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April 25, 2013

Representative Dave Upthegrove
Washington State Legislature
304 John L. O'Brien Building
PO Box 40600
Olympia, WA 98504

Dear Representative Upthegrove:

Thank you for your leadership and support for a Watershed Investment District (WID) stakeholder group to reach consensus on bill language to be introduced in the 2014 legislative session. The SCA Board was pleased to hear that a WID stakeholder group has been included in the House Environmental Committee's interim work plan.

The Sound Cities Association (SCA) was found in the 1970's to help cities act locally and partner regionally to create vital, livable communities. SCA represents 35 cities of King County and provides a voice for nearly one million people.

Our cities are dedicated to finding solutions that will address stormwater management, flood protection, and salmon recovery; unfortunately, many of these solutions often lie outside the boundaries of individual jurisdictions. Cities recognize that there is a tremendous value to forming partnerships that will result in integrated implementation of actions to restore habitat and increase flood control.

Our members are particularly interested in examining the governance and funding issues associated with the formation a Watershed Investment District. The enclosed draft legislation, developed by the Water Resource Inventory Area (WRIA) groups, provides a framework for discussing the governance and funding issues that the cities and our many other stakeholders have faced over the past fifteen years of working together on salmon recovery within the WRIA's.

SCA would be delighted to have representation on the stakeholder group. If there is anything we can do to be of assistance, please don't hesitate to contact Monica Whitman, SCA Senior Policy Analyst, at (206) 433-7169 or myself.

Sincerely,

Denis Law
Mayor, City of Renton
President, Sound Cities Association Board of Directors
Cc: SCA Public Issues Committee
SCA Board of Directors

Encl: Watershed Investment District Summary and Draft Legislation

Background Paper
LOCALLY-BASED GOVERNANCE STRUCTURES & FUNDING
For Watershed Plan Implementation

SCA Public Issues Committee Subcommittee on Watershed Investment

December 4, 2012

In **1993**, the cities and the county recognized that solutions to declining fish populations, flooding, and degrading water quality often lie outside the boundaries of individual jurisdictions, and began dialogue about the interest and need for an integrated, ecosystems approach to managing natural resources and restoring our watersheds .

A regional project was initiated in **1994** called the Regional Needs Assessment to seek solutions to problems that transcend jurisdictional boundaries in the Sammamish, Snoqualmie, Lake Washington/Cedar, Central Puget Sound, and Green/Duwamish watersheds. The project developed trust among the local governments which led to breakthroughs in regional cooperation, namely an agreement that major river flooding, protection and restoration of salmon habitat, and non-point pollution clean-up and monitoring were best addressed cooperatively within these 5 watersheds.

By **1997**, the cities and county forged interlocal agreements that established Watershed Forums of local government elected officials within each of the 5 watersheds. The ILA's provided the governance, policy, and decision making construct for addressing regional needs, setting priorities, and using shared funding across jurisdictional boundaries. Watershed Forums began addressing regional needs and setting priorities in **1998**.

In **1999**, Chinook salmon were listed as Threatened under the Endangered Species Act, prompting the Forums to develop salmon recovery strategies and goals for Water Resource Inventory Areas (WRIA) 7, 8, 9, and 10. The Sammamish and Lake Washington/Cedar Forums merged into a single WRIA 8 Forum, and the Central Sound and Green/Duwamish Forums merged into the WRIA 9 Forum. By **2005**, WRIA recovery plans were completed for putting the listed salmon populations on the road to recovery.

No sustainable, dedicated funding mechanism for implementing the watershed plans has emerged, and unpredictable and intermittent competitive grants remain the primary source of funding to implement WRIA recovery plans from **2006** to present.

The WRIA 9 Watershed Forum began intensively evaluating 25 funding mechanisms in **2009**. By late **2010**, after considerable dialogue among multiple watersheds, a cross-WRIA project was initiated to explore the concept of "watershed investment districts" or a watershed-based governance and funding structure.

A cross-WRIA Leadership Group of city elected officials and staff from WRIA's 7, 8, 9, and 10 developed a ***draft discussion "watershed investment district" bill*** in July **2011**. The draft bill has been reviewed by the King County Prosecuting Attorney's Office.

