
SUBSTITUTE SENATE BILL 6469

State of Washington

60th Legislature

2008 Regular Session

By Senate Natural Resources, Ocean & Recreation (originally sponsored by Senators Murray, Swecker, Jacobsen, Pridemore, McDermott, Fraser, McAuliffe, Kohl-Welles, and Rockefeller)

READ FIRST TIME 02/08/08.

1 AN ACT Relating to preventing air and water pollution through urban
2 forestry partnerships; amending RCW 76.15.020, 35.92.390, 35A.80.040,
3 80.28.300, 76.15.010, 89.08.520, 79.105.150, and 80.28.010; reenacting
4 and amending RCW 43.155.070, 70.146.070, and 79A.15.040; adding new
5 sections to chapter 76.15 RCW; adding a new section to chapter 36.01
6 RCW; adding a new section to chapter 54.16 RCW; adding a new section to
7 chapter 43.155 RCW; adding a new section to chapter 70.146 RCW; adding
8 a new section to chapter 89.08 RCW; adding a new section to chapter
9 79.105 RCW; adding a new section to chapter 79A.15 RCW; adding a new
10 chapter to Title 35 RCW; creating new sections; and providing an
11 expiration date.

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

13 NEW SECTION. **Sec. 1.** (1)(a) The legislature finds that pollution
14 from storm water runoff is a leading source of pollution in Puget Sound
15 and in important water bodies in eastern Washington like the Columbia
16 river. The decisions and actions of those living in adjacent
17 communities impact the health of these water bodies. The loss of
18 native and mature noninvasive and nonnaturalized trees in urban areas

1 throughout the region has contributed significantly to storm water and
2 flooding problems in the region.

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

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

18 (d) The legislature further finds that there are innovative urban
19 forest management programs and partnerships led by many cities across
20 the state. However, there is no statewide inventory or assessment of
21 our community and urban forests. Few cities have clear goals and
22 standards for their urban forests. About twelve percent of
23 Washington's cities have urban forest management plans and less than
24 half of Washington's communities have tree ordinances. Many
25 communities report the need for better enforcement.

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

27 (a) Recognize and support city efforts to conserve, protect,
28 improve, and expand Washington's urban forest in order to reduce storm
29 water pollution in Puget Sound, flooding, energy consumption and
30 greenhouse gases emissions, air pollution, and storm impacts to utility
31 infrastructure;

32 (b) Assist cities and counties by developing a statewide urban
33 forestry inventory, assessment, model plans, and model ordinances, and
34 by providing technical assistance, incentives, and resources to help
35 cities become evergreen cities by utilizing these tools, maintenance
36 programs, new partnerships, and community involvement;

37 (c) Develop the statewide urban forest inventory in a way that is

1 compatible with emerging reporting protocols that could facilitate
2 cities' future access to carbon markets.

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

5 (1) "Community and urban forest assessment" means an analysis of
6 the community and urban forest inventory to establish the scope and
7 scale of forest-related benefits and services, the economic valuation
8 of such benefits, highlight trends and issues of concern, identify high
9 priority areas to be addressed, outline strategies for addressing the
10 critical issues and urban landscapes, and identify opportunities for
11 retaining trees, expanding forest canopy, and planting additional trees
12 to sustain Washington's urban and community forests.

13 (2) "Community and urban forest inventory" means a management tool
14 designed to gauge the condition, management status, health, and
15 diversity of a community and urban forest. An inventory may evaluate
16 individual trees or groups of trees or canopy cover within community
17 and urban forests, and will be periodically updated by the department
18 of natural resources.

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

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

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

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

29 (7) "Public facilities" has the same meaning as defined in RCW
30 36.70A.030.

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

34 (9) "Reforestation" means establishing and maintaining trees and
35 urban forest canopy in plantable spaces such as street rights-of-way,
36 transportation corridors, urban interchanges and highways, riparian

1 areas, unstable slopes, shorelines, public lands, and property of
2 willing private land owners.

