
SENATE BILL 5316

State of Washington

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By Senators Morton, Haugen, Rasmussen, Swecker, Newhouse, Prince, Hochstatter, West, Winsley, Deccio, Palmer and Roach

Read first time 01/18/95. Referred to Committee on Senate Select Committee on Water Policy.

1 AN ACT Relating to water resource governance; amending RCW
2 43.20.230, 43.21A.020, 43.21A.061, 43.21A.064, 43.21A.067, 43.21A.445,
3 43.21B.110, 43.21B.300, 43.21B.310, 43.27A.020, 43.27A.090, 43.27A.130,
4 43.27A.190, 89.16.040, 89.16.045, 89.16.050, 89.16.055, 89.16.060,
5 89.16.080, 89.30.055, 89.30.058, 89.30.070, 89.30.427, 90.03.005,
6 90.03.015, 90.03.130, 90.03.247, 90.03.345, 90.03.360, 90.03.383,
7 90.03.386, 90.03.390, 90.03.471, 90.03.600, 90.08.040, 90.14.041,
8 90.14.043, 90.14.061, 90.14.065, 90.14.091, 90.14.101, 90.14.111,
9 90.14.130, 90.14.150, 90.14.180, 90.14.190, 90.14.200, 90.14.230,
10 90.16.060, 90.16.090, 90.22.010, 90.22.030, 90.22.040, 90.24.010,
11 90.24.030, 90.24.040, 90.24.050, 90.24.060, 90.38.010, 90.40.090,
12 90.42.020, 90.44.035, 90.44.130, 90.44.400, 90.44.410, 90.44.410,
13 90.44.420, 90.44.430, 90.44.450, 90.46.005, 90.46.020, 90.46.030,
14 90.46.040, 90.54.010, 90.54.100, 90.54.110, 90.54.120, 90.54.130,
15 90.54.140, 90.54.150, 90.66.040, 90.66.080, and 90.54.040; reenacting
16 and amending RCW 43.17.010, 43.17.020, and 43.83B.300; adding a new
17 section to chapter 43.21A RCW; adding a new section to chapter 90.03
18 RCW; adding new sections to chapter 90.54 RCW; adding new sections to
19 chapter 43.27A RCW; adding a new chapter to Title 43 RCW; creating new
20 sections; providing effective dates; providing an expiration date; and
21 declaring an emergency.

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

2 NEW SECTION. **Sec. 1.** The legislature finds that balanced
3 administration and management of the state water resources is of
4 paramount importance to the citizens of the state. The legislature
5 finds that regional differences in water resource conditions require
6 greater consideration in the development and administration of water
7 resource policy. The legislature finds that to effectively take
8 regional differences into consideration the decision-making authority
9 needs to be composed of persons from various regions of the state.

10 It is the intent of the legislature to establish a state water
11 resources board, which consists of members from regional areas of the
12 state. Further, it is the direction of the legislature that the board
13 develop policies and implement programs that are balanced with the
14 interests of all sectors of the state's residents taken in account.

15 **Sec. 2.** RCW 43.17.010 and 1993 sp.s. c 2 s 16, 1993 c 472 s 17,
16 and 1993 c 280 s 18 are each reenacted and 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 fish and wildlife,
21 (6) the department of transportation, (7) the department of licensing,
22 (8) the department of general administration, (9) the department of
23 community, trade, and economic development, (10) the department of
24 veterans affairs, (11) the department of revenue, (12) the department
25 of retirement systems, (13) the department of corrections, ((and)) (14)
26 the department of health, ((and)) (15) the department of financial
27 institutions, and (16) the department of water resources, which shall
28 be charged with the execution, enforcement, and administration of such
29 laws, and invested with such powers and required to perform such
30 duties, as the legislature may provide.

31 **Sec. 3.** RCW 43.17.020 and 1993 sp.s. c 2 s 17, 1993 c 472 s 18,
32 and 1993 c 280 s 19 are each reenacted and amended to read as follows:

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

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

8 Such officers, except the secretary of transportation and the
9 director of water resources, shall be appointed by the governor, with
10 the consent of the senate, and hold office at the pleasure of the
11 governor. The secretary of transportation shall be appointed by the
12 transportation commission as prescribed by RCW 47.01.041.

