

2 **SHB 2055 - H AMD 000731 ADOPTED 4-28-93**

3 By Representatives Anderson, Reams, King

4

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** Perpetuation of fish and wildlife in
8 Washington requires clear, efficient, streamlined, scientific,
9 management from a single state fish and wildlife agency. Such a
10 consolidation will focus existing funds for the greatest protection of
11 species and stocks. It will bring combined resources to bear on
12 securing, managing, and enhancing habitats. It will simplify
13 licensing, amplify research, increase field staff, avoid duplication,
14 and magnify enforcement of laws and rules. It will provide all
15 fishers, hunters, and observers of fish and wildlife with a single
16 source of consistent policies, procedures, and access.

17 NEW SECTION. **Sec. 2.** There is hereby created a department of
18 state government to be known as the department of fish and wildlife.
19 The department shall be vested with all powers and duties transferred
20 to it under this chapter and such other powers and duties as may be
21 authorized by law. All powers, duties, and functions of the department
22 of fisheries and the department of wildlife are transferred to the
23 department of fish and wildlife. All references in the Revised Code of
24 Washington to the director or the department of fisheries or the
25 director or department of wildlife shall be construed to mean the
26 director or department of fish and wildlife.

27 NEW SECTION. **Sec. 3.** As used in this chapter, unless the context
28 indicates otherwise:

- 29 (1) "Department" means the department of fish and wildlife.
30 (2) "Director" means the director of fish and wildlife.
31 (3) "Commission" means the fish and wildlife commission.

32 NEW SECTION. **Sec. 4.** The executive head and appointing authority
33 of the department shall be the director. The director shall be

1 appointed by the governor, with the consent of the senate, and shall
2 serve at the pleasure of the governor. The director shall be paid a
3 salary to be fixed by the governor in accordance with RCW 43.03.040.

4 NEW SECTION. **Sec. 5.** In addition to other powers and duties
5 granted or transferred to the director, the director shall have the
6 following powers and duties:

7 (1) Supervise and administer the department in accordance with law;

8 (2) Appoint personnel and prescribe their duties. Except as
9 otherwise provided, personnel of the department are subject to chapter
10 41.06 RCW, the state civil service law;

11 (3) Enter into contracts on behalf of the agency;

12 (4) Adopt rules in accordance with chapter 34.05 RCW, the
13 administrative procedure act;

14 (5) Delegate powers, duties, and functions as the director deems
15 necessary for efficient administration but the director shall be
16 responsible for the official acts of the officers and employees of the
17 department;

18 (6) Appoint advisory committees and undertake studies, research,
19 and analysis necessary to support the activities of the department;

20 (7) Accept and expend grants, gifts, or other funds to further the
21 purposes of the department;

22 (8) Carry out the policies of the governor and the basic goals and
23 objectives as prescribed by the fish and wildlife commission pursuant
24 to RCW 77.04.055; and

25 (9) Perform other duties as are necessary and consistent with law.

26 NEW SECTION. **Sec. 6.** The director shall appoint such deputy
27 directors, assistant directors, and up to seven special assistants as
28 may be needed to administer the department. These employees are exempt
29 from the provisions of chapter 41.06 RCW.

30 NEW SECTION. **Sec. 7.** The director of fisheries and the director
31 of wildlife shall, by November 15, 1993, jointly submit a plan to the
32 governor for the consolidation and smooth transition of the department
33 of fisheries and the department of wildlife into the department of fish
34 and wildlife so that the department of fish and wildlife will operate
35 as a single entity on July 1, 1994. The wildlife commission shall make
36 recommendations for the consolidation of the agencies to the governor

1 and the two directors. The fish and wildlife commission shall review
2 its area of responsibility in the consolidated agency and submit
3 recommendations by December 1, 1994, to the governor and the
4 appropriate standing committees of the legislature on any necessary
5 changes in its statutory authority. The legislative budget committee
6 shall study the role of the fish and wildlife commission and prepare a
7 report on recommended changes to the governor and the appropriate
8 standing committees of the legislature by December 1, 1994.

9 NEW SECTION. **Sec. 8.** The department of fisheries and the
10 department of wildlife are abolished and their powers, duties, and
11 functions are transferred to the department of fish and wildlife.

12 NEW SECTION. **Sec. 9.** All reports, documents, surveys, books,
13 records, files, papers, or written material connected with the powers,
14 duties, and functions transferred in this act shall be delivered to the
15 custody of the department of fish and wildlife. All cabinets,
16 furniture, office equipment, motor vehicles, and other tangible
17 property employed in connection with the powers, duties, and functions
18 transferred shall be made available to the department of fish and
19 wildlife. All funds, credits, or other assets held in connection with
20 the powers, duties, and functions transferred shall be assigned to the
21 department of fish and wildlife.

22 Any appropriations made in connection with the powers, duties, and
23 functions transferred shall, on the effective date of this section, be
24 transferred and credited to the department of fish and wildlife.

25 Whenever any question arises as to the transfer of any personnel,
26 funds, books, documents, records, papers, files, equipment, or other
27 tangible property used or held in the exercise of the powers and the
28 performance of the duties and functions transferred, or as to the
29 powers, duties, and functions transferred, the director of financial
30 management shall make a determination as to the proper allocation and
31 certify the same to the state agencies concerned.

32 NEW SECTION. **Sec. 10.** All classified employees employed in
33 connection with the powers, duties, and functions transferred are
34 transferred to the jurisdiction of the department of fish and wildlife.
35 All employees classified under chapter 41.06 RCW, the state civil
36 service law, are assigned to the department of fish and wildlife to

1 perform their usual duties upon the same terms as formerly, without any
2 loss of rights, subject to any action that may be appropriate
3 thereafter in accordance with the laws and rules governing state civil
4 service.

5 NEW SECTION. **Sec. 11.** All rules and all pending business before
6 any agency of state government pertaining to the powers, duties, and
7 functions transferred shall be continued and acted upon by the
8 department of fish and wildlife. All existing contracts, obligations,
9 and agreements shall remain in full force and shall be performed by the
10 department of fish and wildlife.

11 NEW SECTION. **Sec. 12.** The transfer of the powers, duties,
12 functions, and personnel shall not affect the validity of any act
13 performed by any employee before the effective date of this section.

14 NEW SECTION. **Sec. 13.** If apportionments of budgeted funds are
15 required because of the transfers directed by sections 9 through 12 of
16 this act, the director of financial management shall certify the
17 apportionments to the agencies affected, the state auditor, and the
18 state treasurer. Each of these shall make the appropriate transfer and
19 adjustments in funds and appropriation accounts and equipment records
20 in accordance with the certification.

21 NEW SECTION. **Sec. 14.** Nothing contained in sections 9 through 13
22 of this act may be construed to alter any existing collective
23 bargaining unit or the provisions of any existing collective bargaining
24 agreement until the agreement has expired or until the bargaining unit
25 has been modified by action of the personnel board as provided by law.

26 **Sec. 15.** RCW 41.06.070 and 1990 c 60 s 101 are each amended to
27 read as follows:

28 The provisions of this chapter do not apply to:

29 (1) The members of the legislature or to any employee of, or
30 position in, the legislative branch of the state government including
31 members, officers, and employees of the legislative council,
32 legislative budget committee, statute law committee, and any interim
33 committee of the legislature;

1 (2) The justices of the supreme court, judges of the court of
2 appeals, judges of the superior courts or of the inferior courts, or to
3 any employee of, or position in the judicial branch of state
4 government;

5 (3) Officers, academic personnel, and employees of state
6 institutions of higher education, the state board for community and
7 technical colleges (~~(education)~~), and the higher education personnel
8 board;

9 (4) The officers of the Washington state patrol;

10 (5) Elective officers of the state;

11 (6) The chief executive officer of each agency;

12 (7) In the departments of employment security, (~~(fisheries,)~~)
13 social and health services, the director and (~~(his)~~) the director's
14 confidential secretary; in all other departments, the executive head of
15 which is an individual appointed by the governor, the director, (~~(his)~~)
16 the director's confidential secretary, and (~~(his)~~) the director's
17 statutory assistant directors;

18 (8) In the case of a multimember board, commission, or committee,
19 whether the members thereof are elected, appointed by the governor or
20 other authority, serve ex officio, or are otherwise chosen:

21 (a) All members of such boards, commissions, or committees;

22 (b) If the members of the board, commission, or committee serve on
23 a part-time basis and there is a statutory executive officer: (i) The
24 secretary of the board, commission, or committee; (ii) the chief
25 executive officer of the board, commission, or committee; and (iii) the
26 confidential secretary of the chief executive officer of the board,
27 commission, or committee;

28 (c) If the members of the board, commission, or committee serve on
29 a full-time basis: (i) The chief executive officer or administrative
30 officer as designated by the board, commission, or committee; and (ii)
31 a confidential secretary to the chairman of the board, commission, or
32 committee;

33 (d) If all members of the board, commission, or committee serve ex
34 officio: (i) The chief executive officer; and (ii) the confidential
35 secretary of such chief executive officer;

36 (9) The confidential secretaries and administrative assistants in
37 the immediate offices of the elective officers of the state;

38 (10) Assistant attorneys general;

1 (11) Commissioned and enlisted personnel in the military service of
2 the state;

3 (12) Inmate, student, part-time, or temporary employees, and part-
4 time professional consultants, as defined by the state personnel board
5 or the board having jurisdiction;

6 (13) The public printer or to any employees of or positions in the
7 state printing plant;

8 (14) Officers and employees of the Washington state fruit
9 commission;

10 (15) Officers and employees of the Washington state apple
11 advertising commission;

12 (16) Officers and employees of the Washington state dairy products
13 commission;

14 (17) Officers and employees of the Washington tree fruit research
15 commission;

16 (18) Officers and employees of the Washington state beef
17 commission;

18 (19) Officers and employees of any commission formed under the
19 provisions of chapter 191, Laws of 1955, and chapter 15.66 RCW;

20 (20) Officers and employees of the state wheat commission formed
21 under the provisions of chapter 87, Laws of 1961 (chapter 15.63 RCW);

22 (21) Officers and employees of agricultural commissions formed
23 under the provisions of chapter 256, Laws of 1961 (chapter 15.65 RCW);

24 (22) Officers and employees of the nonprofit corporation formed
25 under chapter 67.40 RCW;

26 (23) Liquor vendors appointed by the Washington state liquor
27 control board pursuant to RCW 66.08.050: PROVIDED, HOWEVER, That rules
28 and regulations adopted by the state personnel board pursuant to RCW
29 41.06.150 regarding the basis for, and procedures to be followed for,
30 the dismissal, suspension, or demotion of an employee, and appeals
31 therefrom shall be fully applicable to liquor vendors except those part
32 time agency vendors employed by the liquor control board when, in
33 addition to the sale of liquor for the state, they sell goods, wares,
34 merchandise, or services as a self-sustaining private retail business;

35 (24) Executive assistants for personnel administration and labor
36 relations in all state agencies employing such executive assistants
37 including but not limited to all departments, offices, commissions,
38 committees, boards, or other bodies subject to the provisions of this

1 chapter and this subsection shall prevail over any provision of law
2 inconsistent herewith unless specific exception is made in such law;

3 (25) In each agency with fifty or more employees: Deputy agency
4 heads, assistant directors or division directors, and not more than
5 three principal policy assistants who report directly to the agency
6 head or deputy agency heads;

7 (26) All employees of the marine employees' commission;

8 (27) Up to a total of five senior staff positions of the western
9 library network under chapter 27.26 RCW responsible for formulating
10 policy or for directing program management of a major administrative
11 unit. This subsection shall expire on June 30, 1997;

12 (28) In addition to the exemptions specifically provided by this
13 chapter, the state personnel board may provide for further exemptions
14 pursuant to the following procedures. The governor or other
15 appropriate elected official may submit requests for exemption to the
16 personnel board stating the reasons for requesting such exemptions.
17 The personnel board shall hold a public hearing, after proper notice,
18 on requests submitted pursuant to this subsection. If the board
19 determines that the position for which exemption is requested is one
20 involving substantial responsibility for the formulation of basic
21 agency or executive policy or one involving directing and controlling
22 program operations of an agency or a major administrative division
23 thereof, the personnel board shall grant the request and such
24 determination shall be final. The total number of additional
25 exemptions permitted under this subsection shall not exceed one hundred
26 eighty-seven for those agencies not directly under the authority of any
27 elected public official other than the governor, and shall not exceed
28 a total of twenty-five for all agencies under the authority of elected
29 public officials other than the governor. The state personnel board
30 shall report to each regular session of the legislature during an odd-
31 numbered year all exemptions granted under subsections (24), (25), and
32 (28) of this section, together with the reasons for such exemptions.

