
SUBSTITUTE HOUSE BILL 2277

State of Washington 62nd Legislature 2012 Regular Session

By House Environment (originally sponsored by Representatives
Upthegrove, Tharinger, Jinkins, Moscoso, Hudgins, and Fitzgibbon)

READ FIRST TIME 01/31/12.

1 AN ACT Relating to updating the statutes controlling the Puget
2 Sound partnership to reflect the transition from developing the action
3 agenda to implementing the action agenda; amending RCW 90.71.010,
4 90.71.230, 90.71.250, 90.71.260, 90.71.270, 90.71.280, 90.71.290,
5 90.71.300, 90.71.310, 90.71.370, 90.71.340, 90.71.360, 43.155.070,
6 70.146.070, 77.85.130, 79.105.150, 79A.15.040, and 89.08.520;
7 reenacting and amending RCW 70.105D.070; and repealing RCW 43.155.110,
8 70.105D.120, 70.146.110, 77.85.240, 79.105.610, 79A.15.140, 89.08.580,
9 and 90.50A.080.

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

11 **Sec. 1.** RCW 90.71.010 and 2007 c 341 s 2 are each amended to read
12 as follows:

13 Unless the context clearly requires otherwise, the definitions in
14 this section apply throughout this chapter.

15 (1) "Action agenda" means the comprehensive schedule of projects,
16 programs, and other activities designed to achieve a healthy Puget
17 Sound ecosystem that (~~is authorized and further described in RCW~~
18 ~~90.71.300 and 90.71.310~~) was developed under RCW 90.71.300 and

1 90.71.310 by the Puget Sound partnership, approved by the leadership
2 council, and delivered to the legislature in December 2008, along with
3 any subsequent updates.

4 (2) "Action area" means the geographic areas delineated as provided
5 in RCW 90.71.260.

6 (3) "Benchmarks" means measurable interim milestones or
7 achievements established to demonstrate progress towards a goal,
8 objective, target, or outcome expressed as a near-term action.

9 (4) "Board" means the ecosystem coordination board.

10 (5) "Council" means the leadership council.

11 (6) "Environmental indicator" means a physical, biological, or
12 chemical measurement, statistic, or value that provides a proximate
13 gauge, or evidence of, the state or condition of Puget Sound.

14 (7) "Implementation strategies" means the strategies incorporated
15 on a biennial basis in the action agenda (~~(developed under)~~) pursuant
16 to RCW 90.71.310.

17 (8) "Nearshore" means the area beginning at the crest of coastal
18 bluffs and extending seaward through the marine photics zone, and to
19 the head of tide in coastal rivers and streams. "Nearshore" also means
20 both shoreline and estuaries.

21 (9) "Panel" means the Puget Sound science panel.

22 (10) "Partnership" means the Puget Sound partnership.

23 (11) "Puget Sound" means Puget Sound and related inland marine
24 waters, including all salt waters of the state of Washington inside the
25 international boundary line between Washington and British Columbia,
26 and lying east of the junction of the Pacific Ocean and the Strait of
27 Juan de Fuca, and the rivers and streams draining to Puget Sound as
28 mapped by water resource inventory areas 1 through 19 in WAC
29 173-500-040 as it exists on July 1, 2007.

30 (~~(12) ("Puget Sound partner" means an entity that has been~~
31 ~~recognized by the partnership, as provided in RCW 90.71.340, as having~~
32 ~~consistently achieved outstanding progress in implementing the 2020~~
33 ~~action agenda.~~

34 (+13)) "Watershed groups" means all groups sponsoring or
35 administering watershed programs, including but not limited to local
36 governments, private sector entities, watershed planning units,
37 watershed councils, shellfish protection areas, regional fishery

1 enhancement groups, marine (~~resource[s]~~) resources committees
2 including those working with the Northwest straits commission,
3 nearshore groups, and watershed lead entities.

4 (~~(14)~~) (13) "Watershed programs" means and includes all
5 watershed-level plans, programs, projects, and activities that relate
6 to or may contribute to the protection or restoration of Puget Sound
7 waters. Such programs include jurisdiction-wide programs regardless of
8 whether more than one watershed is addressed.

9 (14) "Near-term action" means the compilation and prioritization of
10 both current ongoing activities, as identified in RCW 90.71.260(4), as
11 well as identified benchmarks.

12 (15) "Targets" means regional recovery goals designed to guide the
13 work of organizations and people living in the Puget Sound region.
14 Consistent with RCW 90.71.200(2)(c), targets are not intended to be
15 used for regulatory purposes or recommendations related to grant
16 eligibility under RCW 90.71.340 or 90.71.350(3).

17 **Sec. 2.** RCW 90.71.230 and 2007 c 341 s 5 are each amended to read
18 as follows:

19 (1) The leadership council shall have the power and duty to:

20 (a) Provide leadership and have responsibility for the functions of
21 the partnership, including adopting, revising, and guiding the
22 implementation of the action agenda, allocating funds for Puget Sound
23 recovery, providing progress and other reports, setting strategic
24 priorities and benchmarks, adopting and applying accountability
25 measures, and making appointments to the board and panel;

26 (b) Adopt rules, in accordance with chapter 34.05 RCW;

27 (c) Create subcommittees and advisory committees as appropriate to
28 assist the council;

29 (d) Enter into, amend, and terminate contracts with individuals,
30 corporations, or research institutions to effectuate the purposes of
31 this chapter;

32 (e) Make grants to governmental and nongovernmental entities to
33 effectuate the purposes of this chapter;

34 (f) Receive such gifts, grants, and endowments, in trust or
35 otherwise, for the use and benefit of the partnership to effectuate the
36 purposes of this chapter;

1 (g) Promote extensive public awareness, education, and
2 participation in Puget Sound protection and recovery;

3 (h) Work collaboratively with the Hood Canal coordinating council
4 established in chapter 90.88 RCW on Hood Canal-specific issues;

5 (i) Maintain complete and consolidated financial information to
6 ensure that all funds received and expended to implement the action
7 agenda have been accounted for; and

8 (j) ~~((Such))~~ Perform other powers and duties as are necessary and
9 appropriate to carry out the provisions of this chapter.

10 (2) The council may delegate functions to the chair and to the
11 executive director, however the council may not delegate its decisional
12 authority regarding ~~((developing or))~~ amending the action agenda.

13 (3) The council shall work closely with existing organizations and
14 all levels of government to ensure that the action agenda and its
15 implementation are scientifically sound, efficient, and achieve
16 necessary results to accomplish recovery of Puget Sound to health by
17 2020.

18 (4) The council shall support, engage, and foster collaboration
19 among watershed groups to assist in the recovery of Puget Sound.

20 (5) When working with federally recognized Indian tribes to
21 ~~((develop))~~ update and implement the action agenda, the council shall
22 conform to the procedures and standards required in a government-to-
23 governmental relationship with tribes under the 1989 Centennial Accord
24 between the state of Washington and the sovereign tribal governments in
25 the state of Washington.

26 (6) Members of the council shall be compensated in accordance with
27 RCW 43.03.220 and be reimbursed for travel expenses in accordance with
28 RCW 43.03.050 and 43.03.060.