13 NEW SECTION. **Sec. 4.** The state water resources board is hereby
14 established. The board has authority over water resources policy
15 matters. The board shall exercise all policy-related powers relating
16 to water quantity matters prescribed by law including the management,
17 conservation, utilization, planning, development, and adjudication of
18 the state's water. The board or its authorized designee shall
19 represent itself in legislative matters.

20 The board shall appoint a director who shall have the duty to
21 implement the policies and decisions of the board and who shall serve
22 as the director of the department of water resources. The salary of
23 the director shall be fixed by the governor in accordance with RCW
24 43.03.040. The director shall have full supervisory authority over all
25 employees in the water resource program. The director shall serve at
26 the pleasure of the board.

27 NEW SECTION. **Sec. 5.** (1) The board shall consist of seven members
28 who shall be appointed by the governor from a list of nominees
29 submitted by the county legislative authorities of each region
30 established under section 7 of this act. Within sixty calendar days of
31 the effective date of this section, each region shall submit a list of
32 three names of citizens from within the region that meet the
33 qualifications in subsection (2) of this section to the governor as
34 nominees for the board. The first members of the board shall be
35 appointed by the governor within ninety days after the effective date
36 of this section. All appointments and reappointments, including those
37 to fill vacancies, must be confirmed by the senate.

1 (2) Nominees for the position of board member shall be qualified
2 electors, and residents for at least five years of the geographic
3 regions specified under section 7 of this act that they are to
4 represent. Nominees must be knowledgeable about state water law and
5 have at least five years' experience in water resource matters. No
6 current state-wide elected official, or state employee within two years
7 after termination of employment with the state, may be appointed to the
8 board. Board members shall not be appointed for more than two
9 consecutive terms.

10 (3) The selection of a list of the names by county legislative
11 authorities for each region shall be accomplished by consensus among
12 the full number of authorities from each of the counties within the
13 region. If consensus cannot be reached on three names, each county
14 shall select one name of a person meeting the requirements of
15 subsection (2) of this section from within the region. A list of
16 potential nominees from each county shall then be assembled, and each
17 county shall be given three votes for the county's top three choices of
18 nominees. The three nominees receiving the greatest number of votes
19 shall have their names placed on the list of nominees submitted to the
20 governor.

21 (4) The initial terms for board members from region one, region
22 four, and region seven shall expire on the first Thursday following the
23 second Monday in January 1997, for board members from region two and
24 region five shall expire on the first Thursday following the second
25 Monday in January 1998, and for board members from region three and
26 region six shall expire on the first Thursday following the second
27 Monday in January 1999.

28 (5) Upon the expiration of the term of any member, the county
29 legislative authorities of the affected region shall follow the process
30 of subsection (3) of this section to provide the governor with another
31 list of three names from which to appoint a successor. Such successor
32 shall be appointed for a term of four years. Vacancies on the board
33 caused for any reason, shall be filled by appointment made by the
34 governor in compliance with subsection (3) of this section for the
35 balance of the unexpired term.

36 (6) At any time, a majority of the county legislative authorities
37 in any region may vote to remove the board member from that region.
38 Such removal may be for any cause deemed appropriate by the legislative

1 authorities of the region. Upon a majority vote by the county
2 legislative authorities, the board position shall be deemed vacant.

3 NEW SECTION. **Sec. 6.** The board shall meet at such times as it
4 deems advisable but at least once every month. It may adopt its own
5 rules and may establish its own procedures consistent with other
6 provisions of state law. Resolutions or motions shall be adopted by an
7 affirmative vote of at least four members. The board shall elect one
8 of its members as chair for a term of one year. The chair may vote on
9 all matters before the board. Members of the board shall be
10 compensated in accordance with RCW 43.03.250 and shall receive
11 reimbursement for their travel expenses as provided in RCW 43.03.050
12 and 43.03.060.

