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**HOUSE BILL 2614**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Representatives DeBolt, Stokesbary, Rossetti, and Van De Wege

AN ACT Relating to providing for financing of flood risk reduction and habitat restoration projects in the state; reenacting and amending RCW 43.84.092; adding new sections to chapter 43.99G RCW; adding a new chapter to Title 70 RCW; and providing for submission of this act to a vote of the people.

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

**PART I**

**FLOOD RISK REDUCTION AND HABITAT RESTORATION PROJECTS**

NEW SECTION. **Sec.**  FINDINGS AND INTENT. (1)(a) The legislature finds that flooding from storms has created a crisis that threatens public health, community safety, economic stability, and environmental vitality. Floods cause: Loss of life; damage to structures, crops, land, flood control structures, roads, bridges, and utilities; erosion and landslides; and secondary damage through the transport of debris and toxic products. The legislature also finds that flooding has historically been the most prevalent and costly natural hazard facing state residents, with Western Washington flood damage costs of over one billion four hundred million dollars paid by taxpayers since 1990. The legislature further finds that from 1956 through 2012, thirty-two presidential major disasters from flooding have been declared in Washington, with every county receiving at least one declaration.

(b) In addition, the legislature finds that flooding events and statewide impacts will increase in the future. A November 2015 University of Washington report projects: Increases in the extent and frequency of flooding; increased intensity of heavy rain events leading to increased flood risks in all Puget Sound watersheds; extended reach of storm surges due to sea level rise, increasing the risk of coastal area inundation; and winter flood risk increases in snow accumulating watersheds due to receding snowlines.

(2)(a) The legislature intends to address this crisis by committing significant state resources to the implementation of flood risk reduction and habitat restoration projects that protect property and people, and that enhance habitat for aquatic species in the state.

(b) The legislature intends that funding provided by chapter . . ., Laws of 2016 (this act) achieve significant and measurable reduction in flood damage and enhancement of aquatic species.

(c) The legislature directs state and local agencies to find ways to minimize costs of implementation and to process project-related permit applications expeditiously.

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

(1) "Department" means the department of ecology.

(2) "Office" means the office of flood risk reduction and habitat restoration established in section 103 of this act.

(3) "Project" means a proposal from a sponsor for flood risk reduction and habitat restoration infrastructure and activities that advance the priorities provided in sections 103 and 104 of this act.

(4) "Project sponsor" or "sponsor" means an agency as defined in RCW 42.56.010, a federally recognized Indian tribe, or a federal agency that operates flood risk reduction and habitat restoration projects in the state.

NEW SECTION. **Sec.**  OFFICE ESTABLISHED. (1) The office of flood risk reduction and habitat restoration is established in the department of ecology. The primary purpose of the office is to administer a competitive grant program, as described in section 104 of this act, which actively supports the implementation of projects that reduce the risk of flooding, protect against damage caused by floods, and protect or restore naturally functioning areas where floods occur.

(2) In operating the office, the department must follow, to the greatest extent practicable, the model being used to administer the Columbia river basin water supply program established in chapter 6, Laws of 2006.

(3)(a) The office must consult with volunteer advisory groups to ensure that the competitive grant program is administered with due consideration for the views and advice of organizations and individuals who demonstrate concern for flood risk reduction and habitat restoration statewide. The office may seek assistance from volunteer advisory groups with whom the department has consulted on similar projects and may establish, convene, and consult with new volunteer advisory groups.

(b) The office must provide for appropriate participation by designees of the state conservation commission and the Puget Sound partnership on the volunteer advisory groups.

(c) The office must consider the advice of each advisory group but retains full authority to administer the competitive grant program consistent with this chapter.