29 **Sec. 3.** RCW 90.71.250 and 2007 c 341 s 7 are each amended to read
30 as follows:

31 (1) The ~~((council shall convene the))~~ ecosystem coordination board
32 ~~((not later than October 1, 2007.~~

33 ~~(2) The board))~~ shall consist of the following:

34 (a) One representative from the geographic area of each of the
35 action areas specified in RCW 90.71.260, appointed by the council. The
36 council shall solicit nominations from, at a minimum, counties, cities,
37 and watershed groups;

1 (b) Two members representing general business interests, one of
2 whom shall represent in-state general small business interests, both
3 appointed by the council;

4 (c) Two members representing environmental interests, appointed by
5 the council;

6 (d) Three representatives of tribal governments located in Puget
7 Sound, invited by the governor to participate as members of the board;

8 (e) One representative each from counties, cities, and port
9 districts, appointed by the council from nominations submitted by
10 statewide associations representing such local governments;

11 (f) Three representatives of state agencies with environmental
12 management responsibilities in Puget Sound, representing the interests
13 of all state agencies, one of whom shall be the commissioner of public
14 lands or his or her designee; and

15 (g) Three representatives of federal agencies with environmental
16 management responsibilities in Puget Sound, representing the interests
17 of all federal agencies and invited by the governor to participate as
18 members of the board.

19 ((+3)) (2) The president of the senate shall appoint two senators,
20 one from each major caucus, as legislative liaisons to the board. The
21 speaker of the house of representatives shall appoint two
22 representatives, one from each major caucus, as legislative liaisons to
23 the board.

24 ((+4)) (3) The board shall elect one of its members as chair, and
25 one of its members as vice-chair.

26 ((+5)) (4) The board shall advise and assist the council in
27 carrying out its responsibilities in implementing this chapter,
28 including ~~((development and))~~ the implementation and updating of the
29 action agenda. The board's duties also include:

30 (a) Assisting cities, counties, ports, tribes, watershed groups,
31 and other governmental and private organizations in the compilation of
32 local programs for consideration for inclusion in revised versions of
33 the action agenda as provided in RCW 90.71.260;

34 (b) Upon request of the council, reviewing and making
35 recommendations regarding activities, projects, and programs proposed
36 for inclusion in revised versions of the action agenda, including
37 assessing existing ecosystem scale management, restoration and

1 protection plan elements, activities, projects, and programs for
2 inclusion in revised versions of the action agenda;

3 (c) In revised versions of the action agenda, stating whether it
4 has considered or included existing, ongoing projects related to Puget
5 Sound restoration as part of its prioritization process. If the board
6 has not included specific existing, ongoing projects related to Puget
7 Sound restoration in its prioritization process, it must explain why;

8 (d) As part of the prioritization process for projects to be
9 included in revised versions of the action agenda, including an
10 assessment of how the Puget Sound partnership's current expenditures
11 related to Puget Sound restoration fit into the prioritization process.
12 In addition, in revised versions of the action agenda, the board shall
13 include an accounting of how the Puget Sound partnership has allocated
14 all federal and state funding to date, as well as how these
15 expenditures relate back to the most recent version of the action
16 agenda;

17 (e) Seeking public and private funding and the commitment of other
18 resources for ~~((plan))~~ action agenda implementation;

19 ~~((d))~~ (f) Assisting the council in conducting public education
20 activities regarding threats to Puget Sound and about local
21 implementation strategies to support the action agenda; and

22 ~~((e))~~ (g) Recruiting the active involvement of and encouraging
23 the collaboration and communication among governmental and
24 nongovernmental entities, the private sector, and citizens working to
25 achieve the recovery of Puget Sound.

26 ~~((6))~~ (5) Members of the board, except for federal and state
27 employees, shall be reimbursed for travel expenses in accordance with
28 RCW 43.03.050 and 43.03.060.

29 **Sec. 4.** RCW 90.71.260 and 2007 c 341 s 8 are each amended to read
30 as follows:

31 (1) The partnership shall ~~((develop))~~ pursue the implementation of
32 the action agenda in part upon the foundation of existing watershed
33 programs that address or contribute to the health of Puget Sound. To
34 ensure full consideration of these watershed programs ~~((in a timely~~
35 manner to meet the required date for adoption of the action agenda)),
36 the partnership shall rely largely upon local watershed groups, tribes,

1 cities, counties, special purpose districts, and the private sector,
2 who are engaged in developing and implementing these programs.

3 (2) The partnership shall organize (~~(this work)~~) the implementation
4 of the action agenda by working with these groups in the following
5 geographic action areas of Puget Sound, which collectively encompass
6 all of the Puget Sound basin and include the areas draining to the
7 marine waters in these action areas:

- 8 (a) Strait of Juan de Fuca;
- 9 (b) The San Juan Islands;
- 10 (c) Whidbey Island;
- 11 (d) North central Puget Sound;
- 12 (e) South central Puget Sound;
- 13 (f) South Puget Sound; and
- 14 (g) Hood Canal.

15 (3) The council shall define the geographic delineations of these
16 action areas based upon the common issues and interests of the entities
17 in these action areas, and upon the characteristics of the Sound's
18 physical structure, and the water flows into and within the Sound.

19 (4) Prior to implementing updated versions of the action agenda,
20 the executive director, working with the board representatives from
21 each action area, shall invite appropriate tribes, local governments,
22 and watershed groups to convene for the purpose of compiling the
23 existing watershed programs relating or contributing to the health of
24 Puget Sound. The participating groups should work to identify the
25 applicable local plan elements, projects, and programs, together with
26 estimated budget, timelines, and proposed funding sources, that are
27 suitable for adoption into revised versions of the action agenda. This
28 may include a prioritization among plan elements, projects, and
29 programs.

30 (5) The partnership may provide assistance to watershed groups in
31 those action areas that are developing and implementing programs
32 included within the action agenda, and to improve coordination among
33 the groups to improve and accelerate the implementation of the action
34 agenda.

35 (6) The executive director, working with the board, shall also
36 compile and assess ecosystem scale management, restoration, and
37 protection plans for the Puget Sound basin.

1 (a) At a minimum, the compilation shall include the Puget Sound
2 nearshore estuary project, clean-up plans for contaminated aquatic
3 lands and shorelands, aquatic land management plans, state resource
4 management plans, habitat conservation plans, and recovery plans for
5 salmon, orca, and other species in Puget Sound that are listed under
6 the federal endangered species act.

7 (b) The board should work to identify and assess applicable
8 ecosystem scale plan elements, projects, and programs, together with
9 estimated budget, timelines, and proposed funding sources(~~(, that are~~
10 ~~suitable for adoption into the action agenda)~~).

11 (c) When the board identifies conflicts or disputes among ecosystem
12 scale projects or programs, the board may convene the agency managers
13 in an attempt to reconcile the conflicts with the objective of
14 advancing the protection and recovery of Puget Sound.

15 (d) If it determines that doing so will increase the likelihood of
16 restoring Puget Sound by 2020, the partnership may explore the utility
17 of federal assurances under the endangered species act, 16 U.S.C. Sec.
18 1531 et seq., and shall confer with the federal services administering
19 that act.

20 ~~((7) The executive director shall integrate and present the~~
21 ~~proposed elements from watershed programs and ecosystem level plans to~~
22 ~~the council for consideration for inclusion in the action agenda not~~
23 ~~later than July 1, 2008.))~~

24 **Sec. 5.** RCW 90.71.270 and 2007 c 341 s 9 are each amended to read
25 as follows:

26 (1) The council shall appoint a nine-member Puget Sound science
27 panel to provide independent, nonrepresentational scientific advice to
28 the council (~~(and expertise in identifying environmental indicators and~~
29 ~~benchmarks for incorporation into the action agenda)~~).

