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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: Z-0638.1/09

ATTY/TYPIST: AL:ean

BRIEF DESCRIPTION: Authorizing the creation of regional estuary protection and restoration districts.

AN ACT Relating to authorizing the creation of regional estuary protection and restoration districts to provide, subject to voter approval, supplemental regional funding to protect Puget Sound and other estuaries; amending RCW 90.71.310, 82.14.050, 82.46.070, 84.34.230, 84.52.043, 90.03.525, 29A.36.071, 29A.36.090, and 36.96.010; reenacting and amending RCW 82.46.035; adding a new section to chapter 82.14 RCW; and adding a new chapter to Title 90 RCW.

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

**PART I**

**INTENT**

NEW SECTION. **Sec. 101.** INTENT. (1) The legislature confirms its findings in RCW 90.71.200 with regard to the need to preserve and restore Puget Sound and additionally finds that other regional estuaries throughout the state also require protection and restoration. The legislature finds that existing efforts and resources are inadequate to preserve and restore regional estuaries, including Puget Sound. To provide supplemental regional funding for

these purposes, regional estuary protection and restoration districts should be formed through the cooperation of affected counties with the authority to levy taxes subject to voter approval, to leverage the funds with federal, state, and other funding sources. The districts should invest the funds in prioritized efforts to protect and restore regional estuaries and be held accountable for expenditures. The purpose of this act is to authorize the creation of such special purpose districts and to authorize supplemental regional funding, subject to voter approval.

(2) The legislature further finds that providing supplemental funding through one or more regional taxes or fees is an integral part of, and is naturally and necessarily related to, a single system and plan of regional estuary protection and restoration. Providing regional funding to protect and restore a regional estuary in a comprehensive manner will further the legislative intent. It is therefore the policy and intent of the state of Washington that tax proposals submitted for voter approval by a regional estuary protection and restoration district may be submitted to voters in a single ballot question, providing voters with an easier and more efficient method of expressing their will regarding the regional funding of estuary protection and restoration.

## **PART II**

### **DEFINITIONS**

NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Approving county" means a county that approves the formation of a district in accordance with section 301 of this act.

(2) "Critical estuary" means Puget Sound as defined in RCW 90.71.010(11) and any other marine estuary designated by the environmental protection agency in accordance with section 320 of the federal clean water act (33 U.S.C. Sec. 1251 et seq.) which is located in whole or in part within the state and includes within its

boundaries counties within the state having a population of not less than five hundred thousand.

(3) "Critical estuary project" means a project or program intended to protect or restore a critical estuary that is identified in a regional funding plan approved by the board of a district and determined by the district to be a priority for funding.

(4) "District" means a regional estuary protection and restoration district formed in accordance with section 301 of this act.

(5) "District board" or "board" means the board of directors of a district.

(6) "Interlocal agreement" means an agreement entered into under chapter 39.34 RCW that sets forth the boundaries of a district and other provisions relating to the composition and selection of a district board.

(7) "Leadership council" means the governing body of the Puget Sound partnership established under RCW 90.71.220.

(8) "Participating county" means a county that is part of a critical estuary.

(9) "Pollution" means contamination, or other alteration of the physical, chemical, or biological properties, of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.

(10) "Population" means the population of a county or a district estimated by the state office of financial management.

(11) "Project sponsor" means a public agency or private entity with lead responsibility for undertaking a critical estuary project funded in whole or in part by a district.

(12) "Puget Sound partnership" or "partnership" means the agency formed under RCW 90.71.210.

(13) "Regional funding plan" means the plan a district is required to develop and approve under section 401 of this act.

### **PART III**

#### **REGIONAL ESTUARY PROTECTION AND RESTORATION DISTRICTS**

NEW SECTION. **Sec. 301.** CREATION. (1) A majority of counties bordering on critical estuary the population of which also represents a majority of the population bordering the critical estuary may create a regional estuary protection and restoration district by entering into an interlocal agreement. The boundaries of a district must be set forth in the interlocal agreement and must be generally coextensive with the boundaries of the critical estuary. The boundaries must be drawn to include whole, and not portions of, voting precincts and, to the extent possible, whole taxing districts.

(2) A district is a municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, a political subdivision, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution and possesses all the usual corporate powers as well as all other powers that may now or hereafter be specifically conferred by statute.

NEW SECTION. **Sec. 302.** GOVERNANCE. (1) A district must be governed by a board composed of (a) one elected county legislative member from each participating county chosen by its respective county legislative body except that in a county with an elected county executive, the county executive shall serve ex officio, and (b) the mayors of the largest city in each of the three largest participating counties serving ex officio. A majority of the board constitutes a quorum. All legislative acts of the district must be authorized by resolution approved by a majority of the board voting on the matter if approval of the regional funding plan and any tax proposition requires (a) a majority of members representing counties who also represent a majority of all participating counties and a majority of the population of the district, and (b) two city representatives. Board

members shall serve staggered terms of four years. Board members may be reappointed.

(2) A vacancy must be filled in the same manner as the original appointment was made except that, if the county legislative authority responsible for appointing a member to a vacant position fails to make the appointment for a period of ninety days or more, the remaining members of the board may select an interim member from the legislative body of a participating county to fill the position by majority vote of such members. The person representing a participating county appointed by the board to fill a vacancy shall serve for the remainder of the unexpired term of the office to which he or she was appointed.

NEW SECTION. **Sec. 303.** START-UP FUNDING. The district and the participating counties may enter into an interlocal agreement under which the participating counties may advance to the district start-up funding for its administrative costs including, without limitation, the cost of informing the public about the formation of the district, how it is proposed to be funded, and the public benefits to be realized if it is successful. Funds advanced must be repaid in accordance with the interlocal agreement. The district is eligible to receive grant funding for start-up purposes from federal, state, tribal, and private sources.