33 The salary and fringe benefits of all positions presently or
34 hereafter exempted except for the chief executive officer of each
35 agency, full-time members of boards and commissions, administrative
36 assistants and confidential secretaries in the immediate office of an
37 elected state official, and the personnel listed in subsections (10)
38 through (22) of this section, shall be determined by the state
39 personnel board.

1 Any person holding a classified position subject to the provisions
2 of this chapter shall, when and if such position is subsequently
3 exempted from the application of this chapter, be afforded the
4 following rights: If such person previously held permanent status in
5 another classified position, such person shall have a right of
6 reversion to the highest class of position previously held, or to a
7 position of similar nature and salary.

8 Any classified employee having civil service status in a classified
9 position who accepts an appointment in an exempt position shall have
10 the right of reversion to the highest class of position previously
11 held, or to a position of similar nature and salary.

12 A person occupying an exempt position who is terminated from the
13 position for gross misconduct or malfeasance does not have the right of
14 reversion to a classified position as provided for in this section.

15 **Sec. 16.** RCW 43.17.010 and 1989 1st ex.s. c 9 s 810 are each
16 amended to read as follows:

17 There shall be departments of the state government which shall be
18 known as (1) the department of social and health services, (2) the
19 department of ecology, (3) the department of labor and industries, (4)
20 the department of agriculture, (5) (~~the department of fisheries, (6)~~)
21 the department of fish and wildlife, (~~(7)~~) (6) the department of
22 transportation, (~~(8)~~) (7) the department of licensing, (~~(9)~~) (8)
23 the department of general administration, (~~(10)~~) (9) the department
24 of trade and economic development, (~~(11)~~) (10) the department of
25 veterans affairs, (~~(12)~~) (11) the department of revenue, (~~(13)~~)
26 (12) the department of retirement systems, (~~(14)~~) (13) the department
27 of corrections, (~~(15)~~) (14) the department of community development,
28 and (~~(16)~~) (15) the department of health, which shall be charged with
29 the execution, enforcement, and administration of such laws, and
30 invested with such powers and required to perform such duties, as the
31 legislature may provide.

32 **Sec. 17.** RCW 43.17.020 and 1989 1st ex.s. c 9 s 811 are each
33 amended to read as follows:

34 There shall be a chief executive officer of each department to be
35 known as: (1) The secretary of social and health services, (2) the
36 director of ecology, (3) the director of labor and industries, (4) the
37 director of agriculture, (5) (~~the director of fisheries, (6)~~) the

1 director of fish and wildlife, (~~(7)~~) (6) the secretary of
2 transportation, (~~(8)~~) (7) the director of licensing, (~~(9)~~) (8) the
3 director of general administration, (~~(10)~~) (9) the director of trade
4 and economic development, (~~(11)~~) (10) the director of veterans
5 affairs, (~~(12)~~) (11) the director of revenue, (~~(13)~~) (12) the
6 director of retirement systems, (~~(14)~~) (13) the secretary of
7 corrections, (~~(15)~~) (14) the director of community development, and
8 (~~(16)~~) (15) the secretary of health.

9 Such officers, except the secretary of transportation, shall be
10 appointed by the governor, with the consent of the senate, and hold
11 office at the pleasure of the governor. (~~The director of wildlife,~~
12 ~~however, shall be appointed according to the provisions of RCW~~
13 ~~77.04.080. If a vacancy occurs while the senate is not in session, the~~
14 ~~governor shall make a temporary appointment until the next meeting of~~
15 ~~the senate. A temporary director of wildlife shall not serve more than~~
16 ~~one year.)) The secretary of transportation shall be appointed by the
17 transportation commission as prescribed by RCW 47.01.041.~~

18 **Sec. 18.** RCW 42.17.2401 and 1991 c 200 s 404 are each amended to
19 read as follows:

20 For the purposes of RCW 42.17.240, the term "executive state
21 officer" includes:

22 (1) The chief administrative law judge, the director of
23 agriculture, the administrator of the office of marine safety, the
24 administrator of the Washington basic health plan, the director of the
25 department of services for the blind, the director of the state system
26 of community and technical colleges, the director of community
27 development, the secretary of corrections, the director of ecology, the
28 commissioner of employment security, the chairman of the energy
29 facility site evaluation council, the director of the energy office,
30 the secretary of the state finance committee, the director of financial
31 management, the director of (~~fisheries~~) fish and wildlife, the
32 executive secretary of the forest practices appeals board, the director
33 of the gambling commission, the director of general administration, the
34 secretary of health, the administrator of the Washington state health
35 care authority, the executive secretary of the health care facilities
36 authority, the executive secretary of the higher education facilities
37 authority, the director of the higher education personnel board, the
38 executive secretary of the horse racing commission, the executive

1 secretary of the human rights commission, the executive secretary of
2 the indeterminate sentence review board, the director of the department
3 of information services, the director of the interagency committee for
4 outdoor recreation, the executive director of the state investment
5 board, the director of labor and industries, the director of licensing,
6 the director of the lottery commission, the director of the office of
7 minority and women's business enterprises, the director of parks and
8 recreation, the director of personnel, the executive director of the
9 public disclosure commission, the director of retirement systems, the
10 director of revenue, the secretary of social and health services, the
11 chief of the Washington state patrol, the executive secretary of the
12 board of tax appeals, the director of trade and economic development,
13 the secretary of transportation, the secretary of the utilities and
14 transportation commission, the director of veterans affairs, (~~the~~
15 ~~director of wildlife,~~) the president of each of the regional and state
16 universities and the president of The Evergreen State College, each
17 district and each campus president of each state community college;

18 (2) Each professional staff member of the office of the governor;

19 (3) Each professional staff member of the legislature; and

20 (4) Central Washington University board of trustees, board of
21 trustees of each community college, each member of the state board for
22 community and technical colleges (~~(education)~~), state convention and
23 trade center board of directors, committee for deferred compensation,
24 Eastern Washington University board of trustees, Washington economic
25 development finance authority, The Evergreen State College board of
26 trustees, forest practices appeals board, forest practices board,
27 gambling commission, Washington health care facilities authority,
28 higher education coordinating board, higher education facilities
29 authority, higher education personnel board, horse racing commission,
30 state housing finance commission, human rights commission,
31 indeterminate sentence review board, board of industrial insurance
32 appeals, information services board, interagency committee for outdoor
33 recreation, state investment board, liquor control board, lottery
34 commission, marine oversight board, oil and gas conservation committee,
35 Pacific Northwest electric power and conservation planning council,
36 parks and recreation commission, personnel appeals board, personnel
37 board, board of pilotage (~~(commissioners)~~) commissioners, pollution
38 control hearings board, public disclosure commission, public pension
39 commission, shorelines hearing board, state employees' benefits board,

1 board of tax appeals, transportation commission, University of
2 Washington board of regents, utilities and transportation commission,
3 Washington state maritime commission, Washington public power supply
4 system executive board, Washington State University board of regents,
5 Western Washington University board of trustees, and fish and wildlife
6 commission.

7 **Sec. 19.** RCW 43.51.955 and 1987 c 506 s 93 are each amended to
8 read as follows:

9 Nothing in RCW 43.51.946 through 43.51.956 shall be construed to
10 interfere with the powers, duties, and authority of the state
11 department of fish and wildlife or the state fish and wildlife
12 commission to regulate, manage, conserve, and provide for the harvest
13 of wildlife within such area: PROVIDED, HOWEVER, That no hunting shall
14 be permitted in any state park.

15 **Sec. 20.** RCW 75.08.011 and 1990 c 63 s 6 and 1990 c 35 s 3 are
16 each reenacted and amended to read as follows:

17 As used in this title or rules of the director, unless the context
18 clearly requires otherwise:

19 (1) "Director" means the director of (~~(fisheries)~~) fish and
20 wildlife.

21 (2) "Department" means the department of (~~(fisheries)~~) fish and
22 wildlife.

23 (3) "Person" means an individual or a public or private entity or
24 organization. The term "person" includes local, state, and federal
25 government agencies, and all business organizations.

26 (4) "Fisheries patrol officer" means a person appointed and
27 commissioned by the director, with authority to enforce this title,
28 rules of the director, and other statutes as prescribed by the
29 legislature. Fisheries patrol officers are peace officers.

30 (5) "Ex officio fisheries patrol officer" means a commissioned
31 officer of a municipal, county, state, or federal agency having as its
32 primary function the enforcement of criminal laws in general, while the
33 officer is in the appropriate jurisdiction. The term "ex officio
34 fisheries patrol officer" also includes wildlife agents, special agents
35 of the national marine fisheries service, United States fish and
36 wildlife special agents, state parks commissioned officers, department
37 of natural resources enforcement officers, and United States forest

1 service officers, while the agents and officers are within their
2 respective jurisdictions.

3 (6) "To fish" and "to take" and their derivatives mean an effort to
4 kill, injure, harass, or catch food fish or shellfish.

5 (7) "State waters" means all marine waters and fresh waters within
6 ordinary high water lines and within the territorial boundaries of the
7 state.

8 (8) "Offshore waters" means marine waters of the Pacific Ocean
9 outside the territorial boundaries of the state, including the marine
10 waters of other states and countries.

11 (9) "Concurrent waters of the Columbia river" means those waters of
12 the Columbia river that coincide with the Washington-Oregon state
13 boundary.

14 (10) "Resident" means a person who has for the preceding ninety
15 days maintained a permanent abode within the state, has established by
16 formal evidence an intent to continue residing within the state, and is
17 not licensed to fish as a resident in another state.

18 (11) "Nonresident" means a person who has not fulfilled the
19 qualifications of a resident.

20 (12) "Food fish" means those species of the classes Osteichthyes,
21 Agnatha, and Chondrichthyes that shall not be fished for except as
22 authorized by rule of the director. The term "food fish" includes all
23 stages of development and the bodily parts of food fish species.

24 (13) "Shellfish" means those species of marine and freshwater
25 invertebrates that shall not be taken except as authorized by rule of
26 the director. The term "shellfish" includes all stages of development
27 and the bodily parts of shellfish species.

28 (14) "Salmon" means all species of the genus *Oncorhynchus*, except
29 those classified as game fish in Title 77 RCW, and includes:

30	Scientific Name	Common Name
31	<i>Oncorhynchus tshawytscha</i>	Chinook salmon
32	<i>Oncorhynchus kisutch</i>	Coho salmon
33	<i>Oncorhynchus keta</i>	Chum salmon
34	<i>Oncorhynchus gorbuscha</i>	Pink salmon
35	<i>Oncorhynchus nerka</i>	Sockeye salmon

36 (15) "Commercial" means related to or connected with buying,
37 selling, or bartering. Fishing for food fish or shellfish with gear
38 unlawful for fishing for personal use, or possessing food fish or

1 shellfish in excess of the limits permitted for personal use are
2 commercial activities.

3 (16) "To process" and its derivatives mean preparing or preserving
4 food fish or shellfish.

5 (17) "Personal use" means for the private use of the individual
6 taking the food fish or shellfish and not for sale or barter.

7 (18) "Angling gear" means a line attached to a rod and reel capable
8 of being held in hand while landing the fish or a hand-held line
9 operated without rod or reel to which are attached no more than two
10 single hooks or one artificial bait with no more than four multiple
11 hooks.

12 (19) "Open season" means those times, manners of taking, and places
13 or waters established by rule of the director for the lawful fishing,
14 taking, or possession of food fish or shellfish. "Open season"
15 includes the first and last days of the established time.

16 (20) "Emerging commercial fishery" means any commercial fishery:

17 (a) For food fish or shellfish so designated by rule of the
18 director, except that no species harvested under a license limitation
19 program contained in chapter 75.30 RCW may be designated as a species
20 in an emerging commercial fishery.

21 (b) Which will include, subject to the limitation in (a) of this
22 subsection, all species harvested for commercial purposes as of June 7,
23 1990, and the future commercial harvest of all other species in the
24 waters of the state of Washington.

25 (21) "Experimental fishery permit" means a permit issued by the
26 director to allow the recipient to engage in an emerging commercial
27 fishery.

28 **Sec. 21.** RCW 75.08.014 and 1983 1st ex.s. c 46 s 6 are each
29 amended to read as follows:

30 The director (~~(of fisheries)~~) shall supervise the administration
31 and operation of the department (~~(of fisheries)~~) and perform the duties
32 prescribed by law. The director may appoint and employ necessary
33 personnel. The director may delegate, in writing, to department
34 personnel the duties and powers necessary for efficient operation and
35 administration of the department.

