

**E2SHB 2844** - S COMM AMD

By Committee on Natural Resources, Ocean & Recreation

OUT OF ORDER 03/06/2008

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** (1)(a) The legislature finds that pollution  
4 from storm water runoff is a leading source of pollution in Puget Sound  
5 and in important water bodies in eastern Washington like the Columbia  
6 river. The decisions and actions of those living in adjacent  
7 communities impact the health of these water bodies. The loss of  
8 native and mature nonnative, nonnaturalized trees in urban areas  
9 throughout the region has contributed significantly to storm water and  
10 flooding problems in the region.

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

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

26 (d) The legislature further finds that there are innovative urban  
27 forest management programs and partnerships led by many cities across  
28 the state. However, there is no statewide inventory or assessment of  
29 our community and urban forests. Few cities have clear goals and  
30 standards for their urban forests. About twelve percent of

1 Washington's cities have urban forest management plans and less than  
2 half of Washington's communities have tree ordinances. Many  
3 communities report the need for better enforcement.

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

5 (a) Recognize and support city efforts to conserve, protect,  
6 improve, and expand Washington's urban forest in order to reduce storm  
7 water pollution in Puget Sound, flooding, energy consumption and  
8 greenhouse gas emissions, air pollution, and storm impacts to utility  
9 infrastructure.

10 (b) Assist cities and counties by developing a statewide community  
11 and urban forest inventory, assessment, model plans, and model  
12 ordinances, and by providing technical assistance, incentives, and  
13 resources to help cities become evergreen cities by utilizing these  
14 tools, maintenance programs, new partnerships, and community  
15 involvement.

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

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

21 (1) "Community and urban forest assessment" means an analysis of  
22 the community and urban forest inventory to establish the scope and  
23 scale of forest-related benefits and services, the economic valuation  
24 of such benefits, highlight trends and issues of concern, identify high  
25 priority areas to be addressed, outline strategies for addressing the  
26 critical issues and urban landscapes, and identify opportunities for  
27 retaining trees, expanding forest canopy, and planting additional trees  
28 to sustain Washington's urban and community forests.

29 (2) "Community and urban forest inventory" means a management tool  
30 designed to gauge the condition, management status, health, and  
31 diversity of a community and urban forest. An inventory may evaluate  
32 individual trees or groups of trees or canopy cover within community  
33 and urban forests, and will be periodically updated by the department  
34 of natural resources.

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

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

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

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

9 (7) "Public facilities" has the same meaning as defined in RCW  
10 36.70A.030.

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

14 (9) "Reforestation" means establishing and maintaining trees and  
15 urban forest canopy in plantable spaces such as street rights-of-way,  
16 transportation corridors, urban interchanges and highways, riparian  
17 areas, unstable slopes, shorelines, public lands, and property of  
18 willing private land owners.

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

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

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

26 (1) The department (~~may~~) shall establish and maintain a program  
27 in community and urban forestry to accomplish the purpose stated in RCW  
28 76.15.007. The department may assist municipalities and counties in  
29 establishing and maintaining community and urban forestry programs and  
30 encourage persons to engage in appropriate and improved tree management  
31 and care.

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

36 (3) The department may appoint a committee or council, in addition

1 to the technical advisory committee created in section 4 of this act to  
2 advise the department in establishing and carrying out a program in  
3 community and urban forestry.

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

7 (5)(a) The department shall, in collaboration with educational  
8 institutions, municipalities, corporations, the technical advisory  
9 committee created in section 4 of this act, state and national service  
10 organizations, and environmental organizations, conduct a prioritized  
11 statewide inventory of community and urban forests.

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

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

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

23 (e) In developing the statewide community and urban forest  
24 inventory, the department shall strive to enable Washington cities'  
25 urban forest managers to access carbon markets by working to ensure the  
26 inventory developed under this section is compatible with existing and  
27 developing urban forest reporting protocols designed to facilitate  
28 access to those carbon markets.