NEW SECTION. **Sec. 304.** EVALUATION OF POSSIBLE CONSOLIDATION OF SPECIAL PURPOSES DISTRICTS WITHIN THE PUGET SOUND ESTUARY. If requested by the leadership council, a district formed to provide protection and restoration for Puget Sound shall evaluate and provide recommendations on ways to consolidate or better coordinate the efforts and activities of existing local special purpose districts that contribute to Puget Sound conservation including, but not limited to, shellfish protection districts formed under chapter 90.72 RCW; flood control districts formed under chapter 86.09 RCW; water and sewer districts formed under Title 57 RCW; and lake and beach management districts formed under chapter 36.61 RCW. Recommendations may include dissolution of inactive districts as provided under

chapter 36.96 RCW. The district shall submit its findings and recommendations to the leadership council for its review no later than one year after voter approval of an initial tax proposition for supplemental regional funding submitted to district voters as provided in section 403 of this act. The partnership shall review the district's findings and recommendations and submit the findings and recommendations, along with the results of its review, including any additional recommendations it may have, to the governor and the appropriate standing committees of the legislature.

NEW SECTION. **Sec. 305.** POWERS AND PURPOSES. In addition to providing funding for critical estuary projects specifically authorized under this chapter, a district may:

- (1) Maintain an office or offices;
- (2) Receive funding from federal, state, tribal, and private sources;
- (3) Apply for and accept grants, loans, advances, and contributions from any source of money, property, labor, or other things of value, to be held, used, and applied as the district deems necessary, useful, or convenient to accomplish its purposes;
- (4) Sue and be sued in its own name, and plead and be impleaded;
- (5) Engage consultants and other contractors, agents, attorneys, and advisers, contract with state, federal, and local governmental entities for services, and hire employees, agents, and other personnel as the district deems necessary, useful, or convenient to accomplish its purposes;
- (6) Establish procurement policies by resolution;
- (7) Make and execute all manner of contracts, agreements, and documents with public and private parties as the district deems necessary, useful, or convenient to accomplish its purposes;
- (8) Acquire and hold real or personal property, or any interest therein, in the name of the district, and sell, assign, lease, encumber, mortgage, or otherwise dispose of the property in a manner as the district deems necessary, useful, or convenient to accomplish its purposes. Any county or city legislative authority may transfer

property, with or without consideration, to a district created under this chapter;

(9) Open and maintain accounts in qualified public depositaries and otherwise provide for the investment of any funds not required for immediate disbursement, and provide for the selection of investments;

(10) Appear on its own behalf before boards, commissions, departments, or agencies of federal, state, or local government;

(11) Procure insurance in amounts and from insurers as the district deems desirable including, but not limited to, insurance against any loss or damage to its property or other assets, public liability insurance for injuries to persons or property, and liability insurance with limits a district board deems reasonable for the purpose of protecting and holding personally harmless directors, officers, and employees of the district against liability arising from their acts or omissions while performing or in good faith purporting to perform their official duties;

(12) Make expenditures as are appropriate for paying the administrative costs and expenses of the district in carrying out the provisions of this chapter;

(13) Establish reserves and special funds, and controls on deposits to and disbursements from them, as the district deems necessary, useful, or convenient to accomplish its purposes;

(14) Prepare, publish, and distribute such studies, reports, bulletins, and other material as the district deems necessary, useful, or convenient to accomplish its purposes;

(15) Conduct meetings at which members participating through the use of any means of communication by which all members participating can hear each other during the meeting are deemed to be present in person at the meeting for all purposes;

(16) Adopt rules and policies concerning its exercise of the powers authorized by this chapter; and

(17) Exercise any other power the district deems necessary, useful, or convenient to accomplish its purposes and exercise the powers expressly granted in this chapter.

NEW SECTION.     **Sec. 306.**     EXPENSE REIMBURSEMENT PROCEDURES. The board of a district shall adopt a resolution that may be amended from time to time governing methods and amounts of reimbursement payable to directors, officers, and employees for travel and other business expenses incurred on behalf of the district. The resolution must, among other things, establish procedures for approving expenses; the form of travel and expense vouchers; and requirements governing the use of credit cards issued in the name of the district. Directors, officers, and employees may be advanced sufficient sums to cover their anticipated expenses in accordance with rules adopted by the state auditor.

NEW SECTION.     **Sec. 307.**     PER DIEM COMPENSATION. Each member of the board of a district may receive compensation of fifty dollars per day for attending meetings or conferences on behalf of the district, not to exceed three thousand dollars per year. A director may waive all or a portion of his or her compensation under this section during his or her term of office, by a written waiver filed with the district. The compensation provided in this section is in addition to reimbursement for expenses paid to directors by the district.

NEW SECTION.     **Sec. 308.**     DEFENSE AND INDEMNITY. Whenever an action, claim, or proceeding is instituted against a person who is or was a director, officer, or employee of a district arising out of the performance of duties for or employment with the district, the district may grant a request by the person that the attorney of the district's choosing be authorized to defend the claim, suit, or proceeding, and the costs of defense, attorneys' fees, and obligation for payments arising from the action may be paid from the district's funds. Costs of defense, judgment, or settlement against the person shall not be paid in a case where the court has found that the person was not acting in good faith within the scope of employment with or duties for the district. No director or officer of a district shall be personally liable for acts done or omitted in good faith while performing duties as a director or officer on behalf of the district.

NEW SECTION.     **Sec. 309.**     EMPLOYEES, SALARIES, AND BENEFITS.     A district may create and fill positions; fix reasonable wages and salaries; pay costs involved in hiring employees; and establish benefits for employees, including holiday pay, vacations or vacation pay, retirement benefits, and medical, life, accident, or health disability insurance, as approved by the board.     District board members, at their own expense, may be included under any district policy for medical, life, accident, or health disability insurance. Insurance for employees and board members may not be considered compensation. Coverage for the board under any district policy is not to exceed that provided district employees. A district is an eligible employer for purposes of participation in the state public employees' retirement system and may be admitted into the system if it chooses to participate.

NEW SECTION.     **Sec. 310.**     TREASURER.     At the request of the district, the treasurer or comparable officer of a participating county may serve as the ex officio treasurer of the district.

