
SUBSTITUTE SENATE BILL 5713

State of Washington

62nd Legislature

2011 Regular Session

By Senate Agriculture & Rural Economic Development (originally sponsored by Senators Haugen, Delvin, Hatfield, Shin, and Parlette)

READ FIRST TIME 02/18/11.

1 AN ACT Relating to implementing recommendations developed in
2 accordance with Substitute Senate Bill No. 5248, chapter 353, Laws of
3 2007; amending RCW 36.70A.280; reenacting and amending RCW 36.70A.130;
4 adding new sections to chapter 36.70A RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** (1) The purpose of this act is to establish
7 the voluntary stewardship program as recommended in the report
8 submitted by the William D. Ruckelshaus Center to the legislature as
9 required by chapter 353, Laws of 2007 and chapter 203, Laws of 2010.

10 (2) It is the intent of this act to:

11 (a) Promote plans to protect and enhance critical areas within the
12 area where agricultural activities are conducted, while maintaining and
13 improving the long-term viability of agriculture in the state of
14 Washington and reducing the conversion of farmland to other uses;

15 (b) Focus and maximize voluntary incentive programs to encourage
16 good riparian and ecosystem stewardship as an alternative to historic
17 approaches used to protect critical areas;

18 (c) Rely upon RCW 36.70A.060 for the protection of critical areas
19 for those counties that do not choose to participate in this program;

1 (d) Leverage existing resources by relying upon existing work and
2 plans in counties and local watersheds, as well as existing state and
3 federal programs to the maximum extent practicable to achieve program
4 goals;

5 (e) Foster a spirit of cooperation among diverse interest groups to
6 better assure the program success; and

7 (f) Rely upon voluntary stewardship practices as the primary method
8 of protecting critical areas and not require the cessation of
9 agricultural activities.

10 NEW SECTION. **Sec. 2.** The definitions in this section apply to
11 sections 1 through 15 of this act and RCW 36.70A.130 and 36.70A.280
12 unless the context clearly requires otherwise.

13 (1) "Agricultural activities" means all agricultural uses and
14 practices as defined in RCW 90.58.065.

15 (2) "Commission" means the state conservation commission as defined
16 in RCW 89.08.030.

17 (3) "Director" means the executive director of the state
18 conservation commission.

19 (4) "Enhance" or "enhancement" means to improve the processes,
20 structure, and functions existing, as of the effective date of this
21 section, of ecosystems and habitats associated with critical areas.

22 (5) "Participating watershed" means a watershed identified by a
23 county under section 4(1) of this act to participate in the program.

24 (6) "Priority watershed" means a geographic area nominated by the
25 county and designated by the commission.

26 (7) "Program" means the voluntary stewardship program established
27 in section 3 of this act.

28 (8) "Protect" or "protecting" means to prevent the degradation of
29 functions and values existing as of the effective date of this section.

30 (9) "Receipt of funding" means the date a county takes legislative
31 action accepting any funds as required in section 5(1) of this act to
32 implement the program.

33 (10) "Statewide advisory committee" means the statewide advisory
34 committee created in section 11 of this act.

35 (11) "Technical panel" means the directors or director designees of
36 the following agencies: The department of fish and wildlife; the

1 department of agriculture; the department of ecology; and the
2 commission.

3 (12) "Watershed" means a water resource inventory area, salmon
4 recovery planning area, or a subbasin as determined by a county.

5 (13) "Watershed group" means an entity designated by a county under
6 the provisions of section 5 of this act.

7 (14) "Work plan" means a watershed work plan developed under the
8 provisions of section 6 of this act.

9 NEW SECTION. **Sec. 3.** (1) The voluntary stewardship program is
10 established to be administered by the commission. The program shall be
11 designed to protect and enhance critical areas on lands used for
12 agricultural activities through voluntary actions by agricultural
13 operators.

14 (2) In administering the program, the commission must:

15 (a) Establish policies and procedures for implementing the program;

16 (b) Administer funding for counties to implement the program
17 including, but not limited to, funding to develop strategies and
18 incentive programs and to establish local guidelines for watershed
19 stewardship programs;

20 (c) Administer the program's technical assistance funds and
21 coordinate among state agencies and other entities for the
22 implementation of the program;

23 (d) Establish a technical panel;

24 (e) In conjunction with the technical panel, review and evaluate:

25 (i) Work plans submitted for approval under section 6(2)(a) of this
26 act; and (ii) reports submitted under section 6(2)(b) of this act;

27 (f) Review and evaluate the program's success and effectiveness and
28 make appropriate changes to policies and procedures for implementing
29 the program, in consultation with the statewide advisory committee and
30 other affected agencies;

31 (g) Designate priority watersheds based upon the recommendation of
32 the statewide advisory committee. The commission and the statewide
33 advisory committee may only consider watersheds nominated by counties
34 under section 4 of this act. When designating priority watersheds, the
35 commission and the statewide advisory committee shall consider the
36 statewide significance of the criteria listed in section 4(3) of this
37 act;

1 (h) Provide administrative support for the program's statewide
2 advisory committee in its work. The administrative support must be in
3 collaboration with the department of ecology and other agencies
4 involved in the program;

5 (i) Maintain a web site about the program that includes times,
6 locations, and agenda information for meetings of the statewide
7 advisory committee;

8 (j) Report to the legislature on the general status of program
9 implementation by December 1, 2013, and December 1, 2015;

10 (k) In conjunction with the statewide advisory committee, conduct
11 a review of the program beginning in 2017 and every five years
12 thereafter, and report its findings to the legislature by December 1st;
13 and

14 (l) Report to the appropriate committees of the legislature in the
15 format provided in RCW 43.01.036.

