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## NOT CONFIDENTIAL

To: County Commission  
County Administrator  
DCD Director Scalf  
Title 18/SEPA Responsible Official Stacie Hoskins  
DCD staff

From: Civil DPA David Alvarez

Date: May 17, 2011

Re : Engrossed Substitute House Bill 1886, signed by Governor on 5/16/2011

In 2007 the State Legislature declared a “time out” and placed a 3-year moratorium on local governments updating their critical area ordinances (“CAO”) as those ordinances impact or regulate agricultural activities. The moratorium was extended one year and expires on July 1, 2011. This “time out” allowed the Ruckelshaus<sup>1</sup> Center to conduct (with stakeholders) an examination of two dual and competing goals under the GMA: protect critical areas and protect agricultural land. As signed recently by the Governor, this bill is the result. The Senate Bill Report is the most comprehensive summary of the legislation’s features (and I have marked it up) but here are what I consider to be the highlights:

1. The first 15 sections of this bill become part of the GMA under the subtitle “voluntary stewardship program and thus will be codified in Ch. 36.70A RCW;”
2. Nothing happens “on the ground” until funding is available, the state expects that federal money will fund this program;
3. Participation by this county or any county is entirely voluntary but entry into the program must occur within six months of the effective date of the legislation<sup>2</sup>;
4. If a county participates, then its participation is in LIEU of that same county protecting critical areas used for agricultural activities through and pursuant to GMA-derived development regulations;

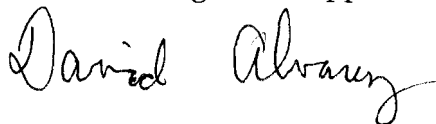
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<sup>1</sup> William D. Ruckelshaus was the first Director of the U.S. EPA in 1970 under President Nixon.

<sup>2</sup> The effective date is 12:01 AM on July 22, 2011.

5. If a county participates, then it must nominate a particular watershed as “priority,” form a “watershed group” that must include farmers and environmentalists (“greens”), create a “work plan” after a full blown GMA “public participation” process and submit same to the State Conservation Commission for that commission’s approval or rejection;
6. SEPA is not applicable to the generation of a “work plan.”
7. Counties that don’t participate will need to review and revise (if necessary) their development regulations relating to agricultural activities occurring in critical areas within 2 years of the effective date of this legislation (this deadline is distinct from Jefferson County’s obligation to review and revise if necessary its Comprehensive Plan and development regulations on or before December 1, 2014); and
8. Challenges to the approval, rejection and/or implementation of the work plan are vulnerable to Petitions for Review before the Growth Management Hearings Board.

In sum, this legislation appears to be full of good intentions but is currently unfunded.

A handwritten signature in cursive script that reads "David Alvarez".

David Alvarez, Chief Civil DPA

# SENATE BILL REPORT

## ESHB 1886

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As Reported by Senate Committee On:  
Agriculture & Rural Economic Development, March 15, 2011  
Ways & Means, March 31, 2011

**Title:** An act relating to implementing recommendations developed in accordance with Substitute Senate Bill No. 5248, chapter 353, Laws of 2007

**Brief Description:** Implementing recommendations of the Ruckelshaus Center process.

**Sponsors:** House Committee on Local Government (originally sponsored by Representatives Takko, Angel, Bailey and Tharinger).

**Brief History:** Passed House: 2/28/11, 95-2.

**Committee Activity:** Agriculture & Rural Economic Development: 3/08/11, 3/15/11 [DPA-WM].

Ways & Means: 3/24/11, 3/31/11 [DPA, DNP, w/oRec].

### Brief Summary of Bill

- Establishes the Voluntary Stewardship Program (Program).
- Authorizes participating counties to protect critical areas in areas used for agricultural activities through the Program rather than through regulatory requirements of the Growth Management Act (GMA).
- Directs the State Conservation Commission, with the advice of a statewide advisory committee, to administer the Program.
- Establishes definitions and operational and implementation requirements for the Program.

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### SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Hatfield, Chair; Shin, Vice Chair; Delvin, Ranking Minority Member; Becker, Haugen, Hobbs, Honeyford and Schoesler.

**Staff:** Bob Lee (786-7404)

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

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## SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass as amended.

Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli, Ranking Minority Member; Parlette, Ranking Minority Member Capital; Baumgartner, Baxter, Brown, Conway, Fraser, Hatfield, Hewitt, Holmquist Newbry, Kastama, Keiser, Kohl-Welles, Pflug, Pridemore, Rockefeller and Tom.

**Minority Report:** Do not pass.

Signed by Senator Honeyford.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Schoesler.

**Staff:** Chris Godwin (786-7441)

**Background:** In 2007 the Legislature charged the Ruckelshaus Center (Center) to conduct an examination of the conflict between the dual mandates of protecting agricultural land and protecting critical areas in local ordinances adopted under the Growth Management Account (GMA). The Center also was instructed to facilitate stakeholder discussions to identify policy and funding options for a resolution to this issue. A three-year moratorium was placed on the requirement for local governments to update their critical area ordinances as they specifically applied to agricultural activities. This moratorium was extended by legislative action in 2010 and expires on July 1, 2011.