13 NEW SECTION. **Sec. 7.** The state shall be divided into sixty-two
14 water resource inventory areas as provided in WAC 173-500-040 and 173-
15 500-990. There shall be established seven water resource regions in
16 the state and each shall be comprised as follows: Region one shall
17 include Clallam, Jefferson, Mason, Grays Harbor, Pacific, and Wahkiakum
18 counties; region two shall include Whatcom, Skagit, Island, San Juan,
19 Kitsap, and Snohomish counties; region three shall include King,
20 Pierce, Thurston, Cowlitz, and Lewis counties; region four shall
21 include Clark, Skamania, Klickitat, Benton, Yakima, and Kittitas
22 counties; region five shall include Douglas, Grant, Chelan, Adams,
23 Franklin, and Okanogan counties; region six shall include Lincoln,
24 Ferry, Stevens, Pend Oreille, and Spokane counties; region seven shall
25 include Walla Walla, Whitman, Garfield, Columbia, and Asotin counties.

26 NEW SECTION. **Sec. 8.** The department of water resources is hereby
27 created. The director of the department shall be appointed by the
28 water resources board, and shall serve at the pleasure of the board.
29 The director, subject to guidance by the board, shall carry out the
30 policy of the board and the authority delegated to the director by the
31 board. The department may not adopt rules. Rule adoption for the
32 department must be done through the water resources board. The
33 department of water resources shall provide technical assistance to
34 regional planning groups if requested by the local government managing
35 the planning process.

1 **Sec. 9.** RCW 43.20.230 and 1993 sp.s. c 4 s 9 are each amended to
2 read as follows:

3 Consistent with the water resource planning process of the
4 department of ~~((ecology))~~ water resources, the department of health
5 shall:

6 (1) Develop procedures and guidelines relating to water use
7 efficiency, as defined in section 4(3), chapter 348, Laws of 1989, to
8 be included in the development and approval of cost-efficient water
9 system plans required under RCW 43.20.050;

10 (2) Develop criteria, with input from technical experts, with the
11 objective of encouraging the cost-effective reuse of greywater and
12 other water recycling practices, consistent with protection of public
13 health and water quality;

14 (3) Provide advice and technical assistance upon request in the
15 development of water use efficiency plans; and

16 (4) Provide advice and technical assistance on request for
17 development of model conservation rate structures for public water
18 systems. Subsections (1), (2), and (3) of this section are subject to
19 the availability of funding.

20 **Sec. 10.** RCW 43.21A.020 and 1970 ex.s. c 62 s 2 are each amended
21 to read as follows:

22 In recognition of the responsibility of state government to carry
23 out the policies set forth in RCW 43.21A.010, it is the purpose of this
24 chapter to establish a single state agency with the authority to manage
25 ~~((and develop))~~ our air ~~((and water))~~ resources in an orderly,
26 efficient, and effective manner and to carry out a coordinated program
27 of pollution control involving these and related land resources. To
28 this end a department of ecology is created by this chapter to
29 undertake, in an integrated manner, the various water ~~((regulation,~~
30 ~~management, planning and development))~~ quality programs ~~((now~~
31 ~~authorized to be performed by the department of water resources and the~~
32 ~~water pollution control commission))~~, the air regulation and management
33 program now performed by the state air pollution control board, the
34 solid waste regulation and management program authorized to be
35 performed by state government as provided by chapter 70.95 RCW, and
36 such other environmental, management protection and development
37 programs as may be authorized by the legislature.

1 **Sec. 11.** RCW 43.21A.061 and 1987 c 109 s 26 are each amended to
2 read as follows:

3 The department of ((ecology)) water resources shall exercise all
4 the powers and perform all the duties prescribed by law with respect to
5 the reclamation and development of arid, swamp, overflow, and logged-
6 off lands in the state and such other duties as may be prescribed by
7 law.