Following is a listing of the groups and entities that have been given one or more presentations about the watershed investment district draft bill over the past 1-1/2 years since the bill was drafted:

Snoqualmie Watershed Forum
WRIA 8 Salmon Recovery Council
Puget Sound Salmon Recovery Council
Pierce County Executive staff
Snohomish County Executive staff
Washington Environmental Council
The Nature Conservancy
Salmon Recovery Funding Board
Salmon Recovery Lead Entity Advisory Group
King County Executive staff
WRIA 9 Watershed Ecosystem Forum
WRIA 9 Management Committee
Earth Economics
Parametrix
King County Water and Land Resources Division Green River Coordinating Group
King County Water and Land Resources Surface Water Management Division
Puget Sound Partnership (PSP) Management Team
PSP Ecosystem Coordination Board (ECB)
PSP Leadership Council
P SP ECB Funding Subcommittee
PSP Puget Sound Salmon Recovery Council (PSSRC)
PSP PSSRC Funding Subcommittee
WRIA 10/12 Citizens' Advisory Committee
WRIA 7 Snohomish Forum
House of Representatives Environment Committee
South Central Action Area Caucus Group/Lead Implementing Organization
Suburban Cities Association Public Issues Committee
City of Bellingham City Councilmember
American Planning Association, Washington Chapter

In late **2012**, collaboration continues with the Puget Sound Partnership Ecosystem Coordination Board to develop an integrated funding strategy for Puget Sound that includes *Federal, State, and Local* sources of funding for implementing the salmon recovery plans.

WATERSHED INVESTMENT DISTRICT DRAFT LEGISLATION
SECTION-BY-SECTION SUMMARY
July 20, 2011

Sec. 101 Intent

States the legislature's rationale for allowing creation of watershed investment districts and allows creation of districts. Provides that investments in watershed health can be made most efficiently and effectively by having the governing body of the new special purpose district consists of elected officials from local governments within the boundaries of the district.

Sec. 201 Definitions

Provides that a watershed investment district may include all or a portion of a single WRIA, and all or portions of contiguous WRIsAs.

Sec. 301 Creation of a District

Describes the process for a county or counties to create a district. A district's boundaries must be generally contiguous with the boundaries of participating water resource inventory areas. Gives districts taxing authority. Cities containing a majority of the population within a WRIA may petition a county legislative authority requesting a hearing on the formation of a district and requires that county to consider the petition within the form of a proposed ordinance establishing a district within three months of receiving such a petition.

Sec. 302 Governance

Provides that a district will be governed by a board made up of elected officials of counties and cities that are wholly or partly within the district. Board members will include the elected county executive or, if the executive declines, one elected county legislative member appointed by the legislative body from each participating county and the mayor or, if the mayor declines, one elected legislative member appointed by the legislative body from each participating city. Districts with more than 15 participating local governments may choose through execution of an interlocal agreement to create a representational board equal to or less than 15 members. Specifies membership in such a case. Provides for rotating seats for non-permanent members of the board. Provides that each board may appoint an advisory committee of stakeholders or include stakeholders as non-voting members on the board itself.

Sec. 303 Watershed Activities, Programs and Projects

Authorizes a district to use funds for activities and programs to restore and conserve lands and waters and to reduce water pollution within its boundaries. Also allows a district to use funds for its operations and to enter into contracts with public and private entities to carry out activities and programs.

Sec. 304 Watershed Funding Plan

Requires a district to prepare a watershed funding plan within three years of the district's creation. Requires a district board to consider allocating up to 10 percent of the funding to activities and programs identified by individual participating cities and counties. Provides that this allocation be divided among participating cities and counties in proportion to revenues generated within their boundaries. Provides that a funding plan address how it will contribute to the objectives of related efforts aimed at watershed health in the WRIA or WRIs.

Sec. 305 Watershed Funding Proposition

Within seven years of a district's creation, requires the district to present a watershed funding proposition to voters within the district for approval. Requires each county participating in the district to submit a proposition to voters that describes proposed watershed activities, programs and projects and a description of the specific nature and amounts to be charged under a proposed funding mechanism.

Sec. 306 Revenue Sources

Authorizes a district board to fix or impose a fee, tax, surcharge or assessment as approved by a majority of voters within the district and lists a menu of options, including general property tax; utility fee; sales and use tax; real estate excise tax; per parcel assessment; and pollution discharge tax.

Sec. 307 Voter Approval of Watershed Funding Plan

Describes the process for proposing a watershed funding proposition to voters within a district. If voters fail to approve its first funding proposition, allows a district to submit another funding propositions to voters. If voters reject two consecutive funding propositions, the district will be dissolved by ordinance of the participating county or counties that formed it. Provides that the dissolution of a district will not preclude re-establishment of a district with the same boundaries in the future.