30 (2) ~~((In establishing the panel,))~~ The council shall request the
31 Washington academy of sciences, created in chapter 70.220 RCW, ~~((to~~
32 ~~nominate fifteen scientists with))~~ review credentials of nominated
33 scientists to ensure recognized expertise in fields of science
34 essential to the recovery of Puget Sound. Nominees should reflect the
35 full range of scientific and engineering disciplines involved in Puget
36 Sound recovery. ~~((At a minimum, the Washington academy of sciences~~
37 ~~shall consider making nominations from scientists associated with~~

1 ~~federal, state, and local agencies, tribes, the business and~~
2 ~~environmental communities, members of the K-12, college, and university~~
3 ~~communities, and members of the board.))~~ The solicitation should be to
4 all sectors, and candidates may be from all public and private sectors,
5 including scientists associated with federal, state, and local
6 agencies, tribes, the business and environmental communities, members
7 of the K-12, college, and university committees, and members of the
8 board. ((~~Persons nominated by the Washington academy of sciences~~))
9 Nominees and panel members must disclose any potential conflicts of
10 interest, and any financial relationship with any leadership
11 councilmember, and disclose sources of current financial support and
12 contracts relating to Puget Sound recovery.

13 (3) The panel shall select a chair and a vice chair. Panel members
14 shall serve four-year terms, except that the council shall determine
15 initial terms of two, three, and four years to provide for staggered
16 terms. The council shall determine reappointments and select
17 replacements or additional members of the panel. No panel member may
18 serve longer than twelve years.

19 (4) The executive director shall designate a lead staff scientist
20 to coordinate panel actions, and administrative staff to support panel
21 activities. The legislature intends to provide ongoing funding for
22 staffing of the panel to ensure that it has sufficient capacity to
23 provide independent scientific advice.

24 (5) The executive director of the partnership and the science panel
25 shall explore a shared state and federal responsibility for the
26 staffing and administration of the panel. In the event that a
27 federally sponsored Puget Sound recovery office is created, the council
28 may propose that such office provide for staffing and administration of
29 the panel.

30 (6) The panel shall assist the council in ((~~developing and~~))
31 revising the action agenda, making recommendations to the action
32 agenda, and making recommendations to the council for updates or
33 revisions.

34 (7) Members of the panel shall be reimbursed for travel expenses
35 under RCW 43.03.050 and 43.03.060, and based upon the availability of
36 funds, the council may contract with members of the panel for
37 compensation for their services under chapter 39.29 RCW. If appointees

1 to the panel are employed by the federal, state, tribal, or local
2 governments, the council may enter into interagency personnel
3 agreements.

4 **Sec. 6.** RCW 90.71.280 and 2009 c 99 s 2 are each amended to read
5 as follows:

6 (1) The panel shall:

7 (a) Assist the council, board, and executive director in carrying
8 out the obligations of the partnership, including (~~preparing and~~)
9 updating the action agenda;

10 (b) As provided in RCW 90.71.290, assist the partnership in
11 (~~developing~~) maintaining an ecosystem level strategic science program
12 that:

13 (i) Addresses monitoring, modeling, data management, and research;
14 and

15 (ii) Identifies science gaps and recommends research priorities;

16 (c) (~~Develop and~~) Provide oversight of a competitive peer-
17 reviewed process for soliciting, strategically prioritizing, and
18 funding research and modeling projects;

19 (d) (~~Develop and~~) Implement an appropriate process for peer
20 review of monitoring, research, and modeling conducted as part of the
21 strategic science program;

22 (e) Provide input to the executive director in developing biennial
23 implementation strategies; and

24 (f) Offer an ecosystem-wide perspective on the science work being
25 conducted in Puget Sound and by the partnership.

26 (2) The panel should collaborate with other scientific groups and
27 consult other scientists in conducting its work. To the maximum extent
28 possible, the panel should seek to integrate the state-sponsored Puget
29 Sound science program with the Puget Sound science activities of
30 federal agencies, including working toward an integrated research
31 agenda and Puget Sound science work plan.

32 (3) (~~By July 31, 2008,~~) The panel shall identify environmental
33 indicators measuring the health of Puget Sound, and recommend
34 environmental benchmarks that need to be achieved to meet the goals of
35 the action agenda. The council shall confer with the panel on
36 incorporating the indicators and benchmarks, as necessary, into any
37 updates of the action agenda.

1 **Sec. 7.** RCW 90.71.290 and 2007 c 341 s 11 are each amended to read
2 as follows:

3 (1) The strategic science program shall be developed by the panel
4 with assistance and staff support provided by the executive director.
5 The science program may include:

6 (a) Continuation of the Puget Sound assessment and monitoring
7 program, as provided in RCW 90.71.060, as well as other monitoring or
8 modeling programs deemed appropriate by the executive director;

9 (b) Development of a monitoring program, in addition to the
10 provisions of RCW 90.71.060, including baselines, protocols,
11 guidelines, and quantifiable performance measures, to be recommended as
12 ~~((an))~~ elements of and updates to the action agenda;

13 (c) Recommendations regarding data collection and management to
14 facilitate easy access and use of data by all participating agencies
15 and the public; and

16 (d) A list of critical research needs.

17 (2) The strategic science program may not become an official
18 document until a majority of the members of the council votes for its
19 adoption.

20 (3) A Puget Sound science update shall be developed by the panel
21 with assistance and staff support provided by the executive director.
22 The panel ~~((shall submit the initial update to the executive director
23 by April 2010, and subsequent))~~ may submit updates as necessary to
24 reflect new scientific understandings. The update shall:

25 (a) Describe the current scientific understanding of various
26 physical attributes of Puget Sound;

27 (b) Serve as the scientific basis for the selection of
28 environmental indicators measuring the health of Puget Sound; and

29 (c) Serve as the scientific basis for the status and trends of
30 those environmental indicators.

31 (4) The executive director shall provide the Puget Sound science
32 update to the Washington academy of sciences, the governor, and
33 appropriate legislative committees, and include:

34 (a) A summary of information in existing updates; and

35 (b) Changes adopted in subsequent updates and in the state of the
36 Sound reports produced pursuant to RCW 90.71.370.

37 (5) A biennial science work plan shall be developed by the panel,

1 with assistance and staff support provided by the executive director,
2 and approved by the council. The biennial science work plan shall
3 include, at a minimum:

4 (a) Identification of recommendations from scientific and technical
5 reports relating to Puget Sound;

6 (b) A description of the Puget Sound science-related activities
7 being conducted by various entities in the region, including studies,
8 models, monitoring, research, and other appropriate activities;

9 (c) A description of whether the ongoing work addresses the
10 recommendations and, if not, identification of necessary actions to
11 fill gaps;

12 (d) Identification of specific biennial science work actions to be
13 done over the course of the work plan, and how these actions address
14 science needs in Puget Sound; and

15 (e) Recommendations for improvements to the ongoing science work in
16 Puget Sound.

17 **Sec. 8.** RCW 90.71.300 and 2007 c 341 s 12 are each amended to read
18 as follows:

19 (1) The action agenda shall consist of the goals and objectives in
20 this section, implementation strategies to meet measurable outcomes,
21 benchmarks, and identification of responsible entities. By 2020, the
22 action agenda shall strive to achieve the following goals:

23 (a) A healthy human population supported by a healthy Puget Sound
24 that is not threatened by changes in the ecosystem;

25 (b) A quality of human life that is sustained by a functioning
26 Puget Sound ecosystem;

27 (c) Healthy and sustaining populations of native species in Puget
28 Sound, including a robust food web;

29 (d) A healthy Puget Sound where freshwater, estuary, nearshore,
30 marine, and upland habitats are protected, restored, and sustained;

31 (e) An ecosystem that is supported by groundwater levels as well as
32 river and stream flow levels sufficient to sustain people, fish, and
33 wildlife, and the natural functions of the environment;

34 (f) Fresh and marine waters and sediments of a sufficient quality
35 so that the waters in the region are safe for drinking, swimming,
36 shellfish harvest and consumption, and other human uses and enjoyment,

1 and are not harmful to the native marine mammals, fish, birds, and
2 shellfish of the region.

