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**SUBSTITUTE HOUSE BILL 2026**

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**State of Washington                      52nd Legislature                      1991 Regular Session**

**By** House Committee on Natural Resources & Parks (originally sponsored by Representatives Fraser, Miller, Valle, Rayburn, McLean, Belcher, Jacobsen, Nealey, Paris, Winsley and Chandler; by request of Jnt Sel Com on Water Resource Policy).

Read first time March 6, 1991.

1            AN ACT Relating to water resource management; amending RCW  
2 90.03.380, 19.27.170, 35.67.020, 56.16.090, 57.20.020, 54.24.080,  
3 80.28.010, and 80.28.025; reenacting and amending RCW 35.92.010; adding  
4 new sections to chapter 90.54 RCW; adding a new section to chapter  
5 90.14 RCW; adding a new section to chapter 84.36 RCW; adding a new  
6 section to chapter 82.04 RCW; adding a new section to chapter 82.12  
7 RCW; adding a new section to chapter 43.19 RCW; adding a new section to  
8 chapter 90.03 RCW; adding a new section to chapter 18.104 RCW; adding  
9 a new chapter to Title 90 RCW; adding new chapters to Title 82 RCW;  
10 creating new sections; prescribing penalties; making appropriations;  
11 and providing expiration dates.

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

13            NEW SECTION.    **Sec. 1.**            (1) The legislature finds that:  
14            (a) The state of Washington is faced with a continuing shortage of  
15 water with which to meet existing and future water needs;

1 (b) The state, local governments, federally recognized tribal  
2 governments, and various private interests representing a broad range  
3 of water users and interests have agreed to pursue a cooperative water  
4 resources planning and management effort. This effort will address  
5 both current water needs, conflicts, critical situations, and long-term  
6 future needs;

7 (c) Conservation and water use efficiency programs should be the  
8 preferred method of addressing water uses because they can relieve  
9 current critical water situations, provide for presently unmet needs,  
10 and assist in meeting future water needs. It is further recognized  
11 that other combinations of water management tools may be necessary to  
12 resolve particular water resource needs within regions of the state;  
13 and

14 (d) The interests of the state will be served by developing  
15 programs and regional water resource plans, in cooperation with local  
16 governments, federally recognized tribal governments, appropriate  
17 federal agencies, private citizens, and the various water users and  
18 water interests in the state, that increase the overall ability to  
19 manage the state's waters in order to better satisfy both present and  
20 future needs for water.

21 (2) Consistent with the findings of this section, the purposes of  
22 this act are to:

23 (a) Improve the ability of the state to work with the United  
24 States, local governments, federally recognized tribal governments,  
25 water users, and various water interests in water conservation and  
26 water use efficiency programs designed to satisfy existing rights,  
27 presently unmet needs, and future needs, both instream and out-of-  
28 stream;

29 (b) Establish new incentives, enhance existing incentives, and  
30 remove disincentives for efficient water use;

1 (c) Establish improved means to disseminate information to the  
2 public and provide technical assistance regarding ways to improve the  
3 efficiency of water use;

4 (d) Create a trust water rights mechanism for the acquisition of  
5 water rights on a voluntary basis to be used to meet presently unmet  
6 needs and future needs;

7 (e) Accelerate the adoption of water efficiency, conservation, and  
8 recycling, including water efficient plumbing fixtures, irrigation  
9 systems and methods, landscaping techniques, conservation rates,  
10 conservation plans, and wastewater reclamation and reuse;

11 (f) Eliminate tax disincentives to water conservation, reuse, and  
12 improved water use efficiency;

13 (g) Require evaluation of state facilities and property to identify  
14 cost-effective water use efficiency improvement opportunities;

15 (h) Add achievement of water conservation as a factor to be  
16 considered by water supply utilities in setting water rates;

17 (i) Establish a water restoration account for deposit of water  
18 resources civil penalties and for use in restoring damaged water and  
19 related resources; and

20 (j) Establish means for providing funding for water resources  
21 related initiatives, including planning and water conservation.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.54 RCW  
23 to read as follows:

24 (1) State funding of water resource, supply, and quality related  
25 capital programs, both current and future, shall, to the maximum extent  
26 possible within state or federal legal requirements, be directed to  
27 assist in the resolution of current conflicts and implementation of  
28 regional water resource plans with priority given to current needs over  
29 new requirements.

1 (2) Priority shall be given, to the maximum extent possible within  
2 state or federal legal requirements, to those water conservation  
3 projects funded by the state that will result in the greatest water  
4 savings.

5 NEW SECTION. **Sec. 3.** (1) The legislature finds that a need  
6 exists for a means to facilitate the voluntary transfer of water and  
7 water rights, including conserved water, to provide water for presently  
8 unmet needs and emerging needs. The purpose of this chapter is to  
9 provide the mechanism for accomplishing this in a manner that will not  
10 impair existing rights to water.

11 (2) This chapter applies to all areas of the state except the  
12 Yakima river basin, which is governed by chapter 90.38 RCW.

13 NEW SECTION. **Sec. 4.** Unless the context clearly requires  
14 otherwise, the definitions in this section apply throughout this  
15 chapter.

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

17 (2) "Net water savings" means the amount of water that is  
18 determined to be conserved and usable for other purposes without  
19 impairing water rights existing at the time that a water conservation  
20 project is undertaken, reducing the ability to deliver water, or  
21 reducing the supply of water that otherwise would have been available  
22 to other existing water uses.

23 (3) "Trust water right" means any water right acquired by the state  
24 under this chapter for management in the state's trust water rights  
25 program.

26 (4) "Water conservation project" means any project or program that  
27 achieves physical or operational improvements that provide for  
28 increased water use efficiency in existing systems of diversion,

1 conveyance, application, or use of water under water rights existing on  
2 the effective date of this section.

3 NEW SECTION. **Sec. 5.** (1) For purposes of this chapter, the  
4 state may enter into contracts to provide moneys to assist in the  
5 financing of water conservation projects. In consideration for the  
6 financial assistance provided, the state shall obtain public benefits  
7 defined in guidelines developed under section 8 of this act.

8 (2) If the public benefits to be obtained require conveyance or  
9 modification of a water right, the recipient of funds shall convey to  
10 the state the recipient's interest in that part of the water right or  
11 claim constituting all or a portion of the resulting net water savings  
12 for deposit in the trust water rights program. The amount to be  
13 conveyed shall be finitely determined by the parties, in accordance  
14 with the guidelines developed under section 8 of this act, before the  
15 expenditure of state funds. Conveyance may consist of complete  
16 transfer, lease contracts, or other legally binding agreements.

17 (3) If, as a result of a water conservation project and conveyance  
18 to the state of net water savings as provided in this section, the  
19 remaining water right of the participant is in excess of the quantity  
20 that can be beneficially used, the participant may be required to  
21 relinquish the excess portion of the remaining water right.

22 (4) No contract for acquisition of trust water rights under this  
23 section may be entered into by the state unless it appears that, upon  
24 completion of a water conservation project or program financed with  
25 moneys as provided in this section, a valid water right or portion  
26 thereof will exist for conveyance to the state.

27 (5) The state shall cooperate fully with the United States in the  
28 implementation of this chapter. Trust water rights may be acquired  
29 through expenditure of funds provided by the United States and shall be

1 treated in the same manner as trust water rights resulting from the  
2 expenditure of state funds.

