

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2844

Chapter 299, Laws of 2008

(partial veto)

60th Legislature
2008 Regular Session

URBAN FORESTRY PARTNERSHIPS--POLLUTION PREVENTION

EFFECTIVE DATE: 06/12/08

Passed by the House March 11, 2008
Yeas 68 Nays 26

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 6, 2008
Yeas 31 Nays 18

BRAD OWEN

President of the Senate

Approved April 1, 2008, 3:11 p.m., with
the exception of section 1 which is
vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of
the House of Representatives of
the State of Washington, do hereby
certify that the attached is
**ENGROSSED SECOND SUBSTITUTE HOUSE
BILL 2844** as passed by the House
of Representatives and the Senate
on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 2, 2008

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2844

AS AMENDED BY THE SENATE

Passed Legislature - 2008 Regular Session

State of Washington 60th Legislature 2008 Regular Session

By House Appropriations (originally sponsored by Representatives Kagi, Priest, Upthegrove, Campbell, Simpson, Hunt, Blake, Jarrett, Nelson, Rolfes, Dickerson, Appleton, Takko, Loomis, Lantz, Pettigrew, Hunter, Moeller, Hudgins, Quall, O'Brien, Anderson, Kenney, Pedersen, McIntire, and Roberts)

READ FIRST TIME 02/11/08.

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 such as the***
16 ***Columbia 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 nonnative, 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, town, and county efforts to
28 conserve, protect, improve, and expand Washington's urban forest in
29 order to reduce storm water pollution in Puget Sound, flooding, energy
30 consumption and greenhouse gas emissions, air pollution, and storm
31 impacts to utility infrastructure.

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

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

**Sec. 1 was vetoed. See message at end of chapter.*

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

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

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

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

23 (4) "Evergreen community ordinances" means ordinances adopted by
24 the legislative body of a city, town, or county that relate to urban
25 forests and are consistent with this chapter.

26 (5) "Evergreen community" means a city, town, or county designated
27 as such under section 7 of this act.

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

30 (7) "Public facilities" has the same meaning as defined in RCW
31 36.70A.030.

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

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

1 transportation corridors, interchanges and highways, riparian areas,
2 unstable slopes, shorelines, public lands, and property of willing
3 private land owners.

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

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

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

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

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

21 (3) The department may appoint a committee or council, in addition
22 to the technical advisory committee created in section 5 of this act to
23 advise the department in establishing and carrying out a program in
24 community and urban forestry.

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

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

30 (1)(a) The department may, in collaboration with educational
31 institutions, municipalities, corporations, the technical advisory
32 committee created in section 5 of this act, state and national service
33 organizations, and environmental organizations, conduct a prioritized
34 statewide inventory of community and urban forests.

35 (b) For purposes of efficiency, existing data and current inventory

1 technologies must be utilized in the development of the inventory.
2 Statewide data must be maintained and periodically updated by the
3 department and made available to every municipality in the state.

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

6 (d) 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 (e) In developing the statewide community and urban forest
12 inventory, the department shall strive to enable Washington cities'
13 urban forest managers to access carbon markets by working to ensure the
14 inventory developed under this section is compatible with existing and
15 developing urban forest reporting protocols designed to facilitate
16 access to those carbon markets.

17 (2) The department may, in collaboration with a statewide
18 organization representing urban and community forestry programs, and
19 with the evergreen communities partnership task force established in
20 section 17 of this act, conduct a community and urban forest assessment
21 and develop recommendations to the appropriate committees of the
22 legislature to improve community and urban forestry in Washington.

23 (3) The inventory and assessment in this section must be capable of
24 supporting the adoption and implementation of evergreen community
25 management plans and ordinances described in section 10 of this act.

26 (4) The department may, in collaboration with municipalities, the
27 technical advisory committee created in section 5 of this act, and a
28 statewide organization representing urban and community forestry
29 programs, develop an implementation plan for the inventory and
30 assessment of the community and urban forests in Washington.

31 (5)(a) The criteria and implementation plan for the statewide
32 community and urban forest inventory and assessment required under this
33 section must be completed by December 1, 2008. Upon the completion of
34 the criteria and implementation plan's development, the department
35 shall report the final product to the appropriate committees of the
36 legislature.