29 (6) The department shall, in collaboration with a statewide  
30 organization representing urban and community forestry programs, and  
31 with the evergreen cities partnership task force established in section  
32 16 of this act, conduct an urban forest assessment and develop  
33 recommendations to the appropriate committees of the legislature to  
34 improve community and urban forestry in Washington.

35 (7) The inventory and assessment required in this section must be  
36 capable of supporting the adoption and implementation of evergreen  
37 cities management plans and ordinances described in section 9 of this  
38 act.

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

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

13       (b) An initial inventory and assessment, consisting of the  
14 community and urban forests of the willing municipalities located in  
15 one county located east of the crest of the Cascade mountains and the  
16 willing municipalities located in one county located west of the crest  
17 of the Cascade mountains must be completed by June 1, 2010.

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

20       (1) The commissioner of public lands shall appoint a technical  
21 advisory committee to provide advice to the department during the  
22 development of the criteria and implementation plan for the statewide  
23 community and urban forest inventory and assessment required under RCW  
24 76.15.020.

25       (2) The technical advisory committee must include, but not be  
26 limited to, representatives from the following groups: Arborists;  
27 municipal foresters; educators; consultants; researchers; public works  
28 and utilities professionals; information technology specialists; and  
29 other affiliated professionals.

30       (3) The technical advisory committee members shall serve without  
31 compensation. Advisory committee members who are not state employees  
32 may receive reimbursement for travel expenses as provided by RCW  
33 43.03.050 and 43.03.060. Costs associated with the technical advisory  
34 committee may be paid from the general fund appropriation made  
35 available to the department for community and urban forestry.

36       (4) The technical advisory committee created in this section must

1 be disbanded by the commissioner upon the completion of the criteria  
2 and implementation plan for the statewide community and urban forest  
3 inventory and assessment required under RCW 76.15.020.

4 NEW SECTION. **Sec. 5.** The department shall, in the implementation  
5 of this chapter, coordinate with the department of natural resources.  
6 Additionally, in the development of the model evergreen city urban  
7 forest management plans and ordinances required by section 9 of this  
8 act, the department shall utilize the technical expertise of the  
9 department of natural resources regarding arboriculture, tree  
10 selection, and maintenance.

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

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

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

23 (i) The development and implementation of a city tree board or tree  
24 department;

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

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

28 (iv) Official recognition of arbor day; and

29 (v) The completion of an updated community and urban forest  
30 inventory for the city or the formal adoption of an inventory developed  
31 for the city by the department of natural resources pursuant to RCW  
32 76.15.020.

33 (c) The second graduated step of designation as an evergreen city  
34 includes the adoption of an evergreen cities urban forest management  
35 plan that exceeds the minimum standards in the model evergreen city

1 urban forestry management plan adopted by the department under section  
2 9 of this act.

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

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

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

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

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

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

18 The department shall manage the application and evaluation of  
19 candidates for evergreen city designation under section 6 of this act,  
20 and forward its recommendations to the department of community, trade,  
21 and economic development.

22 NEW SECTION. **Sec. 8.** (1) The department shall, subject to the  
23 availability of amounts appropriated for this specific purpose,  
24 coordinate with the department of natural resources in the development  
25 and implementation of a needs-based evergreen cities grant and  
26 competitive awards program to provide financial assistance to cities,  
27 towns, and counties for the development, adoption, or implementation of  
28 evergreen cities management plans or ordinances developed under section  
29 13 of this act.

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

34 (3) The department may only provide grants to cities, towns,  
35 counties under this chapter if the local government is recognized as an

1 evergreen city consistent with section 6 of this act, or is applying  
2 for funds that would aid them in their pursuit of evergreen city  
3 recognition.

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

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

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

15 (a) Recognize ecoregional differences in the state;

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

19 (c) Provide urban forest landowners inventorying their own property  
20 the ability to access existing inventories, technology, and other  
21 technical assistance available through the department of natural  
22 resources;

23 (d) Recognize and provide for vegetation management practices and  
24 programs that prevent vegetation from interfering with or damaging  
25 utilities, public facilities, and solar panels or buildings  
26 specifically designed to optimize passive solar energy; and

27 (e) Provide for vegetation management practices and programs that  
28 reflect and are consistent with the priorities and goals of the growth  
29 management act, chapter 36.70A RCW.