3 (6) If water is proposed to be acquired by or conveyed to the state  
4 as a trust water right by an irrigation district, evidence of the  
5 district's authority to represent the water right holders shall be  
6 submitted to and for the satisfaction of the department.

7 (7) The state shall not contract with any person to acquire a water  
8 right served by an irrigation district without the approval of the  
9 board of directors of the irrigation district. Disapproval by a board  
10 shall be factually based on probable adverse effects on the ability of  
11 the district to deliver water to other members or on maintenance of the  
12 financial integrity of the district.

13 NEW SECTION. **Sec. 6.** (1) The state may acquire all or  
14 portions of existing water rights, by purchase, gift, or other  
15 appropriate means other than by condemnation, from any person or entity  
16 or combination of persons or entities. Once acquired, such rights are  
17 trust water rights.

18 (2) The department may enter into leases, contracts, or such other  
19 arrangements with other persons or entities as appropriate, to ensure  
20 that trust water rights acquired in accordance with this chapter may be  
21 exercised to the fullest possible extent.

22 (3) Trust water rights may be acquired by the state on a temporary  
23 or permanent basis.

24 NEW SECTION. **Sec. 7.** (1) All trust water rights acquired by  
25 the state shall be placed in the state trust water rights program to be  
26 managed by the department. Trust water rights acquired by the state  
27 shall be held or authorized for use by the department for instream  
28 flows, irrigation, municipal, or other beneficial uses consistent with

1 applicable regional plans and critical resource area agreements, or for  
2 other areas of the state as determined by the department under the  
3 guidelines required in section 8 of this act.

4 (2) The department shall issue a water right certificate in the  
5 name of the state of Washington for each permanent trust water right  
6 conveyed to the state and shall issue a superseding certificate, if  
7 applicable, to the original water right holder for the portion of the  
8 water right required for beneficial use following such conveyance. The  
9 superseding certificate shall retain the same priority date as the  
10 original right. For nonpermanent conveyances, the department shall  
11 issue certificates or such other instruments as are necessary to  
12 reflect the changes in purpose or place of use or point of diversion or  
13 withdrawal. Water rights for which such nonpermanent conveyances are  
14 arranged shall not be subject to relinquishment for nonuse.

15 (3) A trust water right retains the same priority date as the water  
16 right from which it originated, but as between them the trust right  
17 shall be deemed to be inferior in priority unless otherwise specified  
18 by an agreement between the state and the party holding the original  
19 right.

20 (4) Exercise of a trust water right may be authorized only if the  
21 department first determines that neither water rights existing at the  
22 time the trust water right is established, nor the public interest will  
23 be impaired. If impairment becomes apparent during the time a trust  
24 water right is being exercised, the department shall cease or modify  
25 the use of the trust water right to eliminate the impairment.

26 (5) Before any trust water right is created or modified, the  
27 department shall, at a minimum, require that a notice be published in  
28 a newspaper of general circulation published in the county or counties  
29 in which the storage, diversion, and use are to be made, and in other  
30 newspapers as the department determines is necessary, once a week for

1 two consecutive weeks. At the same time the department shall send a  
2 notice containing pertinent information to all appropriate state  
3 agencies, potentially affected local governments and federally  
4 recognized tribal governments, and other interested parties.

5 (6) RCW 90.14.140 through 90.14.230 have no applicability to trust  
6 water rights held by the department under this chapter or exercised  
7 under this section.

8 (7) RCW 90.03.380 has no applicability to trust water rights  
9 acquired by the state through the funding of water conservation  
10 projects.

11 NEW SECTION. **Sec. 8.** The department, in cooperation with  
12 federally recognized Indian tribes, local governments, state agencies,  
13 and other interested parties, shall establish guidelines by July 1,  
14 1992, governing the acquisition, administration, and management of  
15 trust water rights. The guidelines shall address at a minimum the  
16 following:

17 (1) Methods for determining the net water savings resulting from  
18 water conservation projects or programs carried out in accordance with  
19 this chapter, and other factors to be considered in determining the  
20 quantity or value of water available for potential designation as a  
21 trust water right;

22 (2) Criteria for determining the portion of net water savings to be  
23 conveyed to the state under this chapter;

24 (3) Criteria for prioritizing water conservation projects;

25 (4) A description of potential public benefits that will affect  
26 consideration for state financial assistance in section 5 of this act;

27 (5) Procedures for providing notification to potentially interested  
28 parties;

1 (6) Criteria for the assignment of uses of trust water rights  
2 acquired in areas of the state not addressed in a regional water  
3 resource plan or critical area agreement; and

4 (7) Contracting procedures and other procedures not specifically  
5 addressed in this section.

6 NEW SECTION. **Sec. 9.** The policies and purposes of this  
7 chapter shall not be construed as replacing or amending the policies or  
8 the purposes for which funds available under chapter 43.83B or 43.99E  
9 RCW may be used.

10 NEW SECTION. **Sec. 10.** Nothing in this chapter authorizes the  
11 involuntary impairment of any existing water rights, nor shall this  
12 chapter apply to any projects or programs within the exterior  
13 boundaries of any Indian reservation without the express approval of  
14 the tribe.

15 NEW SECTION. **Sec. 11.** A new section is added to chapter 90.14 RCW  
16 to read as follows:

17 This chapter shall not apply to trust water rights held or  
18 exercised by the department of ecology under chapter 90.38 or 90.-- RCW  
19 (sections 3 through 10 of this act).

20 **Sec. 12.** RCW 90.03.380 and 1987 c 109 s 94 are each amended to  
21 read as follows:

22 The right to the use of water which has been applied to a  
23 beneficial use in the state shall be and remain appurtenant to the land  
24 or place upon which the same is used: PROVIDED, HOWEVER, That said  
25 right may be transferred to another or to others and become appurtenant  
26 to any other land or place of use without loss of priority of right

1 theretofore established if such change can be made without detriment or  
2 injury to existing rights. The point of diversion of water for  
3 beneficial use or the purpose of use may be changed, if such change can  
4 be made without detriment or injury to existing rights. Before any  
5 transfer of such right to use water or change of the point of diversion  
6 of water or change of purpose of use can be made, any person having an  
7 interest in the transfer or change, shall file a written application  
8 therefor with the department, and said application shall not be granted  
9 until notice of said application shall be published as provided in RCW  
10 90.03.280. If it shall appear that such transfer or such change may be  
11 made without injury or detriment to existing rights, the department  
12 shall issue to the applicant a certificate in duplicate granting the  
13 right for such transfer or for such change of point of diversion or of  
14 use. The certificate so issued shall be filed and be made a record  
15 with the department and the duplicate certificate issued to the  
16 applicant may be filed with the county auditor in like manner and with  
17 the same effect as provided in the original certificate or permit to  
18 divert water.

19 This section shall not apply to trust water rights acquired by the  
20 state through the funding of water conservation projects under chapter  
21 90.38 or 90.-- RCW (sections 3 through 10 of this 1991 act).

22 **Sec. 13.** RCW 19.27.170 and 1989 c 348 s 8 are each amended to read  
23 as follows:

24 (1) The state building code council shall adopt rules under chapter  
25 34.05 RCW that implement and incorporate the water conservation  
26 performance standards in subsections (~~((3))~~) (4) and (~~((4))~~) (5) of  
27 this section. These standards shall apply to all new construction and  
28 all remodeling involving replacement of plumbing fixtures in all  
29 residential, hotel, motel, school, industrial, commercial use, or other

1 occupancies determined by the council to use significant quantities of  
2 water.