Sec. 308 Continued Funding

Describes the process for a district to seek continued funding for activities, programs and projects. A district may present a new funding proposition to voters. It must be based on an updated funding plan. If approved by voters, the funding proposition would be effective for seven to 10 years.

Sec 309 Start-Up Funding for a District

Authorizes the district and participating counties and cities to enter into interlocal agreements under which the counties and cities can provide start-up funding to the district for its administrative costs. Provides that the district must repay these funds. Authorizes districts to receive grants for start-up purposes from federal, state, tribal and private sources.

Sec. 310 Purposes and Powers of a District

Describes the purposes and powers of a district. Among these, a district may maintain an office; receive funds and in-kind services from federal, state, tribal and private sources; sue and be sued; engage consultants and advisers; contract for services with other governmental entities; hire employees; acquire and hold real or personal property; make grants; and enter into interlocal agreements.

Sec. 311 Defense and Indemnity

Provides for defense and indemnification of directors, employees and agents of a district.

Sec. 312 Treasurer

Allows the treasurer or comparable officer of a participating county or city to serve as the ex officio treasurer of a district.

Sec. 401-407 Authorization to Utilize Specific Types of Taxes, Fees or Assessments

These sections amend current state statutes or add language to authorize districts to propose specific assessments, taxes or fees to support implementation of the district's programs and activities as proposed to voters in a watershed funding plan.

Sec. 501 Application of Funding

Provides that—to the maximum extent possible—watershed activities, programs and projects that are funded in whole or in part by a district, must be carried out by an activity, program or project sponsor. Allows a district itself to carry out programs and activities if it finds that the district is specially qualified to do so. Otherwise, a district may designate a public or private entity to function as a activity, program or project sponsor, based on criteria developed by the district.

Sec. 502 Oversight and Evaluation

Provides that districts monitor and evaluate performance of project sponsors, and for allowing audits of contract requirements.

Sec. 503 Dissolution of a District

Describes the process for dissolving a district and distributing assets.

Sec. 601-607 Miscellaneous

Adds watershed investment districts to statutes on special purpose districts. Addresses: applicability of public laws to districts; legal challenges to the formation of a district; and severability.

AN ACT Relating to authorizing the creation of watershed investment districts to provide, subject to voter approval, funding to conserve and restore aquatic habitat in watersheds and reduce water pollution; amending RCW 82.14.050, 82.46.070, 84.52.043, 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 finds that existing efforts and resources are inadequate to preserve and restore the health of lands and waters of Washington State including freshwater and marine water bodies.

(2) The legislature further finds that providing supplemental funding through one or more regional taxes or fees to increase investments in healthy lands and waters will benefit human health, economic vitality, and the ecological health of the lakes, streams, rivers, and marine waters of the state. These investments also will contribute to recovery of species listed as threatened and endangered under the federal Endangered Species Act.

(3) The legislature finds that investments in watershed health can be made most efficiently and effectively by having the governing body of the new special purpose district consist of elected officials from local governments within the boundaries of the special purpose district

(4) The purpose of this act is to authorize the creation of watershed investment districts and authorize supplemental, locally-generated watershed funding, subject to voter approval. Watershed investment districts are to direct funding for conservation and restoration of lands and waters and water pollution control efforts within an area to be defined by the cities and counties that is at a watershed scale at a minimum.

(5) It is the intent of the legislature that revenues raised by watershed investment districts pursuant to this act are not intended to, and shall not be used to, replace existing local or state revenues used for conservation and restoration of land and water.

PART II

DEFINITIONS

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

(1) "District" means a watershed investment district formed in accordance with section 301 of this act.

(2) "Board" means the board of directors, the governing body of a watershed investment district.

(3) "Interlocal agreement" means an agreement entered into under chapter 39.34 RCW that addresses governance and other issues related to the functioning and operations of the watershed investment district.

(4) "Participating county" means a county that is within the boundaries of a watershed investment district.

(5) "Participating city" means a city, town, or village that is within the boundaries of a watershed investment district.

(6) "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.

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

(8) "Activity, program or project sponsor" means a public agency, tribe, or non-profit organization with lead responsibility for undertaking a watershed investment activity, program or project funded in whole or in part by a watershed investment district.