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

33 (4) After the development of model plans and ordinances under this  
34 section, the department shall, in conjunction with the department of  
35 natural resources, distribute and provide outreach regarding the model  
36 plans and ordinances and associated best management practices to local



1 jurisdictions to aid the local jurisdictions in obtaining evergreen  
2 city recognition under section 6 of this act.

3 (5) By December 1, 2010, the department shall, at a minimum,  
4 develop the model plans and ordinances required under this section for  
5 areas of the state where the department of natural resources has  
6 completed community and urban forest inventories pursuant to RCW  
7 76.15.020.

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

15 (2) By the fifteenth day of each consecutive December leading up to  
16 the adoption of the model plan and ordinance, the department of  
17 community, trade, and economic development shall deliver a report to  
18 the appropriate committees of the legislature outlining progress made  
19 towards the development of the model plan and ordinance.

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

24 (1) Inventory and assessment of the jurisdiction's urban and  
25 community forests utilized as a dynamic management tool to set goals,  
26 implement programs, and monitor outcomes that may be adjusted over  
27 time;

28 (2) Canopy cover goals;

29 (3) Plans for reforestation and tree canopy expansion within the  
30 jurisdiction's boundaries;

31 (4) Plans for restoration of public forests;

32 (5) Plans to achieve forest stand and diversity goals;

33 (6) Plans to maximize vegetated storm water management with trees  
34 and other vegetation that reduces runoff, increases soil infiltration,  
35 and reduces storm water pollution;

- 1 (7) Plans for other environmental health goals specific to air  
2 quality, habitat for wildlife, and energy conservation;
- 3 (8) Plans for vegetation management practices and programs to  
4 prevent vegetation from interfering with or damaging utilities and  
5 public facilities;
- 6 (9) Prioritized planting sites;
- 7 (10) Standards for tree selection, siting, planting, and pruning;
- 8 (11) Scheduled maintenance and stewardship for new and established  
9 trees;
- 10 (12) Staff and volunteer training requirements emphasizing  
11 appropriate expertise and professionalism;
- 12 (13) Guidelines for protecting existing trees from  
13 construction-related damage and damage related to preserving  
14 territorial views;
- 15 (14) Integrated disease and pest management plans;
- 16 (15) Wood waste utilization;
- 17 (16) Plans for community outreach, participation, education  
18 programs, and partnerships with nongovernment organizations;
- 19 (17) Time frames for achieving plan goals, objectives, and tasks;
- 20 (18) Plans for monitoring and measuring progress toward those  
21 benchmarks and goals; and
- 22 (19) Consistency with the urban wildland interface codes developed  
23 by the state building code council;
- 24 (20) An emphasis on landscape and revegetation plans in residential  
25 and commercial development areas where tree retention objectives are  
26 challenging to achieve; and
- 27 (21) Plans for maximizing building heating and cooling energy  
28 efficiency through appropriate siting of trees for summer shading,  
29 passive solar heating in winter, and for wind breaks.

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

- 34 (1) Tree canopy cover, density, and spacing;
- 35 (2) Tree conservation and retention;
- 36 (3) Vegetated storm water runoff management using native trees and  
37 appropriate nonnative, nonnaturalized vegetation;

1 (4) Clearing, grading, protection of soils, reductions in soil  
2 compaction, and use of appropriate soils with low runoff potential and  
3 high infiltration rates;

4 (5) Appropriate tree siting and maintenance for vegetation  
5 management practices and programs to prevent vegetation from  
6 interfering with or damaging utilities and public facilities;

7 (6) Native species and nonnative, nonnaturalized species diversity  
8 selection to reduce disease and pests in urban forests;

9 (7) Tree maintenance;

10 (8) Street tree installation and maintenance;

11 (9) Tree and vegetation buffers for riparian areas, critical areas,  
12 transportation and utility corridors, and commercial and residential  
13 areas;

14 (10) Tree assessments for new construction permitting;

15 (11) Recommended forest conditions for different land use types;

16 (12) Variances for hardship and safety;

17 (13) Variances to avoid conflicts with renewable solar energy  
18 infrastructure, passive solar building design, and locally grown  
19 produce; and

20 (14) Permits and appeals.