36 Only persons having general knowledge of the fisheries and wildlife
37 resources and of the commercial and recreational fishing industry in
38 this state are eligible for appointment as director. The director

1 shall not have a financial interest in the fishing industry or a
2 directly related industry.

3 **Sec. 22.** RCW 75.08.035 and 1992 c 63 s 11 are each amended to read
4 as follows:

5 (1) The department (~~(of fisheries)~~) shall have the following powers
6 and duties in carrying out its responsibilities for the senior
7 environmental corps created under RCW 43.63A.247:

8 Appoint a representative to the coordinating council;

9 Develop project proposals;

10 Administer project activities within the agency;

11 Develop appropriate procedures for the use of volunteers;

12 Provide project orientation, technical training, safety training,
13 equipment, and supplies to carry out project activities;

14 Maintain project records and provide project reports;

15 Apply for and accept grants or contributions for corps approved
16 projects; and

17 With the approval of the council, enter into memoranda of
18 understanding and cooperative agreements with federal, state, and local
19 agencies to carry out corps approved projects.

20 (2) The department shall not use corps volunteers to displace
21 currently employed workers.

22 **Sec. 23.** RCW 75.08.055 and 1987 c 506 s 94 are each amended to
23 read as follows:

24 (1) The director(~~(, and the director of wildlife with the~~
25 ~~concurrence of the wildlife commission,~~) may enter into agreements
26 with and receive funds from the United States for the construction,
27 maintenance, and operation of fish cultural stations, laboratories, and
28 devices in the Columbia River basin for improvement of feeding and
29 spawning conditions for fish, for the protection of migratory fish from
30 irrigation projects and for facilitating free migration of fish over
31 obstructions.

32 (2) The director and the (~~wildlife commission~~) department may
33 acquire by gift, purchase, lease, easement, or condemnation the use of
34 lands where the construction or improvement is to be carried on by the
35 United States.

1 **Sec. 24.** RCW 75.08.400 and 1989 c 336 s 1 are each amended to read
2 as follows:

3 The legislature finds that:

4 (1) The fishery resources of Washington are critical to the social
5 and economic needs of the citizens of the state;

6 (2) Salmon production is dependent on both wild and artificial
7 production;

8 (3) The department (~~(of fisheries)~~) is directed to enhance
9 Washington's salmon runs; and

10 (4) Full utilization of the state's salmon rearing facilities is
11 necessary to enhance commercial and recreational fisheries.

12 **Sec. 25.** RCW 75.10.010 and 1985 c 155 s 1 are each amended to read
13 as follows:

14 (1) Fisheries patrol officers and ex officio fisheries patrol
15 officers within their respective jurisdictions, shall enforce this
16 title, rules of the director, and other statutes as prescribed by the
17 legislature.

18 (2) When acting within the scope of subsection (1) of this section
19 and when an offense occurs in the presence of the fisheries patrol
20 officer who is not an ex officio fisheries patrol officer, the
21 fisheries patrol officer may enforce all criminal laws of the state.
22 The fisheries patrol officer must have successfully completed the basic
23 law enforcement academy course sponsored by the criminal justice
24 training commission, or a supplemental course in criminal law
25 enforcement as approved by the department and the criminal justice
26 training commission and provided by the department or the criminal
27 justice training commission, prior to enforcing the criminal laws of
28 the state.

29 (3) Any liability or claim of liability which arises out of the
30 exercise or alleged exercise of authority by a fisheries patrol officer
31 rests with the department (~~(of fisheries)~~) unless the fisheries patrol
32 officer acts under the direction and control of another agency or
33 unless the liability is otherwise assumed under a written agreement
34 between the department (~~(of fisheries)~~) and another agency.

35 (4) Fisheries patrol officers may serve and execute warrants and
36 processes issued by the courts.

1 **Sec. 26.** RCW 75.10.200 and 1990 c 144 s 3 are each amended to read
2 as follows:

3 Persons who violate this title or the rules of the director shall
4 be subject to the following penalties:

5 (1) The following violations are gross misdemeanors and are
6 punishable under RCW 9.92.020:

7 (a) Violating RCW 75.20.100; and

8 (b) Violating department statutes that require fish screens, fish
9 ladders, and other protective devices for fish.

10 (2) The following violations are a class C felony and are
11 punishable under RCW 9A.20.021(1)(c):

12 (a) Discharging explosives in waters that contain adult salmon or
13 sturgeon: PROVIDED, That lawful discharge of devices for the purpose
14 of frightening or killing marine mammals or for the lawful removal of
15 snags or for actions approved under RCW 75.20.100 or 75.12.070(2) are
16 exempt from this subsection; and

17 (b) To knowingly purchase food fish or shellfish with a wholesale
18 value greater than two hundred fifty dollars that were taken by methods
19 or during times not authorized by department (~~(of fisheries)~~) rules, or
20 were taken by someone who does not have a valid commercial fishing
21 license, a valid fish buyer's license, or a valid wholesale dealer's
22 license, or were taken with fishing gear authorized for personal use.

23 **Sec. 27.** RCW 75.12.040 and 1985 c 147 s 1 are each amended to read
24 as follows:

25 (1) It is unlawful to use, operate, or maintain a gill net which
26 exceeds 250 fathoms in length or a drag seine in the waters of the
27 Columbia river for catching salmon.

28 (2) It is unlawful to construct, install, use, operate, or maintain
29 within state waters a pound net, round haul net, lampara net, fish
30 trap, fish wheel, scow fish wheel, set net, weir, or fixed appliance
31 for catching salmon. The director may authorize the use of this gear
32 for scientific investigations.

33 (3) The department (~~(of fisheries)~~), in coordination with the
34 Oregon department of fish and wildlife, shall adopt rules to regulate
35 the use of monofilament in gill net webbing on the Columbia river.

36 **Sec. 28.** RCW 75.20.005 and 1991 c 322 s 21 are each amended to
37 read as follows:

1 The department of (~~fisheries, the department of~~) fish and
2 wildlife, the department of ecology, and the department of natural
3 resources shall jointly develop an informational brochure that
4 describes when permits and any other authorizations are required for
5 flood damage prevention and reduction projects, and recommends ways to
6 best proceed through the various regulatory permitting processes.

7 **Sec. 29.** RCW 75.20.050 and 1988 c 36 s 32 are each amended to read
8 as follows:

9 It is the policy of this state that a flow of water sufficient to
10 support game fish and food fish populations be maintained at all times
11 in the streams of this state.

12 The director of ecology shall give the director (~~of fisheries and~~
13 ~~the director of wildlife~~) notice of each application for a permit to
14 divert or store water. The director (~~of fisheries and director of~~
15 ~~wildlife have~~) has thirty days after receiving the notice to state
16 (~~their~~) his or her objections to the application. The permit shall
17 not be issued until the thirty-day period has elapsed.

18 The director of ecology may refuse to issue a permit if, in the
19 opinion of the director (~~of fisheries or director of wildlife~~),
20 issuing the permit might result in lowering the flow of water in a
21 stream below the flow necessary to adequately support food fish and
22 game fish populations in the stream.

23 The provisions of this section shall in no way affect existing
24 water rights.

25 **Sec. 30.** RCW 75.20.100 and 1991 c 322 s 30 are each amended to
26 read as follows:

27 In the event that any person or government agency desires to
28 construct any form of hydraulic project or perform other work that will
29 use, divert, obstruct, or change the natural flow or bed of any of the
30 salt or fresh waters of the state, such person or government agency
31 shall, before commencing construction or work thereon and to ensure the
32 proper protection of fish life, secure the written approval of the
33 department (~~of fisheries or the department of wildlife~~) as to the
34 adequacy of the means proposed for the protection of fish life. This
35 approval shall not be unreasonably withheld. Except as provided in RCW
36 75.20.1001 and 75.20.1002, the department (~~of fisheries or the~~
37 ~~department of wildlife~~) shall grant or deny approval within forty-five

1 calendar days of the receipt of a complete application and notice of
2 compliance with any applicable requirements of the state environmental
3 policy act, made in the manner prescribed in this section. The
4 applicant may document receipt of application by filing in person or by
5 registered mail. A complete application for approval shall contain
6 general plans for the overall project, complete plans and
7 specifications of the proposed construction or work within the mean
8 higher high water line in salt water or within the ordinary high water
9 line in fresh water, and complete plans and specifications for the
10 proper protection of fish life. The forty-five day requirement shall
11 be suspended if (1) after ten working days of receipt of the
12 application, the applicant remains unavailable or unable to arrange for
13 a timely field evaluation of the proposed project; (2) the site is
14 physically inaccessible for inspection; or (3) the applicant requests
15 delay. Immediately upon determination that the forty-five day period
16 is suspended, the department (~~(of fisheries or the department of~~
17 ~~wildlife))~~) shall notify the applicant in writing of the reasons for the
18 delay. Approval is valid for a period of up to five years from date of
19 issuance. The permittee must demonstrate substantial progress on
20 construction of that portion of the project relating to the approval
21 within two years of the date of issuance. If (~~(either))~~) the department
22 (~~(of fisheries or the department of wildlife))~~) denies approval,
23 (~~(that))~~) the department shall provide the applicant, in writing, a
24 statement of the specific reasons why and how the proposed project
25 would adversely affect fish life. Protection of fish life shall be the
26 only ground upon which approval may be denied or conditioned. Chapter
27 34.05 RCW applies to any denial of project approval, conditional
28 approval, or requirements for project modification upon which approval
29 may be contingent. If any person or government agency commences
30 construction on any hydraulic works or projects subject to this section
31 without first having obtained written approval of the department (~~(of~~
32 ~~fisheries or the department of wildlife))~~) as to the adequacy of the
33 means proposed for the protection of fish life, or if any person or
34 government agency fails to follow or carry out any of the requirements
35 or conditions as are made a part of such approval, the person or
36 director of the agency is guilty of a gross misdemeanor. If any such
37 person or government agency is convicted of violating any of the
38 provisions of this section and continues construction on any such works
39 or projects without fully complying with the provisions hereof, such

1 works or projects are hereby declared a public nuisance and shall be
2 subject to abatement as such.

3 For the purposes of this section and RCW 75.20.103, "bed" shall
4 mean the land below the ordinary high water lines of state waters.
5 This definition shall not include irrigation ditches, canals, storm
6 water run-off devices, or other artificial watercourses except where
7 they exist in a natural watercourse that has been altered by man.

8 The phrase "to construct any form of hydraulic project or perform
9 other work" shall not include the act of driving across an established
10 ford. Driving across streams or on wetted stream beds at areas other
11 than established fords requires approval. Work within the ordinary
12 high water line of state waters to construct or repair a ford or
13 crossing requires approval.

14 ~~((For each application, the department of fisheries and the
15 department of wildlife shall mutually agree on whether the department
16 of fisheries or the department of wildlife shall administer the
17 provisions of this section, in order to avoid duplication of effort.
18 The department designated to act shall cooperate with the other
19 department in order to protect all species of fish life found at the
20 project site. If the department of fisheries or the department of
21 wildlife receives an application concerning a site not in its
22 jurisdiction, it shall transmit the application to the other department
23 within three days and notify the applicant.))~~

24 In case of an emergency arising from weather or stream flow
25 conditions or other natural conditions, the department ~~((of fisheries
26 or department of wildlife))~~, through ~~((their))~~ its authorized
27 representatives, shall issue immediately upon request oral approval for
28 removing any obstructions, repairing existing structures, restoring
29 stream banks, or to protect property threatened by the stream or a
30 change in the stream flow without the necessity of obtaining a written
31 approval prior to commencing work. Conditions of an oral approval
32 shall be reduced to writing within thirty days and complied with as
33 provided for in this section. Oral approval shall be granted
34 immediately upon request, for a stream crossing during an emergency
35 situation.

36 This section shall not apply to the construction of any form of
37 hydraulic project or other work which diverts water for agricultural
38 irrigation or stock watering purposes authorized under or recognized as
39 being valid by the state's water codes, or when such hydraulic project

1 or other work is associated with streambank stabilization to protect
2 farm and agricultural land as defined in RCW 84.34.020. These
3 irrigation or stock watering diversion and streambank stabilization
4 projects shall be governed by RCW 75.20.103.

5 **Sec. 31.** RCW 75.20.1001 and 1991 c 322 s 12 are each amended to
6 read as follows:

7 The department (~~(of fisheries and the department of wildlife)~~)
8 shall process hydraulic project applications submitted under RCW
9 75.20.100 or 75.20.103 within thirty days of receipt of the
10 application. This requirement is only applicable for the repair and
11 reconstruction of legally constructed dikes, seawalls, and other flood
12 control structures damaged as a result of flooding or windstorms that
13 occurred in November and December 1990.