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

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

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

10 (1) The department (~~may~~) shall establish and maintain a program
11 in community and urban forestry to accomplish the purpose stated in RCW
12 76.15.007. The department may assist municipalities and counties in
13 establishing and maintaining community and urban forestry programs and
14 encourage persons to engage in appropriate and improved tree management
15 and care.

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

20 (3) The department may appoint a committee or council, in addition
21 to the technical advisory committee created in section 4 of this act to
22 advise the department in establishing and carrying out a program in
23 community and urban forestry.

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

27 (5)(a) The department shall, in collaboration with educational
28 institutions, municipalities, corporations, the technical advisory
29 committee created in section 4 of this act, state and national service
30 organizations, and environmental organizations, conduct a prioritized
31 statewide inventory of community and urban forests.

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

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

1 (d) The department shall strive to enable Washington cities' urban
2 forest managers to access carbon markets by working to ensure the
3 inventory developed in this act is compatible with existing and
4 developing urban forest reporting protocols designed to facilitate
5 access to those markets.

6 (e) The criteria for the statewide community and urban forest
7 inventory may include but not be limited to: Tree size, species,
8 location, site appropriateness, condition and health, contribution to
9 canopy cover and volume, available planting spaces, and ecosystem,
10 economic, social, and monetary value.

11 (6) The department shall, in collaboration with a statewide
12 organization representing urban and community forestry programs, and
13 with the evergreen cities partnership task force established in section
14 16 of this act, conduct an urban forest assessment and develop
15 recommendations to the appropriate committees of the legislature to
16 improve community and urban forestry in Washington.

17 (7) The inventory and assessment required in this section must be
18 capable of supporting the adoption and implementation of evergreen
19 cities management plans and ordinances described in section 9 of this
20 act.

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

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

33 (b) An initial inventory and assessment of one county east of the
34 crest of the Cascade mountains and one county west of the crest of the
35 Cascade mountains consisting of willing municipalities' community and
36 urban forests must be completed by June 1, 2010.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 76.15 RCW
2 to read as follows:

3 (1) The commissioner of public lands shall appoint a technical
4 advisory committee to provide advice to the department during the
5 development of the criteria and implementation plan for the statewide
6 community and urban forest inventory and assessment required under RCW
7 76.15.020.

8 (2) The technical advisory committee must include, but not be
9 limited to, representatives from the following groups: Arborists;
10 municipal foresters; educators; consultants; researchers; public works
11 and utilities professionals; information technology specialists; and
12 other affiliated professionals.

13 (3) The technical advisory committee members shall serve without
14 compensation. Advisory committee members who are not state employees
15 may receive reimbursement for travel expenses as provided by RCW
16 43.03.050 and 43.03.060. Costs associated with the technical advisory
17 committee may be paid from the general fund appropriation made
18 available to the department for community and urban forestry.

19 (4) The technical advisory committee created in this section must
20 be disbanded by the commissioner upon the completion of the criteria
21 and implementation plan for the statewide community and urban forest
22 inventory and assessment required under RCW 76.15.020.

23 NEW SECTION. **Sec. 5.** The department shall, in the implementation
24 of this chapter, coordinate with the department of natural resources.

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

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

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

1 (i) The development and implementation of a city tree board or tree
2 department;

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

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

6 (iv) Official recognition of arbor day; and

7 (v) The completion of an updated community and urban forest
8 inventory for the city or the formal adoption of an inventory developed
9 for the city by the department of natural resources pursuant to RCW
10 76.15.020.

11 (c) The second graduated step of designation as an evergreen city
12 includes the adoption of an evergreen cities urban forest management
13 plan that exceeds the minimum standards in the model evergreen city
14 urban forestry management plan adopted by the department under section
15 9 of this act.

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

18 (3) The department shall develop an evergreen cities logo and
19 signage for designated evergreen cities' gateway signage.

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

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

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

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

31 The department shall manage the application and evaluation of
32 candidates for evergreen city designation under section 6 of this act,
33 and forward its recommendations to the department of community, trade,
34 and economic development.

