
HOUSE BILL 2449

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By Representatives Delvin, Foreman, Chandler, Mastin, Honeyford, Clements, Koster, Boldt, Schoesler, Robertson, Silver, Mulliken and Johnson

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1 AN ACT Relating to water resource management; amending RCW
2 90.54.020, 90.54.180, and 90.03.383; adding new sections to chapter
3 90.03 RCW; adding a new chapter to Title 90 RCW; and creating new
4 sections.

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

6 **PART I**
7 **WATER TRANSFERS**

8 NEW SECTION. **Sec. 1.** The legislature finds:

9 (1) Voluntary water transfers between water users, including water
10 transfers derived from conservation and efficiency improvements, can
11 reallocate water use in a manner that will result in more efficient use
12 of water resources.

13 (2) Voluntary water transfers can help alleviate water shortages,
14 save capital outlays, reduce development costs, and provide an
15 incentive for investment in water conservation efforts by water right
16 holders.

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

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

5 (2) "Director" means the director of the department of ecology.

6 (3) "WRIA" means a water resource inventory area established in
7 chapter 173-500 WAC as it existed on January 1, 1996.

8 NEW SECTION. **Sec. 3.** (1) Any of the following local water
9 resource agencies may petition the director for permission to organize
10 a water conservancy board and to exercise the powers and authorities of
11 a water conservancy board enumerated in this chapter with the
12 geographic boundaries of the local water resource agency and any area
13 in which the agency provides retail service to customers or members:

14 (a) An irrigation district organized under chapter 87.03 RCW;

15 (b) A reclamation district organized under chapter 89.30 RCW;

16 (c) A city that operates a municipal water supply system pursuant
17 to chapter 35.92 RCW;

18 (d) A public utility district that operates a municipal water
19 supply system pursuant to chapter 54.08 RCW;

20 (e) A water district that operates a municipal water supply system
21 pursuant to chapter 57.08 RCW; or

22 (f) A cooperative or mutual corporation that operates a public
23 water system serving one hundred or more accounts.

24 (2) A water conservancy board formed and organized pursuant to this
25 section by a local water resource agency constitutes a separate
26 governmental subdivision of this state, and a public body corporate and
27 politic exercising public powers. The initial and successor directors
28 or other governing body of the water conservancy board shall be
29 appointed by the governing body of the local water resource agency
30 petitioner.

31 NEW SECTION. **Sec. 4.** (1) Twelve or more water right holders who
32 divert water for use within one or more WRIAs may petition the
33 department for permission to organize a water conservancy board
34 encompassing the geographic area of the WRIAs in which the petitioners
35 divert or use water and to exercise the powers and authorities of a
36 water conservancy board enumerated in this chapter.

1 (2) A water conservancy board formed and organized pursuant to this
2 section by twelve or more water right holders constitutes a separate
3 governmental subdivision of this state, and a public body corporate and
4 politic exercising public powers. The board shall have a governing
5 body of three directors.

6 NEW SECTION. **Sec. 5.** (1) Any combination of two or more local
7 water resource agencies or one or more local water resource agencies
8 and twelve or more eligible water right holder petitioners may jointly
9 petition the department for permission to organize a water conservancy
10 board and to exercise the powers and authorities of a water conservancy
11 board enumerated in this chapter within the geographic boundaries of
12 any of the participating local water resource agencies and any area in
13 which any agency provides retail service to customers or members, or
14 within any WRIA in which water right holder petitioners joining in the
15 petition divert or use water.

16 (2) A water conservancy board formed and organized by any
17 combination of two or more local water resource agencies, or two or
18 more local water resource agencies and eligible water right holder
19 petitioners, constitutes a separate governmental subdivision of this
20 state, and a public body corporate and politic exercising public
21 powers.

22 NEW SECTION. **Sec. 6.** A petition to form a water conservancy board
23 must conform to the following requirements and must contain the
24 following information:

25 (1) The name and address of each petitioner;

26 (2) A brief description of the water right and use of each
27 petitioner sufficient to identify the place and source of diversion and
28 the place of use of the water;

29 (3) Identification of the geographic boundaries of any local water
30 resource agency or WRIA or WRIAs to be included within the water
31 conservancy board;

32 (4) A statement of the need for the board; and

33 (5) The proposed bylaws or an equivalent statement of the rules and
34 procedures that will govern the operation of the board once organized.