16 (3) The department shall assist counties participating in the
17 program to develop plans and development regulations under section 9(1)
18 of this act.

19 (4) The commission, department, department of agriculture,
20 department of fish and wildlife, department of ecology, and other state
21 agencies as directed by the governor shall:

22 (a) Cooperate and collaborate to implement the program; and

23 (b) Develop materials to assist local watershed groups in
24 development of work plans.

25 (5) State agencies conducting new monitoring to implement the
26 program in a watershed must focus on the goals and benchmarks of the
27 work plan.

28 NEW SECTION. **Sec. 4.** (1)(a) As an alternative to protecting
29 critical areas in areas used for agricultural activities through
30 development regulations adopted under RCW 36.70A.060, the legislative
31 authority of a county may elect to protect such critical areas through
32 the program.

33 (b) In order to participate in the program, within six months after
34 the effective date of this section, the legislative authority of a
35 county must adopt an ordinance or resolution that:

36 (i) Elects to have the county participate in the program;

1 (ii) Identifies the watersheds that will participate in the
2 program; and

3 (iii) Based on the criteria in subsection (4) of this section,
4 nominates watersheds for consideration by the commission as state
5 priority watersheds.

6 (2) Before adopting the ordinance or resolution under subsection
7 (1) of this section, the county must provide notice following the
8 public participation and notice provisions of RCW 36.70A.035 to
9 property owners and other affected and interested individuals, tribes,
10 government agencies, businesses, school districts, and organizations.

11 (3) In identifying watersheds to participate in the program, a
12 county must consider:

13 (a) The role of farming within the watershed, including the number
14 and acreage of farms, the economic value of crops and livestock, and
15 the risk of the conversion of farmland; and

16 (b) Existing watershed programs, including those of other
17 jurisdictions in which the watershed has territory.

18 (4) In identifying priority watersheds, a county must consider the
19 following:

20 (a) The role of farming within the watershed, including the number
21 and acreage of farms, the economic value of crops and livestock, and
22 the risk of the conversion of farmland;

23 (b) The importance of salmonid resources in the watershed;

24 (c) An evaluation of the biological diversity of wildlife species
25 and their habitats in the geographic region including their
26 significance and vulnerability;

27 (d) The presence of leadership within the watershed that is
28 representative and inclusive of the interests in the watershed;

29 (e) Integration of regional watershed strategies, including the
30 availability of a data and scientific review structure related to all
31 types of critical areas;

32 (f) The presence of a local watershed group that is willing and
33 capable of overseeing a successful program, and that has the
34 operational structures to administer the program effectively, including
35 professional technical assistance staff, and monitoring and adaptive
36 management structures; and

37 (g) The overall likelihood of completing a successful program in
38 the watershed.

1 (5) Except as otherwise provided in subsection (9) of this section,
2 beginning with the effective date of the ordinance or resolution
3 adopted under subsection (1) of this section, the program applies to
4 all unincorporated property upon which agricultural activities occur
5 within a participating watershed.

6 (6)(a) Except as otherwise provided in (b) of this subsection,
7 within two years after the effective date of this section, a county
8 must review and, if necessary, revise development regulations adopted
9 under this chapter to protect critical areas as they specifically apply
10 to agricultural activities:

11 (i) If the county has not elected to participate in the program,
12 for all unincorporated areas; or

13 (ii) If the county has elected to participate in the program, for
14 any watershed not participating in the program.

15 (b) A county that between July 1, 2003, and June 30, 2007, in
16 accordance with RCW 36.70A.130 completed the review of its development
17 regulations as required by RCW 36.70A.130 to protect critical areas as
18 they specifically apply to agricultural activities is not required to
19 review and revise its development regulations until required by RCW
20 36.70A.130.

21 (c) After the review and amendment required under (a) of this
22 subsection, RCW 36.70A.130 applies to the subsequent review and
23 amendment of development regulations adopted under this chapter to
24 protect critical areas as they specifically apply to agricultural
25 activities.

26 (7)(a) A county that has made the election under subsection (1) of
27 this section may withdraw a participating watershed from the program by
28 adopting an ordinance or resolution withdrawing the watershed from the
29 program. A county may withdraw a watershed from the program at the end
30 of three years, five years, or eight years after receipt of funding, or
31 any time after ten years from receipt of funding.