35 NEW SECTION. **Sec. 8.** (1) The department shall, subject to the
36 availability of amounts appropriated for this specific purpose,

1 coordinate with the department of natural resources in the development
2 and implementation of a needs-based evergreen cities grant and
3 competitive awards program to provide financial assistance to cities,
4 towns, and counties for the development, adoption, or implementation of
5 evergreen cities management plans or ordinances developed under section
6 13 of this act.

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

11 (3) The department may only provide grants to cities, towns,
12 counties under this chapter if the local government is recognized as an
13 evergreen city consistent with section 6 of this act, or is applying
14 for funds that would aid them in their pursuit of evergreen city
15 recognition.

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

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

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

27 (a) Recognize ecoregional differences in the state;

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

31 (c) Recognize and provide for vegetation management practices and
32 programs that prevent vegetation from interfering with or damaging
33 utilities, public facilities, and solar panels or buildings
34 specifically designed to optimize passive solar energy.

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

1 (4) After the development of model plans and ordinances under this
2 section, the department shall, in conjunction with the department of
3 natural resources, distribute and provide outreach regarding the model
4 plans and ordinances and associated best management practices to local
5 jurisdictions to aid the local jurisdictions in obtaining evergreen
6 city recognition under section 6 of this act.

7 (5) By December 1, 2010, the department shall develop model plans
8 and ordinances required under this section for at least the regions
9 within which each inventoried county under RCW 76.15.020 is found.

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

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

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

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

30 (2) Canopy cover goals;

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

33 (4) Plans for restoration of public forests;

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

35 (6) Plans to maximize vegetated storm water management with trees

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

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

- 36 (1) Tree canopy cover, density, and spacing;
- 37 (2) Tree conservation and retention;

1 (3) Vegetated storm water runoff management using native trees and
2 appropriate noninvasive nonnaturalized vegetation;

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

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

9 (6) Native species and noninvasive nonnaturalized species diversity
10 selection to reduce disease and pests in urban forests;

11 (7) Tree maintenance;

12 (8) Street tree installation and maintenance;

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

16 (10) Tree assessments for new construction permitting;

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

18 (12) Variances for hardship and safety;

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

22 (14) Permits and appeals.

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

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

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

1 (4) Local jurisdictions may establish a local evergreen cities
2 advisory board or utilize existing citizen boards focused on municipal
3 tree issues to achieve appropriate expert and stakeholder participation
4 in the adoption and development of inventories, assessments,
5 ordinances, and plans consistent with this chapter.

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

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

13 (1) Any county may adopt an evergreen cities ordinance, as that
14 term is defined in section 2 of this act, which the county must apply
15 to new building or land development in the unincorporated portions of
16 the county's urban growth areas, as that term is defined in RCW
17 36.70A.030, and may apply to other areas of the county as deemed
18 appropriate by the county.

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

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

31 (2) The department shall, together with the department of natural
32 resources, review any evergreen cities ordinances or urban forest
33 management plans submitted. When reviewing an ordinance or plan under
34 this section, the department shall focus its review on the plan's
35 consistency with this chapter and the model evergreen cities management

1 plans and ordinances adopted under section 9 of this act. Both
2 departments may provide written comments on either plans or ordinances.

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

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

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

15 (3) Representatives of the department of natural resources and the
16 department of ecology shall participate in the evergreen cities
17 partnership task force.

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

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

22 (b) A conservation organization with expertise in Puget Sound storm
23 water management;

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

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

28 (e) Two land development professionals or representative
29 associations representing development professionals affected by tree
30 retention ordinances and storm water management policies;

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

33 (g) A land trust conservation organization facilitating urban
34 forest management partnerships;

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

37 (i) A public works professional;

1 (j) A private utility;

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

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

7 (m) The timber industry.