37 (b) An initial inventory and assessment, consisting of the
38 community and urban forests of the willing municipalities located in

1 one county located east of the crest of the Cascade mountains and the
2 willing municipalities located in one county located west of the crest
3 of the Cascade mountains must be completed by June 1, 2010.

4 (6) The requirements of this section are subject to the
5 availability of amounts appropriated for the specific purposes of this
6 section.

7 NEW SECTION. **Sec. 5.** A new section is added to chapter 76.15 RCW
8 to read as follows:

9 (1) The commissioner of public lands shall appoint a technical
10 advisory committee to provide advice to the department during the
11 development of the criteria and implementation plan for the statewide
12 community and urban forest inventory and assessment required under
13 section 4 of this act.

14 (2) The technical advisory committee must include, but not be
15 limited to, representatives from the following groups: Arborists;
16 municipal foresters; educators; consultants; researchers; public works
17 and utilities professionals; information technology specialists; and
18 other affiliated professionals.

19 (3) The technical advisory committee members shall serve without
20 compensation. Advisory committee members who are not state employees
21 may receive reimbursement for travel expenses as provided by RCW
22 43.03.050 and 43.03.060. Costs associated with the technical advisory
23 committee may be paid from the general fund appropriation made
24 available to the department for community and urban forestry.

25 (4) The technical advisory committee created in this section must
26 be disbanded by the commissioner upon the completion of the criteria
27 and implementation plan for the statewide community and urban forest
28 inventory and assessment required under section 4 of this act.

29 NEW SECTION. **Sec. 6.** The department shall, in the implementation
30 of this chapter, coordinate with the department of natural resources.
31 Additionally, in the development of the model evergreen community urban
32 forest management plans and ordinances required by section 10 of this
33 act, the department shall utilize the technical expertise of the
34 department of natural resources regarding arboriculture, tree
35 selection, and maintenance.

1 NEW SECTION. **Sec. 7.** (1) The department, with the advice of the
2 evergreen communities partnership task force created in section 17 of
3 this act, shall develop the criteria for an evergreen community
4 recognition program whereby the state can recognize cities, towns, and
5 counties, to be designated as an evergreen community, who are
6 developing excellent urban forest management programs that include
7 community and urban forestry inventories, assessments, plans,
8 ordinances, maintenance programs, partnerships, and community
9 involvement.

10 (2)(a) Designation as an evergreen community must include no fewer
11 than two graduated steps.

12 (b) The first graduated step of designation as an evergreen
13 community includes satisfaction of the following requirements:

14 (i) The development and implementation of a tree board or tree
15 department;

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

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

19 (iv) Official recognition of arbor day; and

20 (v) The completion of an updated community and urban forest
21 inventory for the city, town, or county or the formal adoption of an
22 inventory developed for the city, town, or county by the department of
23 natural resources pursuant to section 4 of this act.

24 (c) The second graduated step of designation as an evergreen
25 community includes the adoption of evergreen community management plans
26 and ordinances that exceed the minimum standards in the model evergreen
27 community management plans and ordinances adopted by the department
28 under section 10 of this act.

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

31 (3) The department shall develop gateway signage and logos for an
32 evergreen community.

33 (4) The department shall, unless the duty is assumed by the
34 governor, recognize, certify, and designate cities, towns, and counties
35 satisfying the criteria developed under this section as an evergreen
36 community.

37 (5) Applications for evergreen community status must be submitted
38 to and evaluated by the department of natural resources.

1 NEW SECTION. **Sec. 8.** A new section is added to chapter 76.15 RCW
2 to read as follows:

3 The department shall manage the application and evaluation of
4 candidates for evergreen community designation under section 7 of this
5 act, and forward its recommendations to the department of community,
6 trade, and economic development.

7 NEW SECTION. **Sec. 9.** (1) The department shall, subject to the
8 availability of amounts appropriated for this specific purpose,
9 coordinate with the department of natural resources in the development
10 and implementation of a needs-based evergreen community grant and
11 competitive awards program to provide financial assistance to cities,
12 towns, and counties for the development, adoption, or implementation of
13 evergreen community management plans or ordinances developed under
14 section 14 of this act.

15 (2) The grant program authorized in this section shall address both
16 the goals of rewarding innovation by a successful evergreen community
17 and of providing resources and assistance to the applicants with the
18 greatest financial need.

