this chapter.

27 (6) Moneys appropriated for this section may be used by grant
28 recipients for costs incidental to restoration and acquisition,
29 including, but not limited to, surveying expenses, fencing, and
30 signing.

31 (7) The committee may not approve a local project where the local
32 agency's share is less than the amount to be awarded from the farmlands
33 preservation account. In-kind contributions, including contributions
34 of a real property interest in land, may be used to satisfy the local
35 agency's share.

36 (8) In determining the acquisition priorities, the committee must
37 consider, at a minimum, the following criteria:

38 (a) Community support for the project;

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

4 (c) The likelihood of the conversion of the site to nonagricultural
5 or more highly developed usage;

6 (d) Consistency with a local land use plan, or a regional or
7 statewide recreational or resource plan. The projects that assist in
8 the implementation of local shoreline master plans updated according to
9 RCW 90.58.080 or local comprehensive plans updated according to RCW
10 36.70A.130 must be highly considered in the process;

11 (e) Benefits to salmonids;

12 (f) Benefits to other fish and wildlife habitat;

13 (g) Integration with recovery efforts for endangered, threatened,
14 or sensitive species;

15 (h) The viability of the site for continued agricultural
16 production, including, but not limited to:

17 (i) Soil types;

18 (ii) On-site production and support facilities such as barns,
19 irrigation systems, crop processing and storage facilities, wells,
20 housing, livestock sheds, and other farming infrastructure;

21 (iii) Suitability for producing different types or varieties of
22 crops;

23 (iv) Farm-to-market access;

24 (v) Water availability; and

25 (i) Other community values provided by the property when used as
26 agricultural land, including, but not limited to:

27 (i) Viewshed;

28 (ii) Aquifer recharge;

29 (iii) Occasional or periodic collector for storm water runoff;

30 (iv) Agricultural sector job creation;

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

32 (vi) Educational and curriculum potential.

33 (9) In allotting funds for environmental enhancement or restoration
34 projects, the committee will require the projects to meet the following
35 criteria:

36 (a) Enhancement or restoration projects must further the ecological
37 functions of the farmlands;

1 (b) The projects, such as fencing, bridging watercourses,
2 replanting native vegetation, replacing culverts, clearing of
3 waterways, etc., must be less than fifty percent of the acquisition
4 cost of the project including 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; and

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

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

17 **Sec. 7.** RCW 79A.15.060 and 2000 c 11 s 67 are each amended to read
18 as follows:

19 (1) The committee may adopt rules establishing acquisition policies
20 and priorities for distributions from the habitat conservation account.

21 (2) Except as provided in RCW 79A.15.030(7), moneys appropriated
22 for this chapter may not be used by the committee to fund
23 ~~((additional))~~ staff positions or other overhead expenses, or by a
24 state, regional, or local agency to fund operation ~~((and))~~ or
25 maintenance of areas acquired under this chapter ~~((, except that the~~
26 ~~committee may use moneys appropriated for this chapter for the fiscal~~
27 ~~biennium ending June 30, 2001, for the administrative costs of~~
28 ~~implementing the pilot watershed plan implementation program~~
29 ~~established in section 329(6), chapter 235, Laws of 1997, and~~
30 ~~developing an inventory of publicly owned lands established in section~~
31 ~~329(7), chapter 235, Laws of 1997)).~~

32 (3) Moneys appropriated for this chapter may be used by grant
33 recipients for costs incidental to acquisition, including, but not
34 limited to, surveying expenses, fencing, and signing.

35 (4) ~~((Except as provided in subsection (5) of this section,))~~ The
36 committee may not approve a local project where the local agency share

1 is less than the amount to be awarded from the habitat conservation
2 account.