32 (b) Within eighteen months after withdrawing a participating
33 watershed from the program, the county must review and, if necessary,
34 revise its development regulations that protect critical areas in that
35 watershed as they specifically apply to agricultural activities. The
36 development regulations must protect the critical area functions and
37 values as they existed on the effective date of this section. RCW

1 36.70A.130 applies to the subsequent review and amendment of
2 development regulations adopted under this chapter to protect critical
3 areas as they specifically apply to agricultural activities.

4 (8) A county that has made the election under subsection (1) of
5 this section is eligible for a share of the funding made available to
6 implement the program, subject to funding availability from the state.

7 (9) A county that has made the election under subsection (1) of
8 this section is not required to implement the program in a
9 participating watershed until adequate funding for the program in that
10 watershed is provided to the county.

11 NEW SECTION. **Sec. 5.** (1) When the commission makes funds
12 available to a county that has made the election provided in section
13 4(1) of this act, the county must within sixty days:

14 (a) Acknowledge the receipt of funds; and

15 (b) Designate a watershed group and an entity to administer funds
16 for each watershed for which funding has been provided.

17 (2) A county must confer with tribes and interested stakeholders
18 before designating or establishing a watershed group.

19 (3) The watershed group must include broad representation of key
20 watershed stakeholders and, at a minimum, representatives of
21 agricultural and environmental groups. The county should encourage
22 existing lead entities, watershed planning units, or other integrating
23 organizations to serve as the watershed group.

24 (4) The county may designate itself, a tribe, or another entity to
25 coordinate the local watershed group.

26 NEW SECTION. **Sec. 6.** (1) A watershed group designated by a county
27 under section 5 of this act must develop a work plan to protect
28 critical areas while maintaining the viability of agriculture in the
29 watershed. The work plan must include goals and benchmarks for the
30 protection and enhancement of critical areas. In developing and
31 implementing the work plan, the watershed group must:

32 (a) Review and incorporate applicable water quality, watershed
33 management, farmland protection, and species recovery data and plans;

34 (b) Seek input from tribes, agencies, and stakeholders;

35 (c) Develop goals for participation by agricultural operators

1 conducting commercial and noncommercial agricultural activities in the
2 watershed necessary to meet the protection and enhancement benchmarks
3 of the work plan;

4 (d) Ensure outreach and technical assistance is provided to
5 agricultural operators in the watershed;

6 (e) Create measurable benchmarks that, within ten years after the
7 receipt of funding, are designed to result in (i) the protection of
8 critical area functions and values and (ii) the enhancement of critical
9 area functions and values through voluntary, incentive-based measures;

10 (f) Designate the entity or entities that will provide technical
11 assistance;

12 (g) Work with the entity providing technical assistance to ensure
13 that individual stewardship plans contribute to the goals and
14 benchmarks of the work plan;

15 (h) Incorporate into the work plan any existing development
16 regulations relied upon to achieve the goals and benchmarks for
17 protection;

18 (i) Establish baseline monitoring for: (i) Participation
19 activities and implementation of the voluntary stewardship plans and
20 projects; (ii) stewardship activities; and (iii) the effects on
21 critical areas and agriculture relevant to the protection and
22 enhancement benchmarks developed for the watershed;

23 (j) Conduct periodic evaluations, institute adaptive management,
24 and provide a written report of the status of plans and accomplishments
25 to the county and to the commission within sixty days after the end of
26 each biennium;

27 (k) Assist state agencies in their monitoring programs; and

28 (l) Satisfy any other reporting requirements of the program.

29 (2)(a) The watershed group shall develop and submit the work plan
30 to the director for approval as provided in section 7 of this act.

31 (b)(i) Not later than five years after the receipt of funding for
32 a participating watershed, the watershed group must report to the
33 director and the county on whether it has met the work plan's
34 protection and enhancement goals and benchmarks.

35 (ii) If the watershed group determines the protection goals and
36 benchmarks have been met, and the director concurs under section 8 of
37 this act, the watershed group shall continue to implement the work
38 plan.

1 (iii) If the watershed group determines the protection goals and
2 benchmarks have not been met, it must propose and submit to the
3 director an adaptive management plan to achieve the goals and
4 benchmarks that were not met. If the director does not approve the
5 adaptive management plan under section 8 of this act, the watershed is
6 subject to section 9 of this act.

7 (iv) If the watershed group determines the enhancement goals and
8 benchmarks have not been met, the watershed group must determine what
9 additional voluntary actions are needed to meet the benchmarks,
10 identify the funding necessary to implement these actions, and
11 implement these actions when funding is provided.

12 (c)(i) Not later than ten years after receipt of funding for a
13 participating watershed, and every five years thereafter, the watershed
14 group must report to the director and the county on whether it has met
15 the protection and enhancement goals and benchmarks of the work plan.

16 (ii) If the watershed group determines the protection goals and
17 benchmarks have been met, and the director concurs under section 8 of
18 this act, the watershed group shall continue to implement the work
19 plan.

20 (iii) If the watershed group determines the protection goals and
21 benchmarks have not been met, the watershed is subject to section 9 of
22 this act.