This is the legislation that was formulated as a result of the facilitated stakeholder discussions.

**Summary of Bill (Recommended Amendments):** The Voluntary Stewardship Program (Program) is established as an option for counties to utilize. The purpose of the Program is to protect and enhance critical areas on lands used for agricultural activities through voluntary actions by agricultural operators.

In administering the Program, the State Conservation Commission (Commission) is assigned the following duties and tasks, including:

- establishing policies and procedures for implementing the Program;
- administering funding for counties to implement the Program;
- establishing a technical panel;
- reviewing and evaluating watershed work plans submitted under provisions of the Program, in conjunction with the technical panel;
- designating, based upon county nominations, priority watersheds for the Program;
- providing administrative support for a Commission-appointed statewide advisory committee established to advise the Commission on the development and operation of the Program; and
- satisfying recurring requirements to report to the Legislature.

Other administrative duties related to the Program are specified. For example, the Commission, the Department of Commerce (Commerce), the Department of Ecology, and

other state agencies as directed by the Governor must cooperate and collaborate to implement the Program, and develop materials to assist local watershed groups in the development of required work plans. The Commission also must, according to a specified schedule, determine which watersheds and state agencies have received adequate funding to implement the Program in participating watersheds. Additionally, by August 31, 2015, and every two years thereafter, the Commission must report to the Legislature and participating counties on the participating watersheds that have received adequate funding to establish and implement the Program.

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As an alternative to protecting critical areas used for agricultural activities through critical area development regulations mandated by the GMA, the legislative authority of a county may elect to protect these critical areas through the Program. A county choosing this alternative has six months from the effective date of the legislation to:

- elect to have the county participate in the Program;
- identify, in accordance with specified criteria, watersheds that will participate in the Program; and
- nominate, in accordance with specified criteria, watersheds for consideration by the Commission as state priority watersheds.

COUNTY has six to nine months to see page 5 of bill

Prior to adopting an ordinance or resolution to participate in the Program, the county must notify property owners and other affected and interested individuals, tribes, agencies, businesses, school districts, and organizations.

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Subject to funding provisions once a county elects to participate in the Program, the Program applies to all unincorporated property within a participating watershed upon which agricultural activities occur.

Counties that elect to participate in the Program are eligible for state funding to implement the Program, subject to the availability of state funding. These counties are also not required to implement the Program in a participating watershed until adequate funding is provided.

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With limited exceptions, counties have two years following the effective date of the legislation to review and, if necessary, revise their development regulations adopted under the GMA to protect critical areas as they specifically apply to agricultural activities. If the county is not participating in the Program, this review and revision requirement applies to all unincorporated areas. If the county is participating in the Program, the review and revision requirement applies only to watersheds that are not participating in the Program. Subsequent reviews and revisions of these development regulations must occur according to applicable requirements of the GMA.

MANDATE IMPOSED ON COUNTIES

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Once the Commission makes funds available to a county participating in the Program, the county, within 60 days, must:

- acknowledge receipt of the funds; and
- designate a watershed group and an entity to administer funds for each watershed for which funding has been provided. The watershed group must include broad representation of watershed stakeholders and representatives of agricultural and environmental groups.

IF PARTICIPATING, then must do the following

Designated watershed groups must develop a work plan to protect critical areas while maintaining the viability of agriculture in the watershed. The work plan must include goals and benchmarks for the protection and enhancement of critical areas. In developing the work plan, the watershed group must satisfy specified requirements, including:

- reviewing and incorporating applicable water quality, watershed management, farmland protection, and species recovery data and plans;
- seeking input from tribes, agencies, and stakeholders;
- developing goals for participation by agricultural operators;
- creating measurable benchmarks to protect and enhance critical area functions and values;
- designating an entity or entities to provide Program-related technical assistance; and
- conducting periodic evaluations, instituting adaptive management, and providing related reports according to specified schedules.

WORK  
PLAN  
SUBMITTED  
TO STATE

A designated watershed group must submit the work plan to the director of the Commission for approval. Upon receipt of a work plan, the director must submit the work plan to a technical panel for review. The technical panel is to be comprised of the directors, or director's designees, of specified state agencies. The technical panel has 45 days after the Commission receives the work plan to review and assess the plan.

State Conservation

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CONSERVATION COMM. FOR REVIEW - THUMBS UP OR DOWN  
If the technical panel determines that the proposed work plan will protect critical areas while maintaining and enhancing the viability of agriculture in the watershed, it must recommend approval of the work plan and the director must approve the work plan. If the technical panel determines that the proposed work plan will not meet the criteria for approval, it must identify its reasons for the determination and the director must advise the watershed group of the reasons for the disapproval. The watershed group may modify and resubmit its work plan for review and potential approval. Provisions governing work plans that are not approved by the director, including requirements for a review by the statewide advisory committee, are specified.