35 NEW SECTION. **Sec. 7.** (1) The petition must be presented to the
36 director. As soon as practicable after it is received, but no later

1 than ninety days, the department shall determine if approval of the
2 petition would further the purposes of this chapter.

3 (2) No later than ninety days after the petition is first presented
4 to the director, he or she shall act on the petition.

5 NEW SECTION. **Sec. 8.** A water conservancy board, and its
6 directors, have the following powers:

7 (1) A water conservancy board is authorized to establish water
8 transfers through which all or part of the water that any person or
9 agency is entitled to use by reason of owning or holding a water right
10 may be listed for transfer. The general provisions and limitations for
11 local transfers must be established by the water conservancy board.
12 Each board shall maintain and publish all information made available to
13 the board concerning water rights listed with the board and any
14 application to the board for approval of a water transfer.

15 (2) Each water conservancy board shall establish a program and
16 procedures, consistent with applicable law and rules adopted by the
17 department, for the administration of a system of timely local
18 approvals for water transfers pursuant to this chapter. The
19 administration of the system shall be performed exclusively by the
20 board.

21 (3) The transferor and the transferee of any proposed water
22 transfer may apply to a water conservancy board for approval of the
23 transfer if the water proposed to be transferred is currently diverted
24 or used within the geographic boundaries of the board, or would be
25 diverted or used within the geographic boundaries of the board if the
26 transfer is approved. The application must contain such information as
27 required by the board to review and act on the application.

28 (4) The department shall recognize that water conserved through
29 efficiency practices, technological improvements, or new land
30 management practices is retained by the existing water right holder for
31 use identified under long-term management plans or for transfer to
32 other water users, as provided under this chapter.

33 (5) The water conservancy board shall publish notice of the
34 application and send notice to state agencies as provided in RCW
35 90.03.280. Any person claiming detriment or injury to an existing
36 water right as a result of the proposed transfer may intervene in an
37 application before the board. Other interested persons may submit
38 comments. The board shall review each application for a transfer and

1 determine whether it meets the requirements of this chapter and any
2 rules adopted by the department pursuant to this chapter, and otherwise
3 complies with the law. If a majority of the governing body of the
4 board determines that the application is complete and in accordance
5 with the law and the transfer may be made without injury or detriment
6 to existing rights of other water right holders, the board shall issue
7 to the applicant a certificate conditionally approving the transfer,
8 subject to review by the director as provided in this section.

9 (6) A water conservancy board is authorized to acquire, purchase,
10 hold, lease, manage, occupy, and sell real and personal property or any
11 interest therein, to enter into and perform any and all necessary
12 contracts, to appoint and employ the necessary agents and employees, to
13 employ contractors including contracts for professional services, to
14 sue and be sued, and to do any and all lawful acts required and
15 expedient to carry out the purposes of this chapter.

16 NEW SECTION. **Sec. 9.** (1) The application of the transferor and
17 the transferee in any proposed water transfer must include, in addition
18 to other information required by the board, information sufficient to
19 establish to the board's satisfaction, the transferor's entitlement to
20 the quantity of water being transferred, and it shall describe any
21 applicable existing limitations on the right to use water, including,
22 without limitation, the place of diversion, place of use, source of
23 supply, time of use, period of use, and the place of storage.

24 (2) A water right or nonconsumptive use that has not been
25 adjudicated may be transferred under this chapter. Neither the board's
26 approval of a transfer nor the department's approval of the board's
27 action constitutes an adjudication of the validity, priority, or
28 quantity of the transferor's water right as between the transferor or
29 the transferee and the state, or as between the transferor or the
30 transferee and one or more other water use claimants. Such approvals
31 do not preclude or prejudice a subsequent challenge to the validity,
32 priority, or quantity of such right in an adjudication proceeding. If
33 deemed necessary by the board, the board may request the department to
34 conduct a general adjudication and the department shall give high
35 priority to such a request.

36 NEW SECTION. **Sec. 10.** (1) If an application for transfer proposes
37 to transfer water rights from one irrigation district to another,

1 approval of the transfer shall be conditioned upon receipt of
2 concurrence from each of the irrigation districts that such transfer
3 will not adversely affect the ability to deliver water to other
4 landowners or impair the financial integrity of either of the
5 irrigation districts. A transfer involving a change in place or use or
6 a nonconsumptive use by an individual water user or users of water
7 provided by an irrigation district need only receive approval for the
8 change from the board of directors of the irrigation district if the
9 use of water continues within the irrigation district.