3 ~~(5) ((During the fiscal biennium ending June 30, 2001, the~~
4 ~~committee may approve a riparian zone habitat protection project~~
5 ~~established in section 329(6), chapter 235, Laws of 1997, where the~~
6 ~~local agency share is less than the amount to be awarded from the~~
7 ~~habitat conservation account.~~

8 ~~(6))~~ In determining acquisition priorities with respect to the
9 habitat conservation account, the committee shall consider, at a
10 minimum, the following criteria:

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

12 (i) Community support for the project;

13 (ii) Recommendations as part of a watershed plan or habitat
14 conservation plan, or a coordinated regionwide prioritization effort,
15 and for projects primarily intended to benefit salmon, limiting
16 factors, or critical pathways analysis;

17 ~~(iii)~~ Immediacy of threat to the site;

18 ~~((+iii))~~ ~~(iv)~~ Uniqueness of the site;

19 ~~((+iv))~~ ~~(v)~~ Diversity of species using the site;

20 ~~((+v))~~ ~~(vi)~~ Quality of the habitat;

21 ~~((+vi))~~ ~~(vii)~~ Long-term viability of the site;

22 ~~((+vii))~~ ~~(viii)~~ Presence of endangered, threatened, or sensitive
23 species;

24 ~~((+viii))~~ ~~(ix)~~ Enhancement of existing public property;

25 ~~((+ix))~~ ~~(x)~~ Consistency with a local land use plan, or a regional
26 or statewide recreational or resource plan, including projects that
27 assist in the implementation of local shoreline master plans updated
28 according to RCW 90.58.080 or local comprehensive plans updated
29 according to RCW 36.70A.130; ~~((and~~

30 ~~(+x))~~ ~~(xi)~~ Educational and scientific value of the site;

31 ~~(xii)~~ Integration with recovery efforts for endangered, threatened,
32 or sensitive species;

33 ~~(xiii)~~ For critical habitat proposals by local agencies, the
34 statewide significance of the site.

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

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

38 (ii) Proximity to other wildlife habitat;

1 (iii) Potential for public use; and

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

3 (7) ~~((Before October 1st of each even-numbered year, the committee~~
4 ~~shall recommend to the governor a prioritized list of state agency~~
5 ~~projects to be funded under RCW 79A.15.040(1) (a), (b), and (c). The~~
6 ~~governor may remove projects from the list recommended by the committee~~
7 ~~and shall submit this amended list in the capital budget request to the~~
8 ~~legislature. The list shall include, but not be limited to, a~~
9 ~~description of each project; and shall describe for each project any~~
10 ~~anticipated restrictions upon recreational activities allowed prior to~~
11 ~~the project.~~

12 ~~(8))~~ (6) Before ~~((October))~~ November 1st of each even-numbered
13 year, the committee shall recommend to the governor a prioritized list
14 of all state agency and local projects to be funded under RCW
15 79A.15.040(1) (a), (b), and (c). The governor may remove projects from
16 the list recommended by the committee and shall submit this amended
17 list in 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 to
21 the project.

22 **Sec. 8.** RCW 79A.15.070 and 2000 c 11 s 68 are each amended to read
23 as follows:

24 (1) In determining which state parks proposals and local parks
25 proposals to fund, the committee shall use existing policies and
26 priorities.

27 (2) Except as provided in RCW 79A.15.030(7), moneys appropriated
28 for this chapter may not be used by the committee to fund
29 ~~((additional))~~ staff or other overhead expenses, or by a state,
30 regional, or local agency to fund operation ~~((and))~~ or maintenance of
31 areas acquired under this chapter ~~((, except that the committee may use~~
32 ~~moneys appropriated for this chapter for the fiscal biennium ending~~
33 ~~June 30, 2001, for the administrative costs of implementing the pilot~~
34 ~~watershed plan implementation program established in section 329(6),~~
35 ~~chapter 235, Laws of 1997, and developing an inventory of publicly~~
36 ~~owned lands established in section 329(7), chapter 235, Laws of 1997)).~~

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

5 (4) The committee may not approve a project of a local agency where
6 the share contributed by the local agency is less than the amount to be
7 awarded from the outdoor recreation account.

8 (5) The committee may adopt rules establishing acquisition policies
9 and priorities for the acquisition and development of trails and water
10 access sites to be financed from moneys in the outdoor recreation
11 account.