23 (iv) If the watershed group determines the enhancement goals and
24 benchmarks have not been met, the watershed group must determine what
25 additional voluntary actions are needed to meet the benchmarks,
26 identify the funding necessary to implement these actions, and
27 implement these actions when funding is provided.

28 (3) Following approval of a work plan, a county or watershed group
29 may request a state or federal agency to focus existing enforcement
30 authority in that participating watershed, if the action will
31 facilitate progress toward achieving work plan protection goals and
32 benchmarks.

33 (4) The commission may provide priority funding to any watershed
34 designated under the provisions of section 3(2)(g) of this act. The
35 director, in consultation with the statewide advisory committee, shall
36 work with the watershed group to develop an accelerated implementation
37 schedule for watersheds that receive priority funding.

1 (5) Commercial and noncommercial agricultural operators
2 participating in the program are eligible to receive funding and
3 assistance under watershed programs.

4 NEW SECTION. Sec. 7. (1) Upon receipt of a work plan submitted to
5 the director under section 6(2)(a) of this act, the director must
6 submit the work plan to the technical panel for review.

7 (2) The technical panel shall review the work plan and report to
8 the director within forty-five days after the director receives the
9 work plan. The technical panel shall assess whether at the end of ten
10 years after receipt of funding, the work plan, in conjunction with
11 other existing plans and regulations, will protect critical areas while
12 maintaining and enhancing the viability of agriculture in the
13 watershed.

14 (3)(a) If the technical panel determines the proposed work plan
15 will protect critical areas while maintaining and enhancing the
16 viability of agriculture in the watershed:

17 (i) It must recommend approval of the work plan; and

18 (ii) The director must approve the work plan.

19 (b) If the technical panel determines the proposed work plan will
20 not protect critical areas while maintaining and enhancing the
21 viability of agriculture in the watershed:

22 (i) It must identify the reasons for its determination; and

23 (ii) The director must advise the watershed group of the reasons
24 for disapproval.

25 (4) The watershed group may modify and resubmit its work plan for
26 review and approval consistent with this section.

27 (5) If the director does not approve a work plan submitted under
28 this section within two years and nine months after receipt of funding,
29 the director shall submit the work plan to the statewide advisory
30 committee for resolution. If the statewide advisory committee
31 recommends approval, the director must approve the work plan.

32 (6) If the director does not approve a work plan for a watershed
33 within three years after receipt of funding, the provisions of section
34 9(2) of this act apply to the watershed.

35 NEW SECTION. Sec. 8. (1) Upon receipt of a report by a watershed
36 group under section 6(2)(b) of this act that the work plan goals and

1 benchmarks have been met, the director must consult with the statewide
2 advisory committee. If the director concurs with the watershed group
3 report, the watershed group shall continue to implement the work plan.
4 If the director does not concur with the watershed group report, the
5 director shall consult with the statewide advisory committee following
6 the procedures in subsection (2) of this section.

7 (2) If either the director, following receipt of a report under
8 subsection (1) of this section, or the watershed group, in the report
9 submitted to the director under section 6(2)(b) of this act, concludes
10 that the work plan goals and benchmarks for protection have not been
11 met, the director must consult with the statewide advisory committee
12 for a recommendation on how to proceed. If the director, acting upon
13 recommendation from the statewide advisory committee, determines that
14 the watershed is likely to meet the goals and benchmarks with an
15 additional six months of planning and implementation time, the director
16 must grant an extension. If the director, acting upon a recommendation
17 from the statewide advisory committee, determines that the watershed is
18 unlikely to meet the goals and benchmarks within six months, the
19 watershed is subject to section 9 of this act.

20 (3) A watershed that fails to meet its goals and benchmarks for
21 protection within the six-month time extension under subsection (2) of
22 this section is subject to section 9 of this act.

23 NEW SECTION. **Sec. 9.** (1) Within eighteen months after one of the
24 events in subsection (2) of this section, a county must:

25 (a) Develop, adopt, and implement a watershed work plan approved by
26 the department that protects critical areas in areas used for
27 agricultural activities while maintaining the viability of agriculture
28 in the watershed. The department shall consult with the departments of
29 agriculture, ecology, and fish and wildlife and the commission, and
30 other relevant state agencies before approving or disapproving the
31 proposed work plan. The appeal of the department's decision under this
32 subsection is subject to appeal under RCW 36.70A.280;

33 (b) Adopt development regulations previously adopted under this
34 chapter by another local government for the purpose of protecting
35 critical areas in areas used for agricultural activities. Regulations
36 adopted under this subsection (1)(b) must be from a region with similar
37 agricultural activities, geography, and geology and must: (i) Be from

1 Clallam, Clark, King, or Whatcom counties; or (ii) have been upheld by
2 a growth management hearings board or court after July 1, 2011, where
3 the board or court determined that the provisions adequately protected
4 critical areas functions and values in areas used for agricultural
5 activities;

6 (c) Adopt development regulations certified by the department as
7 protective of critical areas in areas used for agricultural activities
8 as required by this chapter. The county may submit existing or amended
9 regulations for certification. The department must make its decision
10 on whether to certify the development regulations within ninety days
11 after the county submits its request. If the department denies the
12 certification, the county shall take an action under (a), (b), or (d)
13 of this subsection. The department must consult with the departments
14 of agriculture, ecology, and fish and wildlife and the commission
15 before making a certification under this section. The appeal of the
16 department's decision under this subsection (1)(c) is subject to appeal
17 under RCW 36.70A.280; or

18 (d) Review and, if necessary, revise development regulations
19 adopted under this chapter to protect critical areas as they relate to
20 agricultural activities.