3 (2) The action agenda shall be (~~developed~~) updated and
4 implemented to achieve the following objectives:

5 (a) Protect existing habitat and prevent further losses;

6 (b) Restore habitat functions and values;

7 (c) Significantly reduce toxics entering Puget Sound fresh and
8 marine waters;

9 (d) Significantly reduce nutrients and pathogens entering Puget
10 Sound fresh and marine waters;

11 (e) Improve water quality and habitat by managing storm water
12 runoff;

13 (f) Provide water for people, fish and wildlife, and the
14 environment;

15 (g) Protect ecosystem biodiversity and recover imperiled species;
16 and

17 (h) Build and sustain the capacity for action.

18 **Sec. 9.** RCW 90.71.310 and 2008 c 329 s 926 are each amended to
19 read as follows:

20 (1) The council shall (~~develop~~) maintain, and update as
21 necessary, a science-based action agenda that leads to the recovery of
22 Puget Sound by 2020 and achievement of the goals and objectives
23 established in RCW 90.71.300. The action agenda shall:

24 (a) Address all geographic areas of Puget Sound including upland
25 areas and tributary rivers and streams that affect Puget Sound;

26 (b) Describe the problems affecting Puget Sound's health using
27 supporting scientific data, and provide a summary of the historical
28 environmental health conditions of Puget Sound so as to determine past
29 levels of pollution and restorative actions that have established the
30 current health conditions of Puget Sound;

31 (c) Meet the goals and objectives described in RCW 90.71.300,
32 including measurable outcomes for each goal and objective specifically
33 describing what will be achieved, how it will be quantified, and how
34 progress towards outcomes will be measured. The action agenda shall
35 include near-term and long-term benchmarks designed to ensure
36 continuous progress needed to reach the goals, objectives, and

1 designated outcomes by 2020. The council shall consult with the panel
2 in developing these elements of the plan;

3 (d) Identify and prioritize the strategies and actions necessary to
4 restore and protect Puget Sound and to achieve the goals and objectives
5 described in RCW 90.71.300;

6 (e) Identify the agency, entity, or person responsible for
7 completing the necessary strategies and actions, and potential sources
8 of funding;

9 (f) Include prioritized actions (~~((identified through the assembled
10 proposals from))~~) for each of the seven action areas and the
11 identification and assessment of ecosystem scale programs as provided
12 in RCW 90.71.260;

13 (g) Include specific actions to address aquatic rehabilitation zone
14 one, as defined in RCW 90.88.010;

15 (h) Incorporate any additional goals adopted by the council; and

16 (i) Incorporate appropriate actions to carry out the biennial
17 science work plan created in RCW 90.71.290.

18 (2) In (~~((developing))~~) revising the action agenda (~~((and any
19 subsequent revisions))~~), the council shall, when appropriate,
20 incorporate the following:

21 (a) Water quality, water quantity, sediment quality, watershed,
22 marine resource, and habitat restoration plans created by governmental
23 agencies, watershed groups, and marine and shoreline groups. The
24 council shall consult with the board in incorporating these plans;

25 (b) Recovery plans for salmon, orca, and other species in Puget
26 Sound listed under the federal endangered species act;

27 (c) Existing plans and agreements signed by the governor, the
28 commissioner of public lands, other state officials, or by federal
29 agencies(+

30 ~~((d) Appropriate portions of the Puget Sound water quality
31 management plan existing on July 1, 2007))~~.

32 (3) (~~((Until the action agenda is adopted, the existing Puget Sound
33 management plan and the 2007-09 Puget Sound biennial plan shall remain
34 in effect. The existing Puget Sound management plan shall also
35 continue to serve as the comprehensive conservation and management plan
36 for the purposes of the national estuary program described in section
37 320 of the federal clean water act, until replaced by the action agenda~~

1 and approved by the United States environmental protection agency as
2 the new comprehensive conservation and management plan.

3 ~~(4) The council shall adopt the action agenda by December 1,~~
4 ~~2008.)~~) The council shall revise the action agenda (~~(as needed,~~) and
5 ~~(revise)~~) the implementation strategies every two years, in odd-
6 numbered years, using an adaptive management process informed by
7 tracking actions and monitoring results in Puget Sound. In revising
8 the action agenda and the implementation strategies, the council shall
9 consult the panel and the board and provide opportunity for public
10 review and comment. Biennial updates shall:

11 (a) Contain a detailed description of prioritized actions necessary
12 in the biennium to achieve the goals, objectives, outcomes, and
13 benchmarks of progress identified in the action agenda;

14 (b) Identify the agency, entity, or person responsible for
15 completing the necessary action; and

16 (c) Establish biennial benchmarks for near-term actions.

17 ~~((+5))~~ (4) The action agenda shall be ~~((organized and))~~ maintained
18 in a single document to facilitate public accessibility to the plan.

19 (5) The joint legislative audit and review committee shall review
20 and provide an update on the extent to which the partnership's 2012
21 action agenda, state of the sound report, and other activities
22 implement the recommendations of the committee's 2011 audit entitled
23 "Processes required to measure Puget Sound restoration are not yet in
24 place." The update must be provided to the relevant policy committee
25 of the senate and house of representatives by January 1, 2013.

26 **Sec. 10.** RCW 90.71.370 and 2011 1st sp.s. c 50 s 977 are each
27 amended to read as follows:

28 (1) By ~~((December 1, 2008, and by))~~ September 1st of each even-
29 numbered year beginning in 2010, the council shall provide to the
30 governor and the appropriate fiscal committees of the senate and house
31 of representatives its recommendations for the funding necessary to
32 implement the action agenda in the succeeding biennium. The
33 recommendations shall:

34 (a) Identify the funding needed by action agenda element;

35 (b) Address funding responsibilities among local, state, and
36 federal governments, as well as nongovernmental funding; and

1 (c) Address funding needed to support the work of the partnership,
2 the panel, the ecosystem work group, and entities assisting in
3 coordinating local efforts to implement the plan.

4 ~~(2) ((In the 2008 report required under subsection (1) of this~~
5 ~~section, the council shall include recommendations for projected~~
6 ~~funding needed through 2020 to implement the action agenda; funding~~
7 ~~needs for science panel staff; identify methods to secure stable and~~
8 ~~sufficient funding to meet these needs; and include proposals for new~~
9 ~~sources of funding to be dedicated to Puget Sound protection and~~
10 ~~recovery. In preparing the science panel staffing proposal, the~~
11 ~~council shall consult with the panel.~~

12 ~~(3))~~ By November 1st of each ~~((odd-numbered))~~ even-numbered year
13 beginning in ~~((2009))~~ 2012, the council shall produce a state of the
14 Sound report that includes, at a minimum:

15 (a) An assessment of progress by state and nonstate entities in
16 implementing the action agenda, including accomplishments in the use of
17 state funds for action agenda implementation;

18 (b) A description of actions by implementing entities that are
19 inconsistent with the action agenda and steps taken to remedy the
20 inconsistency;

21 (c) The comments by the panel on progress in implementing the plan,
22 as well as findings arising from the assessment and monitoring program;

23 (d) A review of citizen concerns provided to the partnership and
24 the disposition of those concerns;

25 (e) A review of the expenditures of funds to state agencies for the
26 implementation of programs affecting the protection and recovery of
27 Puget Sound, and an assessment of whether the use of the funds is
28 consistent with the action agenda; and

29 (f) An identification of all funds provided to the partnership, and
30 recommendations as to how future state expenditures for all entities,
31 including the partnership, could better match the priorities of the
32 action agenda.

33 ~~((+4))~~ (3)(a) The council shall review state programs that fund
34 facilities and activities that may contribute to action agenda
35 implementation. By November 1, 2009, the council shall provide initial
36 recommendations regarding program changes to the governor and
37 appropriate fiscal and policy committees of the senate and house of
38 representatives. By November 1, 2010, the council shall provide final

1 recommendations regarding program changes, including proposed
2 legislation to implement the recommendation, to the governor and
3 appropriate fiscal and policy committees of the senate and house of
4 representatives.