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The approval of a work plan by a designated watershed group triggers additional requirements. Within five years of the receipt of funding for a participating watershed, the watershed group must report to the director and the county on whether it has met the work plan's protection and enhancement goals and benchmarks. If the watershed group, the director, and the statewide advisory committee concur on the success of the plan, the watershed group must continue implementing the work plan.

If the watershed group determines that protection goals and benchmarks have not been met, it must propose an adaptive management plan, to be approved or disapproved by the director, to achieve the unmet goals and benchmarks. If the watershed group determines that enhancement goals and benchmarks have not been met, the watershed group must determine what additional voluntary actions are needed to meet the benchmarks, identify funding necessary to implement these actions and then proceed with the associated implementation.

Similar work plan evaluation and reporting measures are required within ten years after receipt of funding for a participating watershed and every five years thereafter. Provisions for watersheds with adaptive management plans that are not approved by the director and

watersheds that, as determined by the watershed group, do not meet protection goals and benchmarks are specified.

Various evaluation and consultation requirements pertaining to evaluation reports by watershed groups of work plans are specified.

If any of the following events occur, a participating county must take remedial actions:

- the watershed group work plan is not approved by the director;
- the goals and benchmarks for protection specified in a work plan have not been met;
- the Commission determines that the county, Commerce, the Commission, or the Departments of Agriculture, Ecology, or Fish and Wildlife have received insufficient funding to implement the Program in the watershed;
- the Commission determines that the watershed has not received adequate funding to implement the Program; or
- the county withdraws from the Program.

The remedial action options, which must be taken within 18 months of a triggering event, include the following, of which the county must complete one:

- Develop, adopt, and implement a watershed work plan approved by Commerce that meets specified critical areas and agricultural requirements. Commerce must consult with other state agencies before approving or disapproving the plan and its decision is subject to appeal before the Growth Management Hearings Board (GMHB).
- Adopt qualifying development regulations previously adopted under the GMA by another jurisdiction for the purpose of protecting critical areas in areas used for agricultural activities. The secondary adoption of these regulations is subject to appeal before the GMHB.
- Adopt development regulations certified by Commerce as protective of critical areas in areas used for agricultural activities. The Commerce's certification decision is subject to appeal before the GMHB.
- Review and, if necessary, revise its development regulations to protect critical areas as they relate to agricultural activities.

A county electing to participate in the Program may withdraw through an adopted ordinance or resolution. A withdrawal may occur from the Program at the end of three years, five years, or eight years from receipt of funding, or at any time after ten years from receipt of funding. A county that withdraws a participating watershed from the Program must, within 18 months, review and, if necessary, revise its development regulations that protect critical areas in the applicable watershed as they specifically apply to agricultural activities.

*A Participating County w/ successful Work Plan is NOT required to update its*  
A county that participates in the Program and is achieving related benchmarks and goals is generally not required to update development regulations that protect critical areas as they specifically apply to agricultural activities in the participating watershed. Exceptions to this provision are specified. Additionally, unless the watershed group and the Director agree that Program-related goals and benchmarks have been met, counties electing to participate in the Program must, beginning ten years from receiving Program funding, review and, if necessary, revise development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed according to a recurring schedule established in the GMA.

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Several miscellaneous provisions related to the establishment and implementation of the Program are specified. Examples are specified below:

- Agricultural operators implementing an individual stewardship plan consistent with a work plan are presumed to be working toward the protection of critical areas.
- An agricultural operator participating in the Program may withdraw from the Program and is not required to continue voluntary measures after expiration of an applicable contract.
- In developing stewardship practices to implement a work plan, to the maximum extent practical, the watershed group should:
  - avoid management practices that may have unintended adverse consequences; and
  - administer the Program in a manner that allows participants to be eligible for public or private environmental protection and enhancement incentives.
- Nothing in the Growth Management Act may be construed to:
  - require an agricultural operator to discontinue agricultural activities legally existing before the effective date of the legislation; or
  - limit the authority of a state agency, local government, or landowner to carry out its obligations under any other federal, state, or local law.

**EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Amendments):** The state process will be more inviting to the tribes. When considering which watersheds are eligible for the program, the commission and Commerce must include a determination of whether or not a plan can be feasibly implemented.

**EFFECT OF CHANGES MADE BY AGRICULTURE & RURAL ECONOMIC DEVELOPMENT COMMITTEE (Recommended Amendments):** An environmental impact statement is not required for decisions made pertaining to work plans submitted to the state, nor for decisions made by a county on whether to participate in the voluntary stewardship program.