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

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

29 (3) Management plans developed by cities must be based on urban  
30 forest inventories for the jurisdiction covered by the management plan.  
31 The city or town developing the management plan may produce independent  
32 inventories themselves or rely solely on inventories developed,  
33 commissioned, or approved by the department of natural resources under  
34 chapter 76.15 RCW.

35 (4) Local jurisdictions may establish a local evergreen cities  
36 advisory board or utilize existing citizen boards focused on municipal

1 tree issues to achieve appropriate expert and stakeholder participation  
2 in the adoption and development of inventories, assessments,  
3 ordinances, and plans consistent with this chapter.

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

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

11 (1) Any county may adopt an evergreen cities ordinance, as that  
12 term is defined in section 2 of this act, which the county must apply  
13 to new building or land development in the unincorporated portions of  
14 the county's urban growth areas, as that term is defined in RCW  
15 36.70A.030, and may apply to other areas of the county as deemed  
16 appropriate by the county.

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

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

29 (2) The department shall, together with the department of natural  
30 resources, review any evergreen cities ordinances or urban forest  
31 management plans submitted. When reviewing an ordinance or plan under  
32 this section, the department shall focus its review on the plan's  
33 consistency with this chapter and the model evergreen cities management  
34 plans and ordinances adopted under section 9 of this act. When the  
35 following entities submit evergreen cities ordinances and urban forest  
36 management plans for review, they must be considered by the department,

1 together with the department of natural resources, the department of  
2 fish and wildlife, and the Puget Sound partnership: A county adjacent  
3 to Puget Sound or any city located within any of those counties. The  
4 reviewing departments shall provide written comments on both plans and  
5 ordinances.

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

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

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

18 (3) Representatives of the department of natural resources and the  
19 department of ecology shall participate in the evergreen cities  
20 partnership task force.

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

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

25 (b) A conservation organization with expertise in Puget Sound storm  
26 water management;

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

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

31 (e) Two land development professionals or representative  
32 associations representing development professionals affected by tree  
33 retention ordinances and storm water management policies;

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

36 (g) A land trust conservation organization facilitating urban  
37 forest management partnerships;

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

3 (i) A public works professional;

4 (j) A private utility;

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

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

10 (m) The timber industry.

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

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

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

20 NEW SECTION. **Sec. 17.** Nothing in this chapter may be construed  
21 to:

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

27 (2) Apply to lands designated under chapters 76.09, 79.70, 79.71,  
28 84.33, and 84.34 RCW.

29 NEW SECTION. **Sec. 18.** The department is authorized to spend  
30 moneys appropriated by the legislature or any other moneys contributed  
31 for the purpose of supporting cities being recognized as evergreen  
32 cities under section 6 of this act or to implement evergreen cities  
33 management plans under section 13 of this act.

34 NEW SECTION. **Sec. 19.** (1) Moneys appropriated to the department

1 of natural resources for the evergreen cities program must be used for  
2 an evergreen cities pilot program.

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

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

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

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

12 (4) Grants must be awarded on a competitive basis using an  
13 application process and criteria developed jointly by the department of  
14 community, trade, and economic development and the department of  
15 natural resources.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23       (1) Gas companies and electrical companies under this chapter  
24 (~~may~~) are encouraged to provide information to their customers  
25 regarding landscaping that includes tree planting for energy  
26 conservation.