19 (3) The department may only provide grants to cities, towns, or
20 counties under this chapter that:

21 (a) Are recognized as an evergreen community consistent with
22 section 7 of this act, or are applying for funds that would aid them in
23 their pursuit of evergreen community recognition; and

24 (b) Have developed, or are developing urban forest management
25 partnerships with local not-for-profit organizations.

26 NEW SECTION. **Sec. 10.** (1) To the extent that funds are
27 appropriated for this specific purpose, the department shall develop
28 model evergreen community management plans and ordinances pursuant to
29 sections 12 and 13 of this act with measurable goals and timelines to
30 guide plan and ordinance adoption or development consistent with
31 section 14 of this act.

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

33 (a) Recognize ecoregional differences in the state;

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

1 (c) Provide an urban forest landowner inventorying his or her own
2 property with the ability to access existing inventories, technology,
3 and other technical assistance available through the department of
4 natural resources;

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

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

12 (3) All model plans and ordinances developed by the department must
13 be developed in conjunction with the evergreen communities partnership
14 task force created in section 17 of this act.

15 (4) After the development of model evergreen community plans and
16 ordinances under this section, the department shall, in conjunction
17 with the department of natural resources, distribute and provide
18 outreach regarding the model plans and ordinances and associated best
19 management practices to cities, towns, and counties to aid the cities,
20 towns, and counties in obtaining evergreen community recognition under
21 section 7 of this act.

22 (5) By December 1, 2010, the department shall, at a minimum,
23 develop the model evergreen community plans and ordinances required
24 under this section for areas of the state where the department of
25 natural resources has completed community and urban forest inventories
26 pursuant to section 4 of this act.

27 NEW SECTION. **Sec. 11.** (1) The department shall deliver a report
28 to the appropriate committees of the legislature following the
29 development of the model evergreen community management plans and
30 ordinances under section 10 of this act recommending any next steps and
31 additional incentives to increase voluntary participation by cities,
32 towns, and counties in the evergreen community recognition program
33 established in section 7 of this act.

34 (2) By the fifteenth day of each consecutive December leading up to
35 the adoption of the model evergreen community plans and ordinances, the
36 department shall deliver a report to the appropriate committees of the

1 legislature outlining progress made towards the development and
2 implementation of the model plans and ordinances.

3 NEW SECTION. **Sec. 12.** In the development of model evergreen
4 community management plans under section 10 of this act, the department
5 shall consider including, but not be limited to, the following
6 elements:

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

11 (2) Canopy cover goals;

12 (3) Reforestation and tree canopy expansion goals within the
13 city's, town's, and county's boundaries;

14 (4) Restoration of public forests;

15 (5) Achieving forest stand and diversity goals;

16 (6) Maximizing vegetated storm water management with trees and
17 other vegetation that reduces runoff, increases soil infiltration, and
18 reduces storm water pollution;

19 (7) Environmental health goals specific to air quality, habitat for
20 wildlife, and energy conservation;

21 (8) Vegetation management practices and programs to prevent
22 vegetation from interfering with or damaging utilities and public
23 facilities;

24 (9) Prioritizing planting sites;

25 (10) Standards for tree selection, siting, planting, and pruning;

26 (11) Scheduling maintenance and stewardship for new and established
27 trees;

28 (12) Staff and volunteer training requirements emphasizing
29 appropriate expertise and professionalism;

30 (13) Guidelines for protecting existing trees from
31 construction-related damage and damage related to preserving
32 territorial views;

33 (14) Integrating disease and pest management;

34 (15) Wood waste utilization;

35 (16) Community outreach, participation, education programs, and
36 partnerships with nongovernment organizations;

37 (17) Time frames for achieving plan goals, objectives, and tasks;

- 1 (18) Monitoring and measuring progress toward those benchmarks and
2 goals;
- 3 (19) Consistency with the urban wildland interface codes developed
4 by the state building code council;
- 5 (20) Emphasizing landscape and revegetation plans in residential
6 and commercial development areas where tree retention objectives are
7 challenging to achieve; and
- 8 (21) Maximizing building heating and cooling energy efficiency
9 through appropriate siting of trees for summer shading, passive solar
10 heating in winter, and for wind breaks.