12 (6) In determining the acquisition and development priorities, the
13 committee shall consider, at a minimum, the following criteria:

14 (a) For trails proposals:

15 (i) Community support for the project;

16 (ii) Immediacy of threat to the site;

17 (iii) Linkage between communities;

18 (iv) Linkage between trails;

19 (v) Existing or potential usage;

20 (vi) Consistency with ~~((an existing))~~ a local land use plan, or a
21 regional or statewide recreational or resource plan, including projects
22 that assist in the implementation of local shoreline master plans
23 updated according to RCW 90.58.080 or local comprehensive plans updated
24 according to RCW 36.70A.130;

25 (vii) Availability of water access or views;

26 (viii) Enhancement of wildlife habitat; and

27 (ix) Scenic values of the site.

28 (b) For water access proposals:

29 (i) Community support for the project;

30 (ii) Distance from similar water access opportunities;

31 (iii) Immediacy of threat to the site;

32 (iv) Diversity of possible recreational uses; ~~((and))~~

33 (v) Public demand in the area; and

34 (vi) Consistency with a local land use plan, or a regional or
35 statewide recreational or resource plan, including projects that assist
36 in the implementation of local shoreline master plans updated according
37 to RCW 90.58.080 or local comprehensive plans updated according to RCW
38 36.70A.130.

1 (7) (~~Before October 1st of each even-numbered year, the committee~~
2 ~~shall recommend to the governor a prioritized list of state agency~~
3 ~~projects to be funded under RCW 79A.15.050(1) (a), (c), and (d).~~ The
4 ~~governor may remove projects from the list recommended by the committee~~
5 ~~and shall submit this amended list in the capital budget request to the~~
6 ~~legislature. The list shall include, but not be limited to, a~~
7 ~~description of each project; and shall describe for each project any~~
8 ~~anticipated restrictions upon recreational activities allowed prior to~~
9 ~~the project.~~

10 (8)) Before ((~~October~~) November) 1st of each even-numbered year,
11 the committee shall recommend to the governor a prioritized list of all
12 state 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 list
14 recommended by the committee and shall submit this amended list in the
15 capital budget request to the legislature. The list shall include, but
16 not be limited to, a description of each project and any particular
17 match requirement, and describe for each project any anticipated
18 restrictions upon recreational activities allowed prior to the project.

19 **Sec. 9.** RCW 79A.15.080 and 1990 1st ex.s. c 14 s 9 are each
20 amended to read as follows:

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

28 NEW SECTION. **Sec. 10.** A new section is added to chapter 79.70 RCW
29 to read as follows:

30 The state treasurer, on behalf of the department, must distribute
31 to counties for all lands acquired for the purposes of this chapter an
32 amount in lieu of real property taxes equal to the amount of tax that
33 would be due if the land were taxable as open space land under chapter
34 84.34 RCW, plus an additional amount equal to the amount of weed
35 control assessment that would be due if such lands were privately
36 owned. The county assessor and county legislative authority shall

1 assist in determining the appropriate calculation of the amount of tax
2 that would be due under chapter 84.34 RCW. The county shall distribute
3 the amount received under this section in lieu of real property taxes
4 to all property taxing districts except the state in appropriate tax
5 code areas the same way it would distribute local property taxes from
6 private property. The county shall distribute the amount received
7 under this section for weed control to the appropriate weed district.

8 NEW SECTION. **Sec. 11.** A new section is added to chapter 79.71 RCW
9 to read as follows:

10 The state treasurer, on behalf of the department, must distribute
11 to counties for all lands acquired for the purposes of this chapter an
12 amount in lieu of real property taxes equal to the amount of tax that
13 would be due if the land were taxable as open space land under chapter
14 84.34 RCW, plus an additional amount equal to the amount of weed
15 control assessment that would be due if such lands were privately
16 owned. The county assessor and county legislative authority shall
17 assist in determining the appropriate calculation of the amount of tax
18 that would be due under chapter 84.34 RCW. The county shall distribute
19 the amount received under this section in lieu of real property taxes
20 to all property taxing districts except the state in appropriate tax
21 code areas the same way it would distribute local property taxes from
22 private property. The county shall distribute the amount received
23 under this section for weed control to the appropriate weed district.