8 **Sec. 12.** RCW 43.21A.064 and 1977 c 75 s 46 are each amended to
9 read as follows:

10 The director of the department of ((ecology)) water resources shall
11 have the following powers and duties:

12 (1) The supervision of public waters within the state and their
13 appropriation, diversion, and use, and of the various officers
14 connected therewith;

15 (2) Insofar as may be necessary to assure safety to life or
16 property, ((he)) the director shall inspect the construction of all
17 dams, canals, ditches, irrigation systems, hydraulic power plants, and
18 all other works, systems, and plants pertaining to the use of water,
19 and he or she may require such necessary changes in the construction or
20 maintenance of said works, to be made from time to time, as will
21 reasonably secure safety to life and property;

22 (3) He or she shall regulate and control the diversion of water in
23 accordance with the rights thereto;

24 (4) He or she shall determine the discharge of streams and springs
25 and other sources of water supply, and the capacities of lakes and of
26 reservoirs whose waters are being or may be utilized for beneficial
27 purposes;

28 (5) He or she shall keep such records as may be necessary for the
29 recording of the financial transactions and statistical data thereof,
30 and shall procure all necessary documents, forms, and blanks. He or
31 she shall keep a seal of the office, and all certificates by him or her
32 covering any of his or her acts or the acts of his or her office, or
33 the records and files of his or her office, under such seal, shall be
34 taken as evidence thereof in all courts;

35 (6) ((He)) The director shall render when required by the governor,
36 a full written report of the work of his or her office with such
37 recommendations for legislation as he or she may deem advisable for the
38 better control and development of the water resources of the state;

1 (7) The director and duly authorized deputies may administer oaths;

2 (8) He or she shall (~~establish and promulgate~~) develop rules
3 governing the administration of chapter 90.03 RCW, subject to section
4 8 of this act;

5 (9) (~~He~~) The director shall perform such other duties as may be
6 prescribed by law.

7 **Sec. 13.** RCW 43.21A.067 and 1987 c 109 s 27 are each amended to
8 read as follows:

9 The director of (~~ecology~~) water resources may create within his
10 or her department a fund to be known as the "basic data fund."

11 Into such fund shall be deposited all moneys contributed by persons
12 for stream flow, ground water and water quality data or other
13 hydrographic information furnished by the department in cooperation
14 with the United States geological survey, and the fund shall be
15 expended on a matching basis with the United States geological survey
16 for the purpose of obtaining additional basic information needed for an
17 intelligent inventory of water resources in the state.

18 Disbursements from the basic data fund shall be on vouchers
19 approved by the department and the district engineer of the United
20 States geological survey.

21 **Sec. 14.** RCW 43.21A.445 and 1989 1st ex.s. c 9 s 218 are each
22 amended to read as follows:

23 The department of ecology, the department of water resources, the
24 department of natural resources, and the department of health(~~, and~~
25 ~~the oil and gas conservation committee~~) are authorized to participate
26 fully in and are empowered to administer all programs of Part C of the
27 federal Safe Drinking Water Act (42 U.S.C. Sec. 300h et seq.), as it
28 exists on June 19, 1986, contemplated for state participation in
29 administration under the act.

30 The department of ecology and the department of water resources, in
31 the implementation of powers provided herein shall enter into
32 agreements of administration with the departments of health and natural
33 resources (~~and the oil and gas conservation committee~~) to administer
34 those portions of the state program, approved under the federal act,
35 over which the said departments and committee have primary subject-
36 matter authority under existing state law. The departments of health
37 and natural resources (~~and the oil and gas conservation committee~~)

1 are empowered to enter into such agreements and perform the
2 administration contained therein.

3 **Sec. 15.** RCW 43.21B.110 and 1993 c 387 s 22 are each amended to
4 read as follows:

5 (1) The pollution control hearings board shall only have
6 jurisdiction to hear and decide appeals from the following decisions of
7 the department, the director, the administrator of the office of marine
8 safety, and the air pollution control boards or authorities as
9 established pursuant to chapter 70.94 RCW, or local health departments:

10 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
11 70.105.080, 70.107.050, 88.46.090, (~~90.03.600~~) 90.48.144, 90.56.310,
12 and 90.56.330.