11 NEW SECTION. **Sec. 13.** The department shall, in the development of
12 model evergreen community ordinances under section 10 of this act,
13 consider including, but not be limited to, the following policy
14 elements:

- 15 (1) Tree canopy cover, density, and spacing;
- 16 (2) Tree conservation and retention;
- 17 (3) Vegetated storm water runoff management using native trees and
18 appropriate nonnative, nonnaturalized vegetation;
- 19 (4) Clearing, grading, protection of soils, reductions in soil
20 compaction, and use of appropriate soils with low runoff potential and
21 high infiltration rates;
- 22 (5) Appropriate tree siting and maintenance for vegetation
23 management practices and programs to prevent vegetation from
24 interfering with or damaging utilities and public facilities;
- 25 (6) Native species and nonnative, nonnaturalized species diversity
26 selection to reduce disease and pests in urban forests;
- 27 (7) Tree maintenance;
- 28 (8) Street tree installation and maintenance;
- 29 (9) Tree and vegetation buffers for riparian areas, critical areas,
30 transportation and utility corridors, and commercial and residential
31 areas;
- 32 (10) Tree assessments for new construction permitting;
- 33 (11) Recommended forest conditions for different land use types;
- 34 (12) Variances for hardship and safety;
- 35 (13) Variances to avoid conflicts with renewable solar energy
36 infrastructure, passive solar building design, and locally grown
37 produce; and

1 (14) Permits and appeals.

2 NEW SECTION. **Sec. 14.** (1) A city, town, or county may adopt
3 evergreen community management plans and ordinances, including
4 enforcement mechanisms and civil penalties for violations of its
5 evergreen community ordinances.

6 (2) Evergreen community ordinances adopted under this section may
7 not prohibit or conflict with vegetation management practices and
8 programs undertaken to prevent vegetation from interfering with or
9 damaging utilities and public facilities.

10 (3) Management plans developed by cities, towns, or counties must
11 be based on urban forest inventories for the city, town, or county
12 covered by the management plan. The city, town, or county developing
13 the management plan may produce independent inventories themselves or
14 rely solely on inventories developed, commissioned, or approved by the
15 department of natural resources under chapter 76.15 RCW.

16 (4) Cities, towns, or counties may establish a local evergreen
17 community advisory board or utilize existing citizen boards focused on
18 municipal tree issues to achieve appropriate expert and stakeholder
19 participation in the adoption and development of inventories,
20 assessments, ordinances, and plans consistent with this chapter.

21 (5) A city, town, or county shall invite the expert advice of
22 utilities serving within its jurisdiction for the purpose of developing
23 and adopting appropriate plans for vegetation management practices and
24 programs to prevent vegetation from interfering with or damaging
25 utilities and public facilities.

26 NEW SECTION. **Sec. 15.** A new section is added to chapter 36.01 RCW
27 to read as follows:

28 (1) Any county may adopt evergreen community ordinances, as that
29 term is defined in section 2 of this act, which the county must apply
30 to new building or land development in the unincorporated portions of
31 the county's urban growth areas, as that term is defined in RCW
32 36.70A.030, and may apply to other areas of the county as deemed
33 appropriate by the county.

34 (2) As an alternative to subsection (1) of this section, a city or
35 town may request that the county in which it is located apply to any
36 new building or land development permit in the unincorporated portions

1 of the urban growth areas, as defined in RCW 36.70A.030, the evergreen
2 community ordinances standards adopted under section 14 of this act by
3 the city or town in the county located closest to the proposed building
4 or development.

5 NEW SECTION. **Sec. 16.** (1) A city, town, or county seeking
6 evergreen community recognition under section 7 of this act shall
7 submit its management plans and evergreen community ordinances to the
8 department for review and comment at least sixty days prior to its
9 planned implementation date.

10 (2) The department shall, together with the department of natural
11 resources, review any evergreen community ordinances or management
12 plans submitted. When reviewing ordinances or plans under this
13 section, the department shall focus its review on the plan's
14 consistency with this chapter and the model evergreen community
15 management plans and ordinances adopted under section 10 of this act.
16 When the following entities submit evergreen community ordinances and
17 management plans for review, they must be considered by the department,
18 together with the department of natural resources, the department of
19 fish and wildlife, and the Puget Sound partnership: A county adjacent
20 to Puget Sound or any city located within any of those counties. The
21 reviewing departments may provide written comments on both plans and
22 ordinances.

23 (3) Together with the department of natural resources, the
24 department may offer technical assistance in the development of
25 evergreen community ordinances and management plans.