3 (2) The legislature recognizes that a phasing-in approach to these  
4 new standards is appropriate. Therefore, standards in subsection  
5 (~~((3))~~) (4) of this section shall take effect on July 1, 1990. The  
6 standards in subsection (~~((4))~~) (5) of this section shall take effect  
7 July 1, 1993.

8 (3) No individual, public or private corporation, firm, political  
9 subdivision, government agency, or other legal entity may, for purposes  
10 of use in this state, distribute, sell, offer for sale, import,  
11 install, or approve for installation any plumbing fixtures unless the  
12 fixtures meet the standards as provided for in this section.

13 (4) Standards for water use efficiency effective July 1, 1990.

14 (a) Standards for waterclosets. The guideline for maximum water  
15 use allowed in gallons per flush (gpf) for any of the following  
16 waterclosets is the following:

- 17 Tank-type toilets..... 3.5 gpf.
- 18 Flushometer-valve toilets..... 3.5 gpf.
- 19 Flushometer-tank toilets..... 3.5 gpf.
- 20 Electromechanical hydraulic toilets..... 3.5 gpf.

21 (b) Standard for urinals. The guideline for maximum water use  
22 allowed for any urinal is 3.0 gallons per flush.

23 (c) Standard for showerheads. The guideline for maximum water use  
24 allowed for any showerhead is 3.0 gallons per minute.

25 (d) Standard for faucets. The guideline for maximum water use  
26 allowed in gallons per minute (gpm) for any of the following faucets  
27 and replacement aerators is the following:

- 28 Bathroom faucets..... 3.0 gpm.
- 29 Lavatory faucets..... 3.0 gpm.
- 30 Kitchen faucets..... 3.0 gpm.

1 Replacement aerators..... 3.0 gpm.

2 (e) Except where designed and installed for use by the physically  
3 handicapped, lavatory faucets located in restrooms intended for use by  
4 the general public must be equipped with a metering valve designed to  
5 close by spring or water pressure when left unattended (self-closing).

6 (f) No urinal or watercloset that operates on a continuous flow or  
7 continuous flush basis shall be permitted.

8 ((+4)) (5) Standards for water use efficiency effective July 1,  
9 1993.

10 (a) Standards for waterclosets. The guideline for maximum water  
11 use allowed in gallons per flush (gpf) for any of the following  
12 waterclosets is the following:

13 Tank-type toilets..... 1.6 gpf.

14 Flushometer-tank toilets..... 1.6 gpf.

15 Electromechanical hydraulic toilets..... 1.6 gpf.

16 (b) Standards for urinals. The guideline for maximum water use  
17 allowed for any urinal is 1.0 gallons per flush.

18 (c) Standards for showerheads. The guideline for maximum water use  
19 allowed for any showerhead is 2.5 gallons per minute.

20 (d) Standards for faucets. The guideline for maximum water use  
21 allowed in gallons per minute for any of the following faucets and  
22 replacement aerators is the following:

23 Bathroom faucets..... 2.5 gpm.

24 Lavatory faucets..... 2.5 gpm.

25 Kitchen faucets..... 2.5 gpm.

26 Replacement aerators..... 2.5 gpm.

27 (e) Except where designed and installed for use by the physically  
28 handicapped, lavatory faucets located in restrooms intended for use by  
29 the general public must be equipped with a metering valve designed to  
30 close by water pressure when unattended (self-closing).

1 (f) No urinal or watercloset that operates on a continuous flow or  
2 continuous basis shall be permitted.

3 ~~((5) The building code council shall make an assessment regarding  
4 the low volume fixtures required under subsection (4) of this section.  
5 The assessment shall consider the availability of low volume fixtures  
6 which are technologically feasible, will operate effectively, and are  
7 economically justified. The council shall also assess the potential  
8 impact on the necessary flow or water required to insure sewerage or  
9 septic lines and treatment plants will effectively operate.~~

10 ~~The council shall submit a report to the chief clerk of the house  
11 of representatives and the secretary of the senate by October 30, 1992,  
12 setting forth its conclusions, and any recommendations for legislative  
13 action.))~~

14 (6) The building code council shall establish methods and  
15 procedures for testing and identifying fixtures that meet the standards  
16 established in this section. The council shall use the testing  
17 standards designated as American national standards, written under  
18 American national standards institute procedures or other widely  
19 recognized national testing standards. The council shall either review  
20 test results from independent testing laboratories that are submitted  
21 by manufacturers of plumbing fixtures or accept data submitted to and  
22 evaluated by the international association of plumbing and mechanical  
23 officials. The council shall publish and widely distribute a current  
24 list of fixtures that meet the standards of this section.

25 (7) The building code council shall adopt rules for marking and  
26 labeling fixtures meeting the standards of this section.

27 (8) This section shall not apply to fixtures installed before the  
28 effective date of this section that are removed and relocated to  
29 another room or area of the same building after the effective date of  
30 this section, nor shall it apply to fixtures, as determined by the

1 council, that in order to perform a specialized function, cannot meet  
2 the standards specified in this section.

3 (9) The water conservation performance standards shall supersede  
4 all local government codes. After July 1, 1990, cities, towns, and  
5 counties shall not amend the code revisions and standards established  
6 under subsection (~~((3) or~~) (4) or (5) of this section.

7 NEW SECTION. Sec. 14. Unless the context clearly requires  
8 otherwise, the definitions in this section apply throughout this  
9 chapter.

10 (1) "Applicant" means a person applying for a tax deferral under  
11 this chapter.

12 (2) "Person" has the meaning given in RCW 82.04.030.

13 (3) "Department" means the department of ecology.

14 (4) "Eligible project" means:

15 (a) Acquisition and installation, before December 31, 2001, of  
16 water-conserving irrigation equipment for agricultural use.

17 (b) A modernization project commenced after October 1, 1991,  
18 involving the upgrading of an existing irrigation system through the  
19 acquisition and installation of water-conserving irrigation equipment  
20 for agricultural use.

21 (5) "Water-conserving irrigation equipment" means all new pumping  
22 and piping equipment or other material necessary to move irrigation  
23 water that the department of ecology has certified that, when  
24 installed, will result in the more efficient use of water being used to  
25 grow the same crop or crops on the same land. For purposes of this  
26 chapter, new pumping and piping equipment means either new to the  
27 taxing jurisdiction of the state or new to the certificate holder.  
28 Used equipment may be treated as new equipment if the certificate

1 holder either brings the equipment into Washington or makes a retail  
2 purchase of the equipment in Washington or elsewhere.

3 (6) "Recipient" means a person receiving a tax deferral under this  
4 chapter.

5 (7) "Certificate holder" means an applicant to whom a tax deferral  
6 certificate has been issued.

7 (8) "Operationally complete" means constructed or improved to the  
8 point of being functionally useable for the intended purpose.

9 (9) "Initiation of installation" means that date upon which on-site  
10 installation commences.

11 (10) "For agricultural use" means use by a person exempt from  
12 business and occupation taxes under RCW 82.04.330.