#### **PART IV**

### **PUBLIC FUNDING AND FINANCING FOR RESTORATION, PRESERVATION, AND PROTECTION**

NEW SECTION.     **Sec. 401.**     REGIONAL FUNDING PLAN.     (1) A district formed under this chapter shall develop and approve a regional funding plan for the funding of critical estuary projects. The regional funding plan must be reviewed and approved periodically, but not less frequently than every five years. The plan must include, but not be limited to:

(a) A general description of critical estuary projects to be funded in whole or in part with regional funds and their anticipated priority;

(b) The estimated costs;

(c) The estimated development periods for the critical estuary projects;

(d) The sources of funding, including a description of the fees and the rates and taxable activities associated with taxes proposed to be imposed relating to the projects;

(e) The intended restorative or protective effects of critical estuary projects on a critical estuary and the measures to be used to monitor the actual effects of the critical estuary projects on the critical estuary; and

(f) Procedures for changes to the regional funding plan as future circumstances may dictate.

(2) If the district is formed to provide restoration and protection for Puget Sound, the district shall develop its regional funding plan required by subsection (1) of this section only at the request of the leadership council of the Puget Sound partnership. The district's plan must be consistent with the action agenda developed by the partnership under chapter 90.71 RCW and with the council's request and recommendation for supplemental regional funding provided to the district. The district's plan must reflect a comprehensive approach for providing, subject to voter approval as provided in section 403 of this act, supplemental regional funding identified in the council's request on a schedule generally consistent with the request. In developing its regional funding plan, the district shall evaluate the sources of supplemental regional funding authorized under RCW 90.71.310 and identify the source or sources for which it will seek voter approval as provided in section 403 of this act. The district's plan must be subject to review and approval of the leadership council prior to its final approval by the board of the district and the submission of any tax proposition to the voters of the district. The regional funding plan must be reviewed and approved by the leadership council and the district board as frequently as the action agenda is updated, but not less frequently than every five years. Approval by either the leadership council or the district board of the regional funding plan is not a major action significantly affecting the quality of the environment subject to review under RCW 43.21C.030(2)(c).

(3) Prior to the approval of the regional funding plan by the board of a district, the plan must be made available for reasonable public review and public comment.

**Sec. 402.** RCW 90.71.310 and 2008 c 329 s 926 are each amended to read as follows:

(1) The council shall develop a science-based action agenda that leads to the recovery of Puget Sound by 2020 and achievement of the goals and objectives established in RCW 90.71.300. The action agenda shall:

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

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

(c) Meet the goals and objectives described in RCW 90.71.300, including measurable outcomes for each goal and objective specifically describing what will be achieved, how it will be quantified, and how progress towards outcomes will be measured. The action agenda shall include near-term and long-term benchmarks designed to ensure continuous progress needed to reach the goals, objectives, and designated outcomes by 2020. The council shall consult with the panel in developing these elements of the plan;

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

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

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

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

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

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

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

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

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

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

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

(3) Until the action agenda is adopted, the existing Puget Sound management plan and the 2007-09 Puget Sound biennial plan shall remain in effect. The existing Puget Sound management plan shall also continue to serve as the comprehensive conservation and management plan for the purposes of the national estuary program described in section 320 of the federal clean water act, until replaced by the action agenda and approved by the United States environmental protection agency as the new comprehensive conservation and management plan.

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

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

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

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

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

(6) The council shall adopt a request and recommendation for supplemental regional funding to support implementation of the action agenda to be submitted to a regional estuary protection and restoration district formed under chapter 90.-- RCW (the new chapter created in section 607 of this act). The request and recommendation must be consistent with the priorities reflected in the action agenda and with council's appraisal of funding for implementation of the agenda from other available sources. The council's request must describe with reasonable specificity the strategies and actions included in the action agenda that seem most suitable for the application of supplemental regional funding. It may also include recommendations to the district board on how the regional funding plan under section 401 of this act may be implemented and critical estuary projects delivered.

NEW SECTION. Sec. 403. VOTER APPROVAL. Taxes authorized by section 404 of this act, RCW 82.14.050, section 406 of this act, RCW 82.46.035, 82.46.070, 82.34.230, and 82.52.043 and proposed in a regional funding plan may only be imposed upon the approval of a proposition by a majority of those voting within the district at a special election held for that purpose. At the request of the board of a district, each county within the district shall call for a special election in accordance with RCW 29A.04.321(2). The proposition setting forth proposed taxes included in the regional funding plan may be submitted by the board as a single ballot proposition or as multiple ballot propositions. The election on any district ballot proposition must be conducted by each component county

in accordance with the general election laws of the state, except as otherwise provided by law.

NEW SECTION.     **Sec. 404.**     EXCISE TAXES.     (1) To implement a regional funding plan that has been developed and approved in accordance with section 401 of this act, the board of a district may submit an authorizing proposition to the voters of the district and, if the proposition is approved by a majority of persons voting, fix and impose a sales and use tax, real estate excise taxes, a conservation futures tax, and pollution discharge taxes approved by a majority of eligible voters within the district as set forth in section 403 of this act.

(2) A district may impose taxes within its authority upon municipal corporations and other persons. Moneys collected under this section may only be used for the purposes set forth in this chapter. The district may not submit an authorizing proposition to the voters within two years after a second consecutive failure to receive an approving vote for a substantially similar proposition within a two-year period. No authorizing proposition may be submitted to the voters prior to 2010.

(3)(a) Upon voter approval under section 403 of this act, the district may impose pollution discharge taxes upon the privilege of living in or doing business in the district through the board's approval of a regional funding plan that includes the following elements with respect to the taxes, followed by voter approval of the plan as set forth in section 403 of this act:

(i) Identification of the activities upon which the tax will be imposed, which activities may include:

(A) The beneficial use of water;

(B) The discharge of pollutants, directly or indirectly, to groundwater, surface water, or air in the district;

(C) The connection to any water, storm water or wastewater system in the district; or

(D) The imposition of a burden upon or the receipt of benefits from any storm water control facility or system within the district;

- (ii) Classifications of taxpayers;
- (iii) Rates of taxation; and
- (iv) Provision for collection of taxes, whether by delegation to other units of government or otherwise.

(b) In identifying taxable activities, establishing rates of taxation, classifying taxpayers, and determining exemptions in accordance with this section, the board of the district may consider the nature of the threat posed to the critical estuary by certain activities, including:

- (i) The amount, toxicity, and strength of pollutants contained in discharges to the critical estuary;
- (ii) Volume of discharge to the critical estuary;
- (iii) The timing of discharge to the critical estuary; and
- (iv) Any other matters that present a reasonable difference as a ground for distinction between taxes imposed.