14 **Sec. 32.** RCW 75.20.103 and 1991 c 322 s 31 are each amended to
15 read as follows:

16 In the event that any person or government agency desires to
17 construct any form of hydraulic project or other work that diverts
18 water for agricultural irrigation or stock watering purposes, or when
19 such hydraulic project or other work is associated with streambank
20 stabilization to protect farm and agricultural land as defined in RCW
21 84.34.020, and when such diversion or streambank stabilization will
22 use, divert, obstruct, or change the natural flow or bed of any river
23 or stream or will utilize any waters of the state or materials from the
24 stream beds, the person or government agency shall, before commencing
25 construction or work thereon and to ensure the proper protection of
26 fish life, secure a written approval from the department (~~(of fisheries
27 or the department of wildlife)~~) as to the adequacy of the means
28 proposed for the protection of fish life. This approval shall not be
29 unreasonably withheld. Except as provided in RCW 75.20.1001 and
30 75.20.1002, the department (~~(of fisheries or the department of
31 wildlife)~~) shall grant or deny the approval within forty-five calendar
32 days of the receipt of a complete application and notice of compliance
33 with any applicable requirements of the state environmental policy act,
34 made in the manner prescribed in this section. The applicant may
35 document receipt of application by filing in person or by registered
36 mail. A complete application for an approval shall contain general
37 plans for the overall project, complete plans and specifications of the

1 proposed construction or work within ordinary high water line, and
2 complete plans and specifications for the proper protection of fish
3 life. The forty-five day requirement shall be suspended if (1) after
4 ten working days of receipt of the application, the applicant remains
5 unavailable or unable to arrange for a timely field evaluation of the
6 proposed project; (2) the site is physically inaccessible for
7 inspection; or (3) the applicant requests delay.

8 Immediately upon determination that the forty-five day period is
9 suspended, the department (~~(of fisheries or the department of~~
10 ~~wildlife)~~) shall notify the applicant in writing of the reasons for the
11 delay.

12 An approval shall remain in effect without need for periodic
13 renewal for projects that divert water for agricultural irrigation or
14 stock watering purposes and that involve seasonal construction or other
15 work. Approval for streambank stabilization projects shall remain in
16 effect without need for periodic renewal if the problem causing the
17 need for the streambank stabilization occurs on an annual or more
18 frequent basis. The permittee must notify the appropriate agency
19 before commencing the construction or other work within the area
20 covered by the approval.

21 The permittee must demonstrate substantial progress on construction
22 of that portion of the project relating to the approval within two
23 years of the date of issuance. If (~~(either)~~) the department (~~(of~~
24 ~~fisheries or the department of wildlife)~~) denies approval, (~~(that)~~) the
25 department shall provide the applicant, in writing, a statement of the
26 specific reasons why and how the proposed project would adversely
27 affect fish life. Protection of fish life shall be the only ground
28 upon which approval may be denied or conditioned. Issuance, denial,
29 conditioning, or modification shall be appealable to the hydraulic
30 appeals board established in RCW 43.21B.005 within thirty days of the
31 notice of decision. The burden shall be upon the department (~~(of~~
32 ~~fisheries or the department of wildlife)~~) to show that the denial or
33 conditioning of an approval is solely aimed at the protection of fish
34 life.

35 The department (~~(granting approval)~~) may, after consultation with
36 the permittee, modify an approval due to changed conditions. The
37 modifications shall become effective unless appealed to the hydraulic
38 appeals board within thirty days from the notice of the proposed
39 modification. The burden is on the department (~~(issuing the approval)~~)

1 to show that changed conditions warrant the modification in order to
2 protect fish life.

3 A permittee may request modification of an approval due to changed
4 conditions. The request shall be processed within forty-five calendar
5 days of receipt of the written request. A decision by the department
6 (~~that issued the approval~~) may be appealed to the hydraulic appeals
7 board within thirty days of the notice of the decision. The burden is
8 on the permittee to show that changed conditions warrant the requested
9 modification and that such modification will not impair fish life.

10 If any person or government agency commences construction on any
11 hydraulic works or projects subject to this section without first
12 having obtained written approval of the department (~~of fisheries or
13 the department of wildlife~~) as to the adequacy of the means proposed
14 for the protection of fish life, or if any person or government agency
15 fails to follow or carry out any of the requirements or conditions as
16 are made a part of such approval, the person or director of the agency
17 is guilty of a gross misdemeanor. If any such person or government
18 agency is convicted of violating any of the provisions of this section
19 and continues construction on any such works or projects without fully
20 complying with the provisions hereof, such works or projects are hereby
21 declared a public nuisance and shall be subject to abatement as such.

22 (~~For each application, the department of fisheries and the
23 department of wildlife shall mutually agree on whether the department
24 of fisheries or the department of wildlife shall administer the
25 provisions of this section, in order to avoid duplication of effort.
26 The department designated to act shall cooperate with the other
27 department in order to protect all species of fish life found at the
28 project site. If the department of fisheries or the department of
29 wildlife receives an application concerning a site not in its
30 jurisdiction, it shall transmit the application to the other department
31 within three days and notify the applicant.))~~

32 In case of an emergency arising from weather or stream flow
33 conditions or other natural conditions, the department (~~of fisheries
34 or department of wildlife~~), through (~~their~~) its authorized
35 representatives, shall issue immediately upon request oral approval for
36 removing any obstructions, repairing existing structures, restoring
37 stream banks, or to protect property threatened by the stream or a
38 change in the stream flow without the necessity of obtaining a written
39 approval prior to commencing work. Conditions of an oral approval

1 shall be reduced to writing within thirty days and complied with as
2 provided for in this section.

3 For purposes of this chapter, "streambank stabilization" shall
4 include but not be limited to log and debris removal, bank protection
5 (including riprap, jetties, and groins), gravel removal and erosion
6 control.

7 **Sec. 33.** RCW 75.20.104 and 1991 c 322 s 18 are each amended to
8 read as follows:

9 Whenever the placement of woody debris is required as a condition
10 of a hydraulic permit approval issued pursuant to RCW 75.20.100 or
11 75.20.103, the department (~~(of fisheries and the department of~~
12 ~~wildlife)~~), upon request, shall invite comment regarding that placement
13 from the local governmental authority, affected tribes, affected
14 federal and state agencies, and the project applicant.

15 **Sec. 34.** RCW 75.20.1041 and 1991 c 322 s 19 are each amended to
16 read as follows:

17 The department (~~(of fisheries, the department of wildlife,~~) and
18 the department of ecology will work cooperatively with the United
19 States army corps of engineers to develop a memorandum of agreement
20 outlining dike vegetation management guidelines so that dike owners are
21 eligible for coverage under P.L. 84-99, and state requirements
22 established pursuant to RCW 75.20.100 and 75.20.103 are met.

23 **Sec. 35.** RCW 75.20.106 and 1988 c 36 s 35 are each amended to read
24 as follows:

25 The department (~~(of fisheries and the department of wildlife)~~) may
26 (~~(each)~~) levy civil penalties of up to one hundred dollars per day for
27 violation of any provisions of RCW 75.20.100 or 75.20.103. The penalty
28 provided shall be imposed by notice in writing, either by certified
29 mail or personal service to the person incurring the penalty, from the
30 director (~~(of the appropriate department)~~) or (~~(that)~~) the director's
31 designee describing the violation. Any person incurring any penalty
32 under this chapter may appeal the same under chapter 34.05 RCW to the
33 director (~~(of the department levying the penalty)~~). Appeals shall be
34 filed within thirty days of receipt of notice imposing any penalty.
35 The penalty imposed shall become due and payable thirty days after
36 receipt of a notice imposing the penalty unless an appeal is filed.

1 Whenever an appeal of any penalty incurred under this chapter is filed,
2 the penalty shall become due and payable only upon completion of all
3 review proceedings and the issuance of a final order confirming the
4 penalty in whole or in part.

5 If the amount of any penalty is not paid within thirty days after
6 it becomes due and payable the attorney general, upon the request of
7 the director (~~(of the department of fisheries or the department of~~
8 ~~wildlife))~~) shall bring an action in the name of the state of Washington
9 in the superior court of Thurston county or of any county in which such
10 violator may do business, to recover such penalty. In all such actions
11 the procedure and rules of evidence shall be the same as an ordinary
12 civil action. All penalties recovered under this section shall be paid
13 into the state's general fund.

14 **Sec. 36.** RCW 75.20.110 and 1988 c 36 s 36 are each amended to read
15 as follows:

16 (1) Except for the north fork of the Lewis river and the White
17 Salmon river, all streams and rivers tributary to the Columbia river
18 downstream from McNary dam are established as an anadromous fish
19 sanctuary. This sanctuary is created to preserve and develop the food
20 fish and game fish resources in these streams and rivers and to protect
21 them against undue industrial encroachment.

22 (2) Within the sanctuary area:

23 (a) It is unlawful to construct a dam greater than twenty-five feet
24 high within the migration range of anadromous fish as (~~(jointly))~~
25 determined by the director (~~(of fisheries and the director of~~
26 ~~wildlife))~~).

27 (b) Except by (~~(concurrent))~~) order of the director (~~(of fisheries~~
28 ~~and director of wildlife))~~), it is unlawful to divert water from rivers
29 and streams in quantities that will reduce the respective stream flow
30 below the annual average low flow, based upon data published in United
31 States geological survey reports.

32 (3) The director (~~(of fisheries and the director of wildlife))~~) may
33 acquire and abate a dam or other obstruction, or acquire any water
34 right vested on a sanctuary stream or river, which is in conflict with
35 the provisions of subsection (2) of this section.

36 (4) Subsection (2)(a) of this section does not apply to the
37 sediment retention structure to be built on the North Fork Toutle river
38 by the United States army corps of engineers.

1 **Sec. 37.** RCW 75.20.130 and 1989 c 175 s 160 are each amended to
2 read as follows:

3 (1) There is hereby created within the environmental hearings
4 office under RCW 43.21B.005 the hydraulic appeals board of the state of
5 Washington.

6 (2) The hydraulic appeals board shall consist of three members:
7 The director of the department of ecology or the director's designee,
8 the director of the department of agriculture or the director's
9 designee, and the director or the director's designee of the department
10 whose action is appealed under subsection (6) of this section. A
11 decision must be agreed to by at least two members of the board to be
12 final.

13 (3) The board may adopt rules necessary for the conduct of its
14 powers and duties or for transacting other official business.

15 (4) The board shall make findings of fact and prepare a written
16 decision in each case decided by it, and that finding and decision
17 shall be effective upon being signed by two or more board members and
18 upon being filed at the hydraulic appeals board's principal office, and
19 shall be open to public inspection at all reasonable times.

20 (5) The board has exclusive jurisdiction to hear appeals arising
21 from the approval, denial, conditioning, or modification of a hydraulic
22 approval issued by ((either)) the department ((of fisheries or the
23 department of wildlife)) under the authority granted in RCW 75.20.103
24 for the diversion of water for agricultural irrigation or stock
25 watering purposes or when associated with streambank stabilization to
26 protect farm and agricultural land as defined in RCW 84.34.020.

27 (6)(a) Any person aggrieved by the approval, denial, conditioning,
28 or modification of a hydraulic approval pursuant to RCW 75.20.103 may
29 seek review from the board by filing a request for the same within
30 thirty days of notice of the approval, denial, conditioning, or
31 modification of such approval.

32 (b) The review proceedings authorized in (a) of this subsection are
33 subject to the provisions of chapter 34.05 RCW pertaining to procedures
34 in adjudicative proceedings.

35 **Sec. 38.** RCW 75.20.300 and 1989 c 213 s 3 are each amended to read
36 as follows:

37 (1) The legislature intends to expedite flood-control, acquisition
38 of sites for sediment retention, and dredging operations in those

1 rivers affected by the May 1980 eruption of Mt. St. Helens, while
2 continuing to protect the fish resources of these rivers.

3 (2) The director (~~of fisheries and director of wildlife~~) shall
4 process hydraulic project applications submitted under RCW 75.20.100
5 within fifteen working days of receipt of the application. This
6 requirement is only applicable to flood control and dredging projects
7 located in the Cowlitz river from mile 22 to the confluence with the
8 Columbia, and in the Toutle river from the mouth to the North Fork
9 Toutle sediment dam site at North Fork mile 12, and to river mile 3 on
10 the South Fork Toutle river, and volcano-affected areas of the Columbia
11 river.