**Appropriation:** None.

**Fiscal Note:** Available

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Engrossed Substitute House Bill (Agriculture & Rural Economic Development):** PRO: The legislation is important to both the farming community and the environmental community. To make this program successful, it will be important to secure funding. This bill provides local governments with an option other than regulation and could be a model for other states that are struggling with the same issue. This legislation has taken four years to develop and is an alternative to costly litigation which has been encountered with the present option. Counties may opt in and use this program to achieve enhancement of current conditions. When this process started, counties had 16 objectives which all are addressed in this legislation. This option allows local solutions

# STATE EXPECTS TO GET FEDERAL MONEY TO FUND THIS PROGRAM.

rather than trying to use a one-size-fits-all approach. Federal funding is anticipated to fund the bulk of the activities under this bill and work to obtain federal funding has already started.

OTHER: In working with the state agency caucus, there are concerns about the short time frames for state review. If only a few counties opt to participate in the program and the plans come in one at a time, the 45-day time frame may be adequate. However, if 30 counties participate and all of the plans come in just before the deadline, the 45-day period will not be sufficient. There is concern about all five types of critical areas being included. The agencies plan to re-task existing staff but implementation depends on federal dollars coming in.

**Persons Testifying (Agriculture & Rural Economic Development):** PRO: Representative Takko, prime sponsor; Jack Field, Washington Cattlemen's Assn.; Bill Robinson, Nature Conservancy; Dan Wood, Washington State Farm Bureau; Harry Reinert, Washington Assn. of Counties and King County.

OTHER: Michael Kern, Ruckelshaus Center; Ron Shultz, Conservation Commission.

**Staff Summary of Public Testimony on Companion SB 5713 (Ways & Means):** PRO: This bill is the result of an assignment given to the Ruckelshaus Center in 2007 to determine a solution to balancing interests between the environment and agriculture. The Native American tribes decided not to participate in this effort out of concerns related to a regulatory backstop. The bill does allow for continued input by the Native American tribes going forward. The Commission has been working with other state agencies. Their funding assumes federal dollars and assumes that costs would be phased including planning, grant issuance, and implementation. This is a new approach that relies on voluntary enhancement of critical areas as opposed to a regulatory approach. Counties must develop a plan to protect their critical areas that includes benchmarks and goals. It is important to establish benchmarks to determine whether the program is effective, and to monitor those benchmarks. We endorse the bill and the agreement in the bill rather than establishing aggressive agricultural buffers around critical areas on agricultural land. We know there is a federal and local cost to this program and we have been looking at federal programs for funding. We appreciate that this is a collaborative program that will end contention that currently exists in the critical area ordinance process.

OTHER: This bill is the product of a legislative initiative to help the agricultural interest, tribes, counties, and environmentalists to ensure prosperous farms and protect the environment. The tribes did not participate in the last year because they were concerned about the efficacy of the program, but the process allows for them to react at multiple points.

**Persons Testifying (Ways & Means):** PRO: Ron Schultz, State Conservation Commission; Bill Robinson, Nature Conservancy; Dan Wood, Washington Farm Bureau; Eric Johnson, Association of Counties.

OTHER: William Ruckelshaus, Ruckelshaus Center.

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE HOUSE BILL 1886**

62nd Legislature  
2011 Regular Session

Passed by the House April 14, 2011  
Yeas 92 Nays 5

\_\_\_\_\_  
**Speaker of the House of Representatives**

Passed by the Senate April 6, 2011  
Yeas 48 Nays 1

\_\_\_\_\_  
**President of the Senate**

Approved

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1886** as passed by the House of Representatives and the Senate on the dates hereon set forth.

\_\_\_\_\_  
**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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ENGROSSED SUBSTITUTE HOUSE BILL 1886

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AS AMENDED BY THE SENATE

Passed Legislature - 2011 Regular Session

State of Washington                      62nd Legislature                      2011 Regular Session

By House Local Government (originally sponsored by Representatives Takko, Angel, Bailey, and Tharinger)

READ FIRST TIME 02/17/11.

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; adding a new section to  
5 chapter 43.21C RCW; and creating a new section.

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

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

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

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

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

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

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

7 (e) Encourage and foster a spirit of cooperation and partnership  
8 among county, tribal, environmental, and agricultural interests to  
9 better assure the program success;

10 (f) Improve compliance with other laws designed to protect water  
11 quality and fish habitat; and

12 (g) Rely upon voluntary stewardship practices as the primary method  
13 of protecting critical areas and not require the cessation of  
14 agricultural activities.

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

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

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

22 (3) "Director" means the executive director of the state  
23 conservation commission.

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

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

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

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

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

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

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

3 (11) "Technical panel" means the directors or director designees of  
4 the following agencies: The department of fish and wildlife; the  
5 department of agriculture; the department of ecology; and the  
6 commission.