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

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

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

17 (8) The department of natural resources, the department of
18 community, trade, and economic development, and the department of
19 revenue, in conjunction with the task force created in this section,
20 must develop recommendations and report to the legislature by December
21 1, 2009, on the following:

22 (a) A system that will provide individual landowners a property tax
23 incentive through valuation or credit based on existing trees on their
24 property that preserve and enhance the urban tree canopy; and

25 (b) A mechanism for individual property owners to voluntarily
26 donate funds to forest landowners who exceed forest practices standards
27 under chapter 76.09 RCW.

28 NEW SECTION. **Sec. 17.** Nothing in this chapter may be construed
29 to:

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

35 (2) Apply to lands designated under chapters 76.09, 84.33, and
36 84.34 RCW.

1 NEW SECTION. **Sec. 18.** (1) The department is authorized to spend
2 moneys appropriated by the legislature or any other moneys contributed
3 for the purpose of supporting cities being recognized as evergreen
4 cities under section 6 of this act or to implement evergreen cities
5 management plans under section 13 of this act.

6 (2) The legislature intends to match all donations received by
7 utilities under RCW 35.92.390, 35A.80.040, 80.28.300, and section 23 of
8 this act with an equal amount of funding for the evergreen cities
9 program. To aid the legislature with this process, the office of
10 financial management shall, when developing a budget request, include
11 a provision that requests an amount equal to all donations reported to
12 the department under RCW 35.92.390, 35A.80.040, 80.28.300, and section
13 23 of this act be appropriated into the evergreen cities program from
14 the general fund.

15 (3) The department shall compile and make available to the office
16 of financial management and the legislature total receipts of ratepayer
17 urban forestry contributions reported by utilities under RCW 35.92.390,
18 35A.80.040, 80.28.300, and section 23 of this act.

19 NEW SECTION. **Sec. 19.** (1) Moneys appropriated to the department
20 of natural resources for the evergreen cities program must be used for
21 an evergreen cities pilot program.

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

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

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

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

31 (4) Grants must be awarded on a competitive basis using an
32 application process and criteria developed jointly by the department of
33 community, trade, and economic development and the department of
34 natural resources.

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

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

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

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

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

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

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

17 (c) Municipal utilities shall annually report to the department of
18 revenue the total amount of voluntary donations received under this
19 section as well as whether the municipal utility provided a match for
20 the donations received. Donations reported under this section do not
21 contribute to the gross income of a light and power business or gas
22 distribution business under chapter 82.16 RCW.

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

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

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

33 (b) Voluntary donations collected by code cities under this section
34 may be used by the code city 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) Code cities shall annually report to the department of revenue
4 the total amount of voluntary donations received under this section as
5 well as whether the code city provided a match for the donations
6 received. Donations reported under this section do not contribute to
7 the gross income of a light and power business or gas distribution
8 business under chapter 82.16 RCW.

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

11 (1) Gas companies and electrical companies under this chapter
12 ~~((may))~~ are encouraged to provide information to their customers
13 regarding landscaping that includes tree planting for energy
14 conservation.

15 (2)(a) Gas companies and electrical companies under this chapter
16 may request voluntary donations from their customers for the purposes
17 of urban forestry. The request may be in the form of a check-off on
18 the billing statement or other form of a request for a voluntary
19 donation.

20 (b) Voluntary donations collected by gas companies and electrical
21 companies under this section may be used by the gas companies and
22 electrical companies to:

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

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

28 (c) Gas companies and electrical companies shall annually report to
29 the department of revenue the total amount of voluntary donations
30 received under this section as well as whether the utility provided a
31 match for the donations received. Donations reported under this
32 section do not contribute to the gross income of a light and power
33 business or gas distribution business under chapter 82.16 RCW.

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

36 (1) Public utility districts may request voluntary donations from

1 their customers for the purposes of urban forestry. The request may be
2 in the form of a check-off on the billing statement or other form of a
3 request for a voluntary donation.

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

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

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

11 (3) Public utility districts shall annually report to the
12 department of community, trade, and economic development the total
13 amount of voluntary donations received under this section as well as
14 whether the utility provided a match for the donations received.
15 Donations reported under this section do not contribute to the gross
16 income of a light and power business or gas distribution business under
17 chapter 82.16 RCW.