12 (3) For the purposes of this section, the emergency provisions of
13 RCW 75.20.100 may be initiated by the county legislative authority if
14 the project is necessary to protect human life or property from flood
15 hazards, including:

16 (a) Flood fight measures necessary to provide protection during a
17 flood event; or

18 (b) Measures necessary to reduce or eliminate a potential flood
19 threat when other alternative measures are not available or cannot be
20 completed prior to the expected flood threat season; or

21 (c) Measures which must be initiated and completed within an
22 immediate period of time and for which processing of the request
23 through normal methods would cause a delay to the project and such
24 delay would significantly increase the potential for damages from a
25 flood event.

26 (4) This section does not apply to the sediment retention structure
27 to be built on the North Fork Toutle river by the United States army
28 corps of engineers.

29 (5) This section expires on June 30, 1995.

30 **Sec. 39.** RCW 75.20.310 and 1988 c 36 s 39 are each amended to read
31 as follows:

32 The legislature recognizes the need to mitigate the effects of
33 sedimentary build-up and resultant damage to fish population in the
34 Toutle river resulting from the Mt. St. Helens eruption. The state has
35 entered into a contractual agreement with the United States army corps
36 of engineers designed to minimize fish habitat disruption created by
37 the sediment retention structure on the Toutle river, under which the
38 corps has agreed to construct a fish collection facility at the

1 sediment retention structure site conditional upon the state assuming
2 the maintenance and operation costs of the facility. The department
3 (~~(of wildlife and the department of fisheries)~~) shall (~~(cooperatively)~~)
4 operate and maintain a fish collection facility on the Toutle river.
5 (~~(Each agency shall share in the cost of operating and maintaining the~~
6 ~~facility.)~~)

7 **Sec. 40.** RCW 75.24.065 and 1985 c 256 s 2 are each amended to read
8 as follows:

9 The legislature finds that current environmental and economic
10 conditions warrant a renewal of the state's historical practice of
11 actively cultivating and managing its oyster reserves in Puget Sound to
12 produce the state's native oyster, the Olympia oyster. The department
13 (~~(of fisheries)~~) shall reestablish dike cultivated production of
14 Olympia oysters on such reserves on a trial basis as a tool for
15 planning more comprehensive cultivation by the state.

16 **Sec. 41.** RCW 75.25.005 and 1989 c 305 s 1 are each amended to read
17 as follows:

18 The following recreational fishing licenses are administered and
19 issued by the department (~~(of fisheries)~~) under authority of the
20 director (~~(of fisheries)~~):

- 21 (1) Hood Canal shrimp license;
- 22 (2) Razor clam license;
- 23 (3) Personal use fishing license;
- 24 (4) Salmon license; and
- 25 (5) Sturgeon license.

26 **Sec. 42.** RCW 75.25.080 and 1989 c 305 s 4 are each amended to read
27 as follows:

28 (1) It is lawful to dig the personal-use daily bag limit of razor
29 clams for another person if that person has in possession a physical
30 disability permit issued by the director.

31 (2) An application for a physical disability permit must be
32 submitted on a department (~~(of fisheries)~~) official form and must be
33 accompanied by a licensed medical doctor's certification of disability.

34 **Sec. 43.** RCW 75.25.170 and 1989 c 305 s 16 are each amended to
35 read as follows:

1 Fees received for recreational licenses required under this chapter
2 shall be deposited in the general fund and shall be appropriated for
3 management, enhancement, research, and enforcement purposes of the
4 shellfish, salmon, and marine fish programs of the department ((of
5 fisheries)).

6 **Sec. 44.** RCW 75.25.180 and 1989 c 305 s 14 are each amended to
7 read as follows:

8 Recreational licenses issued by the department ((of fisheries))
9 under this chapter are valid for the following periods:

10 (1) Recreational licenses issued without charge to persons
11 designated by this chapter are valid:

12 (a) For life for blind persons;

13 (b) For the period of continued state residency for qualified
14 disabled veterans;

15 (c) For the period of continued state residency for persons sixty-
16 five years of age or more;

17 (d) For the period of the disability for persons with a
18 developmental disability;

19 (e) For life for handicapped persons confined to a wheelchair who
20 have been issued a permanent disability card; and

21 (f) Until a child reaches fifteen years of age.

22 (2) Two-consecutive-day personal use licenses expire at midnight on
23 the day following the validation date written on the license by the
24 license dealer, except two-consecutive-day personal use licenses
25 validated for December 31 expire at midnight on that date.

26 (3) An annual salmon license is valid for a maximum catch of
27 fifteen salmon, after which another salmon license may be purchased.
28 A salmon license is valid only for the calendar year for which it is
29 issued.

30 (4) An annual sturgeon license is valid for a maximum catch of
31 fifteen sturgeon. A sturgeon license is valid only for the calendar
32 year for which it is issued.

33 (5) All other recreational licenses are valid for the calendar year
34 for which they are issued.

35 **Sec. 45.** RCW 75.50.010 and 1985 c 458 s 1 are each amended to read
36 as follows:

1 Currently, many of the salmon stocks of Washington state are
2 critically reduced from their sustainable level. The best interests of
3 all fishing groups and the citizens as a whole are served by a stable
4 and productive salmon resource. Immediate action is needed to reverse
5 the severe decline of the resource and to insure its very survival.
6 The legislature finds a state of emergency exists and that immediate
7 action is required to restore its fishery.

8 Disagreement and strife have dominated the salmon fisheries for
9 many years. Conflicts among the various fishing interests have only
10 served to erode the resource. It is time for the state of Washington
11 to make a major commitment to increasing productivity of the resource
12 and to move forward with an effective rehabilitation and enhancement
13 program. The department (~~(of fisheries)~~) is directed to dedicate its
14 efforts (~~(to make increasing the productivity of the salmon resource a~~
15 ~~first priority and)~~) to seek resolution to the many conflicts that
16 involve the resource.

17 Success of the enhancement program can only occur if projects
18 efficiently produce salmon or restore habitat. The expectation of the
19 program is to optimize the efficient use of funding on projects that
20 will increase artificially and naturally produced salmon, restore and
21 improve habitat, or identify ways to increase the survival of salmon.
22 The full utilization of state resources and cooperative efforts with
23 interested groups are essential to the success of the program.

24 **Sec. 46.** RCW 75.50.070 and 1989 c 426 s 1 are each amended to read
25 as follows:

26 The legislature finds that it is in the best interest of the salmon
27 resource of the state to encourage the development of regional
28 fisheries enhancement groups. The accomplishments of one existing
29 group, the Grays Harbor fisheries enhancement task force, have been
30 widely recognized as being exemplary. The legislature recognizes the
31 potential benefits to the state that would occur if each region of the
32 state had a similar group of dedicated citizens working to enhance the
33 salmon resource.

34 The legislature authorizes the formation of regional fisheries
35 enhancement groups. These groups shall be eligible for state financial
36 support and shall be actively supported by the department (~~(of~~
37 ~~fisheries)~~). The regional groups shall be operated on a strictly
38 nonprofit basis, and shall seek to maximize the efforts of volunteer

1 and private donations to improve the salmon resource for all citizens
2 of the state.

3 **Sec. 47.** RCW 75.50.080 and 1989 c 426 s 4 are each amended to read
4 as follows:

5 Regional fisheries enhancement groups, consistent with the long-
6 term regional policy statements developed under RCW 75.50.020, shall
7 seek to:

8 (1) Enhance the salmon resource of the state;

9 (2) Maximize volunteer efforts and private donations to improve the
10 salmon resource for all citizens;

11 (3) Assist the department in achieving the goal to double the
12 state-wide salmon catch by the year 2000 under chapter 214, Laws of
13 1988; and

14 (4) Develop projects designed to supplement the fishery enhancement
15 capability of the department (~~(of fisheries)~~).

16 **Sec. 48.** RCW 75.50.130 and 1992 c 88 s 1 are each amended to read
17 as follows:

18 The director (~~(of fisheries)~~) shall prepare a salmon recovery plan
19 for the Skagit river. The plan shall include strategies for employing
20 displaced timber workers to conduct salmon restoration and other tasks
21 identified in the plan. The plan shall incorporate the best available
22 technology in order to achieve maximum restoration of depressed salmon
23 stocks. The plan must encourage the restoration of natural spawning
24 areas and natural rearing of salmon but must not preclude the
25 development of an active hatchery program.

26 **Sec. 49.** RCW 75.52.010 and 1988 c 36 s 41 are each amended to read
27 as follows:

28 The fish and (~~(game)~~) wildlife resources of the state benefit by
29 the contribution of volunteer recreational and commercial fishing
30 organizations, schools, and other volunteer groups in cooperative
31 projects under agreement with the department (~~(of fisheries or the~~
32 ~~department of wildlife)~~). These projects provide educational
33 opportunities, improve the communication between the natural resources
34 agencies and the public, and increase the fish and game resources of
35 the state. In an effort to increase these benefits and realize the
36 full potential of cooperative projects, the department (~~(of fisheries~~

1 ~~and the department of wildlife each))~~ shall administer a cooperative
2 fish and wildlife enhancement program and enter agreements with
3 volunteer groups relating to the operation of cooperative projects.

4 **Sec. 50.** RCW 75.52.020 and 1988 c 36 s 42 are each amended to read
5 as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

8 (1) "Volunteer group" means any person or group of persons
9 interested in or party to an agreement with the department (~~of~~
10 ~~fisheries or the department of wildlife~~) relating to a cooperative
11 fish or (~~game~~) wildlife project.

12 (2) "Cooperative project" means a project conducted by a volunteer
13 group that will benefit the fish, shellfish, game bird, nongame
14 wildlife, or game animal resources of the state and for which the
15 benefits of the project, including fish and (~~game~~) wildlife reared
16 and released, are available to all citizens of the state. Indian
17 tribes may elect to participate in cooperative fish and wildlife
18 projects with the department.

19 (3) "Department" means (~~either~~) the department of (~~fisheries or~~
20 ~~the department of~~) fish and wildlife (~~(, whichever is responsible for~~
21 ~~managing the species of fish or game most affected by the cooperative~~
22 ~~project))~~).

23 **Sec. 51.** RCW 75.52.035 and 1987 c 48 s 1 are each amended to read
24 as follows:

25 The department (~~of fisheries~~) may authorize the sale of surplus
26 salmon eggs and carcasses by permitted cooperative projects for the
27 purposes of defraying the expenses of the cooperative project. In no
28 instance shall the department allow a profit to be realized through
29 such sales. The department shall adopt rules to implement this section
30 pursuant to chapter 34.05 RCW.

31 **Sec. 52.** RCW 75.52.100 and 1989 c 85 s 3 are each amended to read
32 as follows:

33 A salmon spawning channel shall be constructed on the Cedar river
34 with the assistance and cooperation of the (~~state~~) department (~~of~~
35 ~~fisheries~~). The department shall use existing personnel and the
36 volunteer fisheries enhancement program outlined under chapter 75.52

1 RCW to assist in the planning, construction, and operation of the
2 spawning channel.

3 **Sec. 53.** RCW 75.52.110 and 1989 c 85 s 4 are each amended to read
4 as follows:

5 The department (~~(of fisheries)~~) shall chair a technical committee,
6 which shall review the preparation of enhancement plans and
7 construction designs for a Cedar river sockeye spawning channel. The
8 technical committee shall consist of not more than eight members: One
9 representative each from the department (~~(of fisheries)~~), national
10 marine fisheries service, United States fish and wildlife service, and
11 Muckleshoot Indian tribe; and four representatives from the public
12 utility described in RCW 75.52.130. The technical committee will be
13 guided by a policy committee, also to be chaired by the department (~~(of~~
14 ~~fisheries)~~), which shall consist of not more than six members: One
15 representative from the department (~~(of fisheries)~~), one from the
16 Muckleshoot Indian tribe, and one from either the national marine
17 fisheries service or the United States fish and wildlife service; and
18 three representatives from the public utility described in RCW
19 75.52.130. The policy committee shall present a progress report to the
20 senate and house of representatives natural resources and environment
21 committees by January 1, 1990, and shall oversee the operation and
22 evaluation of the spawning channel. The policy committee will continue
23 its oversight until the policy committee concludes that the channel is
24 meeting the production goals specified in RCW 75.52.120.

25 **Sec. 54.** RCW 75.52.160 and 1989 c 85 s 10 are each amended to read
26 as follows:

27 Should the requirements of RCW 75.52.100 through 75.52.160 not be
28 met, the department (~~(of fisheries)~~) shall seek immediate legal
29 clarification of the steps which must be taken to fully mitigate water
30 diversion projects on the Cedar river.