21 (2) A participating watershed is subject to this section if:

22 (a) The work plan is not approved by the director as provided in
23 section 7 of this act;

24 (b) The work plan's goals and benchmarks for protection have not
25 been met as provided in section 6 of this act;

26 (c) The commission has determined under section 10 of this act that
27 the county, department, commission, or departments of agriculture,
28 ecology, or fish and wildlife have not received adequate funding to
29 implement a program in the watershed; or

30 (d) The commission has determined under section 10 of this act that
31 the watershed has not received adequate funding to implement the
32 program.

33 (3) The department shall adopt rules to implement subsection (1)(a)
34 and (c) of this section.

35 NEW SECTION. **Sec. 10.** (1) By July 31, 2015, the commission must:

36 (a) In consultation with each county that has elected under section

1 4 of this act to participate in the program, determine which
2 participating watersheds received adequate funding to establish and
3 implement the program in a participating watershed by July 1, 2015; and

4 (b) In consultation with other state agencies, for each
5 participating watershed determine whether state agencies required to
6 take action under the provisions of sections 1 through 15 of this act
7 have received adequate funding to support the program by July 1, 2015.

8 (2) By July 31, 2017, and every two years thereafter, in
9 consultation with each county that has elected under section 4 of this
10 act to participate in the program and other state agencies, the
11 commission shall determine for each participating watershed whether
12 adequate funding to implement the program was provided during the
13 preceding biennium as provided in subsection (1) of this section.

14 (3) If the commission determines under subsection (1) or (2) of
15 this section that a participating watershed has not received adequate
16 funding, the watershed is subject to the provisions of section 9 of
17 this act.

18 (4) In consultation with the statewide advisory committee and other
19 state agencies, not later than August 31, 2015, and each August 31st
20 every two years thereafter, the commission shall report to the
21 legislature and each county that has elected under section 4 of this
22 act to participate in the program on the participating watersheds that
23 have received adequate funding to establish and implement the program.

24 NEW SECTION. **Sec. 11.** (1)(a) From the nominations made under (b)
25 of this subsection, the commission shall appoint a statewide advisory
26 committee, consisting of: Two persons representing county government,
27 two persons representing agricultural organizations, and two persons
28 representing environmental organizations. The commission, in
29 conjunction with the governor's office, shall also invite participation
30 by two representatives of tribal governments.

31 (b) Organizations representing county, agricultural, and
32 environmental organizations shall submit nominations of their
33 representatives to the commission within ninety days of the effective
34 date of this section. Members of the statewide advisory committee
35 shall serve two-year terms except that for the first year, one
36 representative from each of the sectors shall be appointed to the
37 statewide advisory committee for a term of one year. Members may be

1 reappointed by the commission for additional two-year terms and
2 replacement members shall be appointed in accordance with the process
3 for selection of the initial members of the statewide advisory
4 committee.

5 (c) Upon notification of the commission by an appointed member, the
6 appointed member may designate a person to serve as an alternate.

7 (d) The executive director of the commission shall serve as a
8 nonvoting chair of the statewide advisory committee.

9 (e) Members of the statewide advisory committee shall serve without
10 compensation and, unless serving as a state officer or employee, are
11 not eligible for reimbursement for subsistence, lodging, and travel
12 expenses under RCW 43.03.050 and 43.03.060.

13 (2) The role of the statewide advisory committee is to advise the
14 commission and other agencies involved in development and operation of
15 the program.

16 NEW SECTION. **Sec. 12.** (1) Agricultural operators implementing an
17 individual stewardship plan consistent with a work plan are presumed to
18 be working toward the protection and enhancement of critical areas.

19 (2) If the watershed group determines that additional or different
20 practices are needed to achieve the work plan's goals and benchmarks,
21 the agricultural operator may not be required to implement those
22 practices but may choose to implement the revised practices on a
23 voluntary basis and is eligible for funding to revise the practices.

24 NEW SECTION. **Sec. 13.** In developing stewardship practices to
25 implement the work plan, to the maximum extent practical the watershed
26 group should:

27 (1) Avoid management practices that may have unintended adverse
28 consequences for other habitats, species, and critical areas functions
29 and values; and

30 (2) Administer the program in a manner that allows participants to
31 be eligible for public or private environmental protection and
32 enhancement incentives while protecting and enhancing critical area
33 functions and values.