10 (2) There is a rebuttable presumption that any water transfer does
11 not impair or injure any existing rights of third parties. However, if
12 any person claims to be the holder of a right impaired by a proposed
13 transfer, such person has the right to a hearing before the governing
14 body of the board. The board shall receive such evidence as it may
15 deem material and necessary to determine the validity of the claim of
16 impairment. If the evidence presented by the party claiming an
17 impairment establishes that, more probably than not, the claimant's
18 water right would be impaired by the proposed transfer, the board may
19 not approve the transfer unless:

20 (a) The applicant and the impaired party agree upon compensation
21 for the impairment; or

22 (b) The applicant proposes a physical solution that substantially
23 mitigates the impairment and is reasonable under the circumstances.

24 (3) Any water transfer that is limited to the consumptive quantity
25 of the transferor or a nonconsumptive use shall be conclusively
26 presumed to cause no detriment or impairment to existing rights of
27 third parties. For purposes of this section, "consumptive quantity"
28 means the actual five-year average amount of water that the water right
29 holder has diverted reduced by the estimated amount of return flows.
30 The burden is on the applicant to establish that a proposed transfer is
31 limited to the transferor's consumptive quantity.

32 (4) Existing rights include instream flows and nonconsumptive uses
33 for public and private use as established under chapter 90.22 RCW or by
34 court decree, as well as other junior and senior rights.

35 NEW SECTION. **Sec. 11.** (1) If a transfer is approved by a water
36 conservancy board, the board shall submit a copy of the proposed
37 certificate conditionally approving the transfer to the department for
38 review. Along with a copy of the proposed certificate, the district

1 shall submit a report summarizing any factual findings on which the
2 board relied in deciding to approve the proposed transfer. Notice by
3 mail must be sent to any person who objected to a transfer or who has
4 requested notice.

5 (2) The department is authorized to review any proposed transfer
6 approved by a board for compliance with this chapter, any guidelines
7 adopted by the department, and other applicable law. The parties to a
8 transfer or any third party whose water right is alleged to be impaired
9 by a transfer may appeal the board's decision to the department. The
10 board shall, at the request of the department or any intervener,
11 forward to the department the files and records upon which the board
12 based its decision. The department shall review the action of the
13 board and affirm, reverse, or modify the action of the board within
14 thirty days of receipt. The thirty-day time period for department
15 review of a board's action may be extended an additional thirty days by
16 the department for any reason, or for any time period by the consent of
17 the parties to a transfer. If the department fails to act on the
18 matter within the required time, the board's action shall be deemed
19 final. Upon approval of a water transfer by the action or nonaction of
20 the department, the conditional certificate issued by the board becomes
21 final and valid.

22 NEW SECTION. **Sec. 12.** The decision of the director or the
23 department to approve or deny a petition to form a water conservancy
24 board, or to suspend a water conservancy board's powers and
25 authorities, or to approve or deny a water transfer, by action or
26 nonaction, and any other final agency decision or final action pursuant
27 to this chapter, is subject to judicial review as provided in chapter
28 34.05 RCW.

29 **PART II**
30 **STORAGE**

31 **Sec. 13.** RCW 90.54.020 and 1989 c 348 s 1 are each amended to read
32 as follows:

33 Utilization and management of the waters of the state shall be
34 guided by the following general declaration of fundamentals:

35 (1) Uses of water for domestic, stock watering, industrial,
36 commercial, agricultural, irrigation, hydroelectric power production,

1 mining, fish and wildlife maintenance and enhancement, recreational,
2 and thermal power production purposes, and preservation of
3 environmental and aesthetic values, and all other uses compatible with
4 the enjoyment of the public waters of the state, are declared to be
5 beneficial.

6 (2) Allocation of waters among potential uses and users shall be
7 based generally on the securing of the maximum net benefits for the
8 people of the state. Maximum net benefits shall constitute total
9 benefits less costs including opportunities lost.

10 (3) The quality of the natural environment shall be protected and,
11 where possible, enhanced as follows:

12 (a) Perennial rivers and streams of the state shall be retained
13 with base flows necessary to provide for preservation of wildlife,
14 fish, scenic, aesthetic and other environmental values, and
15 navigational values. Lakes and ponds shall be retained substantially
16 in their natural condition. Withdrawals of water which would conflict
17 therewith shall be authorized only in those situations where it is
18 clear that overriding considerations of the public interest will be
19 served.