26 NEW SECTION. **Sec. 17.** (1) The director of the department shall
27 assemble and convene the evergreen communities partnership task force
28 of no more than twenty-five individuals to aid and advise the
29 department in the administration of this chapter.

30 (2) At the discretion of the department, the task force may be
31 disbanded once the urban and community forests assessments conducted by
32 the department of natural resources under section 4 of this act and the
33 model evergreen community management plans and ordinances developed
34 under section 10 of this act are completed.

35 (3) Representatives of the department of natural resources and the
36 department of ecology shall participate in the task force.

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

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

5 (b) A conservation organization with expertise in Puget Sound storm
6 water management;

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

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

11 (e) Two land development professionals or representative
12 associations representing development professionals affected by tree
13 retention ordinances and storm water management policies;

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

16 (g) A land trust conservation organization facilitating urban
17 forest management partnerships;

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

20 (i) A public works professional;

21 (j) A private utility;

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

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

27 (m) The timber industry.

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

31 (6) In assembling the task force, the department shall strive to
32 achieve representation from as many of the state's major ecoregions as
33 possible.

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

1 NEW SECTION. **Sec. 18.** Nothing in this chapter may be construed
2 to:

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

8 (2) Apply to lands designated under chapters 76.09, 79.70, 79.71,
9 84.33, and 84.34 RCW.

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

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

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

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

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

24 (ii) Complete projects consistent with the model evergreen
25 community management plans and ordinances developed under section 10 of
26 this act.

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

30 **Sec. 20.** RCW 35A.80.040 and 1993 c 204 s 3 are each amended to
31 read as follows:

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

35 (2)(a) Code cities providing utility services under this chapter
36 are encouraged to request voluntary donations from their customers for

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

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

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

9 (ii) Complete projects consistent with the model evergreen
10 community management plans and ordinances developed under section 10 of
11 this act.

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

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

17 (1) Gas companies and electrical companies under this chapter
18 ~~((may))~~ are encouraged to provide information to their customers
19 regarding landscaping that includes tree planting for energy
20 conservation.

21 (2)(a) Gas companies and electrical companies under this chapter
22 may request voluntary donations from their customers for the purposes
23 of urban forestry. The request may be in the form of a check-off on
24 the billing statement or other form of a request for a voluntary
25 donation.

26 (b) Voluntary donations collected by gas companies and electrical
27 companies under this section may be used by the gas companies and
28 electrical companies to:

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

32 (ii) Complete projects consistent with the model evergreen
33 community management plans and ordinances developed under section 10 of
34 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 NEW SECTION. **Sec. 22.** A new section is added to chapter 54.16 RCW
2 to read as follows:

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

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

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

12 (b) Complete projects consistent with the model evergreen community
13 management plans and ordinances developed under section 10 of this act.

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

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

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

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

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

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

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

36 ((+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. 24.** (1) In an effort to better understand the
10 needs of cities, towns, and counties interested in pursuing designation
11 as an evergreen community under section 7 of this act, the legislature
12 intends to encourage cities, towns, and counties to:

13 (a) Identify their interests in becoming an evergreen community;
14 and

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

19 (2) If a city, town, or county opts to provide a list of identified
20 properties under this section, including the estimated value of the
21 properties and documentation on the owner's willingness to participate,
22 the information must be provided to the department by October 31, 2008.

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

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

28 **Sec. 25.** RCW 43.155.070 and 2007 c 341 s 24 and 2007 c 231 s 2 are
29 each reenacted and amended to read as follows:

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

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

35 (b) The local government must have developed a capital facility
36 plan; and

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

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

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

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

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

37 (b) Except as otherwise conditioned by RCW 43.155.110, whether the

1 entity receiving assistance is a Puget Sound partner, as defined in RCW
2 90.71.010;

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

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

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

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

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

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

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

19 (j) Except as otherwise conditioned by section 30 of this act, and
20 effective one calendar year following the development of model
21 evergreen community management plans and ordinances under section 10 of
22 this act, whether the entity receiving assistance has been recognized,
23 and what gradation of recognition was received, in the evergreen
24 community recognition program created in section 7 of this act;

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

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

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

35 (6) Before November 1st of each year, the board shall develop and
36 submit to the appropriate fiscal committees of the senate and house of
37 representatives a description of the loans made under RCW 43.155.065,
38 43.155.068, and subsection (9) of this section during the preceding