13 NEW SECTION. **Sec. 15.** (1) Application for deferral of taxes  
14 under this chapter shall be made before initiation of installation of  
15 the water-conserving irrigation equipment or acquisition of such  
16 equipment. Application for deferral of taxes for modernization  
17 projects shall be made during the calendar year in which acquisition  
18 and installation of equipment occurs.

19 (2) The application shall be made to the department in a form and  
20 manner prescribed by the department. The application shall contain  
21 information regarding the location of the project, estimated or actual  
22 costs, time schedules for completion and operation, past average annual  
23 irrigation water consumption, estimated future irrigation water  
24 conservation, and other information required by the department.

25 (3) The department shall rule on an application within sixty days.  
26 A certificate holder shall initiate installation within one hundred  
27 eighty days of receiving approval from the department and issuance of  
28 the tax deferral certificate.

1        NEW SECTION.    **Sec. 16.**        Only a person exempt from business and  
2 occupation taxes under RCW 82.04.330 shall be eligible to apply for  
3 deferral of retail sales and use taxes as provided for in this chapter.

4        NEW SECTION.    **Sec. 17.**        The department shall issue a sales and  
5 use tax deferral certificate for state and local sales and use taxes  
6 due under chapters 82.08, 82.12, and 82.14 RCW on each eligible  
7 project. The use of the certificate shall be governed by rules  
8 established by the department of revenue. Upon issuance, the  
9 department shall provide a copy of the certificate to the department of  
10 revenue.

11        NEW SECTION.    **Sec. 18.**        (1) The recipient shall begin paying the  
12 deferred taxes in the third year after the date certified by the  
13 department as the date on which the project is operationally complete.  
14 The first payment shall be due on December 31st of the third calendar  
15 year after such certified date, with subsequent annual payments due on  
16 December 31st of the next succeeding four years with amounts of payment  
17 scheduled as follows:

18	Repayment Year	Percent of Deferred Tax Repaid
19	1	10 percent
20	2	15 percent
21	3	20 percent
22	4	25 percent
23	5	30 percent

24        (2) The department of revenue may authorize an accelerated  
25 repayment schedule upon request of the recipient.

1 (3) Interest shall not be charged on any taxes deferred under this  
2 chapter for the period of deferral, although all other penalties and  
3 interest applicable to delinquent excise taxes may be assessed and  
4 imposed for delinquent payments under this chapter. The debt for  
5 deferred taxes is not extinguished by insolvency or other failure of  
6 the recipient.

7 (4) If the recipient sells the water-conserving irrigation  
8 equipment or the underlying land, the department of revenue may require  
9 that the recipient repay the deferred taxes on an accelerated repayment  
10 schedule.

11 NEW SECTION. **Sec. 19.** The department, along with the  
12 department of revenue and the department of agriculture, shall report  
13 to the legislature about the effects of this chapter on the use of  
14 water-conserving irrigation equipment resulting from the deferral  
15 provided in this chapter. The report shall contain information  
16 concerning the number of deferral certificates granted, the amount of  
17 sales tax deferred, the amount of water conserved annually, and other  
18 information useful in measuring the success of the deferral. Reports  
19 shall be submitted by January 1, 1994, and by January 1 of each year  
20 through 2002.

21 NEW SECTION. **Sec. 20.** The department shall, in consultation  
22 with the department of revenue and the department of agriculture,  
23 develop and adopt such rules, forms, and procedures as are necessary to  
24 implement and administer this exemption. Chapter 82.32 RCW shall apply  
25 to the administration of this chapter.

26 NEW SECTION. **Sec. 21.** Sections 14 through 20 of this act shall  
27 expire December 31, 2002.

1        NEW SECTION.    **Sec. 22.**    A new section is added to chapter 84.36 RCW  
2 to read as follows:

3        (1) All water-conserving irrigation equipment, both real and  
4 personal, shall be exempt from ad valorem taxation.

5        (2) The exemption shall apply only if the taxpayer provides, upon  
6 an application provided by the department of revenue and supplied by  
7 the county assessor, sufficient information for the county assessor to  
8 determine that the property for which the exemption is requested meets  
9 the requirements of this section.

10       (3) The county legislative authority may require that a reasonable  
11 one-time processing fee accompany the application.

12       (4) The county assessor shall make the necessary information,  
13 including copies of chapter ---, Laws of 1991 (this act) and  
14 accompanying rules, readily available to interested persons, and the  
15 county assessor shall render reasonable assistance upon request.

16       (5) For purposes of this exemption, the term "water-conserving  
17 irrigation equipment" means all irrigation equipment that results in  
18 the more efficient use of water to grow crops.

19       (6)(a) Upon removal from agricultural use of the land upon which  
20 water conservation equipment has been installed for which an exemption  
21 has been granted under this section, the owner of the land at the time  
22 of such removal shall remit all amounts of tax that would have been  
23 paid during the previous ten-year period had the equipment not been  
24 exempt from tax under this section, including applicable interest.  
25 Such tax shall be due and payable at the time of sale and shall be  
26 considered delinquent thereafter.

27       (b) Interest shall be charged on any amount of tax becoming due by  
28 reason of removal from agricultural use at the statutory rate charged  
29 on delinquent property taxes from the dates on which such tax could

1 have been paid without penalty if the irrigation equipment had been  
2 assessed without regard to this section.

3 (c) All amounts of tax becoming due as result of removal from  
4 agricultural use, together with applicable interest, shall become a  
5 lien at the time of removal upon the property against which such taxes  
6 are imposed. This lien shall have priority to and shall be fully paid  
7 and satisfied before any recognizance, mortgage, judgment, debt,  
8 obligation, or responsibility to or with which such property may become  
9 chargeable.

10 (d) In the case of real property taxes becoming due as a result of  
11 removal from agricultural use, the lien may be foreclosed upon  
12 expiration of the same period after delinquency and in the same manner  
13 provided by law for foreclosure of liens for delinquent real property  
14 taxes as provided in RCW 84.64.050.

15 (e) Personal property taxes becoming due as a result of removal  
16 from agricultural use shall be subject to collection by the county  
17 treasurer in the manner as provided for the collection of delinquent  
18 personal property taxes in chapter 84.56 RCW.

19 (7) The department of revenue shall adopt such rules as are  
20 necessary for the administration of this section.

21 (8) This exemption shall be effective for taxes assessed in 1992  
22 for collection in 1993.

23 NEW SECTION. **Sec. 23.** A new section is added to chapter 82.04 RCW  
24 to read as follows:

25 The tax imposed by RCW 82.04.240 shall not apply to the treatment  
26 or processing of effluent water purchased for commercial use directly  
27 from a sewage treatment facility operated by any county, city, town,  
28 political subdivision, or municipal or quasi-municipal corporation of  
29 this state.

1        NEW SECTION.    **Sec. 24.**        Unless the context clearly requires  
2 otherwise, the definitions in this section apply throughout this  
3 chapter.

4        (1) "Water distribution system" means a system for the distribution  
5 of water for hire or sale operated by a person subject to the tax  
6 imposed by RCW 82.16.020.

7        (2) "Person" shall have the meaning in RCW 82.04.030.

8        (3) "Department" means the department of revenue.

9        (4) "Taxpayer" means that person upon whom the tax under this  
10 chapter is imposed.

11       (5) "Water system operator" means any person operating a water  
12 distribution system subject to the tax imposed by RCW 82.16.020 who  
13 permits a taxpayer to make a connection to such system for the delivery  
14 of water to the taxpayer.