31 **Sec. 55.** RCW 75.58.010 and 1988 c 36 s 43 are each amended to read
32 as follows:

33 (1) The director of agriculture and the director (~~(of fisheries)~~)
34 shall jointly develop a program of disease inspection and control for
35 aquatic farmers as defined in RCW 15.85.020. The program shall be
36 administered by the department (~~(of fisheries)~~) under rules established

1 under this section. The purpose of the program is to protect the
2 aquaculture industry and wildstock fisheries from a loss of
3 productivity due to aquatic diseases or maladies. As used in this
4 section "diseases" means, in addition to its ordinary meaning,
5 infestations of parasites or pests. The disease program may include,
6 but is not limited to, the following elements:

7 (a) Disease diagnosis;

8 (b) Import and transfer requirements;

9 (c) Provision for certification of stocks;

10 (d) Classification of diseases by severity;

11 (e) Provision for treatment of selected high-risk diseases;

12 (f) Provision for containment and eradication of high-risk
13 diseases;

14 (g) Provision for destruction of diseased cultured aquatic
15 products;

16 (h) Provision for quarantine of diseased cultured aquatic products;

17 (i) Provision for coordination with state and federal agencies;

18 (j) Provision for development of preventative or control measures;

19 (k) Provision for cooperative consultation service to aquatic
20 farmers; and

21 (l) Provision for disease history records.

22 (2) The director (~~(of fisheries)~~) shall adopt rules implementing
23 this section. However, such rules shall have the prior approval of the
24 director of agriculture and shall provide therein that the director of
25 agriculture has provided such approval. The director of agriculture or
26 the director's designee shall attend the rule-making hearings conducted
27 under chapter 34.05 RCW and shall assist in conducting those hearings.
28 The authorities granted the department (~~(of fisheries)~~) by these rules
29 and by RCW 75.08.080(1)(g), 75.24.080, 75.24.110, 75.28.125, 75.58.020,
30 75.58.030, and 75.58.040 constitute the only authorities of the
31 department (~~(of fisheries)~~) to regulate private sector cultured aquatic
32 products and aquatic farmers as defined in RCW 15.85.020. Except as
33 provided in subsection (3) of this section, no action may be taken
34 against any person to enforce these rules unless the department has
35 first provided the person an opportunity for a hearing. In such a
36 case, if the hearing is requested, no enforcement action may be taken
37 before the conclusion of that hearing.

38 (3) The rules adopted under this section shall specify the
39 emergency enforcement actions that may be taken by the department (~~(of~~

1 fisheries)), and the circumstances under which they may be taken,
2 without first providing the affected party with an opportunity for a
3 hearing. Neither the provisions of this subsection nor the provisions
4 of subsection (2) of this section shall preclude the department ((of
5 fisheries)) from requesting the initiation of criminal proceedings for
6 violations of the disease inspection and control rules.

7 (4) It is unlawful for any person to violate the rules adopted
8 under subsection (2) or (3) of this section or to violate RCW
9 75.58.040.

10 (5) In administering the program established under this section,
11 the department ((of fisheries)) shall use the services of a pathologist
12 licensed to practice veterinary medicine.

13 (6) The director in administering the program shall not place
14 constraints on or take enforcement actions in respect to the
15 aquaculture industry that are more rigorous than those placed on the
16 department ((of fisheries, the department of wildlife,)) or other fish-
17 rearing entities.

18 **Sec. 56.** RCW 75.58.020 and 1985 c 457 s 9 are each amended to read
19 as follows:

20 The directors of agriculture and ((fisheries)) fish and wildlife
21 shall jointly adopt by rule, in the manner prescribed in RCW
22 75.58.010(2), a schedule of user fees for the disease inspection and
23 control program established under RCW 75.58.010. The fees shall be
24 established such that the program shall be entirely funded by revenues
25 derived from the user fees by the beginning of the 1987-89 biennium.

26 There is established in the state treasury an account known as the
27 aquaculture disease control account which is subject to appropriation.
28 Proceeds of fees charged under this section shall be deposited in the
29 account. Moneys from the account shall be used solely for
30 administering the disease inspection and control program established
31 under RCW 75.58.010.

32 **Sec. 57.** RCW 75.58.030 and 1988 c 36 s 44 are each amended to read
33 as follows:

34 (1) The director ((of fisheries)) shall consult regarding the
35 disease inspection and control program established under RCW 75.58.010
36 with ((the department of wildlife,)) federal agencies((,)) and Indian
37 tribes to assure protection of state, federal, and tribal aquatic

1 resources and to protect private sector cultured aquatic products from
2 disease that could originate from waters or facilities managed by those
3 agencies.

4 (2) With regard to the program, the director (~~(of fisheries)~~) may
5 enter into contracts or interagency agreements for diagnostic field
6 services with government agencies and institutions of higher education
7 and private industry.

8 (3) The director (~~(of fisheries)~~) shall provide for the creation
9 and distribution of a roster of biologists having a speciality in the
10 diagnosis or treatment of diseases of fish or shellfish. The director
11 shall adopt rules specifying the qualifications which a person must
12 have in order to be placed on the roster.

13 **Sec. 58.** RCW 75.58.040 and 1988 c 36 s 45 are each amended to read
14 as follows:

15 All aquatic farmers as defined in RCW 15.85.020 shall register with
16 the department (~~(of fisheries)~~). The director shall develop and
17 maintain a registration list of all aquaculture farms. Registered
18 aquaculture farms shall provide the department production statistical
19 data. The state veterinarian (~~(and the department of wildlife)~~) shall
20 be provided with registration and statistical data by the department.

21 **Sec. 59.** RCW 77.04.020 and 1987 c 506 s 4 are each amended to read
22 as follows:

23 The department (~~(of wildlife)~~) consists of the state fish and
24 wildlife commission and the director (~~(of wildlife)~~). The director is
25 responsible for the administration and operation of the department,
26 subject to the provisions of this title. The commission may delegate
27 to the director additional duties and powers necessary and appropriate
28 to carry out this title. The director shall perform the duties
29 prescribed by law and shall carry out the basic goals and objectives
30 prescribed pursuant to RCW 77.04.055.

31 **Sec. 60.** RCW 77.04.030 and 1987 c 506 s 5 are each amended to read
32 as follows:

33 The state wildlife commission consists of (~~(six)~~) nine registered
34 voters of the state. In January of each odd-numbered year, the
35 governor shall appoint with the advice and consent of the senate two
36 registered voters to the commission to serve for terms of six years

1 from that January or until their successors are appointed and
2 qualified. If a vacancy occurs on the commission prior to the
3 expiration of a term, the governor shall appoint a registered voter
4 within sixty days to complete the term. Three members shall be
5 residents of that portion of the state lying east of the summit of the
6 Cascade mountains, and three shall be residents of that portion of the
7 state lying west of the summit of the Cascade mountains. Three
8 additional members shall be appointed at-large effective July 1, 1993;
9 one of whom shall serve a one and one-half year term to end December
10 31, 1994; one of whom shall serve a three and one-half year term to end
11 December 31, 1996; and one of whom shall serve a five and one-half year
12 term to end December 31, 1998. Thereafter all members are to serve a
13 six-year term. No two members may be residents of the same county.
14 The legal office of the commission is at the administrative office of
15 the department in Olympia.

16 **Sec. 61.** RCW 77.04.040 and 1987 c 506 s 6 are each amended to read
17 as follows:

18 Persons eligible for appointment as members of the commission shall
19 have general knowledge of the habits and distribution of game fish and
20 wildlife and shall not hold another state, county, or municipal
21 elective or appointive office. In making these appointments, the
22 governor shall seek to maintain a balance reflecting all aspects of
23 game fish and wildlife. Persons eligible for appointment as wildlife
24 commissioners shall not have a monetary interest in any private
25 business that is involved with consumptive or nonconsumptive use of
26 game fish or wildlife.

27 **Sec. 62.** RCW 77.04.055 and 1990 c 84 s 2 are each amended to read
28 as follows:

29 ~~(1) ((In addition to any other duties and responsibilities, the~~
30 ~~commission shall establish, and periodically review with the governor~~
31 ~~and the legislature, the department's basic goals and objectives to~~
32 ~~preserve, protect, and perpetuate wildlife and wildlife habitat. The~~
33 ~~commission shall maximize hunting and fishing recreational~~
34 ~~opportunities)) In establishing policies to preserve, protect, and~~
35 ~~perpetuate wildlife, game fish, and wildlife and game fish habitat, the~~
36 ~~commission shall meet annually with the governor to:~~

1 (a) Review and prescribe basic goals and objectives related to
2 those policies; and

3 (b) Review the performance of the department in implementing game
4 fish and wildlife policies.

5 The commission shall maximize game fish, hunting, and outdoor
6 recreational opportunities compatible with healthy and diverse fish and
7 wildlife populations.

8 (2) The commission shall establish hunting, trapping, and fishing
9 seasons and prescribe the time, place, manner, and methods that may be
10 used to harvest or enjoy game fish and wildlife.

11 **Sec. 63.** RCW 77.04.060 and 1987 c 506 s 8 and 1987 c 114 s 1 are
12 each reenacted and amended to read as follows:

13 The commission shall hold at least one regular meeting during the
14 first two months of each calendar quarter, and special meetings when
15 called by the ~~((chairman or))~~ chair and by ~~((four))~~ five members.
16 ~~((Four))~~ Five members constitute a quorum for the transaction of
17 business.

18 The commission at a meeting in each odd-numbered year shall elect
19 one of its members as chairman and another member as vice chairman,
20 each of whom shall serve for a term of two years or until a successor
21 is elected and qualified.

22 Members of the commission shall be compensated in accordance with
23 RCW 43.03.250. In addition, members are allowed their travel expenses
24 incurred while absent from their usual places of residence in
25 accordance with RCW 43.03.050 and 43.03.060.

26 **Sec. 64.** RCW 77.04.080 and 1987 c 506 s 9 are each amended to read
27 as follows:

28 Persons eligible for appointment by the governor as director shall
29 have practical knowledge of the habits and distribution of fish and
30 wildlife. The governor shall seek recommendations from the commission
31 on the qualifications, skills, and experience necessary to discharge
32 the duties of the position. When considering and selecting the
33 director, the governor shall consult with and be advised by the
34 commission. The director shall receive the salary fixed by the
35 governor under RCW 43.03.040.

36 The director is the ex officio secretary of the commission and
37 shall attend its meetings and keep a record of its business.

1 The director may appoint and employ necessary departmental
2 personnel. The director may delegate to department personnel the
3 duties and powers necessary for efficient operation and administration
4 of the department. The department shall provide staff for the
5 commission.

6 **Sec. 65.** RCW 77.04.100 and 1985 c 208 s 2 are each amended to read
7 as follows:

8 The director(~~(, in cooperation with the director of fisheries))~~
9 shall develop proposals to reinstate the natural salmon and steelhead
10 trout fish runs in the Tilton and upper Cowlitz rivers in accordance
11 with RCW 75.08.020(3).

12 **Sec. 66.** RCW 77.08.010 and 1989 c 297 s 7 are each amended to read
13 as follows:

14 As used in this title or rules adopted pursuant to this title,
15 unless the context clearly requires otherwise:

16 (1) "Director" means the director of fish and wildlife.

17 (2) "Department" means the department of fish and wildlife.

18 (3) "Commission" means the state fish and wildlife commission.

19 (4) "Person" means and includes an individual, a corporation, or a
20 group of two or more individuals acting with a common purpose whether
21 acting in an individual, representative, or official capacity.

22 (5) "Wildlife agent" means a person appointed and commissioned by
23 the director, with authority to enforce laws and rules adopted pursuant
24 to this title, and other statutes as prescribed by the legislature.

25 (6) "Ex officio wildlife agent" means a commissioned officer of a
26 municipal, county, state, or federal agency having as its primary
27 function the enforcement of criminal laws in general, while the officer
28 is in the appropriate jurisdiction. The term "ex officio wildlife
29 agent" includes fisheries patrol officers, special agents of the
30 national marine fisheries ~~((commission))~~ service, state parks
31 commissioned officers, United States fish and wildlife special agents,
32 department of natural resources enforcement officers, and United States
33 forest service officers, while the agents and officers are within their
34 respective jurisdictions.

35 (7) "To hunt" and its derivatives means an effort to kill, injure,
36 capture, or harass a wild animal or wild bird.

1 (8) "To trap" and its derivatives means a method of hunting using
2 devices to capture wild animals or wild birds.

3 (9) "To fish" and its derivatives means an effort to kill, injure,
4 harass, or catch a game fish.

5 (10) "Open season" means those times, manners of taking, and places
6 or waters established by rule of the commission for the lawful hunting,
7 fishing, or possession of game animals, game birds, or game fish.
8 "Open season" includes the first and last days of the established time.

9 (11) "Closed season" means all times, manners of taking, and places
10 or waters other than those established as an open season.

11 (12) "Closed area" means a place where the hunting of some species
12 of wild animals or wild birds is prohibited.