13 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
14 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
15 (~~90.14.130~~) and 90.48.120.

16 (c) The issuance, modification, or termination of any permit,
17 certificate, or license by the department or any air authority in the
18 exercise of its jurisdiction, including the issuance or termination of
19 a waste disposal permit, the denial of an application for a waste
20 disposal permit, or the modification of the conditions or the terms of
21 a waste disposal permit.

22 (d) Decisions of local health departments regarding the grant or
23 denial of solid waste permits pursuant to chapter 70.95 RCW.

24 (e) Decisions of local health departments regarding the issuance
25 and enforcement of permits to use or dispose of biosolids under RCW
26 70.95J.080.

27 (f) Any other decision by the department, the administrator of the
28 office of marine safety, or an air authority which pursuant to law must
29 be decided as an adjudicative proceeding under chapter 34.05 RCW.

30 (2) The jurisdiction of the pollution control hearings board is
31 limited as follows:

32 (a) The hearings board has no jurisdiction to review department of
33 water resources or board of water resources decisions on water permits
34 or water rights or general adjudications of water rights under chapter
35 90.03 or 90.44 RCW.

36 (b) The following hearings shall not be conducted by the hearings
37 board:

1 (~~(a)~~) (i) Hearings required by law to be conducted by the
2 shorelines hearings board pursuant to chapter 90.58 RCW.

3 (~~(b)~~) (ii) Hearings conducted by the department pursuant to RCW
4 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and
5 90.44.180.

6 (~~(c)~~ ~~Proceedings by the department relating to general~~
7 ~~adjudications of water rights pursuant to chapter 90.03 or 90.44 RCW.~~

8 (~~(d)~~) (iii) Hearings conducted by the department to adopt, modify,
9 or repeal rules.

10 (3) Review of rules and regulations adopted by the hearings board
11 shall be subject to review in accordance with the provisions of the
12 Administrative Procedure Act, chapter 34.05 RCW.

13 **Sec. 16.** RCW 43.21B.300 and 1993 c 387 s 23 are each amended to
14 read as follows:

15 (1) Any civil penalty provided in RCW 18.104.155, 70.94.431,
16 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and
17 90.56.330 shall be imposed by a notice in writing, either by certified
18 mail with return receipt requested or by personal service, to the
19 person incurring the penalty from the department, the administrator of
20 the office of marine safety, or the local air authority, describing the
21 violation with reasonable particularity. Within fifteen days after the
22 notice is received, the person incurring the penalty may apply in
23 writing to the department, the administrator, or the authority for the
24 remission or mitigation of the penalty. Upon receipt of the
25 application, the department, the administrator, or authority may remit
26 or mitigate the penalty upon whatever terms the department, the
27 administrator, or the authority in its discretion deems proper. The
28 department or the authority may ascertain the facts regarding all such
29 applications in such reasonable manner and under such rules as it may
30 deem proper and shall remit or mitigate the penalty only upon a
31 demonstration of extraordinary circumstances such as the presence of
32 information or factors not considered in setting the original penalty.

33 (2) Any penalty imposed under this section may be appealed to the
34 (~~(pollution control hearings board in accordance with this chapter if~~
35 ~~the appeal is filed with the hearings board and served on the~~
36 ~~department, the administrator, or authority)) superior court thirty
37 days after receipt by the person penalized of the notice imposing the~~

1 penalty or thirty days after receipt of the notice of disposition of
2 the application for relief from penalty.

3 (3) A penalty shall become due and payable on the later of:

4 (a) Thirty days after receipt of the notice imposing the penalty;

5 (b) Thirty days after receipt of the notice of disposition on
6 application for relief from penalty, if such an application is made; or

7 (c) Thirty days after receipt of the (~~notice of decision of the~~
8 ~~hearings board~~) superior court decision if the penalty is appealed.