(c) The board of the district may provide for exemptions from a pollution discharge tax for certain taxpayers or classes of taxpayers based on its determination that a taxpayer or a discharge would be subject to multiple taxation absent the exemption or that such taxpayers or classes of taxpayers employ low impact development techniques or other environmentally sustainable methods that reduce the adverse impacts of storm water or other pollutant discharges to the critical estuary.

(d) The taxes authorized by this section must be billed and collected at times and in the manner fixed and determined by the board of the district in its approved regional funding plan. The taxes may be collected through the state, counties, cities, and other municipalities, and public or private wastewater or other utilities. Penalties for failure to pay the taxes on time may be provided for in a district's approved regional funding plan. The regional funding plan may provide for a lien under which water service is suspended to any premises for which the taxes authorized by this section or the fees authorized under section 410 of this act remain unpaid for a period of sixty days after the due date. No water service may be suspended until a written notice has been served upon or mailed to the

water system customer, at least seven days prior to suspending such water service. The notice must state the date on which water service is to be suspended and the amount of delinquent charges.

**Sec. 405.** RCW 82.14.050 and 2005 c 336 s 20 are each amended to read as follows:

The counties, cities, and transportation authorities under RCW 82.14.045, public facilities districts under chapters 36.100 and 35.57 RCW, public transportation benefit areas under RCW 82.14.440, regional estuary protection and restoration districts under chapter 90.-- RCW (the new chapter created in section 607 of this act), regional transportation investment districts, and transportation benefit districts under chapter 36.73 RCW shall contract, prior to the effective date of a resolution or ordinance imposing a sales and use tax, the administration and collection to the state department of revenue, which shall deduct a percentage amount, as provided by contract, not to exceed two percent of the taxes collected for administration and collection expenses incurred by the department. The remainder of any portion of any tax authorized by this chapter that is collected by the department of revenue shall be deposited by the state department of revenue in the local sales and use tax account hereby created in the state treasury. Moneys in the local sales and use tax account may be spent only for distribution to counties, cities, transportation authorities, public facilities districts, public transportation benefit areas, regional estuary protection and restoration districts, regional transportation investment districts, and transportation benefit districts imposing a sales and use tax. All administrative provisions in chapters 82.03, 82.08, 82.12, and 82.32 RCW, as they now exist or may hereafter be amended, shall, insofar as they are applicable to state sales and use taxes, be applicable to taxes imposed pursuant to this chapter. Counties, cities, transportation authorities, public facilities districts, regional estuary protection and restoration districts, and regional transportation investment districts may not conduct independent sales or use tax audits of sellers registered under the streamlined sales

tax agreement. Except as provided in RCW 43.08.190, all earnings of investments of balances in the local sales and use tax account shall be credited to the local sales and use tax account and distributed to the counties, cities, transportation authorities, public facilities districts, public transportation benefit areas, regional estuary protection and restoration districts, regional transportation investment districts, and transportation benefit districts monthly.

NEW SECTION. **Sec. 406.** A new section is added to chapter 82.14 RCW to read as follows:

Upon voter approval under section 403 of this act, the board of a regional estuary protection and restoration district may impose a sales and use tax. This tax is in addition to any other taxes authorized by the law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the district. The rate of the tax shall not exceed 0.1 percent of the selling price in the case of a sales tax, or value of an article in the case of a use tax. Chapter 82.32 RCW applies to any sales and use tax under this section. Any sales and use tax authorized under this section must provide for an exemption for sales of lodging to the extent required by RCW 82.14.410.

**Sec. 407.** RCW 82.46.035 and 1992 c 221 s and 1991 sp. s. c 32 s 33 are each reenacted and amended to read as follows:

(1) The legislative authority of any county or city shall identify in the adopted budget the capital projects funded in whole or in part from the proceeds of the tax authorized in this section, and shall indicate that such tax is intended to be in addition to other funds that may be reasonably available for such capital projects. The board of any district as defined in section 201 of this act shall identify in its regional funding plan approved under section 401 of this act the critical estuary projects funded in whole or in part from the proceeds of the tax authorized in this section, and shall indicate

that the tax is intended to be in addition to other funds that may be reasonably available for the capital projects.

(2) The legislative authority of any county or any city that plans under RCW 36.70A.040(1) may impose an additional excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-quarter of one percent of the selling price. The board of any district as defined in section 201 of this act with a regional funding plan approved under section 401 of this act may impose an additional excise tax on each sale of real property in the unincorporated areas of the district at a rate not exceeding one-half of one percent of the selling price. Any county choosing to plan under RCW 36.70A.040(2) (~~and~~), any city within such a county, and any district may only adopt an ordinance or resolution imposing the excise tax authorized by this section if the ordinance or resolution is first authorized by a proposition approved by a majority of the voters of the taxing district voting on the proposition at a general election held within the taxing district or at a special election within the taxing district called by the taxing district for the purpose of submitting such proposition to the voters. The district proposition may be submitted as part of a single ballot proposition under section 403 of this act.

(3) Revenues generated from the tax imposed under subsection (2) of this section shall be used by such counties and cities solely for financing capital projects specified in a capital facilities plan element of a comprehensive plan or by the district solely for financing critical estuary projects specified in a regional funding plan approved under section 401 of this act. However, revenues (a) pledged by such counties and cities to debt retirement prior to March 1, 1992, may continue to be used for that purpose until the original debt for which the revenues were pledged is retired, or (b) committed prior to March 1, 1992, by such counties or cities to a project may continue to be used for that purpose until the project is completed.

(4) Revenues generated by the tax imposed by this section shall be deposited in a separate account.

(5) As used in this section, "city" means any city or town and "capital project" means: (a) Critical estuary projects identified in a regional funding plan approved under section 401 of this act; (b) those public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, bridges, domestic water systems, storm and sanitary sewer systems(~~(r)~~); and (c) planning, construction, reconstruction, repair, rehabilitation, or improvement of parks.