(9) "Watershed" means a water resource inventory area (WRIA) as established in chapter 173-500 WAC. However, for the purpose of this RCW, a watershed investment district may include all or a portion of a single WRIA, and all or portions of contiguous WRIAs.

(10) "Watershed funding plan" means the plan a district is required to develop and approve under section 304 of this act.

(11) "Watershed investment project" means a project that has been identified in a watershed funding plan for possible funding and implementation.

PART III

WATERSHED INVESTMENT DISTRICTS

NEW SECTION. **Sec. 301.** CREATION OF A DISTRICT. (1) A district shall be established by ordinance of each of the counties within which any portion of the proposed district is

located. In forming the district, each county must adopt substantially the same ordinance including the same terms with regard to the proposed district's boundaries and terms of governance as described in section 302 of this chapter.

(2) Cities containing a majority of the population within a WRIA may petition a county legislative authority requesting a hearing on the formation of a district. Upon such receipt of such petition, the county legislative authority shall consider the petition in the form of a proposed ordinance establishing such district within three months of receiving such petition. The county legislative authority shall establish such district if it determines that the public interest will be served by such formation.

(3) The boundaries of a watershed investment district shall generally be coextensive with the boundaries of the involved water resource inventory areas. The boundaries must be drawn to include whole, and not portions of, voting precincts and, to the extent possible, whole taxing districts.

(4) A watershed investment 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 shall be governed by a board composed of elected officials from the participating county or counties and participating city or cities within the boundaries of the district.

(2) Board members shall include: (i) the elected county executive or, if the executive declines, one elected county legislative member appointed by the legislative body from each participating county and (ii) the mayor or, if the mayor declines, one elected legislative member appointed by the legislative body from each participating city. Districts with more than 15 participating cities and counties may choose through execution of an interlocal agreement to create a representational board equal to or less than fifteen members, consisting of (i) the elected county executive or, if the executive declines, one elected county legislative member appointed by the legislative body from each participating county, (ii) the mayor or, if the mayor declines, one elected legislative member appointed by the legislative body from each of the two largest participating cities within the district, and the remaining twelve or lesser number of members shall consist of either the mayor or an elected legislative member appointed

by the legislative body from each participating city who shall serve for a specified term and on a rotational basis with the other appointed officials, so as to provide all participating cities equal opportunity for membership on the board, as provided for in an interlocal agreement. Nonaction on the appointment of members to the board by a participating county or city that results in a vacancy on the board of more than six months, shall constitute a forfeiture of board membership by that county or city for a period of three years.

(3) 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.

(4) The board shall appoint an advisory committee or may include non-voting members on the board to provide advice to the board. Membership on the advisory committee or non-voting members on a district board may include representatives of federal agencies, tribes, state agencies, special purpose districts, businesses, the agricultural community, the forestry community, the fishing community, private property owners, nonprofit corporations, and any other groups or classes of people that the board determines have an interest in the health of the land and water of a watershed.

(5) If a board creates an advisory committee, the board shall establish protocols for the formation, membership, scope of work, and conduct of the committee.

NEW SECTION. **Sec. 303.** WATERSHED ACTIVITIES, PROGRAMS AND PROJECTS. A district is authorized to undertake watershed activities, programs and projects to restore and conserve lands and waters and to reduce water pollution within its boundaries and to enter into funding contracts with public and private entities for the entities to undertake the watershed activities, programs and projects as set forth in its watershed funding plan. A district is authorized to use district funds for activities, programs, projects, project maintenance, and operation of the district, subject to the approved watershed funding plan as described in section 304.

NEW SECTION. **Sec. 304.** WATERSHED FUNDING PLAN. (1) Within three years of the creation of a district under Section 301 of this Act, the district shall prepare a watershed funding plan. The plan must include, but not be limited to:

(a) A general description of watershed activities, programs and 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 watershed activities, programs and 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 activities, programs and projects;

(e) Procedures to monitor progress in implementing the plan and outcomes; and

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

(2) The board of a district must consider allocating up to ten percent of the funding generated by a watershed funding plan to activities, programs and projects identified by individual participating cities and counties. The activities, programs and projects must be consistent with the intent of this legislation. The funds shall be divided among the participating cities and counties proportional to the revenues generated from their geographic areas. The board shall determine the timing and manner of distribution of these funds.

(3) The funding plan shall state how the proposed investments in watershed health will contribute to the objectives of related efforts aimed at watershed health in the watershed investment district.