9 (4) If the amount of any penalty is not paid to the department or
10 the administrator within thirty days after it becomes due and payable,
11 the attorney general, upon request of the department or the
12 administrator, shall bring an action in the name of the state of
13 Washington in the superior court of Thurston county, or of any county
14 in which the violator does business, to recover the penalty. If the
15 amount of the penalty is not paid to the authority within thirty days
16 after it becomes due and payable, the authority may bring an action to
17 recover the penalty in the superior court of the county of the
18 authority's main office or of any county in which the violator does
19 business. In these actions, the procedures and rules of evidence shall
20 be the same as in an ordinary civil action.

21 (5) All penalties recovered shall be paid into the state treasury
22 and credited to the general fund except those penalties imposed
23 pursuant to RCW 18.104.155, which shall be credited to the reclamation
24 account as provided in RCW 18.104.155(7), RCW 70.94.431, the
25 disposition of which shall be governed by that provision, RCW
26 70.105.080, which shall be credited to the hazardous waste control and
27 elimination account, created by RCW 70.105.180, and RCW 90.56.330,
28 which shall be credited to the coastal protection fund created by RCW
29 90.48.390.

30 **Sec. 17.** RCW 43.21B.310 and 1992 c 73 s 3 are each amended to read
31 as follows:

32 (1) Except as provided in subsection (2) of this section, any order
33 issued by the department, the administrator of the office of marine
34 safety, or authority pursuant to RCW 70.94.211, 70.94.332, 70.105.095,
35 43.27A.190, 86.16.020, 88.46.070, or 90.48.120(2) or any provision
36 enacted after July 26, 1987, or any permit, certificate, or license
37 issued by the department may be appealed to the pollution control
38 hearings board if the appeal is filed with the board and served on the

1 department or authority within thirty days after receipt of the order.
2 Except as provided under chapter 70.105D RCW, this is the exclusive
3 means of appeal of such an order.

4 ~~((+2))~~ (a) The department, the administrator, or the authority in
5 its discretion may stay the effectiveness of an order during the
6 pendency of such an appeal.

7 ~~((+3))~~ (b) At any time during the pendency of an appeal of such an
8 order to the board, the appellant may apply pursuant to RCW 43.21B.320
9 to the hearings board for a stay of the order or for the removal
10 thereof.

11 ~~((+4))~~ (c) Any appeal must contain the following in accordance
12 with the rules of the hearings board:

13 ~~((+a))~~ (i) The appellant's name and address;

14 ~~((+b))~~ (ii) The date and docket number of the order, permit, or
15 license appealed;

16 ~~((+c))~~ (iii) A description of the substance of the order, permit,
17 or license that is the subject of the appeal;

18 ~~((+d))~~ (iv) A clear, separate, and concise statement of every
19 error alleged to have been committed;

20 ~~((+e))~~ (v) A clear and concise statement of facts upon which the
21 requester relies to sustain his or her statements of error; and

22 ~~((+f))~~ (vi) A statement setting forth the relief sought.

23 ~~((+5))~~ (d) Upon failure to comply with any final order of the
24 department or the administrator, the attorney general, on request of
25 the department or the administrator, may bring an action in the
26 superior court of the county where the violation occurred or the
27 potential violation is about to occur to obtain such relief as
28 necessary, including injunctive relief, to insure compliance with the
29 order. The air authorities may bring similar actions to enforce their
30 orders.

31 ~~((+6))~~ (e) An appealable decision or order shall be identified as
32 such and shall contain a conspicuous notice to the recipient that it
33 may be appealed only by filing an appeal with the hearings board and
34 serving it on the department within thirty days of receipt.

35 (2) Department of water resources decisions concerning water
36 permits or water rights shall be appealed to superior court.

37 **Sec. 18.** RCW 43.27A.020 and 1987 c 109 s 31 are each amended to
38 read as follows:

1 As used in this chapter, and unless the context indicates
2 otherwise, words and phrases shall mean:

3 "Department" means the department of ((ecology)) water resources;

4 "Director" means the director of ((ecology)) water resources;

5 "State agency" and "state agencies" mean any branch, department or
6 unit of state government, however designated or constituted;

7 "Water resources" means all waters above, upon, or beneath the
8 surface of the earth, located within the state and over which the state
9 has sole or concurrent jurisdiction((-));

10 "Beneficial use" means, but its meaning shall not be limited to:
11 Domestic water supplies; irrigation; fish, shellfish, game, and other
12 aquatic life; recreation; industrial water supplies; generation of
13 hydroelectric power; and navigation.