15       NEW SECTION.    **Sec. 25.**        There is imposed on each person making  
16 a connection to a water distribution system for the purpose of the  
17 delivery of water to such person a tax in the amount of two dollars per  
18 year for each connection.

19       NEW SECTION.    **Sec. 26.**        The water system operator shall collect  
20 the tax imposed in this chapter. If any person charged with collecting  
21 the tax fails to bill the taxpayer for the tax, or in the alternative  
22 has not notified the taxpayer in writing of the imposition of the tax,  
23 or having collected the tax, fails to pay it to the department in the  
24 manner prescribed by this chapter, whether such failure is the result  
25 of the person's own acts or the result of acts or conditions beyond the  
26 person's control, he or she shall, nevertheless, be personally liable  
27 to the state for the amount of the tax.

1        NEW SECTION.    **Sec. 27.**        (1) Taxes collected under this chapter  
2 shall be held in trust until paid to the state.    Any person collecting  
3 the tax who appropriates or converts the tax collected shall be guilty  
4 of a gross misdemeanor if the money required to be collected is not  
5 available for payment on the date payment is due.    The tax required by  
6 this chapter to be collected shall be stated separately from other  
7 charges made by the water system operator in any invoice or other  
8 statement of account provided to the taxpayer.

9        (2) If a taxpayer fails to pay the tax imposed by this chapter to  
10 the person charged with collection of the tax and the person charged  
11 with collection fails to pay the tax to the department, the department  
12 may, in its discretion, proceed directly against the taxpayer for  
13 collection of the tax.

14        (3) The tax shall be due from the water system operator at the end  
15 of the tax period in which the tax is received from the taxpayer.

16        (4) The amount of tax, until paid by the taxpayer to the water  
17 system operator or to the department, shall constitute a debt from the  
18 taxpayer to the water system operator and any person required to  
19 collect the tax who fails or refuses to do so as required with intent  
20 to violate the provisions of this chapter, and any taxpayer who refuses  
21 to pay any tax due under this chapter shall be guilty of a misdemeanor.

22        (5) Taxes received by the state under the provisions of this  
23 chapter shall be deposited into the water management account created in  
24 section 43 of this act.

25        NEW SECTION.    **Sec. 28.**        The taxes imposed in this chapter shall  
26 not apply to any agency, division, or branch of the federal government  
27 or to services rendered under a contract therewith.

1        NEW SECTION.    **Sec. 29.**        Chapter 82.32 RCW shall apply to the  
2 taxes imposed under this chapter.

3        NEW SECTION.    **Sec. 30.**        The department of revenue shall adopt  
4 such rules as may be necessary to enforce and administer this chapter.

5        NEW SECTION.    **Sec. 31.**        The expiration of this chapter shall not  
6 be construed as affecting any existing right acquired or liability or  
7 obligation incurred under any section making up a part of this chapter  
8 or under any rule or order adopted under that section, nor as affecting  
9 any proceeding instituted under that section.

10       NEW SECTION.    **Sec. 32.**        This chapter shall expire June 30, 1993.

11       NEW SECTION.    **Sec. 33.**        A new section is added to chapter 82.12 RCW  
12 to read as follows:

13        This chapter shall not apply with respect to the use of treated or  
14 processed effluent water purchased for commercial use directly from a  
15 sewage treatment facility operated by any county, city, town, political  
16 subdivision, or municipal or quasi-municipal corporation of this state.

17       NEW SECTION.    **Sec. 34.**        A new section is added to chapter 43.19 RCW  
18 to read as follows:

19        (1) The department of general administration, in consultation with  
20 the department of ecology and with state agencies and institutions that  
21 manage or occupy state facilities and property, shall develop and  
22 initiate a program to evaluate all state-owned facilities and state-  
23 owned property to determine the potential for improving the efficiency  
24 of water use.

1 (2) By July 1, 1993, the department shall report to the appropriate  
2 committees of the senate and the house of representatives outlining the  
3 results of the evaluation, making recommendations for installing cost-  
4 effective water use efficiency measures, and estimating the water  
5 savings and net cost savings associated with the measures. The report  
6 shall also be provided to affected state agencies and institutions.

7 (3) Each state agency, institution, or other branch of government  
8 shall request appropriations to implement the cost-effective water  
9 saving measures identified by the department in its facility or  
10 property evaluations. The department shall prepare guidelines and  
11 shall provide technical assistance to agencies and institutions in  
12 evaluating water savings, pay-back period, and cost-effectiveness of  
13 implementing water use efficiency measures.

14 **Sec. 35.** RCW 35.67.020 and 1965 c 7 s 35.67.020 are each amended  
15 to read as follows:

16 Every city and town may construct, condemn and purchase, acquire,  
17 add to, maintain, conduct, and operate systems of sewerage and systems  
18 and plants for refuse collection and disposal together with additions,  
19 extensions, and betterments thereto, within and without its limits,  
20 with full jurisdiction and authority to manage, regulate, and control  
21 them and to fix, alter, regulate, and control the rates and charges for  
22 the use thereof: PROVIDED, That the rates charged must be uniform for  
23 the same class of customers or service. In classifying customers  
24 served or service furnished by such system of sewerage, the city or  
25 town legislative body may in its discretion consider any or all of the  
26 following factors: The difference in cost of service to the various  
27 customers; the location of the various customers within and without the  
28 city or town; the difference in cost of maintenance, operation, repair,  
29 and replacement of the various parts of the system; the different

1 character of the service furnished various customers; the quantity and  
2 quality of the sewage delivered and the time of its delivery; the  
3 achievement of water conservation goals and the discouragement of  
4 wasteful water use practices; capital contributions made to the system,  
5 including but not limited to, assessments; and any other matters which  
6 present a reasonable difference as a ground for distinction.

7       **Sec. 36.** RCW 35.92.010 and 1985 c 445 s 4 and 1985 c 444 s 2 are  
8 each reenacted and amended to read as follows:

9       A city or town may construct, condemn and purchase, purchase,  
10 acquire, add to, alter, maintain and operate waterworks, within or  
11 without its limits, for the purpose of furnishing the city and its  
12 inhabitants, and any other persons, with an ample supply of water for  
13 all purposes, public and private, including water power and other power  
14 derived therefrom, with full power to regulate and control the use,  
15 distribution, and price thereof: PROVIDED, That the rates charged must  
16 be uniform for the same class of customers or service. Such waterworks  
17 may include facilities for the generation of electricity as a byproduct  
18 and such electricity may be used by the city or town or sold to an  
19 entity authorized by law to distribute electricity. Such electricity  
20 is a byproduct when the electrical generation is subordinate to the  
21 primary purpose of water supply. In classifying customers served or  
22 service furnished, the city or town governing body may in its  
23 discretion consider any or all of the following factors: The  
24 difference in cost of service to the various customers; location of the  
25 various customers within and without the city or town; the difference  
26 in cost of maintenance, operation, repair, and replacement of the  
27 various parts of the system; the different character of the service  
28 furnished various customers; the quantity and quality of the water  
29 furnished; the time of its use; the achievement of water conservation

1 goals and the discouragement of wasteful water use practices; capital  
2 contributions made to the system including, but not limited to,  
3 assessments; and any other matters which present a reasonable  
4 difference as a ground for distinction. No rate shall be charged that  
5 is less than the cost of the water and service to the class of  
6 customers served.