5 (b) The review in this subsection shall be conducted with the
6 active assistance and collaboration of the agencies administering these
7 programs, and in consultation with local governments and other entities
8 receiving funding from these programs:

9 (i) Water pollution control facilities financing, chapter 70.146
10 RCW;

11 (ii) The water pollution control revolving fund, chapter 90.50A
12 RCW;

13 (iii) The public works assistance account, chapter 43.155 RCW;

14 (iv) The aquatic lands enhancement account, RCW 79.105.150;

15 (v) The state toxics control account and local toxics control
16 account and clean-up program, chapter 70.105D RCW;

17 (vi) The acquisition of habitat conservation and outdoor recreation
18 land, chapter 79A.15 RCW;

19 (vii) The salmon recovery funding board, RCW 77.85.110 through
20 77.85.150;

21 (viii) The community economic revitalization board, chapter 43.160
22 RCW;

23 (ix) Other state financial assistance to water quality-related
24 projects and activities; and

25 (x) Water quality financial assistance from federal programs
26 administered through state programs or provided directly to local
27 governments in the Puget Sound basin.

28 (c) The council's review shall include but not be limited to:

29 (i) Determining the level of funding and types of projects and
30 activities funded through the programs that contribute to
31 implementation of the action agenda;

32 (ii) Evaluating the procedures and criteria in each program for
33 determining which projects and activities to fund, and their
34 relationship to the goals and priorities of the action agenda;

35 (iii) Assessing methods for ensuring that the goals and priorities
36 of the action agenda are given priority when program funding decisions
37 are made regarding water quality-related projects and activities in the

1 Puget Sound basin and habitat-related projects and activities in the
2 Puget Sound basin;

3 (iv) Modifying funding criteria so that projects, programs, and
4 activities that are inconsistent with the action agenda are ineligible
5 for funding;

6 (v) Assessing ways to incorporate a strategic funding approach for
7 the action agenda within the outcome-focused performance measures
8 required by RCW 43.41.270 in administering natural resource-related and
9 environmentally based grant and loan programs.

10 ~~((5) During the 2009-2011 fiscal biennium, the council's review~~
11 ~~must result in a ranking of projects affecting the protection and~~
12 ~~recovery of the Puget Sound basin that are proposed in the governor's~~
13 ~~capital budget submitted under RCW 43.88.060. The ranking shall~~
14 ~~include recommendations for reallocation of total requested funds for~~
15 ~~Puget Sound basin projects to achieve the greatest positive outcomes~~
16 ~~for protection and recovery of Puget Sound and shall be submitted to~~
17 ~~the appropriate fiscal committees of the legislature no later than~~
18 ~~February 1, 2011.~~

19 ~~(6))~~ (4) During the 2011-2013 fiscal biennium, the council shall
20 by November 1, 2012, produce the state of the Sound report as defined
21 in subsection ~~((3))~~ (2) of this section.

22 **Sec. 11.** RCW 90.71.340 and 2007 c 341 s 16 are each amended to
23 read as follows:

24 (1) The legislature intends that fiscal incentives and
25 disincentives be used as accountability measures designed to achieve
26 consistency with the action agenda by:

27 (a) Ensuring that projects and activities in conflict with the
28 action agenda are not funded;

29 (b) Aligning environmental investments with strategic priorities of
30 the action agenda; and

31 (c) Using state grant and loan programs to encourage consistency
32 with the action agenda.

33 (2) The council shall adopt measures to ensure that funds
34 appropriated for implementation of the action agenda and identified by
35 proviso or specifically referenced in the omnibus appropriations act
36 pursuant to RCW 43.88.030(1)(g) are expended in a manner that will
37 achieve the intended results. In developing such performance measures,

1 the council shall establish criteria for the expenditure of the funds
2 consistent with the responsibilities and timelines under the action
3 agenda, and require reporting and tracking of funds expended. The
4 council may adopt other measures, such as requiring interagency
5 agreements regarding the expenditure of provided or specifically
6 referenced Puget Sound funds.

7 (3) The partnership shall work with other state agencies providing
8 grant and loan funds or other financial assistance for projects and
9 activities that impact the health of the Puget Sound ecosystem under
10 chapters 43.155, 70.105D, 70.146, 77.85, 79.105, 79A.15, 89.08, and
11 90.50A RCW to, within the authorities of the programs, develop
12 consistent funding criteria that prohibits funding projects and
13 activities that are in conflict with the action agenda.

14 ~~(4) ((The partnership shall develop a process and criteria by which
15 entities that consistently achieve outstanding progress in implementing
16 the action agenda are designated as Puget Sound partners. State
17 agencies shall work with the partnership to revise their grant, loan,
18 or other financial assistance allocation criteria to create a
19 preference for entities designated as Puget Sound partners for funds
20 allocated to the Puget Sound basin, pursuant to RCW 43.155.070,
21 70.105D.070, 70.146.070, 77.85.130, 79.105.150, 79A.15.040, 89.08.520,
22 and 90.50A.040. This process shall be developed on a timeline that
23 takes into consideration state grant and loan funding cycles.~~

24 ~~(5))~~ Any entity that receives state funds to implement actions
25 required in the action agenda shall report biennially to the council on
26 progress in completing the action and whether expected results have
27 been achieved within the time frames specified in the action agenda.

28 **Sec. 12.** RCW 90.71.360 and 2007 c 341 s 18 are each amended to
29 read as follows:

30 (1) The partnership shall not have regulatory authority nor
31 authority to transfer the responsibility for, or implementation of, any
32 state regulatory program, unless otherwise specifically authorized by
33 the legislature.

34 (2) The action agenda ~~((may))~~ does not create a legally enforceable
35 duty to review or approve permits, or to adopt plans or regulations.
36 The action agenda ~~((may))~~ does not authorize the adoption of rules
37 under chapter 34.05 RCW creating a legally enforceable duty applicable

1 to the review or approval of permits or to the adoption of plans or
2 regulations. No action of the partnership may alter the forest
3 practices rules adopted pursuant to chapter 76.09 RCW, or any
4 associated habitat conservation plan. Any changes in forest practices
5 identified by the processes established in this chapter as necessary to
6 fully recover the health of Puget Sound by 2020 may only be realized
7 through the processes established in RCW 76.09.370 and other designated
8 processes established in Title 76 RCW. Nothing in this subsection or
9 subsection (1) of this section limits the accountability provisions of
10 this chapter.

11 (3) Nothing in this chapter limits or alters the existing legal
12 authority of local governments, nor does it create a legally
13 enforceable duty upon local governments. When a local government
14 proposes to take an action inconsistent with the action agenda, it
15 shall inform the council and identify the reasons for taking the
16 action. If a local government chooses to take an action inconsistent
17 with the action agenda or chooses not to take action required by the
18 action agenda, it will be subject to the accountability measures in
19 this chapter which can be used at the discretion of the council.