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

20 Unless the context clearly requires otherwise, the definitions in
21 this section apply throughout this chapter.

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

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

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

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

37 (~~(3)~~) (5) "Department" means the department of natural resources.

1 ((4)) (6) "Municipality" means a city, town, port district,
2 public school district, community college district, irrigation
3 district, weed control district, park district, or other political
4 subdivision of the state.

5 ((5)) (7) "Person" means an individual, partnership, private or
6 public municipal corporation, Indian tribe, state entity, county or
7 local governmental entity, or association of individuals of whatever
8 nature.

9 **NEW SECTION. Sec. 25.** (1) To better understand financial needs of
10 cities, towns, or counties interested in pursuing designation as an
11 evergreen city under section 6 of this act, the legislature intends to:

12 (a) Encourage local governments to identify their interest in
13 becoming an evergreen city; and

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

18 (2) Local governments opting to provide a list of identified
19 properties, their estimated value, and documentation of seller's
20 willingness to participate under this section must provide that
21 information to the department of community, trade, and economic
22 development by October 31, 2008.

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

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

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

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

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

1 (b) The local government must have developed a capital facility
2 plan; and

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

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

22 (3) In considering awarding loans for public facilities to special
23 districts requesting funding for a proposed facility located in a
24 county, city, or town planning under RCW 36.70A.040, the board shall
25 consider whether the county, city, or town planning under RCW
26 36.70A.040 in whose planning jurisdiction the proposed facility is
27 located has adopted a comprehensive plan and development regulations as
28 required by RCW 36.70A.040.

29 (4) The board shall develop a priority process for public works
30 projects as provided in this section. The intent of the priority
31 process is to maximize the value of public works projects accomplished
32 with assistance under this chapter. The board shall attempt to assure
33 a geographical balance in assigning priorities to projects. The board
34 shall consider at least the following factors in assigning a priority
35 to a project:

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

1 (b) Except as otherwise conditioned by RCW 43.155.110, whether the
2 entity receiving assistance is a Puget Sound partner, as defined in RCW
3 90.71.010;

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

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

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

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

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

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

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

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

27 (k) The relative benefit of the project to the community,
28 considering the present level of economic activity in the community and
29 the existing local capacity to increase local economic activity in
30 communities that have low economic growth; and

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

32 (5) Existing debt or financial obligations of local governments
33 shall not be refinanced under this chapter. Each local government
34 applicant shall provide documentation of attempts to secure additional
35 local or other sources of funding for each public works project for
36 which financial assistance is sought under this chapter.

37 (6) Before November 1st of each year, the board shall develop and
38 submit to the appropriate fiscal committees of the senate and house of

1 representatives a description of the loans made under RCW 43.155.065,
2 43.155.068, and subsection (9) of this section during the preceding
3 fiscal year and a prioritized list of projects which are recommended
4 for funding by the legislature, including one copy to the staff of each
5 of the committees. The list shall include, but not be limited to, a
6 description of each project and recommended financing, the terms and
7 conditions of the loan or financial guarantee, the local government
8 jurisdiction and unemployment rate, demonstration of the jurisdiction's
9 critical need for the project and documentation of local funds being
10 used to finance the public works project. The list shall also include
11 measures of fiscal capacity for each jurisdiction recommended for
12 financial assistance, compared to authorized limits and state averages,
13 including local government sales taxes; real estate excise taxes;
14 property taxes; and charges for or taxes on sewerage, water, garbage,
15 and other utilities.

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

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

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

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

31 (11) After January 1, 2010, any project designed to address the
32 effects of storm water or wastewater on Puget Sound may be funded under
33 this section only if the project is not in conflict with the action
34 agenda developed by the Puget Sound partnership under RCW 90.71.310.