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

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

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

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

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

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

20 (b) Administer funding for counties to implement the program  
21 including, but not limited to, funding to develop strategies and  
22 incentive programs and to establish local guidelines for watershed  
23 stewardship programs;

24 (c) Administer the program's technical assistance funds and  
25 coordinate among state agencies and other entities for the  
26 implementation of the program;

27 (d) Establish a technical panel;

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

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

31 (f) Review and evaluate the program's success and effectiveness and  
32 make appropriate changes to policies and procedures for implementing  
33 the program, in consultation with the statewide advisory committee and  
34 other affected agencies;

35 (g) Designate priority watersheds based upon the recommendation of  
36 the statewide advisory committee. The commission and the statewide  
37 advisory committee may only consider watersheds nominated by counties

1 under section 4 of this act. When designating priority watersheds, the  
2 commission and the statewide advisory committee shall consider the  
3 statewide significance of the criteria listed in section 4(3) of this  
4 act;

5 (h) Provide administrative support for the program's statewide  
6 advisory committee in its work. The administrative support must be in  
7 collaboration with the department of ecology and other agencies  
8 involved in the program;

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

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

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

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

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

23 (4) The commission, department, department of agriculture,  
24 department of fish and wildlife, department of ecology, and other state  
25 agencies as directed by the governor shall:

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

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

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

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

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

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

5 (ii) Identifies the watersheds that will participate in the  
6 program; and

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

10 (2) Before adopting the ordinance or resolution under subsection  
11 (1) of this section, the county must (a) confer with tribes, and  
12 environmental and agricultural interests; and (b) provide notice  
13 following the public participation and notice provisions of RCW  
14 36.70A.035 to property owners and other affected and interested  
15 individuals, tribes, government agencies, businesses, school districts,  
16 and organizations.

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

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

22 (b) The overall likelihood of completing a successful program in  
23 the watershed; and

24 (c) Existing watershed programs, including those of other  
25 jurisdictions in which the watershed has territory.

26 (4) In identifying priority watersheds, a county must consider the  
27 following:

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

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

32 (c) An evaluation of the biological diversity of wildlife species  
33 and their habitats in the geographic region including their  
34 significance and vulnerability;

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

37 (e) Integration of regional watershed strategies, including the

1 availability of a data and scientific review structure related to all  
2 types of critical areas;

3 (f) The presence of a local watershed group that is willing and  
4 capable of overseeing a successful program, and that has the  
5 operational structures to administer the program effectively, including  
6 professional technical assistance staff, and monitoring and adaptive  
7 management structures; and

8 (g) The overall likelihood of completing a successful program in  
9 the watershed.

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

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

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

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

24 (b) A county that between July 1, 2003, and June 30, 2007, in  
25 accordance with RCW 36.70A.130 completed the review of its development  
26 regulations as required by RCW 36.70A.130 to protect critical areas as  
27 they specifically apply to agricultural activities is not required to  
28 review and revise its development regulations until required by RCW  
29 36.70A.130.

30 (c) After the review and amendment required under (a) of this  
31 subsection, RCW 36.70A.130 applies to the subsequent review and  
32 amendment of development regulations adopted under this chapter to  
33 protect critical areas as they specifically apply to agricultural  
34 activities.

35 (7)(a) A county that has made the election under subsection (1) of  
36 this section may withdraw a participating watershed from the program by  
37 adopting an ordinance or resolution withdrawing the watershed from the

1 program. A county may withdraw a watershed from the program at the end  
2 of three years, five years, or eight years after receipt of funding, or  
3 any time after ten years from receipt of funding.

4 (b) Within eighteen months after withdrawing a participating  
5 watershed from the program, the county must review and, if necessary,  
6 revise its development regulations that protect critical areas in that  
7 watershed as they specifically apply to agricultural activities. The  
8 development regulations must protect the critical area functions and  
9 values as they existed on the effective date of this section. RCW  
10 36.70A.130 applies to the subsequent review and amendment of  
11 development regulations adopted under this chapter to protect critical  
12 areas as they specifically apply to agricultural activities.

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

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

20 NEW SECTION. **Sec. 5.** (1) When the commission makes funds  
21 available to a county that has made the election provided in section  
22 4(1) of this act, the county must within sixty days:

23 (a) Acknowledge the receipt of funds; and

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

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

28 (3) The watershed group must include broad representation of key  
29 watershed stakeholders and, at a minimum, representatives of  
30 agricultural and environmental groups and tribes that agree to  
31 participate. The county should encourage existing lead entities,  
32 watershed planning units, or other integrating organizations to serve  
33 as the watershed group.

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

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

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

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

10           (c) Develop goals for participation by agricultural operators  
11 conducting commercial and noncommercial agricultural activities in the  
12 watershed necessary to meet the protection and enhancement benchmarks  
13 of the work plan;

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

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

20           (f) Designate the entity or entities that will provide technical  
21 assistance;

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

25           (h) Incorporate into the work plan any existing development  
26 regulations relied upon to achieve the goals and benchmarks for  
27 protection;

28           (i) Establish baseline monitoring for:            (i) Participation  
29 activities and implementation of the voluntary stewardship plans and  
30 projects; (ii) stewardship activities; and (iii) the effects on  
31 critical areas and agriculture relevant to the protection and  
32 enhancement benchmarks developed for the watershed;

33           (j) Conduct periodic evaluations, institute adaptive management,  
34 and provide a written report of the status of plans and accomplishments  
35 to the county and to the commission within sixty days after the end of  
36 each biennium;

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

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

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

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

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

11 (iii) If the watershed group determines the protection goals and  
12 benchmarks have not been met, it must propose and submit to the  
13 director an adaptive management plan to achieve the goals and  
14 benchmarks that were not met. If the director does not approve the  
15 adaptive management plan under section 8 of this act, the watershed is  
16 subject to section 9 of this act.