20 **Sec. 13.** RCW 43.155.070 and 2009 c 518 s 16 are each amended to
21 read as follows:

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

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

27 (b) The local government must have developed a capital facility
28 plan; and

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

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 must have adopted a comprehensive plan, including
35 a capital facilities plan element, and development regulations as
36 required by RCW 36.70A.040. This subsection does not require any
37 county, city, or town planning under RCW 36.70A.040 to adopt a

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

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

18 (4) The board shall develop a priority process for public works
19 projects as provided in this section. The intent of the priority
20 process is to maximize the value of public works projects accomplished
21 with assistance under this chapter. The board shall attempt to assure
22 a geographical balance in assigning priorities to projects. The board
23 shall consider at least the following factors in assigning a priority
24 to a project:

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

28 ~~((Except as otherwise conditioned by RCW 43.155.110, whether~~
29 ~~the entity receiving assistance is a Puget Sound partner, as defined in~~
30 ~~RCW 90.71.010;~~

31 ~~(e))~~ Whether the project is referenced in the action agenda
32 developed by the Puget Sound partnership under RCW 90.71.310;

33 ~~((d))~~ (c) Whether the project is critical in nature and would
34 affect the health and safety of a great number of citizens;

35 ~~((e))~~ (d) Whether the applicant has developed and adhered to
36 guidelines regarding its permitting process for those applying for
37 development permits consistent with section 1(2), chapter 231, Laws of
38 2007;

1 ~~((f))~~ (e) The cost of the project compared to the size of the
2 local government and amount of loan money available;

3 ~~((g))~~ (f) The number of communities served by or funding the
4 project;

5 ~~((h))~~ (g) Whether the project is located in an area of high
6 unemployment, compared to the average state unemployment;

7 ~~((i))~~ (h) Whether the project is the acquisition, expansion,
8 improvement, or renovation by a local government of a public water
9 system that is in violation of health and safety standards, including
10 the cost of extending existing service to such a system;

11 ~~((j))~~ (i) Except as otherwise conditioned by RCW 43.155.120, and
12 effective one calendar year following the development of model
13 evergreen community management plans and ordinances under RCW
14 35.105.050, whether the entity receiving assistance has been
15 recognized, and what gradation of recognition was received, in the
16 evergreen community recognition program created in RCW 35.105.030;

17 ~~((k))~~ (j) The relative benefit of the project to the community,
18 considering the present level of economic activity in the community and
19 the existing local capacity to increase local economic activity in
20 communities that have low economic growth; and

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

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

27 (6) Before November 1st of each even-numbered year, the board shall
28 develop and submit to the appropriate fiscal committees of the senate
29 and house of representatives a description of the loans made under RCW
30 43.155.065, 43.155.068, and subsection (9) of this section during the
31 preceding fiscal year and a prioritized list of projects which are
32 recommended for funding by the legislature, including one copy to the
33 staff of each of the committees. The list shall include, but not be
34 limited to, a description of each project and recommended financing,
35 the terms and conditions of the loan or financial guarantee, the local
36 government jurisdiction and unemployment rate, demonstration of the
37 jurisdiction's critical need for the project and documentation of local
38 funds being used to finance the public works project. The list shall

1 also include measures of fiscal capacity for each jurisdiction
2 recommended for financial assistance, compared to authorized limits and
3 state averages, including local government sales taxes; real estate
4 excise taxes; property taxes; and charges for or taxes on sewerage,
5 water, garbage, and other utilities.

6 (7) The board shall not sign contracts or otherwise financially
7 obligate funds from the public works assistance account before the
8 legislature has appropriated funds for a specific list of public works
9 projects. The legislature may remove projects from the list
10 recommended by the board. The legislature shall not change the order
11 of the priorities recommended for funding by the board.

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

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

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

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

25 **Sec. 14.** RCW 70.105D.070 and 2011 1st sp.s. c 50 s 964 are each
26 reenacted and amended to read as follows:

27 (1) The state toxics control account and the local toxics control
28 account are hereby created in the state treasury.

29 (2) The following moneys shall be deposited into the state toxics
30 control account: (a) Those revenues which are raised by the tax
31 imposed under RCW 82.21.030 and which are attributable to that portion
32 of the rate equal to thirty-three one-hundredths of one percent; (b)
33 the costs of remedial actions recovered under this chapter or chapter
34 70.105A RCW; (c) penalties collected or recovered under this chapter;
35 and (d) any other money appropriated or transferred to the account by
36 the legislature. Moneys in the account may be used only to carry out

1 the purposes of this chapter, including but not limited to the
2 following activities:

- 3 (i) The state's responsibility for hazardous waste planning,
4 management, regulation, enforcement, technical assistance, and public
5 education required under chapter 70.105 RCW;
- 6 (ii) The state's responsibility for solid waste planning,
7 management, regulation, enforcement, technical assistance, and public
8 education required under chapter 70.95 RCW;
- 9 (iii) The hazardous waste cleanup program required under this
10 chapter;
- 11 (iv) State matching funds required under the federal cleanup law;
- 12 (v) Financial assistance for local programs in accordance with
13 chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;
- 14 (vi) State government programs for the safe reduction, recycling,
15 or disposal of hazardous wastes from households, small businesses, and
16 agriculture;
- 17 (vii) Hazardous materials emergency response training;
- 18 (viii) Water and environmental health protection and monitoring
19 programs;
- 20 (ix) Programs authorized under chapter 70.146 RCW;
- 21 (x) A public participation program, including regional citizen
22 advisory committees;
- 23 (xi) Public funding to assist potentially liable persons to pay for
24 the costs of remedial action in compliance with cleanup standards under
25 RCW 70.105D.030(2)(e) but only when the amount and terms of such
26 funding are established under a settlement agreement under RCW
27 70.105D.040(4) and when the director has found that the funding will
28 achieve both (A) a substantially more expeditious or enhanced cleanup
29 than would otherwise occur, and (B) the prevention or mitigation of
30 unfair economic hardship;
- 31 (xii) Development and demonstration of alternative management
32 technologies designed to carry out the hazardous waste management
33 priorities of RCW 70.105.150;
- 34 (xiii) During the 2009-2011 and 2011-2013 fiscal biennia, shoreline
35 update technical assistance;
- 36 (xiv) During the 2009-2011 fiscal biennium, multijurisdictional
37 permitting teams; and

1 (xv) During the 2011-2013 fiscal biennium, actions for reducing
2 public exposure to toxic air pollution.

3 (3) The following moneys shall be deposited into the local toxics
4 control account: Those revenues which are raised by the tax imposed
5 under RCW 82.21.030 and which are attributable to that portion of the
6 rate equal to thirty-seven one-hundredths of one percent.

7 (a) Moneys deposited in the local toxics control account shall be
8 used by the department for grants or loans to local governments for the
9 following purposes in descending order of priority:

10 (i) Remedial actions;

11 (ii) Hazardous waste plans and programs under chapter 70.105 RCW;

12 (iii) Solid waste plans and programs under chapters 70.95, 70.95C,
13 70.95I, and 70.105 RCW;

14 (iv) Funds for a program to assist in the assessment and cleanup of
15 sites of methamphetamine production, but not to be used for the initial
16 containment of such sites, consistent with the responsibilities and
17 intent of RCW 69.50.511; and

18 (v) Cleanup and disposal of hazardous substances from abandoned or
19 derelict vessels, defined for the purposes of this section as vessels
20 that have little or no value and either have no identified owner or
21 have an identified owner lacking financial resources to clean up and
22 dispose of the vessel, that pose a threat to human health or the
23 environment.

24 (b) Funds for plans and programs shall be allocated consistent with
25 the priorities and matching requirements established in chapters
26 70.105, 70.95C, 70.95I, and 70.95 RCW, except that (~~any applicant that~~
27 ~~is a Puget Sound partner, as defined in RCW 90.71.010, along with~~) any
28 project that is referenced in the action agenda developed by the Puget
29 Sound partnership under RCW 90.71.310, shall(~~(, except as conditioned~~
30 ~~by RCW 70.105D.120,)~~) receive priority for any available funding for
31 any grant or funding programs or sources that use a competitive bidding
32 process. During the 2007-2009 fiscal biennium, moneys in the account
33 may also be used for grants to local governments to retrofit public
34 sector diesel equipment and for storm water planning and implementation
35 activities.