24 **Sec. 12.** RCW 84.33.140 and 2003 c 170 s 5 are each amended to read
25 as follows:

26 (1) When land has been designated as forest land under RCW
27 84.33.130, a notation of the designation shall be made each year upon
28 the assessment and tax rolls. A copy of the notice of approval
29 together with the legal description or assessor's parcel numbers for
30 the land shall, at the expense of the applicant, be filed by the
31 assessor in the same manner as deeds are recorded.

32 (2) In preparing the assessment roll as of January 1, 2002, for
33 taxes payable in 2003 and each January 1st thereafter, the assessor
34 shall list each parcel of designated forest land at a value with
35 respect to the grade and class provided in this subsection and adjusted
36 as provided in subsection (3) of this section. The assessor shall

1 compute the assessed value of the land using the same assessment ratio
 2 applied generally in computing the assessed value of other property in
 3 the county. Values for the several grades of bare forest land shall be
 4 as follows:

5	LAND	OPERABILITY	VALUES
6	GRADE	CLASS	PER ACRE
7		1	\$234
8	1	2	229
9		3	217
10		4	157
11		1	198
12	2	2	190
13		3	183
14		4	132
15		1	154
16	3	2	149
17		3	148
18		4	113
19		1	117
20	4	2	114
21		3	113
22		4	86
23		1	85
24	5	2	78
25		3	77
26		4	52
27		1	43
28	6	2	39
29		3	39
30		4	37
31		1	21
32	7	2	21
33		3	20
34		4	20
35	8		1

1 (3) On or before December 31, 2001, the department shall adjust by
2 rule under chapter 34.05 RCW, the forest land values contained in
3 subsection (2) of this section in accordance with this subsection, and
4 shall certify the adjusted values to the assessor who will use these
5 values in preparing the assessment roll as of January 1, 2002. For the
6 adjustment to be made on or before December 31, 2001, for use in the
7 2002 assessment year, the department shall:

8 (a) Divide the aggregate value of all timber harvested within the
9 state between July 1, 1996, and June 30, 2001, by the aggregate harvest
10 volume for the same period, as determined from the harvester excise tax
11 returns filed with the department under RCW 84.33.074; and

12 (b) Divide the aggregate value of all timber harvested within the
13 state between July 1, 1995, and June 30, 2000, by the aggregate harvest
14 volume for the same period, as determined from the harvester excise tax
15 returns filed with the department under RCW 84.33.074; and

16 (c) Adjust the forest land values contained in subsection (2) of
17 this section by a percentage equal to one-half of the percentage change
18 in the average values of harvested timber reflected by comparing the
19 resultant values calculated under (a) and (b) of this subsection.

20 (4) For the adjustments to be made on or before December 31, 2002,
21 and each succeeding year thereafter, the same procedure described in
22 subsection (3) of this section shall be followed using harvester excise
23 tax returns filed under RCW 84.33.074. However, this adjustment shall
24 be made to the prior year's adjusted value, and the five-year periods
25 for calculating average harvested timber values shall be successively
26 one year more recent.

27 (5) Land graded, assessed, and valued as forest land shall continue
28 to be so graded, assessed, and valued until removal of designation by
29 the assessor upon the occurrence of any of the following:

30 (a) Receipt of notice from the owner to remove the designation;

31 (b) Sale or transfer to an ownership making the land exempt from ad
32 valorem taxation;

33 (c) Sale or transfer of all or a portion of the land to a new
34 owner, unless the new owner has signed a notice of forest land
35 designation continuance, except transfer to an owner who is an heir or
36 devisee of a deceased owner, shall not, by itself, result in removal of
37 designation. The signed notice of continuance shall be attached to the
38 real estate excise tax affidavit provided for in RCW 82.45.150. The