17 (iv) If the watershed group determines the enhancement goals and  
18 benchmarks have not been met, the watershed group must determine what  
19 additional voluntary actions are needed to meet the benchmarks,  
20 identify the funding necessary to implement these actions, and  
21 implement these actions when funding is provided.

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

26 (ii) If the watershed group determines the protection goals and  
27 benchmarks have been met, and the director concurs under section 8 of  
28 this act, the watershed group shall continue to implement the work  
29 plan.

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

33 (iv) If the watershed group determines the enhancement goals and  
34 benchmarks have not been met, the watershed group must determine what  
35 additional voluntary actions are needed to meet the benchmarks,  
36 identify the funding necessary to implement these actions, and  
37 implement these actions when funding is provided.

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

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

11 (5) Commercial and noncommercial agricultural operators  
12 participating in the program are eligible to receive funding and  
13 assistance under watershed programs.

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

17 (2) The technical panel shall review the work plan and report to  
18 the director within forty-five days after the director receives the  
19 work plan. The technical panel shall assess whether at the end of ten  
20 years after receipt of funding, the work plan, in conjunction with  
21 other existing plans and regulations, will protect critical areas while  
22 maintaining and enhancing the viability of agriculture in the  
23 watershed.

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

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

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

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

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

33 (ii) The director must advise the watershed group of the reasons  
34 for disapproval.

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

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

6 (6) If the director does not approve a work plan for a watershed  
7 within three years after receipt of funding, the provisions of section  
8 9(2) of this act apply to the watershed.

9 NEW SECTION. Sec. 8. (1) Upon receipt of a report by a watershed  
10 group under section 6(2)(b) of this act that the work plan goals and  
11 benchmarks have been met, the director must consult with the statewide  
12 advisory committee. If the director concurs with the watershed group  
13 report, the watershed group shall continue to implement the work plan.  
14 If the director does not concur with the watershed group report, the  
15 director shall consult with the statewide advisory committee following  
16 the procedures in subsection (2) of this section.

17 (2) If either the director, following receipt of a report under  
18 subsection (1) of this section, or the watershed group, in the report  
19 submitted to the director under section 6(2)(b) of this act, concludes  
20 that the work plan goals and benchmarks for protection have not been  
21 met, the director must consult with the statewide advisory committee  
22 for a recommendation on how to proceed. If the director, acting upon  
23 recommendation from the statewide advisory committee, determines that  
24 the watershed is likely to meet the goals and benchmarks with an  
25 additional six months of planning and implementation time, the director  
26 must grant an extension. If the director, acting upon a recommendation  
27 from the statewide advisory committee, determines that the watershed is  
28 unlikely to meet the goals and benchmarks within six months, the  
29 watershed is subject to section 9 of this act.

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

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

35 (a) Develop, adopt, and implement a watershed work plan approved by  
36 the department that protects critical areas in areas used for

1 agricultural activities while maintaining the viability of agriculture  
2 in the watershed. The department shall consult with the departments of  
3 agriculture, ecology, and fish and wildlife and the commission, and  
4 other relevant state agencies before approving or disapproving the  
5 proposed work plan. The appeal of the department's decision under this  
6 subsection is subject to appeal under RCW 36.70A.280;

7 (b) Adopt development regulations previously adopted under this  
8 chapter by another local government for the purpose of protecting  
9 critical areas in areas used for agricultural activities. Regulations  
10 adopted under this subsection (1) (b) must be from a region with similar  
11 agricultural activities, geography, and geology and must: (i) Be from  
12 Clallam, Clark, King, or Whatcom counties; or (ii) have been upheld by  
13 a growth management hearings board or court after July 1, 2011, where  
14 the board or court determined that the provisions adequately protected  
15 critical areas functions and values in areas used for agricultural  
16 activities;

17 (c) Adopt development regulations certified by the department as  
18 protective of critical areas in areas used for agricultural activities  
19 as required by this chapter. The county may submit existing or amended  
20 regulations for certification. The department must make its decision  
21 on whether to certify the development regulations within ninety days  
22 after the county submits its request. If the department denies the  
23 certification, the county shall take an action under (a), (b), or (d)  
24 of this subsection. The department must consult with the departments  
25 of agriculture, ecology, and fish and wildlife and the commission  
26 before making a certification under this section. The appeal of the  
27 department's decision under this subsection (1) (c) is subject to appeal  
28 under RCW 36.70A.280; or

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

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

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

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

37 (c) The commission has determined under section 10 of this act that

1 the county, department, commission, or departments of agriculture,  
2 ecology, or fish and wildlife have not received adequate funding to  
3 implement a program in the watershed; or

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

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

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

10 (a) In consultation with each county that has elected under section  
11 4 of this act to participate in the program, determine which  
12 participating watersheds received adequate funding to establish and  
13 implement the program in a participating watershed by July 1, 2015; and

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

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

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

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

34 NEW SECTION. Sec. 11. (1) (a) From the nominations made under (b)  
35 of this subsection, the commission shall appoint a statewide advisory  
36 committee, consisting of: Two persons representing county government,

1 two persons representing agricultural organizations, and two persons  
2 representing environmental organizations. The commission, in  
3 conjunction with the governor's office, shall also invite participation  
4 by two representatives of tribal governments.