7 For such purposes any city or town may take, condemn and purchase,  
8 purchase, acquire, and retain water from any public or navigable lake  
9 or watercourse, surface or ground, and, by means of aqueducts or pipe  
10 lines, conduct it to the city or town; and it may erect and build dams  
11 or other works across or at the outlet of any lake or watercourse in  
12 this state for the purpose of storing and retaining water therein up to  
13 and above high water mark; and for all the purposes of erecting such  
14 aqueducts, pipe lines, dams, or waterworks or other necessary  
15 structures in storing and retaining water, or for any of the purposes  
16 provided for by this chapter, the city or town may occupy and use the  
17 beds and shores up to the high water mark of any such watercourse or  
18 lake, and acquire the right by purchase, or by condemnation and  
19 purchase, or otherwise, to any water, water rights, easements or  
20 privileges named in this chapter, or necessary for any of said  
21 purposes, and the city or town may acquire by purchase or condemnation  
22 and purchase any properties or privileges necessary to be had to  
23 protect its water supply from pollution. Should private property be  
24 necessary for any such purposes or for storing water above high water  
25 mark, the city or town may condemn and purchase, or purchase and  
26 acquire such private property. For the purposes of waterworks which  
27 include facilities for the generation of electricity as a byproduct,  
28 nothing in this section may be construed to authorize a city or town  
29 that does not own or operate an electric utility system to condemn  
30 electric generating, transmission, or distribution rights or facilities

1 of entities authorized by law to distribute electricity, or to acquire  
2 such rights or facilities without the consent of the owner.

3 **Sec. 37.** RCW 56.16.090 and 1974 ex.s. c 58 s 3 are each amended to  
4 read as follows:

5 The sewer commissioners of any sewer district, in the event that  
6 such sewer revenue bonds are issued, shall provide for revenues by  
7 fixing rates and charges for the furnishing of sewerage disposal  
8 service to those to whom such service is available. Such rates and  
9 charges may be combined for the furnishing of more than one type of  
10 sewer service such as but not limited to storm or surface water and  
11 sanitary. Such rates and charges are to be fixed as deemed necessary  
12 by such sewer commissioners, so that uniform charges will be made for  
13 the same class of customer or service. In classifying customers served  
14 or service furnished by such system of sewerage, the board of  
15 commissioners may in its discretion consider any or all of the  
16 following factors: The difference in cost of service to the various  
17 customers; the location of the various customers within and without the  
18 district; the difference in cost of maintenance, operation, repair, and  
19 replacement of the various parts of the system; the different character  
20 of the service furnished various customers; the quantity and quality of  
21 the sewage delivered and the time of its delivery; the achievement of  
22 water conservation goals and the discouragement of wasteful water use  
23 practices; capital contributions made to the system including but not  
24 limited to assessments; and any other matters which present a  
25 reasonable difference as a ground for distinction. Such rates are to  
26 be made on a monthly basis and shall produce revenues sufficient to  
27 take care of the costs of maintenance and operation, revenue bond and  
28 warrant interest and principal amortization requirements, and all other  
29 charges necessary for efficient and proper operation of the system.

1       **Sec. 38.** RCW 57.20.020 and 1983 c 167 s 164 are each amended to  
2 read as follows:

3       (1) Whenever any issue or issues of water revenue bonds have been  
4 authorized in compliance with the provisions of RCW 57.16.010 through  
5 57.16.040, said bonds shall be in bearer form or registered as to  
6 principal or interest or both, as provided in RCW 39.46.030, and may  
7 provide for conversion between registered and coupon bonds; shall be in  
8 such denominations, shall be numbered, shall bear such date, and shall  
9 be payable at such time or times up to a maximum period of not to  
10 exceed thirty years as shall be determined by the board of water  
11 commissioners of the district; shall bear interest at such rate or  
12 rates payable at such time or times as authorized by the board; shall  
13 be payable at the office of the county treasurer of the county in which  
14 the water district is located and may also be payable at such other  
15 place or places as the board of water commissioners may determine;  
16 shall be executed by the president of the board of water commissioners  
17 and attested and sealed by the secretary thereof, one of which  
18 signatures may, with the written permission of the signator whose  
19 facsimile signature is being used, be a facsimile; and may have  
20 facsimile signatures of said president or secretary imprinted on any  
21 interest coupons in lieu of original signatures.

22       The water district commissioners shall have power and are required  
23 to create a special fund or funds for the sole purpose of paying the  
24 interest and principal of such bonds into which special fund or funds  
25 the said water district commissioners shall obligate and bind the water  
26 district to set aside and pay a fixed proportion of the gross revenues  
27 of the water supply system or any fixed amount out of and not exceeding  
28 a fixed proportion of such revenues, or a fixed amount or amounts  
29 without regard to any fixed proportion and such bonds and the interest  
30 thereof shall be payable only out of such special fund or funds, but

1 shall be a lien and charge against all revenues and payments received  
2 from any utility local improvement district or districts pledged to  
3 secure such bonds, subject only to operating and maintenance expenses.

4 In creating any such special fund or funds the water district  
5 commissioners of such water district shall have due regard to the cost  
6 of operation and maintenance of the plant or system as constructed or  
7 added to and to any proportion or part of the revenue previously  
8 pledged as a fund for the payment of bonds, warrants or other  
9 indebtedness, and shall not set aside into such special fund a greater  
10 amount or proportion of the revenue and proceeds than in their judgment  
11 will be available over and above such cost of maintenance and operation  
12 and the amount or proportion, if any, of the revenue so previously  
13 pledged. Any such bonds and interest thereon issued against any such  
14 fund as herein provided shall be a valid claim of the owner thereof  
15 only as against the said special fund and its fixed proportion or  
16 amount of the revenue pledged to such fund, and shall not constitute an  
17 indebtedness of such water district within the meaning of the  
18 constitutional provisions and limitations. Each such bond shall state  
19 upon its face that it is payable from a special fund, naming the said  
20 fund and the resolution creating it. Said bonds shall be sold in such  
21 manner, at such price and at such rate or rates of interest as the  
22 water district commissioners shall deem for the best interests of the  
23 water district, either at public or private sale, and the said  
24 commissioners may provide in any contract for the construction and  
25 acquirement of the proposed improvement (and for the refunding of  
26 outstanding local improvement district obligations, if any) that  
27 payment therefor shall be made in such bonds at par value thereof.

28 When any such special fund shall have been heretofore or shall be  
29 hereafter created and any such bonds shall have been heretofore or  
30 shall hereafter be issued against the same a fixed proportion or a

1 fixed amount out of and not to exceed such fixed proportion, or a fixed  
2 amount or amounts without regard to any fixed proportion, of revenue  
3 shall be set aside and paid into said special fund as provided in the  
4 resolution creating such fund or authorizing such bonds, and in case  
5 any water district shall fail thus to set aside and pay said fixed  
6 proportion or amount as aforesaid, the owner of any bond payable from  
7 such special fund may bring suit or action against the water district  
8 and compel such setting aside and payment.

9 (2) Notwithstanding subsection (1) of this section, such bonds may  
10 be issued and sold in accordance with chapter 39.46 RCW.