1 notice of continuance shall be on a form prepared by the department.
2 If the notice of continuance is not signed by the new owner and
3 attached to the real estate excise tax affidavit, all compensating
4 taxes calculated under subsection (11) of this section shall become due
5 and payable by the seller or transferor at time of sale. The auditor
6 shall not accept an instrument of conveyance regarding designated
7 forest land for filing or recording unless the new owner has signed the
8 notice of continuance or the compensating tax has been paid, as
9 evidenced by the real estate excise tax stamp affixed thereto by the
10 treasurer. The seller, transferor, or new owner may appeal the new
11 assessed valuation calculated under subsection (11) of this section to
12 the county board of equalization in accordance with the provisions of
13 RCW 84.40.038. Jurisdiction is hereby conferred on the county board of
14 equalization to hear these appeals;

15 (d) Determination by the assessor, after giving the owner written
16 notice and an opportunity to be heard, that:

17 (i) The land is no longer primarily devoted to and used for growing
18 and harvesting timber. However, land shall not be removed from
19 designation if a governmental agency, organization, or other recipient
20 identified in subsection (13) or (14) of this section as exempt from
21 the payment of compensating tax has manifested its intent in writing or
22 by other official action to acquire a property interest in the
23 designated forest land by means of a transaction that qualifies for an
24 exemption under subsection (13) or (14) of this section. The
25 governmental agency, organization, or recipient shall annually provide
26 the assessor of the county in which the land is located reasonable
27 evidence in writing of the intent to acquire the designated land as
28 long as the intent continues or within sixty days of a request by the
29 assessor. The assessor may not request this evidence more than once in
30 a calendar year;

31 (ii) The owner has failed to comply with a final administrative or
32 judicial order with respect to a violation of the restocking, forest
33 management, fire protection, insect and disease control, and forest
34 debris provisions of Title 76 RCW or any applicable rules under Title
35 76 RCW; or

36 (iii) Restocking has not occurred to the extent or within the time
37 specified in the application for designation of such land.

1 (6) Land shall not be removed from designation if there is a
2 governmental restriction that prohibits, in whole or in part, the owner
3 from harvesting timber from the owner's designated forest land. If
4 only a portion of the parcel is impacted by governmental restrictions
5 of this nature, the restrictions cannot be used as a basis to remove
6 the remainder of the forest land from designation under this chapter.
7 For the purposes of this section, "governmental restrictions" includes:
8 (a) Any law, regulation, rule, ordinance, program, or other action
9 adopted or taken by a federal, state, county, city, or other
10 governmental entity; or (b) the land's zoning or its presence within an
11 urban growth area designated under RCW 36.70A.110.

12 (7) The assessor shall have the option of requiring an owner of
13 forest land to file a timber management plan with the assessor upon the
14 occurrence of one of the following:

15 (a) An application for designation as forest land is submitted; or

16 (b) Designated forest land is sold or transferred and a notice of
17 continuance, described in subsection (5)(c) of this section, is signed.

18 (8) If land is removed from designation because of any of the
19 circumstances listed in subsection (5)(a) through (c) of this section,
20 the removal shall apply only to the land affected. If land is removed
21 from designation because of subsection (5)(d) of this section, the
22 removal shall apply only to the actual area of land that is no longer
23 primarily devoted to the growing and harvesting of timber, without
24 regard to any other land that may have been included in the application
25 and approved for designation, as long as the remaining designated
26 forest land meets the definition of forest land contained in RCW
27 84.33.035.

28 (9) Within thirty days after the removal of designation as forest
29 land, the assessor shall notify the owner in writing, setting forth the
30 reasons for the removal. The seller, transferor, or owner may appeal
31 the removal to the county board of equalization in accordance with the
32 provisions of RCW 84.40.038.