20 (b) Waters of the state shall be of high quality. Regardless of
21 the quality of the waters of the state, all wastes and other materials
22 and substances proposed for entry into said waters shall be provided
23 with all known, available, and reasonable methods of treatment prior to
24 entry. Notwithstanding that standards of quality established for the
25 waters of the state would not be violated, wastes and other materials
26 and substances shall not be allowed to enter such waters which will
27 reduce the existing quality thereof, except in those situations where
28 it is clear that overriding considerations of the public interest will
29 be served. Technology-based effluent limitations or standards for
30 discharges for municipal water treatment plants located on the
31 Chehalis, Columbia, Cowlitz, Lewis, or Skagit river shall be adjusted
32 to reflect credit for substances removed from the plant intake water
33 if:

34 (i) The municipality demonstrates that the intake water is drawn
35 from the same body of water into which the discharge is made; and

36 (ii) The municipality demonstrates that no violation of receiving
37 water quality standards or appreciable environmental degradation will
38 result.

1 (4) The development of multipurpose water storage facilities shall
2 be a high priority for programs of water allocation, planning,
3 management, and efficiency. The department, other state agencies,
4 local governments, and other planning units shall evaluate the
5 potential for the development of new storage projects and the benefits
6 of storage in reducing damage to stream banks and property, increasing
7 the use of land, providing water for municipal, industrial,
8 agricultural, power generation, and other beneficial uses, and
9 improving stream flow regimes for fisheries and other instream uses.

10 (5) Adequate and safe supplies of water shall be preserved and
11 protected in potable condition to satisfy human domestic needs.

12 ~~((+5))~~ (6) Multiple-purpose impoundment structures are to be
13 preferred over single-purpose structures. Due regard shall be given to
14 means and methods for protection of fishery resources in the planning
15 for and construction of water impoundment structures and other
16 artificial obstructions.

17 ~~((+6))~~ (7) Federal, state, and local governments, individuals,
18 corporations, groups and other entities shall be encouraged to carry
19 out practices of conservation as they relate to the use of the waters
20 of the state. In addition to traditional development approaches,
21 improved water use efficiency and conservation shall be emphasized in
22 the management of the state's water resources and in some cases will be
23 a potential new source of water with which to meet future needs
24 throughout the state.

25 ~~((+7))~~ (8) Development of water supply systems, whether publicly
26 or privately owned, which provide water to the public generally in
27 regional areas within the state shall be encouraged. Development of
28 water supply systems for multiple domestic use which will not serve the
29 public generally shall be discouraged where water supplies are
30 available from water systems serving the public.

31 ~~((+8))~~ (9) Full recognition shall be given in the administration
32 of water allocation and use programs to the natural interrelationships
33 of surface and ground waters.

34 ~~((+9))~~ (10) Expressions of the public interest will be sought at
35 all stages of water planning and allocation discussions.

36 ~~((+10))~~ (11) Water management programs, including but not limited
37 to, water quality, flood control, drainage, erosion control and storm
38 runoff are deemed to be in the public interest.

1 **Sec. 14.** RCW 90.54.180 and 1989 c 348 s 5 are each amended to read
2 as follows:

3 Consistent with the fundamentals of water resource policy set forth
4 in this chapter, state and local governments, individuals,
5 corporations, groups and other entities shall be encouraged to carry
6 out water use efficiency and conservation programs and practices
7 consistent with the following:

8 (1) Water efficiency and conservation programs should utilize an
9 appropriate mix of economic incentives, cost share programs, regulatory
10 programs, and technical and public information efforts. Programs which
11 encourage voluntary participation are preferred.

12 (2) Increased water use efficiency should receive consideration as
13 a potential source of water in state and local water resource planning
14 processes. In determining the cost-effectiveness of alternative water
15 sources, consideration should be given to the benefits of conservation,
16 including waste water recycling, and (~~(impoundment)~~) storage of waters.

17 (3) In determining the cost-effectiveness of alternative water
18 sources, full consideration should be given to the benefits of storage
19 which can reduce the damage to stream banks and property, increase the
20 utilization of land, provide water for municipal, industrial,
21 agricultural, and other beneficial uses, provide for the generation of
22 electric power from renewable resources, and improve stream flow
23 regimes for fishery and other instream uses.

24 (4) Entities receiving state financial assistance for construction
25 of water source expansion or acquisition of new sources shall develop,
26 and implement if cost-effective, a water use efficiency and
27 conservation element of a water supply plan pursuant to RCW
28 43.20.230(1).