27       (2)(a) Gas companies and electrical companies under this chapter  
28 may request voluntary donations from their customers for the purposes  
29 of urban forestry. The request may be in the form of a check-off on  
30 the billing statement or other form of a request for a voluntary  
31 donation.

32       (b) Voluntary donations collected by gas companies and electrical  
33 companies under this section may be used by the gas companies and  
34 electrical companies to:

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



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

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

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

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

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

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

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

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

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

24 Unless the context clearly requires otherwise, the definitions in  
25 this section apply throughout this chapter.

26 (1) "Community and urban forest" is that land in and around human  
27 settlements ranging from small communities to metropolitan areas,  
28 occupied or potentially occupied by trees and associated vegetation.  
29 Community and urban forest land may be planted or unplanted, used or  
30 unused, and includes public and private lands, lands along  
31 transportation and utility corridors, and forested watershed lands  
32 within populated areas.

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

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

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

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

6        ~~((+4))~~ (6) "Municipality" means a city, town, port district,  
7 public school district, community college district, irrigation  
8 district, weed control district, park district, or other political  
9 subdivision of the state.

10       ~~((+5))~~ (7) "Person" means an individual, partnership, private or  
11 public municipal corporation, Indian tribe, state entity, county or  
12 local governmental entity, or association of individuals of whatever  
13 nature.

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

18        (a) Identify their interests in becoming an evergreen city; and

19        (b) Identify community and urban forests within their applicable  
20 urban growth areas that are appropriately situated for the local  
21 government to assume ownership from willing sellers for urban forest  
22 management purposes consistent with this act.

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

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

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

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

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

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

6 (b) The local government must have developed a capital facility  
7 plan; and

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

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

27 (3) In considering awarding loans for public facilities to special  
28 districts requesting funding for a proposed facility located in a  
29 county, city, or town planning under RCW 36.70A.040, the board shall  
30 consider whether the county, city, or town planning under RCW  
31 36.70A.040 in whose planning jurisdiction the proposed facility is  
32 located has adopted a comprehensive plan and development regulations as  
33 required by RCW 36.70A.040.

34 (4) The board shall develop a priority process for public works  
35 projects as provided in this section. The intent of the priority  
36 process is to maximize the value of public works projects accomplished  
37 with assistance under this chapter. The board shall attempt to assure

1 a geographical balance in assigning priorities to projects. The board  
2 shall consider at least the following factors in assigning a priority  
3 to a project:

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

7 (b) Except as otherwise conditioned by RCW 43.155.110, whether the  
8 entity receiving assistance is a Puget Sound partner, as defined in RCW  
9 90.71.010;

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

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

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

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

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

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

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

26 (j) Except as otherwise conditioned by section 31 of this act, and  
27 effective one calendar year following the development of model  
28 evergreen cities management plans and ordinances under section 9 of  
29 this act, whether the entity receiving assistance has been recognized,  
30 and what gradation of recognition was received, in the evergreen cities  
31 recognition program created in section 6 of this act;

32 (k) The relative benefit of the project to the community,  
33 considering the present level of economic activity in the community and  
34 the existing local capacity to increase local economic activity in  
35 communities that have low economic growth; and

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

37 (5) Existing debt or financial obligations of local governments  
38 shall not be refinanced under this chapter. Each local government

1 applicant shall provide documentation of attempts to secure additional  
2 local or other sources of funding for each public works project for  
3 which financial assistance is sought under this chapter.

4 (6) Before November 1st of each year, the board shall develop and  
5 submit to the appropriate fiscal committees of the senate and house of  
6 representatives a description of the loans made under RCW 43.155.065,  
7 43.155.068, and subsection (9) of this section during the preceding  
8 fiscal year and a prioritized list of projects which are recommended  
9 for funding by the legislature, including one copy to the staff of each  
10 of the committees. The list shall include, but not be limited to, a  
11 description of each project and recommended financing, the terms and  
12 conditions of the loan or financial guarantee, the local government  
13 jurisdiction and unemployment rate, demonstration of the jurisdiction's  
14 critical need for the project and documentation of local funds being  
15 used to finance the public works project. The list shall also include  
16 measures of fiscal capacity for each jurisdiction recommended for  
17 financial assistance, compared to authorized limits and state averages,  
18 including local government sales taxes; real estate excise taxes;  
19 property taxes; and charges for or taxes on sewerage, water, garbage,  
20 and other utilities.