NEW SECTION. **Sec. 305.** WATERSHED FUNDING PROPOSITION.

Within seven years of the creation of a district under Section 301 of this Act and after a district has completed its watershed funding plan under Section 304 of this Act, the district shall prepare a watershed funding proposition for submission to the voters within the district. This proposition shall contain a general description of the proposed watershed activities, programs and projects to be funded in whole or in part with the proposed watershed investment district funding mechanism, and a description of the specific nature and amounts to be charged under the proposed funding mechanism. Each participating county in the watershed investment district shall submit the proposition as provided by the district to the voters residing within the district in that county at the next special or general election, as requested by the district.

NEW SECTION. **Sec. 306.** REVENUE SOURCES. As part of a watershed funding plan that has been developed in accordance with section 304 of this Act, the board of a district may fix and impose a fee, tax, surcharge, or assessment as approved by a majority of eligible voters within the district set forth in section 305 of this act, and may include:

- (i) general property tax;
- (ii) utility fee;
- (iii) sales and use tax;

- (iv) real estate excise tax;
- (v) per parcel assessment; and
- (vi) pollution discharge tax

NEW SECTION. **Sec. 307.** VOTER APPROVAL. (1) Fees, taxes, surcharges, or assessments authorized by section 306 of this act, section 402 of this act, RCW 82.14.050, RCW 82.46.035, 82.46.070, and 82.52.043 and proposed in a watershed funding plan may only be imposed upon the approval of the funding proposition authorized in Section 305 of this Act by a majority of those voting within the district at an election held for that purpose. Each county within the district shall call for an election in accordance with RCW 29A.04.321(2). The election on any district's funding proposition must be conducted by each participating county in accordance with the election laws of the state.

(2) In the event that the first funding proposition presented to the voters is not approved, the district may submit another proposition to the voters. In the event that voters reject two consecutive funding propositions presented by a district, the district shall be dissolved by ordinance by the participating county or counties that formed the district pursuant to Section 503 of this Act.

(3) The dissolution of a watershed investment district shall not preclude the re-establishment of a district using the same or similar boundaries at a future date.

NEW SECTION **Sec. 308.** CONTINUED FUNDING. (1) Not more than two years prior to the end of the period during which the first funding proposition is in effect, the district may prepare a new funding plan and present a new funding proposition to the voters of the district. Second and subsequent funding propositions approved by voters of the district, and the funding plans they are based upon, shall be in effect for at least seven and no more than ten years.

(2) Voter approval of second and subsequent funding propositions shall be in accordance with Section 307 of this Act.

NEW SECTION. **Sec. 309.** START-UP FUNDING. A district and the participating counties and cities may enter into an interlocal agreement under which the participating counties and cities may advance to the district start-up funding for its administrative costs. Repayment of such funds may be provided for in the interlocal agreement. A district is eligible to receive grant funding for start-up purposes from federal, state, tribal, and private sources.

NEW SECTION. **Sec. 310.** POWERS AND PURPOSES. In addition to providing funding for watershed activities, programs and 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 depositories 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;

(17) Provide grant funds to activity and program sponsors that are located within the boundaries of the district, so long as the use of the grant funds is within the purposes authorized under this chapter;

(18) Enter into interlocal agreements with one or more of its participating cities or counties to provide the services or exercise the powers above in accordance with chapter 39.34; and

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

(20) Convey real property and improvements to participating counties and cities, and to non-profits without regard to consideration, provided, however, that any watershed investment projects conveyed by the district shall continue to be operated, maintained, and repaired by the receiving entity.

NEW SECTION. **Sec. 311.** 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. 312.** TREASURER. At the request of the district, the treasurer or comparable officer of a participating county or city may serve as the ex officio treasurer of the district.

PART IV

PUBLIC FUNDING AND FINANCING FOR RESTORATION AND CONSERVATION

NEW SECTION. **Sec. 401.** A new section is added to chapter 82.14 RCW to read as follows: Upon voter approval under section 305 of this act, the board of a watershed investment 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 0.0X 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.

NEW SECTION. **Sec. 402.** Upon voter approval under section 307 of this act, for the purpose of funding watershed investment projects identified in a watershed funding plan as defined under section 304 of this act, the watershed investment district as defined under section 301 of this act may levy an amount not to exceed ten cents per thousand dollars of assessed valuation against the assessed valuation of all taxable property within the district for one to seven years as set forth in the ballot proposition, as described in section 305 of this Act. 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. A district proposition may be submitted as part of a single ballot proposition under section 305 of this act.