34 NEW SECTION. **Sec. 14.** An agricultural operator participating in
35 the program may withdraw from the program and is not required to

1 continue voluntary measures after the expiration of an applicable
2 contract. The watershed group must account for any loss of protection
3 resulting from withdrawals when establishing goals and benchmarks for
4 protection and a work plan under section 6 of this act.

5 NEW SECTION. **Sec. 15.** Nothing in sections 1 through 14 of this
6 act may be construed to:

7 (1) Interfere with or supplant the ability of any agricultural
8 operator to work cooperatively with a conservation district or
9 participate in state or federal conservation programs;

10 (2) Require an agricultural operator to discontinue agricultural
11 activities legally existing before the effective date of this section;

12 (3) Prohibit the voluntary sale or leasing of land for conservation
13 purposes, either in fee or as an easement;

14 (4) Grant counties or state agencies additional authority to
15 regulate critical areas on lands used for agricultural activities; and

16 (5) Limit the authority of a state agency, local government, or
17 landowner to carry out its obligations under any other federal, state,
18 or local law.

19 **Sec. 16.** RCW 36.70A.130 and 2010 c 216 s 1 and 2010 c 211 s 2 are
20 each reenacted and amended to read as follows:

21 (1)(a) Each comprehensive land use plan and development regulations
22 shall be subject to continuing review and evaluation by the county or
23 city that adopted them. Except as otherwise provided, a county or city
24 shall take legislative action to review and, if needed, revise its
25 comprehensive land use plan and development regulations to ensure the
26 plan and regulations comply with the requirements of this chapter
27 according to the deadlines in subsections (4) and (5) of this section.

28 (b) Except as otherwise provided, a county or city not planning
29 under RCW 36.70A.040 shall take action to review and, if needed, revise
30 its policies and development regulations regarding critical areas and
31 natural resource lands adopted according to this chapter to ensure
32 these policies and regulations comply with the requirements of this
33 chapter according to the deadlines in subsections (4) and (5) of this
34 section. Legislative action means the adoption of a resolution or
35 ordinance following notice and a public hearing indicating at a

1 minimum, a finding that a review and evaluation has occurred and
2 identifying the revisions made, or that a revision was not needed and
3 the reasons therefor.

4 (c) The review and evaluation required by this subsection may be
5 combined with the review required by subsection (3) of this section.
6 The review and evaluation required by this subsection shall include,
7 but is not limited to, consideration of critical area ordinances and,
8 if planning under RCW 36.70A.040, an analysis of the population
9 allocated to a city or county from the most recent ten-year population
10 forecast by the office of financial management.

11 (d) Any amendment of or revision to a comprehensive land use plan
12 shall conform to this chapter. Any amendment of or revision to
13 development regulations shall be consistent with and implement the
14 comprehensive plan.

15 (2)(a) Each county and city shall establish and broadly disseminate
16 to the public a public participation program consistent with RCW
17 36.70A.035 and 36.70A.140 that identifies procedures and schedules
18 whereby updates, proposed amendments, or revisions of the comprehensive
19 plan are considered by the governing body of the county or city no more
20 frequently than once every year. "Updates" means to review and revise,
21 if needed, according to subsection (1) of this section, and the
22 deadlines in subsections (4) and (5) of this section or in accordance
23 with the provisions of subsection (6) of this section. Amendments may
24 be considered more frequently than once per year under the following
25 circumstances:

26 (i) The initial adoption of a subarea plan. Subarea plans adopted
27 under this subsection (2)(a)(i) must clarify, supplement, or implement
28 jurisdiction-wide comprehensive plan policies, and may only be adopted
29 if the cumulative impacts of the proposed plan are addressed by
30 appropriate environmental review under chapter 43.21C RCW;

31 (ii) The development of an initial subarea plan for economic
32 development located outside of the one hundred year floodplain in a
33 county that has completed a state-funded pilot project that is based on
34 watershed characterization and local habitat assessment;

35 (iii) The adoption or amendment of a shoreline master program under
36 the procedures set forth in chapter 90.58 RCW;

37 (iv) The amendment of the capital facilities element of a

1 comprehensive plan that occurs concurrently with the adoption or
2 amendment of a county or city budget; or

3 (v) The adoption of comprehensive plan amendments necessary to
4 enact a planned action under RCW 43.21C.031(2), provided that
5 amendments are considered in accordance with the public participation
6 program established by the county or city under this subsection (2)(a)
7 and all persons who have requested notice of a comprehensive plan
8 update are given notice of the amendments and an opportunity to
9 comment.

10 (b) Except as otherwise provided in (a) of this subsection, all
11 proposals shall be considered by the governing body concurrently so the
12 cumulative effect of the various proposals can be ascertained.
13 However, after appropriate public participation a county or city may
14 adopt amendments or revisions to its comprehensive plan that conform
15 with this chapter whenever an emergency exists or to resolve an appeal
16 of a comprehensive plan filed with the growth management hearings board
17 or with the court.