(6) When the governor files a notice of noncompliance under RCW 36.70A.340 with the secretary of state and the appropriate county, district, or city, the county, district, or city's authority to impose the additional excise tax under this section shall be temporarily rescinded until the governor files a subsequent notice rescinding the notice of noncompliance.

**Sec. 408.** RCW 82.46.070 and 1990 1st ex.s. c 5 s 3 are each amended to read as follows:

(1) Subject to subsection (2) of this section, the legislative authority of any county may impose an additional excise tax on each sale of real property in the county at a rate not to exceed one percent of the selling price and the board of any district as defined in section 201 of this act that has approved a regional funding plan under section 401 of this act may impose an additional excise tax on each sale of real property in the district at a rate not to exceed one-half of one percent of the selling price. The proceeds of the tax shall be used exclusively for the acquisition and maintenance of conservation areas in the case of the county tax and shall be used exclusively for projects identified in the regional funding plan in the case of the district tax.

The taxes imposed under this subsection shall be imposed in the same manner and on the same occurrences, and are subject to the same conditions, as the taxes under chapter 82.45 RCW, except:

(a) The tax shall be the obligation of the purchaser; and

(b) The county tax does not apply to the acquisition of conservation areas by the county.

The county and the district may enforce the obligation through an action of debt against the purchaser or may foreclose the lien on the property in the same manner prescribed for the foreclosure of mortgages.

The tax shall take effect thirty days after the election at which the taxes are authorized.

(2) No tax may be imposed under subsection (1) of this section unless approved by a majority of the voters of the county or district voting thereon for a specified period and maximum rate after:

(a) The adoption of a resolution by the county legislative authority of the county proposing this action or, in the case of the district tax, the adoption of a resolution by the board of the district; or

(b) The filing of a petition proposing this action with the county auditor, which petition is signed by county voters at least equal in number to ten percent of the total number of voters in the county who voted at the last preceding general election.

The ballot proposition proposing the county tax shall be submitted to the voters of the county at the next general election occurring at least sixty days after a petition is filed, or at any special election prior to this general election that has been called for such purpose by the county legislative authority. The ballot proposition proposing the district tax must be submitted to the voters of the district at any special election. The district proposition may be submitted as part of a single proposition under section 403 of this act.

(3) A plan for the expenditure of the county excise tax proceeds shall be prepared by the county legislative authority at least sixty days before the election if the proposal is initiated by resolution of the county legislative authority, or within six months after the tax has been authorized by the voters if the proposal is initiated by petition. Prior to the adoption of this plan, the elected officials of cities located within the county shall be consulted and a public

hearing shall be held to obtain public input. The proceeds of this excise tax must be expended in conformance with this plan.

(4) As used in this section, "conservation area" has the meaning given under RCW 36.32.570.

**Sec. 409.** RCW 84.34.230 and 2005 c 449 s 1 are each amended to read as follows:

(1) Conservation futures are a useful tool for counties to preserve lands of public interest for future generations. Counties are encouraged to use some conservation futures as one tool for salmon preservation purposes.

(2) For the purpose of acquiring conservation futures and other rights and interests in real property pursuant to RCW 84.34.210 and 84.34.220, and for maintaining and operating any property acquired with these funds, a county may levy an amount not to exceed six and one-quarter cents per thousand dollars of assessed valuation against the assessed valuation of all taxable property within the county. The limitations in RCW 84.52.043 shall not apply to the tax levy authorized in this ((section)) subsection. Any rights or interests in real property acquired under this ((section)) subsection after July 24, 2005, must be located within the assessing county. Further, the county must determine if the rights or interests in real property acquired with these funds would reduce the capacity of land suitable for development necessary to accommodate the allocated housing and employment growth, as adopted in the countywide planning policies. When actions are taken that reduce capacity to accommodate planned growth, the jurisdiction shall adopt reasonable measures to increase the capacity lost by such actions.

(3) Upon voter approval under section 403 of this act, for the purpose of funding projects identified in a regional funding plan approved under section 401 of this act, the district as defined in section 201 of this act may levy an amount not to exceed six and one-quarter cents per thousand dollars of assessed valuation against the assessed valuation of all taxable property within the district for one or more years as set forth in the ballot proposition. The limitations in RCW

84.52.043 do not apply to the tax levy authorized in this subsection. No tax may be imposed under this section unless approved by a majority of the voters of the district voting on a proposition submitted by the board of a district after the adoption of a resolution by the board. A district proposition may be submitted as part of a single ballot proposition under section 403 of this act.

NEW SECTION. **Sec. 410.** FEES. To implement the regional funding plan developed and approved in accordance with section 401 of this act, the board of a district may impose and collect fees and charges without a vote for services to protect or restore a critical estuary or to mitigate a burden imposed on a critical estuary. The fees must be fixed as deemed necessary by the board and may be imposed using reasonable classifications so that uniform charges will be made for the same class upon whom the fee or charge is imposed.

**Sec. 411.** RCW 84.52.043 and 2005 c 122 s 3 are each amended to read as follows:

Within and subject to the limitations imposed by RCW 84.52.050 as amended, the regular ad valorem tax levies upon real and personal property by the taxing districts hereafter named shall be as follows:

(1) Levies of the senior taxing districts shall be as follows:  
(a) The levy by the state shall not exceed three dollars and sixty cents per thousand dollars of assessed value adjusted to the state equalized value in accordance with the indicated ratio fixed by the state department of revenue to be used exclusively for the support of the common schools; (b) the levy by any county shall not exceed one dollar and eighty cents per thousand dollars of assessed value; (c) the levy by any road district shall not exceed two dollars and twenty-five cents per thousand dollars of assessed value; and (d) the levy by any city or town shall not exceed three dollars and thirty-seven and one-half cents per thousand dollars of assessed value. However any county is hereby authorized to increase its levy from one dollar and eighty cents to a rate not to exceed two dollars and forty-seven and one-half cents per thousand dollars of assessed value for general

county purposes if the total levies for both the county and any road district within the county do not exceed four dollars and five cents per thousand dollars of assessed value, and no other taxing district has its levy reduced as a result of the increased county levy.