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

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

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

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

6 (c) Actions required under federal and state permits and compliance
7 orders;

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

10 (e) Except as otherwise conditioned by RCW 70.146.110, whether the
11 entity receiving assistance is a Puget Sound partner, as defined in RCW
12 90.71.010;

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

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

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

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

32 (2) Except where necessary to address a public health need or
33 substantial environmental degradation, a county, city, or town planning
34 under RCW 36.70A.040 may not receive a grant or loan for water
35 pollution control facilities unless it has adopted a comprehensive
36 plan, including a capital facilities plan element, and development
37 regulations as required by RCW 36.70A.040. This subsection does not
38 require any county, city, or town planning under RCW 36.70A.040 to

1 adopt a comprehensive plan or development regulations before requesting
2 or receiving a grant or loan under this chapter if such request is made
3 before the expiration of the time periods specified in RCW 36.70A.040.
4 A county, city, or town planning under RCW 36.70A.040 which has not
5 adopted a comprehensive plan and development regulations within the
6 time periods specified in RCW 36.70A.040 is not prohibited from
7 receiving a grant or loan under this chapter if the comprehensive plan
8 and development regulations are adopted as required by RCW 36.70A.040
9 before submitting a request for a grant or loan.

10 (3) Whenever the department is considering awarding grants or loans
11 for public facilities to special districts requesting funding for a
12 proposed facility located in a county, city, or town planning under RCW
13 36.70A.040, it shall consider whether the county, city, or town
14 planning under RCW 36.70A.040 in whose planning jurisdiction the
15 proposed facility is located has adopted a comprehensive plan and
16 development regulations as required by RCW 36.70A.040.

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

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

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

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

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

28 (i) The statement of environmental benefits;

29 (ii) Whether, except as conditioned by RCW 89.08.580, the applicant
30 is a Puget Sound partner, as defined in RCW 90.71.010, and except as
31 otherwise provided in section 33 of this act, and effective one
32 calendar year following the development and statewide availability of
33 model evergreen cities management plans and ordinances under section 9
34 of this act, whether the applicant is an entity that has been
35 recognized, and what gradation of recognition was received, in the
36 evergreen cities recognition program created in section 6 of this act;

37 and

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

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

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

10 (b) The commission shall work with the districts to develop uniform
11 performance measures across participating districts and, to the extent
12 possible, the commission should coordinate its performance measure
13 system with other natural resource-related agencies as defined in RCW
14 43.41.270. The commission shall consult with affected interest groups
15 in implementing this section.

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

18 (1) After deduction for management costs as provided in RCW
19 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys
20 received by the state from the sale or lease of state-owned aquatic
21 lands and from the sale of valuable material from state-owned aquatic
22 lands shall be deposited in the aquatic lands enhancement account which
23 is hereby created in the state treasury. After appropriation, these
24 funds shall be used solely for aquatic lands enhancement projects; for
25 the purchase, improvement, or protection of aquatic lands for public
26 purposes; for providing and improving access to the lands; and for
27 volunteer cooperative fish and game projects.

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

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

33 (b) Utilize the statement of environmental benefits, consideration,
34 except as provided in RCW 79.105.610, of whether the applicant is a
35 Puget Sound partner, as defined in RCW 90.71.010, (~~and~~) whether a
36 project is referenced in the action agenda developed by the Puget Sound
37 partnership under RCW 90.71.310, and except as otherwise provided in

1 section 34 of this act, and effective one calendar year following the
2 development and statewide availability of model evergreen cities
3 management plans and ordinances under section 9 of this act, whether
4 the applicant is an entity that has been recognized, and what gradation
5 of recognition was received, in the evergreen cities recognition
6 program created in section 6 of this act in its prioritization and
7 selection process; and

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

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

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

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

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

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

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

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

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

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

36 (2)(a) In distributing these funds, the board retains discretion to

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

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

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

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

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

19 (b) Any lands that have been acquired with grants under this
20 section by the department of natural resources are subject to payments
21 in the amounts required under the provisions of RCW 79.70.130 and
22 79.71.130.