11 (3) The water district commissioners of any water district, in the  
12 event that such water revenue bonds are issued, shall provide for  
13 revenues by fixing rates and charges for the furnishing of water supply  
14 to those receiving such service, such rates and charges to be fixed as  
15 deemed necessary by such water district commissioners, so that uniform  
16 charges will be made for the same class of customer or service.

17 In classifying customers served or service furnished by such water  
18 supply system, the board of water commissioners may in its discretion  
19 consider any or all of the following factors: The difference in cost  
20 of service to the various customers; the location of the various  
21 customers within and without the district; the difference in cost of  
22 maintenance, operation, repair and replacement of the various parts of  
23 the system; the different character of the service furnished various  
24 customers; the quantity and quality of the water furnished; the time of  
25 its use; the achievement of water conservation goals and the  
26 discouragement of wasteful practices; capital contributions made to the  
27 system including but not limited to assessments; and any other matters  
28 which present a reasonable difference as a ground for distinction.  
29 Such rates shall be made on a monthly basis as may be deemed proper by  
30 such commissioners and as fixed by resolution and shall produce

1 revenues sufficient to take care of the costs of maintenance and  
2 operation, revenue bond and warrant interest and principal amortization  
3 requirements and all other charges necessary for efficient and proper  
4 operation of the system.

5 **Sec. 39.** RCW 54.24.080 and 1959 c 218 s 9 are each amended to read  
6 as follows:

7 (1) The commission of each district which shall have revenue  
8 obligations outstanding shall have the power and shall be required to  
9 establish, maintain, and collect rates or charges for electric energy  
10 and water and other services, facilities, and commodities sold,  
11 furnished, or supplied by the district which shall be fair and  
12 nondiscriminatory and adequate to provide revenues sufficient for the  
13 payment of the principal of and interest on such revenue obligations  
14 for which the payment has not otherwise been provided and all payments  
15 which the district is obligated to set aside in any special fund or  
16 funds created for such purpose, and for the proper operation and  
17 maintenance of the public utility and all necessary repairs,  
18 replacements, and renewals thereof.

19 (2) In establishing rates or charges for water service,  
20 commissioners may in their discretion consider the achievement of water  
21 conservation goals and the discouragement of wasteful water use  
22 practices.

23 **Sec. 40.** RCW 80.28.010 and 1990 1st ex.s. c 1 s 5 are each amended  
24 to read as follows:

25 (1) All charges made, demanded or received by any gas company,  
26 electrical company or water company for gas, electricity or water, or  
27 for any service rendered or to be rendered in connection therewith,  
28 shall be just, fair, reasonable and sufficient.

1 (2) Every gas company, electrical company and water company shall  
2 furnish and supply such service, instrumentalities and facilities as  
3 shall be safe, adequate and efficient, and in all respects just and  
4 reasonable.

5 (3) All rules and regulations issued by any gas company, electrical  
6 company or water company, affecting or pertaining to the sale or  
7 distribution of its product, shall be just and reasonable.

8 (4) Until June 30, 1991:

9 (a) Utility service for residential space heating shall not be  
10 terminated between November 15 through March 15 if the customer:

11 (i) Notifies the utility of the inability to pay the bill,  
12 including a security deposit. This notice should be provided within  
13 five business days of receiving a payment overdue notice unless there  
14 are extenuating circumstances. If the customer fails to notify the  
15 utility within five business days and service is terminated, the  
16 customer can, by paying reconnection charges, if any, and fulfilling  
17 the requirements of this section, receive the protections of this  
18 chapter;

19 (ii) Provides self-certification of household income for the prior  
20 twelve months to a grantee of the department of community development  
21 which administers federally funded energy assistance programs. The  
22 grantee shall determine that the household income does not exceed the  
23 maximum allowed for eligibility under the state's plan for low-income  
24 energy assistance under 42 U.S.C. 8624 and shall provide a dollar  
25 figure that is seven percent of household income. The grantee may  
26 verify information provided in the self-certification;

27 (iii) Has applied for home heating assistance from applicable  
28 government and private sector organizations and certifies that any  
29 assistance received will be applied to the current bill and future  
30 utility bills;

1 (iv) Has applied for low-income weatherization assistance to the  
2 utility or other appropriate agency if such assistance is available for  
3 the dwelling;

4 (v) Agrees to a payment plan and agrees to maintain the payment  
5 plan. The plan will be designed both to pay the past due bill by the  
6 following October 15 and to pay for continued utility service. If the  
7 past due bill is not paid by the following October 15, the customer  
8 shall not be eligible for protections under this chapter until the past  
9 due bill is paid. The plan shall not require monthly payments in  
10 excess of seven percent of the customer's monthly income plus one-  
11 twelfth of any arrearage accrued from the date application is made and  
12 thereafter during November 15 through March 15. A customer may agree  
13 to pay a higher percentage during this period, but shall not be in  
14 default unless payment during this period is less than seven percent of  
15 monthly income plus one-twelfth of any arrearage accrued from the date  
16 application is made and thereafter. If assistance payments are  
17 received by the customer subsequent to implementation of the plan, the  
18 customer shall contact the utility to reformulate the plan; and

19 (vi) Agrees to pay the moneys owed even if he or she moves.

20 (b) The utility shall:

21 (i) Include in any notice that an account is delinquent and that  
22 service may be subject to termination, a description of the customer's  
23 duties in this section;

24 (ii) Assist the customer in fulfilling the requirements under this  
25 section;

26 (iii) Be authorized to transfer an account to a new residence when  
27 a customer who has established a plan under this section moves from one  
28 residence to another within the same utility service area;

29 (iv) Be permitted to disconnect service if the customer fails to  
30 honor the payment program. Utilities may continue to disconnect

1 service for those practices authorized by law other than for nonpayment  
2 as provided for in this subsection. Customers who qualify for payment  
3 plans under this section who default on their payment plans and are  
4 disconnected can be reconnected and maintain the protections afforded  
5 under this chapter by paying reconnection charges, if any, and by  
6 paying all amounts that would have been due and owing under the terms  
7 of the applicable payment plan, absent default, on the date on which  
8 service is reconnected; and

9 (v) Advise the customer in writing at the time it disconnects  
10 service that it will restore service if the customer contacts the  
11 utility and fulfills the other requirements of this section.

12 (c) A payment plan implemented under this section is consistent  
13 with RCW 80.28.080.

14 (5) Every gas company and electrical company shall offer  
15 residential customers the option of a budget billing or equal payment  
16 plan. The budget billing or equal payment plan shall be offered low-  
17 income customers eligible under the state's plan for low-income energy  
18 assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without  
19 limiting availability to certain months of the year, without regard to  
20 the length of time the customer has occupied the premises, and without  
21 regard to whether the customer is the tenant or owner of the premises  
22 occupied.

23 (6) Every gas company, electrical company and water company shall  
24 construct and maintain such facilities in connection with the  
25 manufacture and distribution of its product as will be efficient and  
26 safe to its employees and the public.

27 (7) An agreement between the customer and the utility, whether oral  
28 or written, shall not waive the protections afforded under this  
29 chapter.

1       (8) In establishing rates or charges for water service, water  
2 companies as defined in RCW 80.04.010 may consider the achievement of  
3 water conservation goals and the discouragement of wasteful water use  
4 practices.