13 (13) "Closed waters" means all or part of a lake, river, stream, or
14 other body of water, where fishing for game fish is prohibited.

15 (14) "Game reserve" means a closed area where hunting for all wild
16 animals and wild birds is prohibited.

17 (15) "Bag limit" means the maximum number of game animals, game
18 birds, or game fish which may be taken, caught, killed, or possessed by
19 a person, as specified by rule of the commission for a particular
20 period of time, or as to size, sex, or species.

21 (16) "Wildlife" means all species of the animal kingdom whose
22 members exist in Washington in a wild state. This includes but is not
23 limited to mammals, birds, reptiles, amphibians, fish, and
24 invertebrates. The term "wildlife" does not include feral domestic
25 mammals, the family Muridae of the order Rodentia (old world rats and
26 mice), or those fish, shellfish, and marine invertebrates classified as
27 food fish or shellfish by the director (~~(of fisheries)~~). The term
28 "wildlife" includes all stages of development and the bodily parts of
29 wildlife members.

30 (17) "Wild animals" means those species of the class Mammalia whose
31 members exist in Washington in a wild state and the species Rana
32 catesbeiana (bullfrog). The term "wild animal" does not include feral
33 domestic mammals or the family Muridae of the order Rodentia (old world
34 rats and mice).

35 (18) "Wild birds" means those species of the class Aves whose
36 members exist in Washington in a wild state.

37 (19) "Protected wildlife" means wildlife designated by the
38 commission that shall not be hunted or fished.

1 (20) "Endangered species" means wildlife designated by the
2 commission as seriously threatened with extinction.

3 (21) "Game animals" means wild animals that shall not be hunted
4 except as authorized by the commission.

5 (22) "Fur-bearing animals" means game animals that shall not be
6 trapped except as authorized by the commission.

7 (23) "Game birds" means wild birds that shall not be hunted except
8 as authorized by the commission.

9 (24) "Predatory birds" means wild birds that may be hunted
10 throughout the year as authorized by the commission.

11 (25) "Deleterious exotic wildlife" means species of the animal
12 kingdom not native to Washington and designated as dangerous to the
13 environment or wildlife of the state.

14 (26) "Game farm" means property on which wildlife is held or raised
15 for commercial purposes, trade, or gift. The term "game farm" does not
16 include publicly owned facilities.

17 (27) "Person of disability" means a permanently disabled person who
18 is not ambulatory without the assistance of a wheelchair, crutches, or
19 similar devices.

20 **Sec. 67.** RCW 77.12.055 and 1988 c 36 s 50 are each amended to read
21 as follows:

22 (1) Jurisdiction and authority granted under RCW 77.12.060,
23 77.12.070, and 77.12.080 to the director, wildlife agents, and ex
24 officio wildlife agents is limited to the laws and rules adopted
25 pursuant to this title pertaining to wildlife or to the management,
26 operation, maintenance, or use of or conduct on real property used,
27 owned, leased, or controlled by the department and other statutes as
28 prescribed by the legislature. However, when acting within the scope
29 of these duties and when an offense occurs in the presence of the
30 wildlife agent who is not an ex officio wildlife agent, the wildlife
31 agent may enforce all criminal laws of the state. The wildlife agent
32 must have successfully completed the basic law enforcement academy
33 course sponsored by the criminal justice training commission, or a
34 supplemental course in criminal law enforcement as approved by the
35 department and the criminal justice training commission and provided by
36 the department or the criminal justice training commission, prior to
37 enforcing the criminal laws of the state.

38 (2) Wildlife agents are peace officers.

1 (3) Any liability or claim of liability which arises out of the
2 exercise or alleged exercise of authority by a wildlife agent rests
3 with the department unless the wildlife agent acts under the direction
4 and control of another agency or unless the liability is otherwise
5 assumed under a written agreement between the department ((of
6 wildlife)) and another agency.

7 (4) Wildlife agents may serve and execute warrants and processes
8 issued by the courts.

9 **Sec. 68.** RCW 77.12.103 and 1989 c 314 s 3 are each amended to read
10 as follows:

11 (1) The burden of proof of any exemption or exception to seizure or
12 forfeiture of personal property involved with wildlife offenses is upon
13 the person claiming it.

14 (2) An authorized state, county, or municipal officer may be
15 subject to civil liability under RCW 77.12.101 for willful misconduct
16 or gross negligence in the performance of his or her duties.

17 (3) The director ((of wildlife)), the fish and wildlife commission,
18 or the department ((of wildlife)) may be subject to civil liability for
19 their willful or reckless misconduct in matters involving the seizure
20 and forfeiture of personal property involved with wildlife offenses.

21 **Sec. 69.** RCW 77.12.440 and 1987 c 506 s 47 are each amended to
22 read as follows:

23 The state assents to the act of congress entitled: "An Act to
24 provide that the United States shall aid the states in fish restoration
25 and management projects, and for other purposes," (64 Stat. 430; 16
26 U.S.C. Sec. 777). The department ((of wildlife and the department of
27 fisheries)) shall establish, conduct, and maintain fish restoration and
28 management projects, as defined in the act, and shall comply with the
29 act and related rules adopted by the secretary of the interior.

30 **Sec. 70.** RCW 77.12.710 and 1990 c 110 s 2 are each amended to read
31 as follows:

32 The legislature hereby directs the department ((of wildlife)) to
33 determine the feasibility and cost of doubling the state-wide game fish
34 production by the year 2000. The department shall seek to equalize the
35 effort and investment expended on anadromous and resident game fish
36 programs. The department ((of wildlife)) shall provide the legislature

1 with a specific plan for legislative approval that will outline the
2 feasibility of increasing game fish production by one hundred percent
3 over current levels by the year 2000. The plan shall contain specific
4 provisions to increase both hatchery and naturally spawning game fish
5 to a level that will support the production goal established in this
6 section consistent with ((wildlife commission)) department policies.
7 Steelhead trout, searun cutthroat trout, resident trout, and warmwater
8 fish producing areas of the state shall be included in the plan. The
9 department ((of wildlife)) shall provide the plan to the house of
10 representatives and senate ways and means, environment and natural
11 resources, environmental affairs, fisheries and wildlife, and natural
12 resources committees by December 31, 1990.

13 The plan shall include the following critical elements:

14 (1) Methods of determining current catch and production, and catch
15 and production in the year 2000;

16 (2) Methods of involving fishing groups, including Indian tribes,
17 in a cooperative manner;

18 (3) Methods for using low capital cost projects to produce game
19 fish as inexpensively as possible;

20 (4) Methods for renovating and modernizing all existing hatcheries
21 and rearing ponds to maximize production capability;

22 (5) Methods for increasing the productivity of natural spawning
23 game fish;

24 (6) Application of new technology to increase hatchery and natural
25 productivity;

26 (7) Analysis of the potential for private contractors to produce
27 game fish for public fisheries;

28 (8) Methods to optimize public volunteer efforts and cooperative
29 projects for maximum efficiency;

30 (9) Methods for development of trophy game fish fisheries;

31 (10) Elements of coordination with the Pacific Northwest Power
32 Council programs to ensure maximum Columbia river benefits;

33 (11) The role that should be played by private consulting companies
34 in developing and implementing the plan;

35 (12) Coordination with federal fish and wildlife agencies, Indian
36 tribes, and department ((of fisheries)) fish production programs;

37 (13) Future needs for game fish predator control measures;

38 (14) Development of disease control measures;

1 (15) Methods for obtaining access to waters currently not available
2 to anglers; and

3 (16) Development of research programs to support game fish
4 management and enhancement programs.

5 The department (~~of wildlife~~), in cooperation with the department
6 of revenue, shall assess various funding mechanisms and make
7 recommendations to the legislature in the plan. The department (~~of
8 wildlife~~), in cooperation with the department of trade and economic
9 development, shall prepare an analysis of the economic benefits to the
10 state that will occur when the game fish production is increased by one
11 hundred percent in the year 2000.

12 **Sec. 71.** RCW 77.12.730 and 1990 c 195 s 3 are each amended to read
13 as follows:

14 (1) A ten-member firearms range advisory committee is hereby
15 created to provide advice and counsel to the interagency committee for
16 outdoor recreation. The members shall be appointed by the director of
17 the interagency committee for outdoor recreation from the following
18 groups:

- 19 (a) Law enforcement;
- 20 (b) Washington military department;
- 21 (c) Black powder shooting sports;
- 22 (d) Rifle shooting sports;
- 23 (e) Pistol shooting sports;
- 24 (f) Shotgun shooting sports;
- 25 (g) Archery shooting sports;
- 26 (h) Hunter education;
- 27 (i) Hunters; and
- 28 (j) General public.

29 (2) The firearms range advisory committee members shall serve two-
30 year terms with five new members being selected each year beginning
31 with the third year of the committee's existence. The firearms range
32 advisory committee members shall not receive compensation from the
33 firearms range account. However, travel and per diem costs shall be
34 paid consistent with regulations for state employees.

35 (3) The interagency committee for outdoor recreation shall provide
36 administrative, operational, and logistical support for the firearms
37 range advisory committee. Expenses directly incurred for supporting
38 this program may be charged by the interagency committee for outdoor

1 recreation against the firearms range account. Expenses shall not
2 exceed ten percent of the yearly income for the range account.

3 (4) The interagency committee for outdoor recreation shall in
4 cooperation with the firearms range advisory committee:

5 (a) Develop an application process;

6 (b) Develop an audit and accountability program;

7 (c) Screen, prioritize, and approve grant applications; and

8 (d) Monitor compliance by grant recipients.

9 (5) The department of natural resources, the department of fish and
10 wildlife, and the Washington military department are encouraged to
11 provide land, facilitate land exchanges, and support the development of
12 shooting range facilities.

13 **Sec. 72.** RCW 77.12.750 and 1992 c 63 s 13 are each amended to read
14 as follows:

15 (1) The department (~~(of wildlife)~~) shall have the following powers
16 and duties in carrying out its responsibilities for the senior
17 environmental corps created under RCW 43.63A.247:

18 Appoint a representative to the coordinating council;

19 Develop project proposals;

20 Administer project activities within the agency;

21 Develop appropriate procedures for the use of volunteers;

22 Provide project orientation, technical training, safety training,
23 equipment, and supplies to carry out project activities;

24 Maintain project records and provide project reports;

25 Apply for and accept grants or contributions for corps approved
26 projects; and

27 With the approval of the council, enter into memoranda of
28 understanding and cooperative agreements with federal, state, and local
29 agencies to carry out corps approved projects.

30 (2) The department shall not use corps volunteers to displace
31 currently employed workers.

32 **Sec. 73.** RCW 77.16.060 and 1987 c 506 s 61 are each amended to
33 read as follows:

34 It is unlawful to lay, set, or use a net or other device capable of
35 taking game fish in the waters of this state except as authorized by
36 the commission or director (~~(of fisheries)~~). Game fish taken

1 incidental to a lawful season established by the director ((of
2 fisheries)) shall be returned immediately to the water.

3 A landing net may be used to land fish otherwise legally hooked.

4 **Sec. 74.** RCW 77.16.135 and 1991 c 211 s 1 are each amended to read
5 as follows:

6 (1) The director shall revoke all licenses and privileges extended
7 under Title 77 RCW of a person convicted of assault on a state wildlife
8 agent or other law enforcement officer provided that:

9 (a) The wildlife agent or other law enforcement officer was on duty
10 at the time of the assault; and

11 (b) The wildlife agent or other law enforcement officer was
12 enforcing the provisions of Title 77 RCW.

13 (2) For the purposes of this section, the definition of assault
14 includes:

15 (a) RCW 9A.32.030; murder in the first degree;

16 (b) RCW 9A.32.050; murder in the second degree;

17 (c) RCW 9A.32.060; manslaughter in the first degree;

18 (d) RCW 9A.32.070; manslaughter in the second degree;

19 (e) RCW 9A.36.011; assault in the first degree;

20 (f) RCW 9A.36.021; assault in the second degree; and

21 (g) RCW 9A.36.031; assault in the third degree.

22 (3) For the purposes of this section, a conviction includes:

23 (a) A determination of guilt by the court;

24 (b) The entering of a guilty plea to the charge or charges by the
25 accused;

26 (c) A forfeiture of bail or a vacation of bail posted to the court;

27 or

28 (d) The imposition of a deferred or suspended sentence by the
29 court.

30 (4) No license described under Title 77 RCW shall be reissued to a
31 person violating this section for a minimum of ten years, at ((that
32 [which])) which time a person may petition the director ((of wildlife))
33 for a reinstatement of his or her license or licenses. The ten-year
34 period shall be tolled during any time the convicted person is
35 incarcerated in any state or local correctional or penal institution,
36 in community supervision, or home detention for an offense under this
37 section. Upon review by the director, and if all provisions of the
38 court that imposed sentencing have been completed, the director may

1 reinstate in whole or in part the licenses and privileges under Title
2 77 RCW.