29 (5) State programs to improve water use efficiency should focus on
30 those areas of the state in which water is overappropriated; areas that
31 experience diminished streamflows or aquifer levels; and areas where
32 projected water needs, including those for instream flows, exceed
33 available supplies.

34 (6) Existing and future generations of citizens of the state of
35 Washington should be made aware of the importance of the state's water
36 resources and the need for wise and efficient use and development of
37 this vital resource. In order to increase this awareness, state
38 agencies should integrate public education on increasing water use
39 efficiency into existing public information efforts. This effort shall

1 be coordinated with other levels of government, including local
2 governments and Indian tribes.

3 **PART III**
4 **INTERTIES**

5 **Sec. 15.** RCW 90.03.383 and 1991 c 350 s 1 are each amended to read
6 as follows:

7 (1) The legislature recognizes the value of interties for improving
8 the reliability of public water systems, enhancing their management,
9 and more efficiently utilizing the increasingly limited resource.
10 Given the continued growth in the most populous areas of the state, the
11 increased complexity of public water supply management, and the trend
12 toward regional planning and regional solutions to resource issues,
13 interconnections of public water systems through interties provide a
14 valuable tool to ensure reliable public water supplies for the citizens
15 of the state. Public water systems have been encouraged in the past to
16 utilize interties to achieve public health and resource management
17 objectives. The legislature finds that it is in the public interest to
18 recognize interties existing and in use as of January 1, 1991, and to
19 have associated water rights modified by the department of ecology to
20 reflect current use of water through those interties, pursuant to
21 subsection (3) of this section. The legislature further finds it in
22 the public interest to develop a coordinated process to review
23 proposals for interties commencing use after January 1, 1991.

24 (2) For the purposes of this section, the following definitions
25 shall apply:

26 (a) "Interties" are interconnections between public water systems
27 permitting exchange, acquisition, or delivery of wholesale and/or
28 retail water between those systems for other than emergency supply
29 purposes, where such exchange, acquisition, or delivery is within
30 established instantaneous and annual withdrawal rates specified in the
31 systems' existing water right permits or certificates, or contained in
32 claims filed pursuant to chapter 90.14 RCW, and which results in better
33 management of public water supply consistent with existing rights and
34 obligations. Interties include interconnections between public water
35 systems permitting exchange, acquisition, or delivery of water to serve
36 as primary or secondary sources of supply(~~(, but do not include~~
37 ~~development of new sources of supply to meet future demand)~~).

1 (b) "Service area" is the area designated as the wholesale and/or
2 retail area in a water system plan or a coordinated water system plan
3 pursuant to chapter 43.20 or 70.116 RCW respectively. When a public
4 water system does not have a designated service area subject to the
5 approval process of those chapters, the service area shall be the
6 designated place of use contained in the water right permit or
7 certificate, or contained in the claim filed pursuant to chapter 90.14
8 RCW.

9 (3) Public water systems with interties existing and in use as of
10 January 1, 1991, or that have received written approval from the
11 department of health prior to that date, shall file written notice of
12 those interties with the department of health and the department of
13 ecology. The notice may be incorporated into the public water system's
14 five-year update of its water system plan, but shall be filed no later
15 than June 30, 1996. The notice shall identify the location of the
16 intertie; the dates of its first use; the purpose, capacity, and
17 current use; the intertie agreement of the parties and the service
18 areas assigned; and other information reasonably necessary to modify
19 the water right permit. Notwithstanding the provisions of RCW
20 90.03.380 and 90.44.100, for public water systems with interties
21 existing and in use as of January 1, 1991, the department of ecology,
22 upon receipt of notice meeting the requirements of this subsection,
23 shall, as soon as practicable, modify the place of use descriptions in
24 the water right permits, certificates, or claims to reflect the actual
25 use through such interties, provided that the place of use is within
26 service area designations established in a water system plan approved
27 pursuant to chapter 43.20 RCW, or a coordinated water system plan
28 approved pursuant to chapter 70.116 RCW, and further provided that the
29 water used is within the instantaneous and annual withdrawal rates
30 specified in the water right permit and that no outstanding complaints
31 of impairment to existing water rights have been filed with the
32 department of ecology prior to September 1, 1991. Where such
33 complaints of impairment have been received, the department of ecology
34 shall make all reasonable efforts to resolve them in a timely manner
35 through agreement of the parties or through available administrative
36 remedies.