23 (6)~~((a))~~ Except as otherwise conditioned by RCW 79A.15.140 or
24 section 35 of this act, the ~~((committee))~~ board in its evaluation
25 process shall consider the following in determining distribution
26 priority:

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

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

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

37 (7) After January 1, 2010, any project designed to address the

1 restoration of Puget Sound may be funded under this chapter only if the
2 project is not in conflict with the action agenda developed by the
3 Puget Sound partnership under RCW 90.71.310.

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

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

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

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

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

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

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

30 When administering funds under this chapter, the recreation and
31 conservation funding board shall give preference only to evergreen
32 cities recognized under section 6 of this act in comparison to other
33 entities that are eligible to receive evergreen city designation.

1 Entities not eligible for designation as an evergreen city shall not be
2 given less preferential treatment than evergreen cities.

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

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

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

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

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

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

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

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

1 the requirements of this section, receive the protections of this
2 chapter;

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

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

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

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

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

35 (5) The utility shall:

36 (a) Include in any notice that an account is delinquent and that
37 service may be subject to termination, a description of the customer's
38 duties in this section;

- 1 (b) Assist the customer in fulfilling the requirements under this
2 section;
- 3 (c) Be authorized to transfer an account to a new residence when a
4 customer who has established a plan under this section moves from one
5 residence to another within the same utility service area;
- 6 (d) Be permitted to disconnect service if the customer fails to
7 honor the payment program. Utilities may continue to disconnect
8 service for those practices authorized by law other than for nonpayment
9 as provided for in this subsection. Customers who qualify for payment
10 plans under this section who default on their payment plans and are
11 disconnected can be reconnected and maintain the protections afforded
12 under this chapter by paying reconnection charges, if any, and by
13 paying all amounts that would have been due and owing under the terms
14 of the applicable payment plan, absent default, on the date on which
15 service is reconnected; and
- 16 (e) Advise the customer in writing at the time it disconnects
17 service that it will restore service if the customer contacts the
18 utility and fulfills the other requirements of this section.
- 19 (6) A payment plan implemented under this section is consistent
20 with RCW 80.28.080.
- 21 (7) Every gas company and electrical company shall offer
22 residential customers the option of a budget billing or equal payment
23 plan. The budget billing or equal payment plan shall be offered low-
24 income customers eligible under the state's plan for low-income energy
25 assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without
26 limiting availability to certain months of the year, without regard to
27 the length of time the customer has occupied the premises, and without
28 regard to whether the customer is the tenant or owner of the premises
29 occupied.
- 30 (8) Every gas company, electrical company and water company shall
31 construct and maintain such facilities in connection with the
32 manufacture and distribution of its product as will be efficient and
33 safe to its employees and the public.
- 34 (9) An agreement between the customer and the utility, whether oral
35 or written, shall not waive the protections afforded under this
36 chapter.
- 37 (10) In establishing rates or charges for water service, water

1 companies as defined in RCW 80.04.010 may consider the achievement of
2 water conservation goals and the discouragement of wasteful water use
3 practices.

4 NEW SECTION. **Sec. 37.** (1) After statewide availability of
5 evergreen cities urban forest management plans and ordinances
6 consistent with section 9 of this act, and after availability of state
7 funding for cities in this subsection to implement this section, all
8 cities or towns with a land area of more than nineteen thousand acres
9 that are required to adopt a comprehensive land use plan under chapter
10 36.70A RCW shall, at the time of plan updates required by chapter
11 36.70A RCW, adopt an evergreen cities urban forest management plan
12 consistent with section 9 of this act.

13 (2) Within one year of adoption of an evergreen cities urban forest
14 management plan, all cities or towns required to plan under subsection
15 (1) of this section must adopt an evergreen cities ordinance consistent
16 with section 9 of this act.

17 NEW SECTION. **Sec. 38.** Sections 1, 2, 5, 6, 8, 9, 11 through 13,
18 15 through 18, and 37 of this act constitute a new chapter in Title 35
19 RCW.

20 NEW SECTION. **Sec. 39.** This act may be known and cited as the
21 evergreen cities act.

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