3 **Sec. 75.** RCW 77.16.170 and 1988 c 36 s 51 are each amended to read
4 as follows:

5 It is unlawful to take a wild animal from another person's trap
6 without permission, or to spring, pull up, damage, possess, or destroy
7 the trap; however, it is not unlawful for a property owner, lessee, or
8 tenant to remove a trap placed on the owner's, lessee's, or tenant's
9 property by a trapper.

10 Trappers shall attach to the chain of their traps or devices a
11 legible metal tag with either the department ((~~of wildlife~~))
12 identification number of the trapper or the name and address of the
13 trapper in English letters not less than one-eighth inch in height.

14 When an individual presents a trapper identification number to the
15 department ((~~of wildlife~~)) and requests identification of the trapper,
16 the department ((~~of wildlife~~)) shall provide the individual with the
17 name and address of the trapper. Prior to disclosure of the trapper's
18 name and address, the department ((~~of wildlife~~)) shall obtain the name
19 and address of the requesting individual in writing and after
20 disclosing the trapper's name and address to the requesting individual,
21 the requesting individual's name and address shall be disclosed in
22 writing to the trapper whose name and address was disclosed.

23 **Sec. 76.** RCW 77.18.010 and 1991 c 253 s 2 are each amended to read
24 as follows:

25 Unless the context clearly requires otherwise, the definitions in
26 this section apply throughout this chapter.

27 (1) "Department" means the ((~~Washington~~)) department of fish and
28 wildlife.

29 (2) "Contract" means an agreement setting at a minimum, price,
30 quantity of fish to be delivered, time of delivery, and fish health
31 requirements.

32 (3) "Fish health requirements" means those site specific fish
33 health and genetic requirements actually used by the department of fish
34 and wildlife in fish stocking.

35 (4) "Aquatic farmer" means a private sector person who commercially
36 farms and manages private sector cultured aquatic products on the

1 person's own land or on land in which the person has a present right of
2 possession.

3 (5) "Person" means a natural person, corporation, trust, or other
4 legal entity.

5 **Sec. 77.** RCW 77.32.380 and 1991 sp.s. c 7 s 12 are each amended to
6 read as follows:

7 Persons sixteen years of age or older who use clearly identified
8 department lands and access facilities are required to possess a
9 conservation license or a hunting, fishing, trapping, or free license
10 on their person while using the facilities. The fee for this license
11 is ten dollars annually.

12 The spouse, all children under eighteen years of age, and guests
13 under eighteen years of age of the holder of a valid conservation
14 license may use department lands and access facilities when accompanied
15 by the license holder.

16 Youth groups may use department lands and game access facilities
17 without possessing a conservation license when accompanied by a license
18 holder.

19 The conservation license is nontransferable and must be validated
20 by the signature of the holder. Upon request of a wildlife agent or ex
21 officio wildlife agent a person using clearly identified department
22 ((of wildlife)) lands shall exhibit the required license.

23 NEW SECTION. **Sec. 78.** A new section is added to chapter 77.12 RCW
24 to read as follows:

25 Steelhead trout shall be managed solely as a recreational fishery
26 for non-Indian fishermen under the rule-setting authority of the fish
27 and wildlife commission.

28 Commercial non-Indian steelhead fisheries are not authorized.

29 NEW SECTION. **Sec. 79.** On July 1, 1994, the state treasurer shall
30 follow the recommendations of the director of financial management on
31 the disbursement of funds from the state wildlife fund to the
32 department of fish and wildlife solely for the purposes of funding
33 programs for wildlife and game fish. Funds from the state wildlife
34 fund shall be used only for the department of fish and wildlife after
35 June 30, 1994.

1 NEW SECTION. **Sec. 80.** The following acts or parts of acts are
2 each repealed:

- 3 (1) RCW 43.131.375 and 1991 c 253 s 5; and
4 (2) RCW 43.131.376 and 1991 c 253 s 6.

5 NEW SECTION. **Sec. 81.** Sections 1 through 6 of this act shall
6 constitute a new chapter in Title 43 RCW.

7 NEW SECTION. **Sec. 82.** The legislature finds that recreational
8 fishing opportunities for salmon and marine bottomfish have been
9 dwindling in recent years. It is important to restore diminished
10 recreational fisheries and to enhance the salmon and marine bottomfish
11 resource to assure sustained productivity. Investments made in
12 recreational fishing programs will repay the people of the state many
13 times over in increased economic activity and in an improved quality of
14 life.

15 NEW SECTION. **Sec. 83.** There is created within the department of
16 fish and wildlife the Puget Sound recreational salmon and marine fish
17 enhancement program. The department of fish and wildlife shall
18 identify a coordinator for the program who shall act as spokesperson
19 for the program and shall:

- 20 (1) Coordinate the activities of the Puget Sound recreational
21 salmon and marine fish enhancement program, including the Lake
22 Washington salmon fishery;
23 (2) Provide reports as needed to the legislature and the public;
24 and
25 (3) Work within and outside of the department to achieve the goals
26 stated in this chapter.

27 NEW SECTION. **Sec. 84.** The department shall: Develop a short-term
28 program of hatchery-based salmon enhancement using freshwater pond
29 sites for the final rearing phase; solicit support from cooperative
30 projects, regional enhancement groups, and other supporting
31 organizations; conduct comprehensive research on resident and migratory
32 salmon production opportunities; and conduct research on marine
33 bottomfish production limitations and on methods for artificial
34 propagation of marine bottomfish.

1 Long-term responsibilities of the department are to: Fully
2 implement enhancement efforts for Puget Sound and Hood Canal resident
3 salmon and marine bottomfish; identify opportunities to reestablish
4 salmon runs into areas where they no longer exist; encourage naturally
5 spawning salmon populations to develop to their fullest extent; and
6 fully utilize hatchery programs to improve recreational fishing.

7 NEW SECTION. **Sec. 85.** The department shall seek recommendations
8 from persons who are expert on the planning and operation of programs
9 for enhancement of recreational fisheries. The department shall fully
10 use the expertise of the University of Washington college of fisheries
11 and the sea grant program to develop research and enhancement programs.

12 NEW SECTION. **Sec. 86.** The department shall develop new locations
13 for the freshwater rearing of delayed-release chinook salmon. In
14 calendar year 1994, at least one freshwater pond chinook salmon rearing
15 site shall be developed and begin production in each of the following
16 areas: South Puget Sound, central Puget Sound, north Puget Sound, and
17 Hood Canal. Natural or artificial pond sites shall be preferred to net
18 pens due to higher survival rates experienced from pond rearing.
19 Rigorous predatory bird control measures shall be implemented. The
20 goal of the program is to increase the production and planting of
21 delayed release chinook salmon to a level of three million fish
22 annually by the year 2000.

23 NEW SECTION. **Sec. 87.** The department shall conduct research,
24 develop methods, and implement programs for the artificial rearing and
25 release of marine bottomfish species. Lingcod, halibut, rockfish, and
26 Pacific cod shall be the species of primary emphasis due to their
27 importance in the recreational fishery.

28 NEW SECTION. **Sec. 88.** The department shall undertake additional
29 research to more fully evaluate improved enhancement techniques,
30 hooking mortality rates, methods of mass marking, improvement of catch
31 models, and sources of marine bottomfish mortality. Research shall be
32 designed to give the best opportunity to provide information that can
33 be applied to real-world recreational fishing needs.

1 NEW SECTION. **Sec. 89.** The department shall work with the
2 department of ecology, the department of wildlife, and local government
3 entities to streamline the siting process for new enhancement projects.
4 The department is encouraged to work with the legislature to develop
5 statutory changes that enable expeditious processing and granting of
6 permits for fish enhancement projects.

7 NEW SECTION. **Sec. 90.** The department's information and education
8 section shall develop a public awareness program designed to educate
9 the public on the elements of the recreational fishing program and to
10 recruit volunteers to assist the department in implementing
11 recreational fishing projects. Economic benefits of the program shall
12 be emphasized.

13 NEW SECTION. **Sec. 91.** The department shall increase efforts to
14 document the effects of bird predators, harbor seals, sea lions, and
15 predatory fish upon the salmon and marine fish resource. Every
16 opportunity shall be explored to convince the federal government to
17 amend the marine mammal protection act to allow for balanced management
18 of predators, as well as to work with the United States fish and
19 wildlife service to achieve workable control measures for predatory
20 birds.

21 NEW SECTION. **Sec. 92.** Indian tribal fishing interests and non-
22 Indian commercial fishing groups shall be invited to participate in
23 development of plans for selective fisheries that target hatchery-
24 produced fish and minimize catch of naturally spawned fish. In
25 addition, talks shall be initiated on the feasibility of altering the
26 rearing programs of department hatcheries to achieve higher survival
27 and greater production of chinook and coho salmon.

28 NEW SECTION. **Sec. 93.** The department shall coordinate the sport
29 fishing program with the wild stock initiative to assure that the two
30 programs are compatible and potential conflicts are avoided.

31 NEW SECTION. **Sec. 94.** The department shall develop plans for
32 increased recreational access to salmon and marine fish resources.
33 Proposals for new boat launching ramps and pier fishing access shall be
34 developed.

1 NEW SECTION. **Sec. 95.** The department shall contract with private
2 consultants, aquatic farms, or construction firms, where appropriate,
3 to achieve the highest benefit-to-cost ratio for recreational fishing
4 projects.

5 NEW SECTION. **Sec. 96.** The requirements and provisions of this
6 chapter are to be performed in addition to and not at the expense of
7 existing salmon programs of the department. Nothing in this chapter
8 shall be construed to authorize the department to advocate or to
9 improve recreational fishing at the expense of commercial fishing or to
10 increase recreational enhancement to the detriment of commercial
11 enhancement.

12 NEW SECTION. **Sec. 97.** Beginning January 1, 1994, persons who
13 recreationally fish for salmon or marine bottomfish in marine area
14 codes 5 through 13 and Lake Washington shall be assessed an annual
15 recreational surcharge of ten dollars, in addition to other licensing
16 requirements. Funds from the surcharge shall be deposited in the
17 recreational fisheries enhancement account created in section 98 of
18 this act, except that the first five hundred thousand dollars shall be
19 deposited in the general fund before June 30, 1995, to repay the
20 appropriation made by section 104, chapter, Laws of 1993
21 (section 104 of this act).

22 NEW SECTION. **Sec. 98.** The recreational fisheries enhancement
23 account is created in the state treasury. All receipts from section 97
24 of this act shall be deposited into the account. Moneys in the account
25 may be spent only after appropriation. Expenditures from the account
26 may be used only for recreational fisheries enhancement programs.

27 NEW SECTION. **Sec. 99.** A new section is added to chapter 75.08 RCW
28 to read as follows:

29 The department may adopt rules pertaining to harvest of fish and
30 wildlife in the federal exclusive economic zone by vessels or
31 individuals registered or licensed under the laws of this state.

32 NEW SECTION. **Sec. 100.** The department shall develop and present
33 to the legislature, no later than January 1, 1994, proposed legislation

1 for a recreational fishing capital facilities improvement program
2 financed through general obligation bonds.

3 NEW SECTION. **Sec. 101.** (1) As used in sections 82 through 100 of
4 this act, "department of fish and wildlife" means the department of
5 fisheries.

6 (2) This section expires June 30, 1994.

7 NEW SECTION. **Sec. 102.** Sections 1 through 6, 8 through 59, and 61
8 through 79 of this act shall take effect July 1, 1994.

9 NEW SECTION. **Sec. 103.** Sections 83 through 98 of this act shall
10 constitute a new chapter in Title 75 RCW.

11 NEW SECTION. **Sec. 104.** The sum of five hundred thousand dollars,
12 or as much thereof as may be necessary, is appropriated for the
13 biennium ending June 30, 1995, from the general fund to the
14 recreational fisheries enhancement account created in section 98 of
15 this act for the purpose of achieving early implementation of this act.
16 Funds appropriated by this section shall be repaid to the general fund
17 from the proceeds of the surcharge established in section 97 of this
18 act. Repayment shall occur before June 30, 1995.

19 NEW SECTION. **Sec. 105.** Sections 7, 60, 80, and 82 through 100 of
20 this act are necessary for the immediate preservation of the public
21 peace, health, or safety, or support of the state government and its
22 existing public institutions, and shall take effect July 1, 1993.

23 NEW SECTION. **Sec. 106.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected."

--- END ---