36 (c) To expedite cleanups throughout the state, the department shall
37 partner with local communities and liable parties for cleanups. The

1 department is authorized to use the following additional strategies in
2 order to ensure a healthful environment for future generations:

3 (i) The director may alter grant-matching requirements to create
4 incentives for local governments to expedite cleanups when one of the
5 following conditions exists:

6 (A) Funding would prevent or mitigate unfair economic hardship
7 imposed by the clean-up liability;

8 (B) Funding would create new substantial economic development,
9 public recreational, or habitat restoration opportunities that would
10 not otherwise occur; or

11 (C) Funding would create an opportunity for acquisition and
12 redevelopment of vacant, orphaned, or abandoned property under RCW
13 70.105D.040(5) that would not otherwise occur;

14 (ii) The use of outside contracts to conduct necessary studies;

15 (iii) The purchase of remedial action cost-cap insurance, when
16 necessary to expedite multiparty clean-up efforts.

17 (d) To facilitate and expedite cleanups using funds from the local
18 toxics control account, during the 2009-2011 fiscal biennium the
19 director may establish grant-funded accounts to hold and disperse local
20 toxics control account funds and funds from local governments to be
21 used for remedial actions.

22 (4) Except for unanticipated receipts under RCW 43.79.260 through
23 43.79.282, moneys in the state and local toxics control accounts may be
24 spent only after appropriation by statute.

25 (5) Except during the 2009-2011 fiscal biennium, one percent of the
26 moneys deposited into the state and local toxics control accounts shall
27 be allocated only for public participation grants to persons who may be
28 adversely affected by a release or threatened release of a hazardous
29 substance and to not-for-profit public interest organizations. The
30 primary purpose of these grants is to facilitate the participation by
31 persons and organizations in the investigation and remedying of
32 releases or threatened releases of hazardous substances and to
33 implement the state's solid and hazardous waste management priorities.
34 No grant may exceed sixty thousand dollars. Grants may be renewed
35 annually. Moneys appropriated for public participation from either
36 account which are not expended at the close of any biennium shall
37 revert to the state toxics control account.

1 (6) No moneys deposited into either the state or local toxics
2 control account may be used for solid waste incinerator feasibility
3 studies, construction, maintenance, or operation, or, after January 1,
4 2010, for projects designed to address the restoration of Puget Sound,
5 funded in a competitive grant process, that are in conflict with the
6 action agenda developed by the Puget Sound partnership under RCW
7 90.71.310.

8 (7) The department shall adopt rules for grant or loan issuance and
9 performance.

10 (8) During the 2007-2009 and 2009-2011 fiscal biennia, the
11 legislature may transfer from the local toxics control account to
12 either the state general fund or the oil spill prevention account, or
13 both such amounts as reflect excess fund balance in the account.

14 (9) During the 2009-2011 fiscal biennium, the local toxics control
15 account may also be used for a standby rescue tug at Neah Bay, local
16 government shoreline update grants, private and public sector diesel
17 equipment retrofit, and oil spill prevention, preparedness, and
18 response activities.

19 (10) During the 2009-2011 fiscal biennium, the legislature may
20 transfer from the state toxics control account to the state general
21 fund such amounts as reflect the excess fund balance in the account.

22 (11) During the 2011-2013 fiscal biennium, the local toxics control
23 account may also be used for local government shoreline update grants
24 and actions for reducing public exposure to toxic air pollution.

25 **Sec. 15.** RCW 70.146.070 and 2008 c 299 s 26 are each amended to
26 read as follows:

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

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

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

32 (c) Actions required under federal and state permits and compliance
33 orders;

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

36 (e) (~~Except as otherwise conditioned by RCW 70.146.110, whether~~

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

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

5 ~~((g))~~ (f) Except as otherwise provided in RCW 70.146.120, and
6 effective one calendar year following the development and statewide
7 availability of model evergreen community management plans and
8 ordinances under RCW 35.105.050, whether the project is sponsored by an
9 entity that has been recognized, and what gradation of recognition was
10 received, in the evergreen community recognition program created in RCW
11 35.105.030;

12 ~~((h))~~ (g) The extent to which the applicant county or city, or if
13 the applicant is another public body, the extent to which the county or
14 city in which the applicant public body is located, has established
15 programs to mitigate nonpoint pollution of the surface or subterranean
16 water sought to be protected by the water pollution control facility
17 named in the application for state assistance; and

18 ~~((i))~~ (h) The recommendations of the Puget Sound partnership,
19 created in RCW 90.71.210, and any other board, council, commission, or
20 group established by the legislature or a state agency to study water
21 pollution control issues in the state.

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

1 (3) Whenever the department is considering awarding grants or loans
2 for public facilities to special districts requesting funding for a
3 proposed facility located in a county, city, or town planning under RCW
4 36.70A.040, it shall consider whether the county, city, or town
5 planning under RCW 36.70A.040 in whose planning jurisdiction the
6 proposed facility is located has adopted a comprehensive plan and
7 development regulations as required by RCW 36.70A.040.

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

12 **Sec. 16.** RCW 77.85.130 and 2011 c 20 s 16 are each amended to read
13 as follows:

14 (1) The salmon recovery funding board shall develop procedures and
15 criteria for allocation of funds for salmon habitat projects and salmon
16 recovery activities on a statewide basis to address the highest
17 priorities for salmon habitat protection and restoration. To the
18 extent practicable the board shall adopt an annual allocation of
19 funding. The allocation should address both protection and restoration
20 of habitat, and should recognize the varying needs in each area of the
21 state on an equitable basis. The board has the discretion to partially
22 fund, or to fund in phases, salmon habitat projects. The board may
23 annually establish a maximum amount of funding available for any
24 individual project, subject to available funding. No projects required
25 solely as a mitigation or a condition of permitting are eligible for
26 funding.

27 (2)(a) In evaluating, ranking, and awarding funds for projects and
28 activities the board shall give preference to projects that:

29 (i) Are based upon the limiting factors analysis identified under
30 RCW 77.85.060;

31 (ii) Provide a greater benefit to salmon recovery based upon the
32 stock status information contained in the department of fish and
33 wildlife salmonid stock inventory (SASSI), the salmon and steelhead
34 habitat inventory and assessment project (SSHIAP), and any comparable
35 science-based assessment when available;

36 (iii) Will benefit listed species and other fish species;

37 (iv) Will preserve high quality salmonid habitat;

1 (v) Are included in a regional or watershed-based salmon recovery
2 plan that accords the project, action, or area a high priority for
3 funding; and

4 ~~(vi) ((Are, except as provided in RCW 77.85.240, sponsored by an
5 entity that is a Puget Sound partner, as defined in RCW 90.71.010; and~~

6 ~~(vii))~~ Are projects referenced in the action agenda developed by
7 the Puget Sound partnership under RCW 90.71.310.

8 (b) In evaluating, ranking, and awarding funds for projects and
9 activities the board shall also give consideration to projects that:

10 (i) Are the most cost-effective;

11 (ii) Have the greatest matched or in-kind funding;

12 (iii) Will be implemented by a sponsor with a successful record of
13 project implementation;

14 (iv) Involve members of the Washington conservation corps
15 established in chapter 43.220 RCW or the veterans conservation corps
16 established in RCW 43.60A.150; and

17 (v) Are part of a regionwide list developed by lead entities.

18 (3) The board may reject, but not add, projects from a habitat
19 project list submitted by a lead entity for funding.

20 (4) The board shall establish criteria for determining when block
21 grants may be made to a lead entity. The board may provide block
22 grants to the lead entity to implement habitat project lists developed
23 under RCW 77.85.050, subject to available funding. The board shall
24 determine an equitable minimum amount of project funds for each
25 recovery region, and shall distribute the remainder of funds on a
26 competitive basis. The board may also provide block grants to the lead
27 entity or regional recovery organization to assist in carrying out
28 functions described under this chapter. Block grants must be expended
29 consistent with the priorities established for the board in subsection
30 (2) of this section. Lead entities or regional recovery organizations
31 receiving block grants under this subsection shall provide an annual
32 report to the board summarizing how funds were expended for activities
33 consistent with this chapter, including the types of projects funded,
34 project outcomes, monitoring results, and administrative costs.