21 (7) The board shall not sign contracts or otherwise financially  
22 obligate funds from the public works assistance account before the  
23 legislature has appropriated funds for a specific list of public works  
24 projects. The legislature may remove projects from the list  
25 recommended by the board. The legislature shall not change the order  
26 of the priorities recommended for funding by the board.

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

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

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

36 (11) After January 1, 2010, any project designed to address the  
37 effects of storm water or wastewater on Puget Sound may be funded under

1 this section only if the project is not in conflict with the action  
2 agenda developed by the Puget Sound partnership under RCW 90.71.310.

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

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

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

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

10 (c) Actions required under federal and state permits and compliance  
11 orders;

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

14 (e) Except as otherwise conditioned by RCW 70.146.110, whether the  
15 entity receiving assistance is a Puget Sound partner, as defined in RCW  
16 90.71.010;

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

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

26 (h) The extent to which the applicant county or city, or if the  
27 applicant is another public body, the extent to which the county or  
28 city in which the applicant public body is located, has established  
29 programs to mitigate nonpoint pollution of the surface or subterranean  
30 water sought to be protected by the water pollution control facility  
31 named in the application for state assistance; and

32 ((+h)) (i) The recommendations of the Puget Sound partnership,  
33 created in RCW 90.71.210, and any other board, council, commission, or  
34 group established by the legislature or a state agency to study water  
35 pollution control issues in the state.

36 (2) Except where necessary to address a public health need or  
37 substantial environmental degradation, a county, city, or town planning

1 under RCW 36.70A.040 may not receive a grant or loan for water  
2 pollution control facilities unless it has adopted a comprehensive  
3 plan, including a capital facilities plan element, and development  
4 regulations as required by RCW 36.70A.040. This subsection does not  
5 require any county, city, or town planning under RCW 36.70A.040 to  
6 adopt a comprehensive plan or development regulations before requesting  
7 or receiving a grant or loan under this chapter if such request is made  
8 before the expiration of the time periods specified in RCW 36.70A.040.  
9 A county, city, or town planning under RCW 36.70A.040 which has not  
10 adopted a comprehensive plan and development regulations within the  
11 time periods specified in RCW 36.70A.040 is not prohibited from  
12 receiving a grant or loan under this chapter if the comprehensive plan  
13 and development regulations are adopted as required by RCW 36.70A.040  
14 before submitting a request for a grant or loan.

15 (3) Whenever the department is considering awarding grants or loans  
16 for public facilities to special districts requesting funding for a  
17 proposed facility located in a county, city, or town planning under RCW  
18 36.70A.040, it shall consider whether the county, city, or town  
19 planning under RCW 36.70A.040 in whose planning jurisdiction the  
20 proposed facility is located has adopted a comprehensive plan and  
21 development regulations as required by RCW 36.70A.040.

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

26 **Sec. 28.** RCW 89.08.520 and 2007 c 341 s 28 are each amended to  
27 read as follows:

28 (1) In administering grant programs to improve water quality and  
29 protect habitat, the commission shall:

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

32 (b) In its grant prioritization and selection process, consider:

33 (i) The statement of environmental benefits;

34 (ii) Whether, except as conditioned by RCW 89.08.580, the applicant  
35 is a Puget Sound partner, as defined in RCW 90.71.010, and except as  
36 otherwise provided in section 33 of this act, and effective one  
37 calendar year following the development and statewide availability of

1 model evergreen cities management plans and ordinances under section 9  
2 of this act, whether the applicant is an entity that has been  
3 recognized, and what gradation of recognition was received, in the  
4 evergreen cities recognition program created in section 6 of this act;  
5 and

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

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

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

15 (b) The commission shall work with the districts to develop uniform  
16 performance measures across participating districts and, to the extent  
17 possible, the commission should coordinate its performance measure  
18 system with other natural resource-related agencies as defined in RCW  
19 43.41.270. The commission shall consult with affected interest groups  
20 in implementing this section.