18 (3)(a) Each county that designates urban growth areas under RCW
19 36.70A.110 shall review, at least every ten years, its designated urban
20 growth area or areas, and the densities permitted within both the
21 incorporated and unincorporated portions of each urban growth area. In
22 conjunction with this review by the county, each city located within an
23 urban growth area shall review the densities permitted within its
24 boundaries, and the extent to which the urban growth occurring within
25 the county has located within each city and the unincorporated portions
26 of the urban growth areas.

27 (b) The county comprehensive plan designating urban growth areas,
28 and the densities permitted in the urban growth areas by the
29 comprehensive plans of the county and each city located within the
30 urban growth areas, shall be revised to accommodate the urban growth
31 projected to occur in the county for the succeeding twenty-year period.
32 The review required by this subsection may be combined with the review
33 and evaluation required by RCW 36.70A.215.

34 (4) Except as provided in subsection (6) of this section, counties
35 and cities shall take action to review and, if needed, revise their
36 comprehensive plans and development regulations to ensure the plan and
37 regulations comply with the requirements of this chapter as follows:

1 (a) On or before December 1, 2004, for Clallam, Clark, Jefferson,
2 King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the
3 cities within those counties;

4 (b) On or before December 1, 2005, for Cowlitz, Island, Lewis,
5 Mason, San Juan, Skagit, and Skamania counties and the cities within
6 those counties;

7 (c) On or before December 1, 2006, for Benton, Chelan, Douglas,
8 Grant, Kittitas, Spokane, and Yakima counties and the cities within
9 those counties; and

10 (d) On or before December 1, 2007, for Adams, Asotin, Columbia,
11 Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan,
12 Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman
13 counties and the cities within those counties.

14 (5) Except as otherwise provided in subsections (6) and (8) of this
15 section, following the review of comprehensive plans and development
16 regulations required by subsection (4) of this section, counties and
17 cities shall take action to review and, if needed, revise their
18 comprehensive plans and development regulations to ensure the plan and
19 regulations comply with the requirements of this chapter as follows:

20 (a) On or before December 1, 2014, and every seven years
21 thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce,
22 Snohomish, Thurston, and Whatcom counties and the cities within those
23 counties;

24 (b) On or before December 1, 2015, and every seven years
25 thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and
26 Skamania counties and the cities within those counties;

27 (c) On or before December 1, 2016, and every seven years
28 thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and
29 Yakima counties and the cities within those counties; and

30 (d) On or before December 1, 2017, and every seven years
31 thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield,
32 Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille,
33 Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities
34 within those counties.

35 (6)(a) Nothing in this section precludes a county or city from
36 conducting the review and evaluation required by this section before
37 the deadlines established in subsections (4) and (5) of this section.

1 Counties and cities may begin this process early and may be eligible
2 for grants from the department, subject to available funding, if they
3 elect to do so.

4 (b) A county that is subject to a deadline established in
5 subsection (4)(b) through (d) of this section and meets the following
6 criteria may comply with the requirements of this section at any time
7 within the thirty-six months following the deadline established in
8 subsection (4) of this section: The county has a population of less
9 than fifty thousand and has had its population increase by no more than
10 seventeen percent in the ten years preceding the deadline established
11 in subsection (4) of this section as of that date.

12 (c) A city that is subject to a deadline established in subsection
13 (4)(b) through (d) of this section and meets the following criteria may
14 comply with the requirements of this section at any time within the
15 thirty-six months following the deadline established in subsection (4)
16 of this section: The city has a population of no more than five
17 thousand and has had its population increase by the greater of either
18 no more than one hundred persons or no more than seventeen percent in
19 the ten years preceding the deadline established in subsection (4) of
20 this section as of that date.

21 (d) A county or city that is subject to a deadline established in
22 subsection (4)(d) of this section and that meets the criteria
23 established in subsection (6)(b) or (c) of this section may comply with
24 the requirements of subsection (4)(d) of this section at any time
25 within the thirty-six months after the extension provided in subsection
26 (6)(b) or (c) of this section.

27 (e) State agencies are encouraged to provide technical assistance
28 to the counties and cities in the review of critical area ordinances,
29 comprehensive plans, and development regulations.

30 (7)(a) The requirements imposed on counties and cities under this
31 section shall be considered "requirements of this chapter" under the
32 terms of RCW 36.70A.040(1). Only those counties and cities that meet
33 the following criteria may receive grants, loans, pledges, or financial
34 guarantees under chapter 43.155 or 70.146 RCW:

35 (i) Complying with the deadlines in this section;

36 (ii) Demonstrating substantial progress towards compliance with the
37 schedules in this section for development regulations that protect
38 critical areas; or

1 (iii) Complying with the extension provisions of subsection (6)(b),
2 (c), or (d) of this section.

3 (b) A county or city that is fewer than twelve months out of
4 compliance with the schedules in this section for development
5 regulations that protect critical areas is making substantial progress
6 towards compliance. Only those counties and cities in compliance with
7 the schedules in this section may receive preference for grants or
8 loans subject to the provisions of RCW 43.17.250.