NEW SECTION. **Sec.**  COMPETITIVE GRANTS PROCESS. (1) In every even-numbered year, the office must conduct a competitive application process for flood risk reduction and habitat restoration grants. The office must solicit applications, evaluate all applications submitted, and create a ranked list of projects based on the following criteria, in descending order of importance:

(a) The degree to which projects achieve multiple benefits, including, but not limited to: Cost-effective flood hazard reduction to people and property; flood risk reduction; recovery of salmon and other native fish; water quality improvements; habitat restoration; agricultural viability; public access; and channel migration zone protection;

(b) Projects in counties that have historically been and are projected to continue to be at greatest risk and most vulnerable to flooding, with a priority for projects that address areas that have experienced multiple emergency flood proclamations;

(c) Projects that are consistent with and recommended by a collaborative planning and approval process that involves a broad range of stakeholders, including local governments, Indian tribes, state and federal agencies, the environmental community, local landowners, and other interests that include opportunities for public comment, such as a governor's basin-wide planning process, a salmon recovery plan, a hazard mitigation plan, a comprehensive plan, a watershed plan, or other applicable plans;

(d) Projects that address both reduction and prevention of flood risks, and protection or restoration of floodplain ecosystem functions;

(e) Projects that minimize or eliminate future damage to or disruption of critical infrastructure, including transportation corridors, economic activity and jobs, and emergency response capability; and

(f) Projects that prepare for the uncertain effects of climate change.

(2) Projects located in or proposed for the Puget Sound watershed must be evaluated by the Puget Sound partnership for consistency with the Puget Sound action agenda.

(3) Project sponsors who apply for funding through the competitive grant process must provide a minimum of twenty percent match of the nonfederal share of project costs, but the office must give a preference to projects that provide a higher level of local or private funding, and must honor preexisting project financial agreements. The match may include funds, commitments, or contributions dedicated to the accomplishment of the project, such as: Cash on hand; the value of real property when acquired solely for the purpose of the project; the proceeds of a letter of credit or other binding loan commitment; a pledge commitment; and in-kind contributions, including private and local government funds. Project sponsors may receive credit for properly documented matching funds that were contributed no earlier than ten years prior to the effective date of this section and that were dedicated to the accomplishment of the project or were incurred for remediation and recovery from past damage that the project is intended to remedy where damage exceeded fifty million dollars. The office shall develop criteria for documenting the value of the match.

(4)(a) Before finalizing its ranked list, the office must make the preliminary ranked list available to the public and solicit public comment for at least thirty days after the date the preliminary ranked list is made available.

(b) After considering public comments and before November 1st, the department must recommend to the governor a ranked list of all projects to be funded. The ranked list must be concurrently provided to the appropriate fiscal and policy committees of the legislature.

(c) The governor may remove projects from the ranked list recommended by the department, but may not add projects to the list. The governor must submit a ranked project list to the legislature.

(d) The legislature may remove projects from the list recommended by the governor.

(e) The department may not sign contracts or otherwise financially obligate funds from either of the accounts created in section 207 or 208 of this act before the legislature has appropriated funds for a specific list of projects.

(5) The department must manage available resources in a fiscally prudent manner. In recommending projects and managing available resources, the department must consider the annual cash flow requirements of major projects that receive appropriations expected to cross multiple biennia. To effectively monitor expected revenues and expenditures, the department must develop a comprehensive ten-year financing report that identifies long-term cash flow requirements for approved and recommended projects, projected revenues, and year-end account balances. In recommending major multibiennial projects, the department must include separate budget estimates for all phases of the projects, including expected future biennium appropriations.

(6) No provision of chapter . . ., Laws of 2016 (this act) alters or diminishes existing legal obligations to complete environmental reviews and obtain necessary permits for any project.

NEW SECTION. **Sec.**  CONDEMNATION. Moneys made available under chapter . . ., Laws of 2016 (this act) may not be used to acquire land through condemnation.

NEW SECTION. **Sec.**  ACCOUNTABILITY, REPORTS, AND AUDITS. (1) The office must monitor progress in completing projects and achieving expected outcomes. The department must submit biennial reports to the legislature detailing the use of funds under chapter . . ., Laws of 2016 (this act).

(2) The joint legislative audit and review committee must conduct at least one performance audit every ten years to provide an objective and systematic assessment of whether funds provided under chapter . . ., Laws of 2016 (this act) are being used in an effective and efficient manner.