33 (10) Unless the removal is reversed on appeal a copy of the notice
34 of removal with a notation of the action, if any, upon appeal, together
35 with the legal description or assessor's parcel numbers for the land
36 removed from designation shall, at the expense of the applicant, be
37 filed by the assessor in the same manner as deeds are recorded and a
38 notation of removal from designation shall immediately be made upon the

1 assessment and tax rolls. The assessor shall revalue the land to be
2 removed with reference to its true and fair value as of January 1st of
3 the year of removal from designation. Both the assessed value before
4 and after the removal of designation shall be listed. Taxes based on
5 the value of the land as forest land shall be assessed and payable up
6 until the date of removal and taxes based on the true and fair value of
7 the land shall be assessed and payable from the date of removal from
8 designation.

9 (11) Except as provided in subsection (5)(c), (13), or (14) of this
10 section, a compensating tax shall be imposed on land removed from
11 designation as forest land. The compensating tax shall be due and
12 payable to the treasurer thirty days after the owner is notified of the
13 amount of this tax. As soon as possible after the land is removed from
14 designation, the assessor shall compute the amount of compensating tax
15 and mail a notice to the owner of the amount of compensating tax owed
16 and the date on which payment of this tax is due. The amount of
17 compensating tax shall be equal to the difference between the amount of
18 tax last levied on the land as designated forest land and an amount
19 equal to the new assessed value of the land multiplied by the dollar
20 rate of the last levy extended against the land, multiplied by a
21 number, in no event greater than nine, equal to the number of years for
22 which the land was designated as forest land, plus compensating taxes
23 on the land at forest land values up until the date of removal and the
24 prorated taxes on the land at true and fair value from the date of
25 removal to the end of the current tax year.

26 (12) Compensating tax, together with applicable interest thereon,
27 shall become a lien on the land which shall attach at the time the land
28 is removed from designation as forest land and shall have priority to
29 and shall be fully paid and satisfied before any recognizance,
30 mortgage, judgment, debt, obligation, or responsibility to or with
31 which the land may become charged or liable. The lien may be
32 foreclosed upon expiration of the same period after delinquency and in
33 the same manner provided by law for foreclosure of liens for delinquent
34 real property taxes as provided in RCW 84.64.050. Any compensating tax
35 unpaid on its due date shall thereupon become delinquent. From the
36 date of delinquency until paid, interest shall be charged at the same
37 rate applied by law to delinquent ad valorem property taxes.

1 (13) The compensating tax specified in subsection (11) of this
2 section shall not be imposed if the removal of designation under
3 subsection (5) of this section resulted solely from:

4 (a) Transfer to a government entity in exchange for other forest
5 land located within the state of Washington;

6 (b) A taking through the exercise of the power of eminent domain,
7 or sale or transfer to an entity having the power of eminent domain in
8 anticipation of the exercise of such power;

9 (c) A donation of fee title, development rights, or the right to
10 harvest timber, to a government agency or organization qualified under
11 RCW 84.34.210 and 64.04.130 for the purposes enumerated in those
12 sections, or the sale or transfer of fee title to a governmental entity
13 or a nonprofit nature conservancy corporation, as defined in RCW
14 64.04.130, exclusively for the protection and conservation of lands
15 recommended for state natural area preserve purposes by the natural
16 heritage council and natural heritage plan as defined in chapter 79.70
17 RCW or approved for state natural resources conservation area purposes
18 as defined in chapter 79.71 RCW. At such time as the land is not used
19 for the purposes enumerated, the compensating tax specified in
20 subsection (11) of this section shall be imposed upon the current
21 owner;

22 (d) The sale or transfer of fee title to the parks and recreation
23 commission for park and recreation purposes;

24 (e) Official action by an agency of the state of Washington or by
25 the county or city within which the land is located that disallows the
26 present use of the land;

27 (f) The creation, sale, or transfer of forestry riparian easements
28 under RCW 76.13.120;

29 (g) The creation, sale, or transfer of a fee interest or a
30 conservation easement for the riparian open space program under RCW
31 76.09.040;