5 (b) Organizations representing county, agricultural, and  
6 environmental organizations shall submit nominations of their  
7 representatives to the commission within ninety days of the effective  
8 date of this section. Members of the statewide advisory committee  
9 shall serve two-year terms except that for the first year, one  
10 representative from each of the sectors shall be appointed to the  
11 statewide advisory committee for a term of one year. Members may be  
12 reappointed by the commission for additional two-year terms and  
13 replacement members shall be appointed in accordance with the process  
14 for selection of the initial members of the statewide advisory  
15 committee.

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

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

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

24 (2) The role of the statewide advisory committee is to advise the  
25 commission and other agencies involved in development and operation of  
26 the program.

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

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

35 NEW SECTION. **Sec. 13.** In developing stewardship practices to

1 implement the work plan, to the maximum extent practical the watershed  
2 group should:

3 (1) Avoid management practices that may have unintended adverse  
4 consequences for other habitats, species, and critical areas functions  
5 and values; and

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

10 NEW SECTION. **Sec. 14.** An agricultural operator participating in  
11 the program may withdraw from the program and is not required to  
12 continue voluntary measures after the expiration of an applicable  
13 contract. The watershed group must account for any loss of protection  
14 resulting from withdrawals when establishing goals and benchmarks for  
15 protection and a work plan under section 6 of this act.

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

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

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

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

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

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

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

32 (1) (a) Each comprehensive land use plan and development regulations  
33 shall be subject to continuing review and evaluation by the county or  
34 city that adopted them. Except as otherwise provided, a county or city  
35 shall take legislative action to review and, if needed, revise its

1 comprehensive land use plan and development regulations to ensure the  
2 plan and regulations comply with the requirements of this chapter  
3 according to the deadlines in subsections (4) and (5) of this section.

4 (b) Except as otherwise provided, a county or city not planning  
5 under RCW 36.70A.040 shall take action to review and, if needed, revise  
6 its policies and development regulations regarding critical areas and  
7 natural resource lands adopted according to this chapter to ensure  
8 these policies and regulations comply with the requirements of this  
9 chapter according to the deadlines in subsections (4) and (5) of this  
10 section. Legislative action means the adoption of a resolution or  
11 ordinance following notice and a public hearing indicating at a  
12 minimum, a finding that a review and evaluation has occurred and  
13 identifying the revisions made, or that a revision was not needed and  
14 the reasons therefor.

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

22 (d) Any amendment of or revision to a comprehensive land use plan  
23 shall conform to this chapter. Any amendment of or revision to  
24 development regulations shall be consistent with and implement the  
25 comprehensive plan.

26 (2)(a) Each county and city shall establish and broadly disseminate  
27 to the public a public participation program consistent with RCW  
28 36.70A.035 and 36.70A.140 that identifies procedures and schedules  
29 whereby updates, proposed amendments, or revisions of the comprehensive  
30 plan are considered by the governing body of the county or city no more  
31 frequently than once every year. "Updates" means to review and revise,  
32 if needed, according to subsection (1) of this section, and the  
33 deadlines in subsections (4) and (5) of this section or in accordance  
34 with the provisions of subsection (6) of this section. Amendments may  
35 be considered more frequently than once per year under the following  
36 circumstances:

37 (i) The initial adoption of a subarea plan. Subarea plans adopted  
38 under this subsection (2)(a)(i) must clarify, supplement, or implement

1 jurisdiction-wide comprehensive plan policies, and may only be adopted  
2 if the cumulative impacts of the proposed plan are addressed by  
3 appropriate environmental review under chapter 43.21C RCW;

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

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

10 (iv) The amendment of the capital facilities element of a  
11 comprehensive plan that occurs concurrently with the adoption or  
12 amendment of a county or city budget; or

13 (v) The adoption of comprehensive plan amendments necessary to  
14 enact a planned action under RCW 43.21C.031(2), provided that  
15 amendments are considered in accordance with the public participation  
16 program established by the county or city under this subsection (2)(a)  
17 and all persons who have requested notice of a comprehensive plan  
18 update are given notice of the amendments and an opportunity to  
19 comment.

20 (b) Except as otherwise provided in (a) of this subsection, all  
21 proposals shall be considered by the governing body concurrently so the  
22 cumulative effect of the various proposals can be ascertained.  
23 However, after appropriate public participation a county or city may  
24 adopt amendments or revisions to its comprehensive plan that conform  
25 with this chapter whenever an emergency exists or to resolve an appeal  
26 of a comprehensive plan filed with the growth management hearings board  
27 or with the court.