37 (4) Notwithstanding the provisions of RCW 90.03.380 and 90.44.100,
38 exchange or delivery of water through interties commencing use after
39 January 1, 1991, shall be permitted when the intertie improves overall

1 system reliability, enhances the manageability of the systems, provides
2 opportunities for conjunctive use, or delays or avoids the need to
3 develop new water sources, and otherwise meets the requirements of this
4 section, provided that each public water system's water use shall not
5 exceed the instantaneous or annual withdrawal rate specified in its
6 water right authorization, shall not adversely affect existing water
7 rights, and shall not be inconsistent with state-approved plans such as
8 water system plans or other plans which include specific proposals for
9 construction of interties. Interties commencing use after January 1,
10 1991, shall not be inconsistent with regional water resource plans
11 developed pursuant to chapter 90.54 RCW.

12 (5) For public water systems subject to the approval process of
13 chapter 43.20 RCW or chapter 70.116 RCW, proposals for interties
14 commencing use after January 1, 1991, shall be incorporated into water
15 system plans pursuant to chapter 43.20 RCW or coordinated water system
16 plans pursuant to chapter 70.116 RCW and submitted to the department of
17 health and the department of ecology for review and approval as
18 provided for in subsections (5) through (9) of this section. The plan
19 shall state how the proposed intertie will improve overall system
20 reliability, enhance the manageability of the systems, provide
21 opportunities for conjunctive use, or delay or avoid the need to
22 develop new water sources.

23 (6) The department of health shall be responsible for review and
24 approval of proposals for new interties. In its review the department
25 of health shall determine whether the intertie satisfies the criteria
26 of subsection (4) of this section, with the exception of water rights
27 considerations, which are the responsibility of the department of
28 ecology, and shall determine whether the intertie is necessary to
29 address emergent public health or safety concerns associated with
30 public water supply.

31 (7) If the intertie is determined by the department of health to be
32 necessary to address emergent public health or safety concerns
33 associated with public water supply, the public water system shall
34 amend its water system plan as required and shall file an application
35 with the department of ecology to change its existing water right to
36 reflect the proposed use of the water as described in the approved
37 water system plan. The department of ecology shall process the
38 application for change pursuant to RCW 90.03.380 or 90.44.100 as
39 appropriate, except that, notwithstanding the requirements of those

1 sections regarding notice and protest periods, applicants shall be
2 required to publish notice one time, and the comment period shall be
3 fifteen days from the date of publication of the notice. Within sixty
4 days of receiving the application, the department of ecology shall
5 issue findings and advise the department of health if existing water
6 rights are determined to be adversely affected. If no determination is
7 provided by the department of ecology within the sixty-day period, the
8 department of health shall proceed as if existing rights are not
9 adversely affected by the proposed intertie. The department of ecology
10 may obtain an extension of the sixty-day period by submitting written
11 notice to the department of health and to the applicant indicating a
12 definite date by which its determination will be made. No additional
13 extensions shall be granted, and in no event shall the total review
14 period for the department of ecology exceed one hundred eighty days.

15 (8) If the department of health determines the proposed intertie
16 appears to meet the requirements of subsection (4) of this section but
17 is not necessary to address emergent public health or safety concerns
18 associated with public water supply, the department of health shall
19 instruct the applicant to submit to the department of ecology an
20 application for change to the underlying water right or claim as
21 necessary to reflect the new place of use. The department of ecology
22 shall consider the applications pursuant to the provisions of RCW
23 90.03.380 and 90.44.100 as appropriate. If in its review of proposed
24 interties and associated water rights the department of ecology
25 determines that additional information is required to act on the
26 application, the department may request applicants to provide
27 information necessary for its decision, consistent with agency rules
28 and written guidelines. Parties disagreeing with the decision of the
29 department of ecology on the application for change in place of use may
30 appeal the decision to the pollution control hearings board.

31 (9) The department of health may approve plans containing intertie
32 proposals prior to the department of ecology's decision on the water
33 right application for change in place of use. However, notwithstanding
34 such approval, construction work on the intertie shall not begin until
35 the department of ecology issues the appropriate water right document
36 to the applicant consistent with the approved plan.

37 **PART IV**
38 **GENERAL PERMITS**

1 NEW SECTION. **Sec. 16.** The legislature finds that the present
2 delay in the processing of water right applications is not beneficial
3 to the citizens of the state nor is it in keeping with the goal of
4 managing the resource to the highest possible standard and maximum net
5 benefit.