5       **Sec. 41.** RCW 80.28.025 and 1980 c 149 s 2 are each amended to read  
6 as follows:

7       (1) In establishing rates for each gas and electric company  
8 regulated by this chapter, the commission shall adopt policies to  
9 encourage meeting or reducing energy demand through cogeneration as  
10 defined in RCW 82.35.020, measures which improve the efficiency of  
11 energy end use, and new projects which produce or generate energy from  
12 renewable resources, such as solar energy, wind energy, hydroelectric  
13 energy, geothermal energy, wood, wood waste, municipal wastes,  
14 agricultural products and wastes, and end-use waste heat. These  
15 policies shall include but are not limited to allowing a return on  
16 investment in measures to improve the efficiency of energy end use,  
17 cogeneration, or projects which produce or generate energy from  
18 renewable resources which return is established by adding an increment  
19 of two percent to the rate of return on common equity permitted on the  
20 company's other investment. Measures or projects encouraged under this  
21 section are those for which construction or installation is begun after  
22 June 12, 1980, and before January 1, 1990, and which, at the time they  
23 are placed in the rate base, are reasonably expected to save, produce,  
24 or generate energy at a total incremental system cost per unit of  
25 energy delivered to end use which is less than or equal to the  
26 incremental system cost per unit of energy delivered to end use from  
27 similarly available conventional energy resources which utilize nuclear  
28 energy or fossil fuels and which the gas or electric company could  
29 acquire to meet energy demand in the same time period. The rate of

1 return increment shall be allowed for a period not to exceed thirty  
2 years after the measure or project is first placed in the rate base.

3 (2) In establishing rates for water companies regulated by this  
4 chapter, the commission may consider the achievement of water  
5 conservation goals and the discouragement of wasteful water use  
6 practices.

7 NEW SECTION. Sec. 42. A new section is added to chapter 90.03 RCW  
8 to read as follows:

9 The water restoration account is created in the state treasury.  
10 All receipts from the collection of penalties under RCW 90.03.600 and  
11 18.104.155 shall be deposited into the account. Moneys in the account  
12 may be spent only after appropriation. Expenditures from the account  
13 may be used only for the restoration of water and related resources  
14 damaged by violations of chapters 18.104, 43.83B, 90.03, 90.22, 90.44,  
15 and 90.54 RCW, and rules, permits, and other documents or orders issued  
16 by the department of ecology in enforcing those chapters.

17 NEW SECTION. Sec. 43. A new section is added to chapter 90.54 RCW  
18 to read as follows:

19 The water management account is created in the state treasury. All  
20 receipts from the taxes in section 25 of this act shall be deposited  
21 into the account. Moneys in the account may be spent only after  
22 appropriation. Expenditures from the account may be used only for  
23 water resources planning and management.

24 NEW SECTION. Sec. 44. A new section is added to chapter 18.104  
25 RCW to read as follows:

26 Civil penalties collected under RCW 18.104.155 shall be deposited  
27 in the water restoration account created in section 42 of this act.

1        NEW SECTION.    **Sec. 45.**        Section 22 of this act shall expire  
2 December 31, 2002.

3        NEW SECTION.    **Sec. 46.**        The sum of four million three hundred  
4 thousand dollars, or as much thereof as may be necessary, is  
5 appropriated for the biennium ending June 30, 1993, from the water  
6 management account to the department of ecology for the purposes of  
7 implementing a cooperative regional water resources planning and  
8 management process including (1) conservation pursuant to this act; (2)  
9 the water resources forum; (3) the critical area consultation process;  
10 (4) enhanced compliance efforts; and (5) a participatory grant program.

11       NEW SECTION.    **Sec. 47.**        The sum of eight hundred twenty-five  
12 thousand dollars, or as much thereof as may be necessary, is  
13 appropriated for the biennium ending June 30, 1993, from the water  
14 management account to the department of health for the purposes of  
15 implementing a cooperative regional water resources planning and  
16 management process, specifically including (1) water reuse standards,  
17 model rates, and a metering program; (2) the water resources forum; and  
18 (3) the critical area consultation process.

19       NEW SECTION.    **Sec. 48.**        The sum of one hundred ten thousand  
20 dollars, or as much thereof as may be necessary, is appropriated for  
21 the biennium ending June 30, 1993, from the water management account to  
22 the state building code council for the purposes of section 13 of this  
23 act.

24       NEW SECTION.    **Sec. 49.**        The sum of two hundred thousand dollars,  
25 or as much thereof as may be necessary, is appropriated for the  
26 biennium ending June 30, 1993, from the water management account to the

1 department of general administration for the purposes of section 18 of  
2 this act.

3 NEW SECTION. **Sec. 50.** The sum of thirty-one thousand five  
4 hundred dollars, or as much thereof as may be necessary, is  
5 appropriated for the biennium ending June 30, 1993, from the water  
6 management account to the department of agriculture for the purpose of  
7 implementing a cooperative regional water resources planning and  
8 management process, specifically (1) the water resources forum and (2)  
9 the critical area consultation process.

10 NEW SECTION. **Sec. 51.** The sum of seventy-four thousand  
11 dollars, or as much thereof as may be necessary, is appropriated for  
12 the biennium ending June 30, 1993, from the water management account to  
13 the parks and recreation commission for the purpose of implementing a  
14 cooperative regional water resources planning and management process,  
15 specifically (1) the water resources forum and (2) the critical area  
16 consultation process.

17 NEW SECTION. **Sec. 52.** The sum of five thousand five hundred  
18 dollars, or as much thereof as may be necessary, is appropriated for  
19 the biennium ending June 30, 1993, from the water management account to  
20 the conservation commission for the purpose of implementing a  
21 cooperative regional water resources planning and management process,  
22 specifically (1) the water resources forum and (2) the critical area  
23 consultation process.

24 NEW SECTION. **Sec. 53.** The sum of eighty-eight thousand  
25 dollars, or as much thereof as may be necessary, is appropriated for  
26 the biennium ending June 30, 1993, from the water management account to

1 the department of wildlife for the purpose of implementing a  
2 cooperative regional water resources planning and management process,  
3 specifically (1) the water resources forum and (2) the critical area  
4 consultation process.

5 NEW SECTION. **Sec. 54.** The sum of seventy-five thousand six  
6 hundred dollars, or as much thereof as may be necessary, is  
7 appropriated for the biennium ending June 30, 1993, from the water  
8 management account to the department of fisheries for the purpose of  
9 implementing a cooperative regional water resources planning and  
10 management process, specifically (1) the water resources forum and (2)  
11 the critical area consultation process.

12 NEW SECTION. **Sec. 55.** Sections 3 through 10 of this act shall  
13 constitute a new chapter in Title 90 RCW.

14 NEW SECTION. **Sec. 56.** Sections 14 through 21 of this act shall  
15 constitute a new chapter in Title 82 RCW.

16 NEW SECTION. **Sec. 57.** Sections 24 through 32 of this act shall  
17 constitute a new chapter in Title 82 RCW.

18 NEW SECTION. **Sec. 58.** This act shall be null and void in the  
19 event that the legislature fails to appropriate funds for this act by  
20 July 1, 1991, and if such appropriation does not derive from new  
21 revenues developed pursuant to this act.

22 NEW SECTION. **Sec. 59.** If any provision of this act or its  
23 application to any person or circumstance is held invalid, the  
24 remainder of the act or the application of the provision to other

1 persons or circumstances is not affected.