(2) The aggregate levies of junior taxing districts and senior taxing districts, other than the state, shall not exceed five dollars and ninety cents per thousand dollars of assessed valuation. The term "junior taxing districts" includes all taxing districts other than the state, counties, road districts, cities, towns, port districts, and public utility districts. The limitations provided in this subsection shall not apply to: (a) Levies at the rates provided by existing law by or for any port or public utility district; (b) excess property tax levies authorized in Article VII, section 2 of the state Constitution; (c) levies for acquiring conservation futures as authorized under RCW 84.34.230; (d) levies for emergency medical care or emergency medical services imposed under RCW 84.52.069; (e) levies to finance affordable housing for very low-income housing imposed under RCW 84.52.105; (f) the portions of levies by metropolitan park districts that are protected under RCW 84.52.120; (g) levies imposed by ferry districts under RCW 36.54.130; (h) levies for criminal justice purposes under RCW 84.52.135; ~~((and))~~ (i) the portions of levies by fire protection districts that are protected under RCW 84.52.125; and (j) levies imposed by a regional estuary protection and restoration district under RCW 84.34.230(3) to fund critical estuary projects identified in a regional funding plan approved under section 401 of this act.

**Sec. 412.** RCW 90.03.525 and 2005 c 319 s 140 are each amended to read as follows:

(1) The rate charged by a local government utility to the department of transportation with respect to state highway right-of-way or any section of state highway right-of-way for the construction, operation, and maintenance of storm water control facilities under chapters 35.67, 35.92, 36.89, 36.94, 57.08, and 86.15 RCW, shall be thirty percent of the rate for comparable real property, except as otherwise provided in this section. The rate charged to the

department with respect to state highway right-of-way or any section of state highway right-of-way within a local government utility's jurisdiction shall not, however, exceed the rate charged for comparable city street or county road right-of-way within the same jurisdiction. The legislature finds that the aforesaid rates are presumptively fair and equitable because of the traditional and continuing expenditures of the department of transportation for the construction, operation, and maintenance of storm water control facilities designed to control surface water or storm water runoff from state highway rights-of-way.

(2) Charges paid under subsection (1) of this section by the department of transportation must be used solely for storm water control facilities that directly reduce state highway runoff impacts or implementation of best management practices that will reduce the need for such facilities. By January 1st of each year, beginning with calendar year 1997, the local government utility, in coordination with the department, shall develop a plan for the expenditure of the charges for that calendar year. The plan must be consistent with the objectives identified in RCW 90.78.010. In addition, beginning with the submittal for 1998, the utility shall provide a progress report on the use of charges assessed for the prior year. No charges may be paid until the plan and report have been submitted to the department.

(3) The utility imposing the charge and the department of transportation may, however, agree to either higher or lower rates with respect to the construction, operation, or maintenance of any specific storm water control facilities based upon the annual plan prescribed in subsection (2) of this section. If, after mediation, the local government utility and the department of transportation cannot agree upon the proper rate, either may commence an action in the superior court for the county in which the state highway right-of-way is located to establish the proper rate. The court in establishing the proper rate shall take into account the extent and adequacy of storm water control facilities constructed by the department and the actual benefits to the sections of state highway rights-of-way from storm water control facilities constructed,

operated, and maintained by the local government utility. Control of surface water runoff and storm water runoff from state highway rights-of-way shall be deemed an actual benefit to the state highway rights-of-way. The rate for sections of state highway right-of-way as determined by the court shall be set forth in terms of the percentage of the rate for comparable real property, but shall in no event exceed the rate charged for comparable city street or county road right-of-way within the same jurisdiction.

(4) The legislature finds that the federal clean water act (national pollutant discharge elimination system, 40 C.F.R. parts 122-124), the state water pollution control act, chapter 90.48 RCW, and the highway runoff program under chapter 90.71 RCW, mandate the treatment and control of storm water runoff from state highway rights-of-way owned by the department of transportation. Appropriations made by the legislature to the department of transportation for the construction, operation, and maintenance of storm water control facilities are intended to address applicable federal and state mandates related to storm water control and treatment. This section is not intended to limit opportunities for sharing the costs of storm water improvements between cities, counties, and the state.

(5) Any portion of the rate charged by a local government utility to the department of transportation with respect to state highway right-of-way or any section of state highway right-of-way for the construction, operation, and maintenance of storm water control facilities under chapters 35.67, 35.92, 36.89, 36.94, 57.08, and 86.15 RCW that consists of or represents a tax imposed by the district under section 401 of this act must be one hundred percent of the rate for comparable real property.

**Sec. 413.** RCW 29A.36.071 and 2006 c 311 s 9 are each amended to read as follows:

(1) Except as provided to the contrary in RCW 82.14.036, 82.46.021, or 82.80.090, the ballot title of any referendum filed on an enactment or portion of an enactment of a local government and any

other question submitted to the voters of a local government consists of three elements: (a) An identification of the enacting legislative body and a statement of the subject matter; (b) a concise description of the measure; and (c) a question. The ballot title must conform with the requirements and be displayed substantially as provided under RCW 29A.72.050, except that the concise description must not exceed seventy-five words; however, a concise description submitted on behalf of a proposed or existing regional transportation investment district or regional estuary protection and restoration district may exceed seventy-five words. If the local governmental unit is a city, regional estuary protection and restoration district, or a town, the concise statement shall be prepared by the city attorney, district's attorney, or town attorney, as applicable. If the local governmental unit is a county, the concise statement shall be prepared by the prosecuting attorney of the county. If the unit is a unit of local government other than a city, town, regional estuary protection and restoration district, or county, the concise statement shall be prepared by the prosecuting attorney of the county within which the majority area of the unit is located.

(2) A referendum measure on the enactment of a unit of local government shall be advertised in the manner provided for nominees for elective office.

(3) Subsection (1) of this section does not apply if another provision of law specifies the ballot title for a specific type of ballot question or proposition.

**Sec. 414.** RCW 29A.36.090 and 2003 c 111 s 909 are each amended to read as follows:

If any persons are dissatisfied with the ballot title for a local ballot measure that was formulated by the city, town, or district's attorney or prosecuting attorney preparing the same, they may at any time within ten days from the time of the filing of the ballot title, not including Saturdays, Sundays, and legal holidays, appeal to the superior court of the county where the question is to appear on the ballot, by petition setting forth the measure, the ballot title

objected to, their objections to it, and praying for amendment of it. The time of the filing of the ballot title, as used in this section in determining the time for appeal, is the time the ballot title is first filed with the county auditor.