6 The legislature further finds that water conservation efforts would
7 be greatly enhanced by a permit system that encourages water right
8 applicants to use only the amount of water actually necessary to meet
9 their needs.

10 NEW SECTION. **Sec. 17.** A new section is added to chapter 90.03 RCW
11 to read as follows:

12 (1) The department shall develop a general permit system for
13 appropriating water for nonconsumptive, nonbypass uses. This system
14 must be designed and used to accurately identify and register any water
15 right application that qualifies for the streamlined process of
16 appropriation of water by meeting the requirements in this section and
17 registering the use. The general permit system must be applicable
18 state-wide, and all waters of the state shall be eligible for coverage
19 under the system. The evaluation and report required for an
20 application under RCW 90.03.290 are not required for applications
21 processed under the general permit system. For the purposes of this
22 section:

23 (a) "Nonconsumptive, nonbypass use" means a use of water in which
24 water is diverted from a stream or drawn from an aquifer and following
25 its use is discharged back into or near the point of diversion or
26 withdrawal without diminishment in quality and less than five thousand
27 gallons of net consumption per day; and

28 (b) "Without diminishment of quality" means that, before being
29 discharged back to its source, the water being discharged meets state
30 water quality standards adopted under chapter 90.48 RCW.

31 (2) The department shall, by January 1, 1997, establish the general
32 permit system by adopting rules in accordance with chapter 34.05 RCW.
33 Before the adoption of rules for a system, the department shall consult
34 with representatives of the following interest groups: Agriculture;
35 aquaculture; home construction and development; county government; city
36 government; surface mining; and the environmental community. At least
37 four public hearings must be held at various locations around the
38 state, not less than two of which shall be east of the crest of the

1 Cascade mountains. The rules must identify criteria for proposed uses
2 of water for which applications might be processed under the system and
3 must establish procedures for filing and processing applications and
4 issuing water rights certificates under the general permit system.

5 NEW SECTION. **Sec. 18.** A new section is added to chapter 90.03 RCW
6 to read as follows:

7 An application for registration as a nonconsumptive, nonbypass
8 water user under the general permit system established under section 17
9 of this act must be made on a form adopted and provided by the
10 department. Within sixty days of receipt of a properly completed
11 application, the department shall determine whether the proposed use is
12 eligible to be processed under the general permit system. If the
13 department determines that the proposed use is eligible to be processed
14 under the system, the application must be processed under the system
15 within the next sixty days. The priority date of the water right
16 established pursuant to this section shall be the date that the
17 properly completed application is submitted. If the department
18 determines that the proposed use is not eligible for the processing,
19 the department shall explain to the applicant in writing the reasons
20 for its determination. For a proposed use determined ineligible for
21 the processing, if the department finds that the information contained
22 on the application form substantially satisfies the information
23 requirements for an application for a use that would normally be filed
24 for processing the application outside of the general permit system,
25 the department shall notify the applicant of its finding and shall
26 process the application as if it were filed for processing outside of
27 the system. If the department finds that the information does not
28 substantially satisfy the requirements, the application must be
29 considered to be incomplete for the processing and the applicant must
30 be notified of this consideration. The department must grant or deny
31 a new permit application within one year of receipt of the application.

32 NEW SECTION. **Sec. 19.** A new section is added to chapter 90.03 RCW
33 to read as follows:

34 Nothing in sections 17 and 18 of this act authorizes the impairment
35 or operates to impair any existing water rights. A water right holder
36 under sections 17 and 18 of this act shall not make withdrawals that
37 impair a senior water right. A holder of a senior water right who

1 believes his or her water right is impaired may file a complaint with
2 the department of ecology. Where such complaints of impairment have
3 been received, the department of ecology shall make all reasonable
4 efforts to resolve them in a timely manner through agreement of the
5 parties or through available administrative remedies. Nothing in
6 section 17 or 18 of this act may be construed as waiving any
7 requirement established under chapter 90.48 RCW or federal law that a
8 permittee secure a discharge permit regarding water quality.

9 **PART V**

10 **MISCELLANEOUS**

11 NEW SECTION. **Sec. 20.** Part headings used in this act do not
12 constitute part of the law.

13 NEW SECTION. **Sec. 21.** Sections 1 through 12 of this act shall
14 constitute a new chapter in Title 90 RCW.

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