32 (h) The sale or transfer of land within two years after the death
33 of the owner of at least a fifty percent interest in the land if the
34 land has been assessed and valued as classified forest land, designated
35 as forest land under this chapter, or classified under chapter 84.34
36 RCW continuously since 1993. The date of death shown on a death
37 certificate is the date used for the purposes of this subsection
38 (13)(h); or

1 (i) The sale or transfer of land after the death of the owner of at
2 least a fifty percent interest in the land if the land has been
3 assessed and valued as classified forest land, designated as forest
4 land under this chapter, or classified under chapter 84.34 RCW
5 continuously since 1993 and the sale or transfer takes place after July
6 22, 2001, and on or before July 22, 2003, and the death of the owner
7 occurred after January 1, 1991. The date of death shown on a death
8 certificate is the date used for the purposes of this subsection
9 (13)(i).

10 (14) In a county with a population of more than one million
11 inhabitants, the compensating tax specified in subsection (11) of this
12 section shall not be imposed if the removal of designation as forest
13 land under subsection (5) of this section resulted solely from:

14 (a) An action described in subsection (13) of this section; or

15 (b) A transfer of a property interest to a government entity, or to
16 a nonprofit historic preservation corporation or nonprofit nature
17 conservancy corporation, as defined in RCW 64.04.130, to protect or
18 enhance public resources, or to preserve, maintain, improve, restore,
19 limit the future use of, or otherwise to conserve for public use or
20 enjoyment, the property interest being transferred. At such time as
21 the property interest is not used for the purposes enumerated, the
22 compensating tax shall be imposed upon the current owner.

23 **Sec. 13.** RCW 77.12.203 and 1990 1st ex.s. c 15 s 11 are each
24 amended to read as follows:

25 (1) Notwithstanding RCW 84.36.010 or other statutes to the
26 contrary, the director shall pay by April 30th of each year on game
27 lands in each county, if requested by an election under RCW 77.12.201,
28 an amount in lieu of real property taxes equal to that amount paid on
29 similar parcels of open space land taxable under chapter 84.34 RCW or
30 the greater of seventy cents per acre per year or the amount paid in
31 1984 plus an additional amount for control of noxious weeds equal to
32 that which would be paid if such lands were privately owned. This
33 amount shall not be assessed or paid on department buildings,
34 structures, facilities, game farms, fish hatcheries, tidelands, or
35 public fishing areas of less than one hundred acres.

36 (2) "Game lands," as used in this section and RCW 77.12.201, means
37 those tracts one hundred acres or larger owned in fee by the department

1 and used for wildlife habitat and public recreational purposes. All
2 lands purchased for wildlife habitat, public access or recreation
3 purposes with federal funds in the Snake River drainage basin shall be
4 considered game lands regardless of acreage.

5 (3) This section shall not apply to lands transferred after April
6 23, 1990, to the department from other state agencies.

7 (4) The county shall distribute the amount received under this
8 section in lieu of real property taxes to all property taxing districts
9 except the state in appropriate tax code areas the same way it would
10 distribute local property taxes from private property. The county
11 shall distribute the amount received under this section for weed
12 control to the appropriate weed district.

13 NEW SECTION. Sec. 14. (1) The interagency committee for outdoor
14 recreation may apply up to three percent of the funds appropriated for
15 chapter 79A.15 RCW for the administration of the programs and purposes
16 specified in chapter 79A.15 RCW.

17 (2) Habitat and recreation land and facilities acquired or
18 developed with moneys appropriated for chapter 79A.15 RCW may not,
19 without prior approval of the interagency committee for outdoor
20 recreation, be converted to a use other than that for which funds were
21 originally approved. The interagency committee for outdoor recreation
22 shall adopt rules and procedures governing the approval of such a
23 conversion.

24 (3) This section expires July 1, 2007.

25 NEW SECTION. Sec. 15. Sections 1 through 13 of this act take
26 effect July 1, 2007.

27 NEW SECTION. Sec. 16. Section 14 of this act is necessary for the
28 immediate preservation of the public peace, health, or safety, or
29 support of the state government and its existing public institutions,
30 and takes effect July 1, 2005.

--- END ---