A copy of the petition on appeal together with a notice that an appeal has been taken shall be served upon the county auditor of the county in which filing is made and the official preparing the ballot title in that county. Upon the filing of the petition on appeal, the court shall immediately, or at the time to which a hearing may be adjourned by consent of the appellants, examine the proposed measure, the ballot title filed, and the objections to it and may hear arguments on it, and shall as soon as possible render its decision and certify to and file with the county auditor a ballot title that it determines will meet the requirements of this chapter. The decision of the superior court is final, and the ballot title or statement so certified will be the established ballot title. The appeal must be heard without cost to either party.

NEW SECTION. **Sec. 415.** BONDS. (1) To carry out the purposes of this chapter, the board of a district may authorize the issuance of bonds of the district in one or more series to which it may pledge: (a) One or more taxes levied under the district's authority; (b) the fees and charges authorized in section 403 of this act; and (c) any other amounts derived from any other source and available for the payment of debt service on the bonds. Bonds to which taxes are pledged must be considered general obligation bonds of the district for purposes of calculating the constitutional debt limitation for the district.

(2) The proceeds of bonds issued under this section may be applied to finance or refinance the acquisition, permitting, design, development, construction, or equipping of critical estuary projects, including payments for costs of credit enhancement and other costs of issuance, establishment of reasonable reserves, and capitalizing interest on bonds during and up to eighteen months following completion of construction of a critical estuary project facility.

(3) A district may create funds and accounts for the deposit of pledged taxes, revenues, and other amounts, and for the deposit of bond proceeds as it deems necessary or prudent to issue, secure, and administer the bonds, and may appoint one or more trustees to hold and apply these funds and accounts.

(4) The bonds of a district must bear such date or dates, mature at a time or times, be in denominations, be in form, be registered or registrable in a manner, be made transferable, exchangeable, and interchangeable, be payable in such medium of payment, at a place or places, be subject to terms of redemption, bear a fixed or variable rate or rates of interest, be payable at a time or times, and be sold in a manner and at a price or prices, as the district determines. The bonds must be executed by the chair of the district, by either its duly elected secretary or its treasurer, and by the trustee or paying agent if the district determines to use a trustee or paying agent for the bonds. Execution of the bonds may be by manual or facsimile signature. The term of district bonds may not exceed thirty years.

(5) The bonds of a district are subject to any terms, conditions, covenants, and protective provisions found necessary or desirable by the district, including without limitation the setting aside of reserves, limitations on additional forms of indebtedness, and other provisions the district finds necessary or desirable for the security of bondholders.

(6) Any pledge of taxes, revenue, or other amount by the district under subsection (1) or (11) of this section are valid and binding at the time the pledge is made. The district constitutes a governmental unit within the meaning of RCW 62A.9A-102(a)(45).

(7) When issuing bonds, a district may provide for the future issuance of additional bonds or debt consistent with subsection (1) of this section on a parity with or subordinate to outstanding bonds and the terms and conditions of their issuance. A district may refund any bond of the district in accordance with chapter 39.53 RCW.

(8) The board members of a district and any person executing the bonds are not liable personally on the indebtedness or subject to any personal liability or accountability by reason of their issuance.

(9) A district may, out of any available funds, purchase its bonds for cancellation or retirement.

(10) A district is authorized to enter into contracts with financial institutions, insurance companies, and other public and private entities to provide credit enhancement for its bonds if the district determines that credit enhancement is cost-effective. Each city or county within the area boundaries of the district is authorized, acting through its legislative body, to enter into a contract with the district, with or without consideration and as the parties may mutually agree upon, to provide credit enhancement to facilitate the sale of district bonds.

(11) The financing of a facility is deemed to be a public purpose for each city or county within the area boundaries of the district, and the city or county, acting through its legislative body, is authorized to issue bonds or otherwise contract indebtedness and make the proceeds of bonds and indebtedness available to the district for its purposes upon the terms and conditions that the county or city and the district may mutually agree upon. The district may pledge the taxes, revenues, or other amounts described in subsection (1) of this section to pay and secure bonds and indebtedness of any such city or county.

(12) Except as specifically provided in this section, the bonds must be issued and sold in accordance with chapter 39.46 RCW.

(13) The provisions of this section and any resolution or trust indenture of a district providing for the authorization, issuance, and sale of bonds constitutes a contract with the owners of the bonds, and the provisions thereof shall be enforceable by any owner of the bonds by mandamus or any appropriate suit, action, or proceeding at law or in equity in any court of competent jurisdiction.

## **PART V**

### **USE OF FUNDS**

NEW SECTION. **Sec. 501.** RESTORATION AND PROTECTION. A district is authorized to undertake critical estuary projects to protect and

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restore critical estuaries within its boundaries and to enter into funding contracts with public and private entities for the entities to undertake the critical estuary projects as set forth in its regional funding plan. A district is authorized to use the funds made available to it subject to the regional funding plan for the critical estuary projects as well as for the operations of the district. The funds may be applied to fund all or a portion of critical estuary projects including, without limitation:

- (1) Acquisition of property or interests in property;
- (2) Acquisition of facilities;
- (3) Acquisition of water, mineral, and other natural resource rights;
- (4) Acquisition of water, mineral, fishing, and other natural resource rights;
- (5) Acquisition and distribution of technological devices such as water meters or services to private individuals for the purpose of measurable resource conservation;
- (6) Acquisition and development of data management systems and other technology related to development, implementation, and monitoring of restoration activities;
- (7) Development and construction of capital improvements including, without limitation, public infrastructure for water quality, including wastewater treatment, storm water treatment, on-site sewage systems, and septic system upgrades or replacement; transportation; and other public purposes;
- (8) Environmental improvement and mitigation projects and programs;
- (9) Ecosystem restoration projects designed to restore estuary, nearshore, and floodplain function;
- (10) District monitoring and evaluation of projects and programs undertaken with or without district funding;
- (11) Maintenance and operation of facilities, projects, and programs;
- (12) Natural resource conservation, restoration, and enhancement projects and programs including, but not limited to, fish passage

barrier removal, forest road decommissioning, and riparian improvements;

(13) Education and public outreach efforts designed to influence individual activities and behaviors that would result in environmental benefits to the critical estuary;

(14) Relevant scientific and other research consistent with the strategic science program for Puget Sound of the Puget Sound partnership;

(15) Pollution prevention projects and programs; and

(16) Other projects and programs consistent with the district regional funding plan as determined by such district.