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

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

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

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

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

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

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

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

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

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

3 (c) Actions required under federal and state permits and compliance
4 orders;

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

7 (e) Except as otherwise conditioned by RCW 70.146.110, whether the
8 entity receiving assistance is a Puget Sound partner, as defined in RCW
9 90.71.010;

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

12 (g) Except as otherwise provided in section 31 of this act, and
13 effective one calendar year following the development and statewide
14 availability of model evergreen community management plans and
15 ordinances under section 10 of this act, whether the project is
16 sponsored by an entity that has been recognized, and what gradation of
17 recognition was received, in the evergreen community recognition
18 program created in section 7 of this act;

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

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

29 (2) Except where necessary to address a public health need or
30 substantial environmental degradation, a county, city, or town planning
31 under RCW 36.70A.040 may not receive a grant or loan for water
32 pollution control facilities unless it has adopted a comprehensive
33 plan, including a capital facilities plan element, and development
34 regulations as required by RCW 36.70A.040. This subsection does not
35 require any county, city, or town planning under RCW 36.70A.040 to
36 adopt a comprehensive plan or development regulations before requesting
37 or receiving a grant or loan under this chapter if such request is made
38 before the expiration of the time periods specified in RCW 36.70A.040.

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

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

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

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

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

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

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

25 (i) The statement of environmental benefits;

26 (ii) Whether, except as conditioned by RCW 89.08.580, the applicant
27 is a Puget Sound partner, as defined in RCW 90.71.010, and except as
28 otherwise provided in section 32 of this act, and effective one
29 calendar year following the development and statewide availability of
30 model evergreen community management plans and ordinances under section
31 10 of this act, whether the applicant is an entity that has been
32 recognized, and what gradation of recognition was received, in the
33 evergreen community recognition program created in section 7 of this
34 act; and

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

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

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

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

14 **Sec. 28.** RCW 79.105.150 and 2007 c 341 s 32 are each amended to
15 read as follows:

16 (1) After deduction for management costs as provided in RCW
17 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys
18 received by the state from the sale or lease of state-owned aquatic
19 lands and from the sale of valuable material from state-owned aquatic
20 lands shall be deposited in the aquatic lands enhancement account which
21 is hereby created in the state treasury. After appropriation, these
22 funds shall be used solely for aquatic lands enhancement projects; for
23 the purchase, improvement, or protection of aquatic lands for public
24 purposes; for providing and improving access to the lands; and for
25 volunteer cooperative fish and game projects.

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

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

31 (b) Utilize the statement of environmental benefits, consideration,
32 except as provided in RCW 79.105.610, of whether the applicant is a
33 Puget Sound partner, as defined in RCW 90.71.010, ~~((and))~~ whether a
34 project is referenced in the action agenda developed by the Puget Sound
35 partnership under RCW 90.71.310, and except as otherwise provided in
36 section 33 of this act, and effective one calendar year following the
37 development and statewide availability of model evergreen community

1 management plans and ordinances under section 10 of this act, whether
2 the applicant is an entity that has been recognized, and what gradation
3 of recognition was received, in the evergreen community recognition
4 program created in section 7 of this act in its prioritization and
5 selection process; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (6)~~((a))~~ Except as otherwise conditioned by RCW 79A.15.140 or
21 section 34 of this act, the ~~((committee))~~ board in its evaluating
22 process shall consider the following in determining distribution
23 priority:

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

26 ~~((ii))~~ (b) Effective one calendar year following the development
27 and statewide availability of model evergreen community management
28 plans and ordinances under section 10 of this act, whether the entity
29 receiving assistance has been recognized, and what gradation of
30 recognition was received, in the evergreen community recognition
31 program created in section 7 of this act; and

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

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

1 NEW SECTION. **Sec. 30.** A new section is added to chapter 43.155
2 RCW to read as follows:

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

9 NEW SECTION. **Sec. 31.** A new section is added to chapter 70.146
10 RCW to read as follows:

11 When administering funds under this chapter, the department shall
12 give preference only to an evergreen community recognized under section
13 7 of this act in comparison to other entities that are eligible to
14 receive evergreen community designation. Entities not eligible for
15 designation as an evergreen community shall not be given less
16 preferential treatment than an evergreen community.