(3) The joint legislative audit and review committee must work with the office and the department to determine if appropriate and reliable benefit/cost methodologies exist that might inform the ranking process specified in section 104 of this act.

**PART II**

**PROJECT FINANCING**

NEW SECTION. **Sec.**  BOND AUTHORIZATION. For the purpose of providing funds to finance legislatively approved flood risk reduction and habitat restoration projects, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion dollars, or as much thereof as may be required. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

NEW SECTION. **Sec.**  PHASED APPROPRIATION OF BOND PROCEEDS. It is the intent of the legislature that the proceeds of the new bonds authorized in section 201 of this act will be appropriated in phases over five biennia, beginning with the 2017-2019 biennium. This is not intended to limit the legislature's ability to appropriate bond proceeds if the full amount authorized in section 201 of this act has not been appropriated after five biennia. The authorization to issue bonds contained in section 201 of this act does not expire until the full authorization has been appropriated and issued.

NEW SECTION. **Sec.**  DEPOSIT OF BOND PROCEEDS. The proceeds from the sale of the bonds authorized in section 201 of this act shall be deposited in the flood risk reduction and habitat restoration account created in section 207 of this act. If the state finance committee deems it necessary or advantageous to issue the bonds authorized in section 201 of this act as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such taxable bonds shall be transferred to the flood risk reduction and habitat restoration taxable account created in section 208 of this act in lieu of any deposit otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such transfer to the flood risk reduction and habitat restoration taxable account is necessary.

NEW SECTION. **Sec.**  BOND RETIREMENT. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in section 201 of this act.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements.

(3) On each date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

NEW SECTION. **Sec.**  PAYMENT OF DEBT SERVICE. (1) Bonds issued under section 201 of this act shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

(3) The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in section 201 of this act, and subsection (1) of this section shall not be deemed to provide an exclusive method for the payment.

NEW SECTION. **Sec.**  LEGAL INVESTMENT. The bonds authorized in section 201 of this act shall be a legal investment for all state funds or funds under state control and for all funds of any other public body.

NEW SECTION. **Sec.**  FLOOD RISK REDUCTION AND HABITAT RESTORATION ACCOUNT CREATED. The flood risk reduction and habitat restoration account is created in the state treasury. All receipts from direct appropriations from the legislature, including the proceeds of tax exempt bonds issued as authorized under section 201 of this act, or moneys directed to the account from any other sources must be deposited in the account. Interest earned by deposits in the account will be retained in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes set out in section 103 of this act and for the payment of expenses incurred in the issuance and sale of the bonds.

NEW SECTION. **Sec.**  FLOOD RISK REDUCTION AND HABITAT RESTORATION TAXABLE ACCOUNT CREATED. The flood risk reduction and habitat restoration taxable account is created in the state treasury. All receipts from direct appropriations from the legislature, including the proceeds of taxable bonds issued as authorized under section 201 of this act, or moneys directed to the account from any other sources must be deposited in the account. Interest earned by deposits in the account will be retained in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes set out in section 103 of this act and for the payment of expenses incurred in the issuance and sale of the bonds.

**PART III**

**MISCELLANEOUS**

NEW SECTION. **Sec.**  REFERENDUM. The secretary of state shall submit this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 and Article VIII, section 3 of the state Constitution and the laws adopted to facilitate their operation.

**Sec.**  RCW 43.84.092 and 2015 3rd sp.s. c 44 s 107 and 2015 3rd sp.s. c 12 s 3 and are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the electric vehicle charging infrastructure account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the flood risk reduction and habitat restoration account, the flood risk reduction and habitat restoration taxable account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec.**  Sections 101 through 106 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. **Sec.**  Sections 201 through 208 of this act are each added to chapter 43.99G RCW and codified with the subchapter heading of "2016 BOND ISSUE FOR FLOOD RISK REDUCTION AND HABITAT RESTORATION PROJECTS."

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

**--- END ---**