NEW SECTION.     **Sec. 502.**     APPLICATION OF FUNDING.     (1) To the maximum extent practicable, critical estuary projects funded in whole or in part by a district must be undertaken by a project sponsor. A district may itself function as a project sponsor and undertake the critical estuary project if it determines that it is uniquely well suited to do so and that reasonably available options for undertaking a critical estuary project through a project sponsor would yield inferior results; expose the public to greater risk; or be less cost-effective. For critical estuary projects that a district determines will be undertaken by a project sponsor that is a public agency such as public infrastructure projects, the district may designate the agency with which it will contract to provide funding. In the case of a district formed to provide restoration and protection for Puget Sound, the district may designate a project sponsor to undertake a critical estuary project identified by the Puget Sound partnership including, without limitation, a public agency or private entity including the nonprofit entity formed under RCW 90.71.230(5). Project sponsors for other critical estuary projects funded in whole or in part by a district must be selected through competitive processes where feasible in order to meet the following goals, among others:

(a) Ensuring an opportunity for competing project sponsors or critical estuary projects to be considered and evaluated; (b) leveraging funds provided by the district; (c) ensuring cost-effective delivery of

critical estuary projects; (d) maximizing the environmental benefits of critical estuary projects; and (e) providing for ongoing evaluation of the effectiveness of the critical estuary projects to restore or protect the critical estuary. The district must ensure that funding derived from taxes or fees it is authorized to collect are expended by project sponsors in a manner consistent with state and any other applicable law.

(2) Public capital improvements funded in whole or in part by a district must be considered public works under state law. Upon completion, the public capital improvements are owned by the public agency that is the project sponsor for delivering the capital improvement, unless the district, the project sponsor, and any other public agencies providing funding for such capital improvements determine that ownership should remain or vest in another public agency.

(3) District funding decisions are not major actions significantly affecting the quality of the environment subject to review under RCW 43.21C.030(2)(c). Critical estuary projects funded by a district remain subject to the provisions of chapter 43.21C RCW.

NEW SECTION. **Sec. 503.** OVERSIGHT AND EVALUATION. (1) A district shall monitor and evaluate the performance of project sponsors with which it has contracted to undertake critical estuary projects. District funding contracts must provide for appropriate audits of project sponsor performance and compliance with district contract requirements and require reporting as determined necessary and useful by the district and cooperation in district evaluations.

(2) The operations, performance, and critical estuary projects funded by a district formed to protect and restore Puget Sound is subject to the oversight and review by the Puget Sound partnership. The district shall enter into a written agreement with the partnership to provide for detailed reporting by the district regarding the use of its funds and the status and effect of critical estuary projects funded by the district. The district is also subject to the accountability requirements of RCW 90.71.350.

(3) A district formed to protect and restore Puget Sound must be available to assist the Puget Sound partnership in its evaluation of the effectiveness of the partnership's efforts and in the implementation of the action agenda. If requested by the Puget Sound partnership, the district shall enter into a written agreement under which it will participate in and provide funding and critical estuary project information to support the Puget Sound partnership's accountability and financial information efforts, required under RCW 90.71.230(1) (a) and (i). The district shall require that critical estuary projects funded by the district cooperate, as appropriate, in the development and participate in the implementation of such a system.

## PART VI

### MISCELLANEOUS

**Sec. 601.** RCW 36.96.010 and 1999 c 153 s 50 are each amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Special purpose district" means every municipal and quasi-municipal corporation other than counties, cities, and towns. Such special purpose districts shall include, but are not limited to, water-sewer districts, fire protection districts, port districts, public utility districts, county park and recreation service areas, flood control zone districts, diking districts, drainage improvement districts, regional estuary protection and restoration districts, and solid waste collection districts, but shall not include industrial development districts created by port districts, and shall not include local improvement districts, utility local improvement districts, and road improvement districts;

(2) "Governing authority" means the commission, council, or other body which directs the affairs of a special purpose district;

(3) "Inactive" means that a special purpose district, other than a public utility district, is characterized by either of the following criteria:

(a) Has not carried out any of the special purposes or functions for which it was formed within the preceding consecutive five-year period; or

(b) No election has been held for the purpose of electing a member of the governing body within the preceding consecutive seven-year period or, in those instances where members of the governing body are appointed and not elected, where no member of the governing body has been appointed within the preceding seven-year period.

A public utility district is inactive when it is characterized by both criteria (a) and (b) of this subsection.

NEW SECTION. **Sec. 602.** APPLICABILITY OF PUBLIC LAWS. A regional estuary protection and restoration district, its officers, and the board of directors, created under this act, are subject to the general laws regulating local governments and local governmental officials including, but not limited to, the requirement to be audited by the state auditor and various accounting requirements under chapter 43.09 RCW, the open public record requirements under chapter 42.17 RCW, the prohibition on using its facilities for campaign purposes under RCW 42.17.130, the open public meetings law under chapter 42.30 RCW, the code of ethics for municipal officers under chapter 42.23 RCW, and the local government whistleblower law under chapter 42.41 RCW.

NEW SECTION. **Sec. 603.** LEGAL CHALLENGES. Any legal challenges as to the formation of a district must be filed within thirty calendar days of the establishment of a district.

NEW SECTION. **Sec. 604.** Part headings and captions used in this act are not any part of the law.

NEW SECTION. **Sec. 605.** SEVERABILITY. 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.

NEW SECTION. **Sec. 606.** LIBERAL CONSTRUCTION. The provisions of this act shall be liberally construed to effect the policies and purposes of this act.

NEW SECTION. **Sec. 607.** Sections 101 through 401, 403, 404, 410, 415 through 503, and 602 through 606 of this act constitute a new chapter in Title 90 RCW.