17 NEW SECTION. **Sec. 32.** A new section is added to chapter 89.08 RCW
18 to read as follows:

19 When administering funds under this chapter, the commission shall
20 give preference only to an evergreen community recognized under section
21 7 of this act in comparison to other entities that are eligible to
22 receive evergreen community designation. Entities not eligible for
23 designation as an evergreen community shall not be given less
24 preferential treatment than an evergreen community.

25 NEW SECTION. **Sec. 33.** A new section is added to chapter 79.105
26 RCW to read as follows:

27 When administering funds under this chapter, the recreation and
28 conservation funding board shall give preference only to an evergreen
29 community recognized under section 7 of this act in comparison to other
30 entities that are eligible to receive evergreen community designation.
31 Entities not eligible for designation as an evergreen community shall
32 not be given less preferential treatment than an evergreen community.

33 NEW SECTION. **Sec. 34.** A new section is added to chapter 79A.15
34 RCW to read as follows:

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

7 **Sec. 35.** RCW 80.28.010 and 1995 c 399 s 211 are each amended to
8 read as follows:

9 (1) All charges made, demanded or received by any gas company,
10 electrical company or water company for gas, electricity or water, or
11 for any service rendered or to be rendered in connection therewith,
12 shall be just, fair, reasonable and sufficient. Reasonable charges
13 necessary to cover the cost of administering the collection of
14 voluntary donations for the purposes of supporting the development and
15 implementation of evergreen community management plans and ordinances
16 under RCW 80.28.300 shall be deemed as prudent and necessary for the
17 operation of a utility.

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

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

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

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

35 (b) Provides self-certification of household income for the prior
36 twelve months to a grantee of the department of community, trade, and
37 economic development which administers federally funded energy

1 assistance programs. The grantee shall determine that the household
2 income does not exceed the maximum allowed for eligibility under the
3 state's plan for low-income energy assistance under 42 U.S.C. 8624 and
4 shall provide a dollar figure that is seven percent of household
5 income. The grantee may verify information provided in the self-
6 certification;

7 (c) Has applied for home heating assistance from applicable
8 government and private sector organizations and certifies that any
9 assistance received will be applied to the current bill and future
10 utility bills;

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

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

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

30 (5) The utility shall:

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

34 (b) Assist the customer in fulfilling the requirements under this
35 section;

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

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

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

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

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

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

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

32 (10) In establishing rates or charges for water service, water
33 companies as defined in RCW 80.04.010 may consider the achievement of
34 water conservation goals and the discouragement of wasteful water use
35 practices.

36 NEW SECTION. **Sec. 36.** Sections 1, 2, 6, 7, 9 through 14, 16

1 through 18, and 24 of this act constitute a new chapter in Title 35
2 RCW.

3 NEW SECTION. **Sec. 37.** This act may be known and cited as the
4 evergreen communities act.

5 NEW SECTION. **Sec. 38.** If specific funding for the purposes of
6 this act, referencing this act by bill or chapter number, is not
7 provided by June 30, 2008, in the omnibus appropriations act, this act
8 is null and void.

Passed by the House March 11, 2008.

Passed by the Senate March 6, 2008.

Approved by the Governor April 1, 2008, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State April 2, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 1, Engrossed
Second Substitute House Bill 2844 entitled:

"AN ACT Relating to preventing air and water pollution through urban
forestry partnerships."

Section 1 is an unnecessarily prescriptive and detailed intent
section. For this reason, I have vetoed Section 1 of Engrossed Second
Substitute House Bill 2844.

I must note that the legislative budget only partially funds this
bill. The Department of Community Trade and Economic Development
(CTED) received funds for developing the Evergreen Communities grant
program, model ordinances and plans. The Department of Natural
Resources (DNR) is partially funded to provide CTED with technical
expertise, to develop an urban forest inventory implementation plan,
and to conduct two pilot inventories.

The highest priorities for these limited dollars are for DNR to (1)
provide technical expertise to CTED and local governments, (2)
develop the urban forest inventory implementation plan -- focusing on
the use of existing data and current inventory technologies, and (3)
then to begin the pilot projects.

Conducting the community and urban forest inventories statewide is
premature until DNR develops and tests an efficient inventory
process. Funding for subsequent inventories should be considered as a
separate policy decision in the future.

With the exception of Section 1, Engrossed Second Substitute House
Bill 2844 is approved."