Sec. 403. 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 chapters 36.57A and 82.14.440 RCW, watershed investment 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, watershed investment 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, watershed investment 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, watershed investment districts, regional transportation investment districts, and transportation benefit districts monthly.

Sec. 404. 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 watershed investment district as defined under RCW 90. [in section 201 of this Act] shall identify in its watershed funding plan as defined under RCW 90. [section 304 of this Act] the watershed 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 watershed investment district as defined in RCW 90. [section 201 of this Act] with a watershed funding plan as defined under RCW 90. [section 304 of this Act] may impose an additional excise tax on each sale of real property in the unincorporated areas of the water investment 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), any city within such a county, and any watershed investment 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 proposition of the watershed investment district may be submitted as part of a single ballot proposition under RCW 90. [section 305 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 watershed projects specified in a watershed funding plan as defined under RCW 90. [section 304 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) Watershed projects identified in a watershed funding plan as defined under RCW 90. [section 304 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; 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. 405. 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 under RCW 90. [section 201 of this Act] that has approved a watershed funding plan as defined under RCW 90. [section 304 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 watershed 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 a general or special election. The district proposition may be submitted as part of a single proposition under RCW 90. [section 305 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. 406. 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; (i) the portions of levies by fire protection districts that are protected under RCW 84.52.125; (j) levies by counties for transit-related purposes under RCW 84.52.140; (k) the protected portion of the levies imposed under RCW 86.15.160

by flood control zone districts in a county with a population of
seven hundred seventy-five thousand or more that are
coextensive with a county; and (1) levies imposed by a watershed
investment district under RCW 84.34.230(3) to fund watershed
investment district activities, programs and projects identified
in a watershed funding plan as defined under RCW 90. [section
304 of this Act].

Sec. 407. 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 watershed investment
district as defined in RCW 90. [section 301 of this Act] may

exceed seventy-five words. If the local governmental unit is a city, watershed investment district, or a town, the concise statement shall be prepared by the city attorney, watershed investment 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, watershed investment 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. 408. 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 watershed investment 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 the 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.

PART V

IMPLEMENTATION OF ACTIVITIES, PROGRAMS AND PROJECTS

NEW SECTION. **Sec. 501.** APPLICATION OF FUNDING. (1) To the maximum extent practicable, watershed activities, programs and projects funded in whole or in part by a district must be undertaken by an activity, program or project sponsor. A district may itself function as an activity, program or project sponsor and undertake the watershed activity, program or project if it determines that it is specially qualified to do so; otherwise, the district may designate a public or private entity to function as an activity, program or project sponsor, based on criteria developed by the district.

(2) Upon completion, the owner of the activity, program or project shall be the sponsor, unless the district in its discretion determines that another public agency or non-profit organization should be the owner.

(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). Watershed activities, programs, and projects funded by a district otherwise remain subject to the other provisions of chapter 43.21C RCW.

NEW SECTION. **Sec. 502.** OVERSIGHT AND EVALUATION. (1) A district shall monitor and evaluate the performance of activity, program or project sponsors with which it has contracted to undertake watershed activities, programs and projects. District

funding contracts must allow for audits of activity, program, or project sponsor performance and compliance with district contract requirements.

New Section. Sec.503. Dissolution of District. A district may be dissolved by the adoption of ordinances of all of the participating counties which formed the district. Prior to the effective date of its dissolution, the district's board shall convey all real property interests and associated watershed investment projects to the jurisdictions within which such interests and projects are located, or if such jurisdiction is unwilling to receive the interests or projects or the district determines that another public agency or non-profit organization should more appropriately own the interest or project, the district may convey to such entity, provided, however, that such real property interests and projects are to continue to be used, operated, maintained and repaired consistent with the purposes for which they were acquired by the district, and the receiving entity shall agree to continue to use, operate, maintain and repair such projects. Upon the pending dissolution of a district, the board may distribute the personal property of the district to the entities receiving the real property interests and projects of the district, upon terms that the board determines to be equitable and fair

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, watershed investment 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 watershed investment 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 affect the policies and purposes of this act.

NEW SECTION. **Sec. 607.** Sections 101 through 402, 501 through 503, and 602 through 606 of this act constitute a new chapter in Title 90 RCW.