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

23 (1) After deduction for management costs as provided in RCW  
24 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys  
25 received by the state from the sale or lease of state-owned aquatic  
26 lands and from the sale of valuable material from state-owned aquatic  
27 lands shall be deposited in the aquatic lands enhancement account which  
28 is hereby created in the state treasury. After appropriation, these  
29 funds shall be used solely for aquatic lands enhancement projects; for  
30 the purchase, improvement, or protection of aquatic lands for public  
31 purposes; for providing and improving access to the lands; and for  
32 volunteer cooperative fish and game projects.

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

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



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

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

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

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

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

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

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

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

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

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

35 (d) Not less than ten percent through June 30, 2011, at which time  
36 the amount shall become five percent, shall be used by the board to  
37 fund restoration and enhancement projects on state lands. Only the

1 department of natural resources and the department of fish and wildlife  
2 may apply for these funds to be used on existing habitat and natural  
3 area lands.

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

8 (b) If not enough project applications are submitted in a category  
9 within the habitat conservation account to meet the percentages  
10 described in subsection (1) of this section in any biennium, the board  
11 retains discretion to distribute any remaining funds to the other  
12 categories within the account.

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

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

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

23 (b) Any lands that have been acquired with grants under this  
24 section by the department of natural resources are subject to payments  
25 in the amounts required under the provisions of RCW 79.70.130 and  
26 79.71.130.

27 (6)((~~a~~)) Except as otherwise conditioned by RCW 79A.15.140 or  
28 section 35 of this act, the (~~committee~~) board in its evaluating  
29 process shall consider the following in determining distribution  
30 priority:

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

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

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

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

7       NEW SECTION.   **Sec. 31.** A new section is added to chapter 43.155  
8 RCW to read as follows:

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

15       NEW SECTION.   **Sec. 32.** A new section is added to chapter 70.146  
16 RCW to read as follows:

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

23       NEW SECTION.   **Sec. 33.** A new section is added to chapter 89.08 RCW  
24 to read as follows:

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

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

33       When administering funds under this chapter, the recreation and  
34 conservation funding board shall give preference only to evergreen

1 cities recognized under section 6 of this act in comparison to other  
2 entities that are eligible to receive evergreen city designation.  
3 Entities not eligible for designation as an evergreen city shall not be  
4 given less preferential treatment than evergreen cities.

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

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

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

15 (1) All charges made, demanded or received by any gas company,  
16 electrical company or water company for gas, electricity or water, or  
17 for any service rendered or to be rendered in connection therewith,  
18 shall be just, fair, reasonable and sufficient. Reasonable charges  
19 necessary to cover the cost of administering the collection of  
20 voluntary donations for the purposes of urban forestry under RCW  
21 80.28.300 shall be deemed as prudent and necessary for the operation of  
22 a utility.

23 (2) Every gas company, electrical company and water company shall  
24 furnish and supply such service, instrumentalities and facilities as  
25 shall be safe, adequate and efficient, and in all respects just and  
26 reasonable.

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

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

32 (a) Notifies the utility of the inability to pay the bill,  
33 including a security deposit. This notice should be provided within  
34 five business days of receiving a payment overdue notice unless there  
35 are extenuating circumstances. If the customer fails to notify the  
36 utility within five business days and service is terminated, the

1 customer can, by paying reconnection charges, if any, and fulfilling  
2 the requirements of this section, receive the protections of this  
3 chapter;

4 (b) Provides self-certification of household income for the prior  
5 twelve months to a grantee of the department of community, trade, and  
6 economic development which administers federally funded energy  
7 assistance programs. The grantee shall determine that the household  
8 income does not exceed the maximum allowed for eligibility under the  
9 state's plan for low-income energy assistance under 42 U.S.C. 8624 and  
10 shall provide a dollar figure that is seven percent of household  
11 income. The grantee may verify information provided in the self-  
12 certification;