9 (8)(a) Except as otherwise provided in (c) of this subsection, if
10 a participating watershed is achieving benchmarks and goals for the
11 protection of critical areas functions and values, the county is not
12 required to update development regulations to protect critical areas as
13 they specifically apply to agricultural activities in that watershed.

14 (b) A county that has made the election under section 4(1) of this
15 act may only adopt or amend development regulations to protect critical
16 areas as they specifically apply to agricultural activities in a
17 participating watershed if:

18 (i) A work plan has been approved for that watershed in accordance
19 with section 7 of this act;

20 (ii) The local watershed group for that watershed has requested the
21 county to adopt or amend development regulations as part of a work plan
22 developed under section 6 of this act;

23 (iii) The adoption or amendment of the development regulations is
24 necessary to enable the county to respond to an order of the growth
25 management hearings board or court;

26 (iv) The adoption or amendment of development regulations is
27 necessary to address a threat to human health or safety; or

28 (v) Three or more years have elapsed since the receipt of funding.

29 (c) Beginning ten years from the date of receipt of funding, a
30 county that has made the election under section 4(1) of this act must
31 review and, if necessary, revise development regulations to protect
32 critical areas as they specifically apply to agricultural activities in
33 a participating watershed in accordance with the review and revision
34 requirements and timeline in subsection (5) of this section. This
35 subsection (8)(c) does not apply to a participating watershed that has
36 determined under section 6(2)(c)(ii) of this act that the watershed's
37 goals and benchmarks for protection have been met.

1 **Sec. 17.** RCW 36.70A.280 and 2010 c 211 s 7 are each amended to
2 read as follows:

3 (1) The growth management hearings board shall hear and determine
4 only those petitions alleging either:

5 (a) That, except as provided otherwise by this subsection, a state
6 agency, county, or city planning under this chapter is not in
7 compliance with the requirements of this chapter, chapter 90.58 RCW as
8 it relates to the adoption of shoreline master programs or amendments
9 thereto, or chapter 43.21C RCW as it relates to plans, development
10 regulations, or amendments, adopted under RCW 36.70A.040 or chapter
11 90.58 RCW. Nothing in this subsection authorizes the board to hear
12 petitions alleging noncompliance with RCW 36.70A.5801; ~~((or))~~

13 (b) That the twenty-year growth management planning population
14 projections adopted by the office of financial management pursuant to
15 RCW 43.62.035 should be adjusted;

16 (c) That the approval of a work plan adopted under section 9(1)(a)
17 of this act is not in compliance with the requirements of the program
18 established under section 4 of this act;

19 (d) That regulations adopted under section 9(1)(b) of this act are
20 not regionally applicable and cannot be adopted, wholly or partially,
21 by another jurisdiction; or

22 (e) That a department certification under section 9(1)(c) of this
23 act is erroneous.

24 (2) A petition may be filed only by: (a) The state, or a county or
25 city that plans under this chapter; (b) a person who has participated
26 orally or in writing before the county or city regarding the matter on
27 which a review is being requested; (c) a person who is certified by the
28 governor within sixty days of filing the request with the board; or (d)
29 a person qualified pursuant to RCW 34.05.530.

30 (3) For purposes of this section "person" means any individual,
31 partnership, corporation, association, state agency, governmental
32 subdivision or unit thereof, or public or private organization or
33 entity of any character.

34 (4) To establish participation standing under subsection (2)(b) of
35 this section, a person must show that his or her participation before
36 the county or city was reasonably related to the person's issue as
37 presented to the board.

1 (5) When considering a possible adjustment to a growth management
2 planning population projection prepared by the office of financial
3 management, the board shall consider the implications of any such
4 adjustment to the population forecast for the entire state.

5 The rationale for any adjustment that is adopted by the board must
6 be documented and filed with the office of financial management within
7 ten working days after adoption.

8 If adjusted by the board, a county growth management planning
9 population projection shall only be used for the planning purposes set
10 forth in this chapter and shall be known as the "board adjusted
11 population projection." None of these changes shall affect the
12 official state and county population forecasts prepared by the office
13 of financial management, which shall continue to be used for state
14 budget and planning purposes.

15 NEW SECTION. **Sec. 18.** Sections 1 through 15 of this act are each
16 added to chapter 36.70A RCW under the subchapter heading "voluntary
17 stewardship program."

18 NEW SECTION. **Sec. 19.** If any provision of this act or its
19 application to any person or circumstance is held invalid, the
20 remainder of the act or the application of the provision to other
21 persons or circumstances is not affected.

22 NEW SECTION. **Sec. 20.** If any part of this act is found to be in
23 conflict with federal requirements that are a prescribed condition to
24 the allocation of federal funds to the state, the conflicting part of
25 this act is inoperative solely to the extent of the conflict and with
26 respect to the agencies directly affected, and this finding does not
27 affect the operation of the remainder of this act in its application to
28 the agencies concerned. Rules adopted under this act must meet federal
29 requirements that are a necessary condition to the receipt of federal
30 funds by the state.

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