35 (5) The board may waive or modify portions of the allocation
36 procedures and standards adopted under this section in the award of
37 grants or loans to conform to legislative appropriations directing an
38 alternative award procedure or when the funds to be awarded are from

1 federal or other sources requiring other allocation procedures or
2 standards as a condition of the board's receipt of the funds. The
3 board shall develop an integrated process to manage the allocation of
4 funding from federal and state sources to minimize delays in the award
5 of funding while recognizing the differences in state and legislative
6 appropriation timing.

7 (6) The board may award a grant or loan for a salmon recovery
8 project on private or public land when the landowner has a legal
9 obligation under local, state, or federal law to perform the project,
10 when expedited action provides a clear benefit to salmon recovery, and
11 there will be harm to salmon recovery if the project is delayed. For
12 purposes of this subsection, a legal obligation does not include a
13 project required solely as a mitigation or a condition of permitting.

14 (7) Property acquired or improved by a project sponsor may be
15 conveyed to a federal agency if: (a) The agency agrees to comply with
16 all terms of the grant or loan to which the project sponsor was
17 obligated; or (b) the board approves: (i) Changes in the terms of the
18 grant or loan, and the revision or removal of binding deed of right
19 instruments; and (ii) a memorandum of understanding or similar document
20 ensuring that the facility or property will retain, to the extent
21 feasible, adequate habitat protections; and (c) the appropriate
22 legislative authority of the county or city with jurisdiction over the
23 project area approves the transfer and provides notification to the
24 board.

25 (8) Any project sponsor receiving funding from the salmon recovery
26 funding board that is not subject to disclosure under chapter 42.56 RCW
27 must, as a mandatory contractual prerequisite to receiving the funding,
28 agree to disclose any information in regards to the expenditure of that
29 funding as if the project sponsor was subject to the requirements of
30 chapter 42.56 RCW.

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

35 **Sec. 17.** RCW 79.105.150 and 2011 2nd sp.s. c 9 s 911 are each
36 amended to read as follows:

37 (1) After deduction for management costs as provided in RCW

1 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys
2 received by the state from the sale or lease of state-owned aquatic
3 lands and from the sale of valuable material from state-owned aquatic
4 lands shall be deposited in the aquatic lands enhancement account which
5 is hereby created in the state treasury. After appropriation, these
6 funds shall be used solely for aquatic lands enhancement projects; for
7 the purchase, improvement, or protection of aquatic lands for public
8 purposes; for providing and improving access to the lands; and for
9 volunteer cooperative fish and game projects. During the 2009-2011 and
10 2011-2013 fiscal biennia, the aquatic lands enhancement account may
11 also be used for scientific research as part of the adaptive management
12 process and for developing a planning report for McNeil Island. During
13 the 2009-2011 and 2011-2013 fiscal biennia, the legislature may
14 transfer from the aquatic lands enhancement account to the state
15 general fund such amounts as reflect excess fund balance of the
16 account. During the 2011-2013 fiscal biennium, the aquatic lands
17 enhancement account may be used to support the shellfish program, the
18 ballast water program, and the Puget Sound toxic sampling program at
19 the department of fish and wildlife, and the knotweed program at the
20 department of agriculture.

21 (2) In providing grants for aquatic lands enhancement projects, the
22 recreation and conservation funding board shall:

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

25 (b) Utilize the statement of environmental benefits,
26 consideration(~~(, except as provided in RCW 79.105.610, of whether the~~
27 ~~applicant is a Puget Sound partner, as defined in RCW 90.71.010,)~~) of
28 whether a project is referenced in the action agenda developed by the
29 Puget Sound partnership under RCW 90.71.310, and except as otherwise
30 provided in RCW 79.105.630, and effective one calendar year following
31 the development and statewide availability of model evergreen community
32 management plans and ordinances under RCW 35.105.050, whether the
33 applicant is an entity that has been recognized, and what gradation of
34 recognition was received, in the evergreen community recognition
35 program created in RCW 35.105.030 in its prioritization and selection
36 process; and

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

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

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

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

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

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

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

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

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

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

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

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

36 (3) Only state agencies may apply for acquisition and development

1 funds for natural areas projects under subsection (1)(b) of this
2 section.

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

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

10 (b) Any lands that have been acquired with grants under this
11 section by the department of natural resources are subject to payments
12 in the amounts required under the provisions of RCW 79.70.130 and
13 79.71.130.

14 (6) Except as otherwise conditioned by RCW (~~79A.15.140 or~~)
15 79A.15.150, the board in its evaluating process shall consider the
16 following in determining distribution priority:

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

19 ~~(b))~~) Effective one calendar year following the development and
20 statewide availability of model evergreen community management plans
21 and ordinances under RCW 35.105.050, whether the entity receiving
22 assistance has been recognized, and what gradation of recognition was
23 received, in the evergreen community recognition program created in RCW
24 35.105.030; and

25 ~~((+e))~~) (b) Whether the project is referenced in the action agenda
26 developed by the Puget Sound partnership under RCW 90.71.310.

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

31 **Sec. 19.** RCW 89.08.520 and 2008 c 299 s 27 are each amended to
32 read as follows:

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

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

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

- 1 (i) The statement of environmental benefits;
- 2 (ii) Whether, except as ~~((conditioned by RCW 89.08.580, the~~
3 ~~applicant is a Puget Sound partner, as defined in RCW 90.71.010, and~~
4 ~~except as))~~ otherwise provided in RCW 89.08.590, and effective one
5 calendar year following the development and statewide availability of
6 model evergreen community management plans and ordinances under RCW
7 35.105.050, ~~((whether))~~ the applicant is an entity that has been
8 recognized, and what gradation of recognition was received, in the
9 evergreen community recognition program created in RCW 35.105.030; and
- 10 (iii) Whether the project is referenced in the action agenda
11 developed by the Puget Sound partnership under RCW 90.71.310; and
- 12 (c) Not provide funding, after January 1, 2010, for projects
13 designed to address the restoration of Puget Sound that are in conflict
14 with the action agenda developed by the Puget Sound partnership under
15 RCW 90.71.310.
- 16 (2)(a) The commission shall also develop appropriate outcome-
17 focused performance measures to be used both for management and
18 performance assessment of the grant program.
- 19 (b) The commission shall work with the districts to develop uniform
20 performance measures across participating districts and, to the extent
21 possible, the commission should coordinate its performance measure
22 system with other natural resource-related agencies as defined in RCW
23 43.41.270. The commission shall consult with affected interest groups
24 in implementing this section.

25 NEW SECTION. **Sec. 20.** The following acts or parts of acts are
26 each repealed:

- 27 (1) RCW 43.155.110 (Puget Sound partners) and 2007 c 341 s 25;
- 28 (2) RCW 70.105D.120 (Puget Sound partners) and 2007 c 341 s 31;
- 29 (3) RCW 70.146.110 (Puget Sound partners) and 2007 c 341 s 27;
- 30 (4) RCW 77.85.240 (Puget Sound partners) and 2007 c 341 s 37;
- 31 (5) RCW 79.105.610 (Puget Sound partners) and 2007 c 341 s 33;
- 32 (6) RCW 79A.15.140 (Puget Sound partners) and 2007 c 341 s 35;
- 33 (7) RCW 89.08.580 (Puget Sound partners) and 2007 c 341 s 29; and
- 34 (8) RCW 90.50A.080 (Puget Sound partners) and 2007 c 341 s 40.

--- END ---