13 (c) Has applied for home heating assistance from applicable  
14 government and private sector organizations and certifies that any  
15 assistance received will be applied to the current bill and future  
16 utility bills;

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

20 (e) Agrees to a payment plan and agrees to maintain the payment  
21 plan. The plan will be designed both to pay the past due bill by the  
22 following October 15 and to pay for continued utility service. If the  
23 past due bill is not paid by the following October 15, the customer  
24 shall not be eligible for protections under this chapter until the past  
25 due bill is paid. The plan shall not require monthly payments in  
26 excess of seven percent of the customer's monthly income plus one-  
27 twelfth of any arrearage accrued from the date application is made and  
28 thereafter during November 15 through March 15. A customer may agree  
29 to pay a higher percentage during this period, but shall not be in  
30 default unless payment during this period is less than seven percent of  
31 monthly income plus one-twelfth of any arrearage accrued from the date  
32 application is made and thereafter. If assistance payments are  
33 received by the customer subsequent to implementation of the plan, the  
34 customer shall contact the utility to reformulate the plan; and

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

36 (5) The utility shall:

37 (a) Include in any notice that an account is delinquent and that

1 service may be subject to termination, a description of the customer's  
2 duties in this section;

3 (b) Assist the customer in fulfilling the requirements under this  
4 section;

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

8 (d) Be permitted to disconnect service if the customer fails to  
9 honor the payment program. Utilities may continue to disconnect  
10 service for those practices authorized by law other than for nonpayment  
11 as provided for in this subsection. Customers who qualify for payment  
12 plans under this section who default on their payment plans and are  
13 disconnected can be reconnected and maintain the protections afforded  
14 under this chapter by paying reconnection charges, if any, and by  
15 paying all amounts that would have been due and owing under the terms  
16 of the applicable payment plan, absent default, on the date on which  
17 service is reconnected; and

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

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

23 (7) Every gas company and electrical company shall offer  
24 residential customers the option of a budget billing or equal payment  
25 plan. The budget billing or equal payment plan shall be offered low-  
26 income customers eligible under the state's plan for low-income energy  
27 assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without  
28 limiting availability to certain months of the year, without regard to  
29 the length of time the customer has occupied the premises, and without  
30 regard to whether the customer is the tenant or owner of the premises  
31 occupied.

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

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

1 (10) In establishing rates or charges for water service, water  
2 companies as defined in RCW 80.04.010 may consider the achievement of  
3 water conservation goals and the discouragement of wasteful water use  
4 practices.

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

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

10 NEW SECTION. **Sec. 39.** If specific funding for the purposes of  
11 this act, referencing this act by bill or chapter number, is not  
12 provided by June 30, 2008, in the omnibus appropriations act, this act  
13 is null and void."

**E2SHB 2844** - S COMM AMD  
By Committee on Natural Resources, Ocean & Recreation

**OUT OF ORDER 03/06/2008**

14 On page 1, line 2 of the title, after "partnerships;" strike the  
15 remainder of the title and insert "amending RCW 76.15.020, 35.92.390,  
16 35A.80.040, 80.28.300, 76.15.010, 89.08.520, 79.105.150, and 80.28.010;  
17 reenacting and amending RCW 43.155.070, 70.146.070, and 79A.15.040;  
18 adding new sections to chapter 76.15 RCW; adding a new section to  
19 chapter 36.01 RCW; adding a new section to chapter 54.16 RCW; adding a  
20 new section to chapter 43.155 RCW; adding a new section to chapter  
21 70.146 RCW; adding a new section to chapter 89.08 RCW; adding a new  
22 section to chapter 79.105 RCW; adding a new section to chapter 79A.15  
23 RCW; adding a new chapter to Title 35 RCW; creating new sections; and  
24 providing an expiration date."

--- END ---