28 (3)(a) Each county that designates urban growth areas under RCW  
29 36.70A.110 shall review, at least every ten years, its designated urban  
30 growth area or areas, and the densities permitted within both the  
31 incorporated and unincorporated portions of each urban growth area. In  
32 conjunction with this review by the county, each city located within an  
33 urban growth area shall review the densities permitted within its  
34 boundaries, and the extent to which the urban growth occurring within  
35 the county has located within each city and the unincorporated portions  
36 of the urban growth areas.

37 (b) The county comprehensive plan designating urban growth areas,  
38 and the densities permitted in the urban growth areas by the

1 comprehensive plans of the county and each city located within the  
2 urban growth areas, shall be revised to accommodate the urban growth  
3 projected to occur in the county for the succeeding twenty-year period.  
4 The review required by this subsection may be combined with the review  
5 and evaluation required by RCW 36.70A.215.

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

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

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

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

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

23 (5) Except as otherwise provided in subsections (6) and (8) of this  
24 section, following the review of comprehensive plans and development  
25 regulations required by subsection (4) of this section, counties and  
26 cities shall take action to review and, if needed, revise their  
27 comprehensive plans and development regulations to ensure the plan and  
28 regulations comply with the requirements of this chapter as follows:

29 (a) On or before December 1, 2014, and every seven years  
30 thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce,  
31 Snohomish, Thurston, and Whatcom counties and the cities within those  
32 counties;

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

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

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

6 (6)(a) Nothing in this section precludes a county or city from  
7 conducting the review and evaluation required by this section before  
8 the deadlines established in subsections (4) and (5) of this section.  
9 Counties and cities may begin this process early and may be eligible  
10 for grants from the department, subject to available funding, if they  
11 elect to do so.

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

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

29 (d) A county or city that is subject to a deadline established in  
30 subsection (4)(d) of this section and that meets the criteria  
31 established in subsection (6)(b) or (c) of this section may comply with  
32 the requirements of subsection (4)(d) of this section at any time  
33 within the thirty-six months after the extension provided in subsection  
34 (6)(b) or (c) of this section.

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

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

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

7 (ii) Demonstrating substantial progress towards compliance with the  
8 schedules in this section for development regulations that protect  
9 critical areas; or

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

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

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

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

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

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

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

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

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

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

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

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

14       (a) That, except as provided otherwise by this subsection, a state  
15 agency, county, or city planning under this chapter is not in  
16 compliance with the requirements of this chapter, chapter 90.58 RCW as  
17 it relates to the adoption of shoreline master programs or amendments  
18 thereto, or chapter 43.21C RCW as it relates to plans, development  
19 regulations, or amendments, adopted under RCW 36.70A.040 or chapter  
20 90.58 RCW. Nothing in this subsection authorizes the board to hear  
21 petitions alleging noncompliance with RCW 36.70A.5801; (~~or~~)

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

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

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

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

33       (2) A petition may be filed only by: (a) The state, or a county or  
34 city that plans under this chapter; (b) a person who has participated  
35 orally or in writing before the county or city regarding the matter on  
36 which a review is being requested; (c) a person who is certified by the

1 governor within sixty days of filing the request with the board; or (d)  
2 a person qualified pursuant to RCW 34.05.530.

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

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

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

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

18 If adjusted by the board, a county growth management planning  
19 population projection shall only be used for the planning purposes set  
20 forth in this chapter and shall be known as the "board adjusted  
21 population projection." None of these changes shall affect the  
22 official state and county population forecasts prepared by the office  
23 of financial management, which shall continue to be used for state  
24 budget and planning purposes.

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

28 NEW SECTION. **Sec. 19.** A new section is added to chapter 43.21C  
29 RCW to read as follows:

30 (1) Decisions made under section 6 of this act pertaining to work  
31 plans, as defined in section 2 of this act, are not subject to the  
32 requirements of RCW 43.21C.030(2)(c).

33 (2) Decisions made by a county under section 4 of this act on  
34 whether to participate in the voluntary stewardship program established  
35 by section 3 of this act are not subject to the requirements of RCW  
36 43.21C.030(2)(c).

Watershed groups and their WORK PLANS for  
submitted to p. 22, State Conserv. Commission  
NOT subject to SEPA.

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

5        NEW SECTION.    **Sec. 21.**    If any part of this act is found to be in  
6 conflict with federal requirements that are a prescribed condition to  
7 the allocation of federal funds to the state, the conflicting part of  
8 this act is inoperative solely to the extent of the conflict and with  
9 respect to the agencies directly affected, and this finding does not  
10 affect the operation of the remainder of this act in its application to  
11 the agencies concerned. Rules adopted under this act must meet federal  
12 requirements that are a necessary condition to the receipt of federal  
13 funds by the state.

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