14 **Sec. 19.** RCW 43.27A.090 and 1988 c 127 s 25 are each amended to
15 read as follows:

16 The department of water resources shall be empowered as follows:

17 (1) To represent the state at, and fully participate in, the
18 activities of any basin or regional commission, interagency committee,
19 or any other joint interstate or federal-state agency, committee or
20 commission, or publicly financed entity engaged in the planning,
21 development, administration, management, conservation or preservation
22 of the water resources of the state.

23 (2) To prepare the views and recommendations of the state of
24 Washington on any project, plan or program relating to the planning,
25 development, administration, management, conservation and preservation
26 of any waters located in or affecting the state of Washington,
27 including any federal permit or license proposal, and appear on behalf
28 of, and present views and recommendations of the state at any
29 proceeding, negotiation or hearing conducted by the federal government,
30 interstate agency, state or other agency.

31 (3) To cooperate with, assist, advise and coordinate plans with the
32 federal government and its officers and agencies, and serve as a state
33 liaison agency with the federal government in matters relating to the
34 use, conservation, preservation, quality, disposal or control of water
35 and activities related thereto.

36 (4) To cooperate with appropriate agencies of the federal
37 government and/or agencies of other states, to enter into contracts,
38 and to make appropriate contributions to federal or interstate projects

1 and programs and governmental bodies to carry out the provisions of
2 this chapter.

3 (5) To apply for, accept, administer and expend grants, gifts and
4 loans from the federal government or any other entity to carry out the
5 purposes of this chapter and make contracts and do such other acts as
6 are necessary insofar as they are not inconsistent with other
7 provisions hereof.

8 (6) To develop and maintain a coordinated and comprehensive state
9 water and water resources related development plan, and adopt, with
10 regard to such plan, such policies as are necessary to insure that the
11 waters of the state are used, conserved and preserved for the best
12 interest of the state. There shall be included in the state plan a
13 description of developmental objectives and a statement of the
14 recommended means of accomplishing these objectives. To the extent the
15 director deems desirable, the plan shall integrate into the state plan,
16 the plans, programs, reports, research and studies of other state
17 agencies.

18 (7) To assemble and correlate information relating to water supply,
19 power development, irrigation, watersheds, water use, future
20 possibilities of water use and prospective demands for all purposes
21 served through or affected by water resources development.

22 (8) To assemble and correlate state, local and federal laws,
23 regulations, plans, programs and policies affecting the beneficial use,
24 disposal, pollution, control or conservation of water, river basin
25 development, flood prevention, parks, reservations, forests, wildlife
26 refuges, drainage and sanitary systems, waste disposal, water works,
27 watershed protection and development, soil conservation, power
28 facilities and area and municipal water supply needs, and recommend
29 suitable legislation or other action to the legislature, the congress
30 of the United States, or any city, municipality, or to responsible
31 state, local or federal executive departments or agencies.

32 (9) To cooperate with federal, state, regional, interstate and
33 local public and private agencies in the making of plans for drainage,
34 flood control, use, conservation, allocation and distribution of
35 existing water supplies and the development of new water resource
36 projects.

37 (10) To encourage, assist and advise regional, and city and
38 municipal agencies, officials or bodies responsible for planning in

1 relation to water aspects of their programs, and coordinate local water
2 resources activities, programs, and plans.

3 (11) To ~~((promulgate such))~~ develop rules ~~((and regulations))~~ as
4 are necessary to carry out the purposes of this chapter, subject to
5 section 8 of this act.

6 (12) To hold public hearings, and make such investigations, studies
7 and surveys as are necessary to carry out the purposes of the chapter.

8 (13) To subpoena witnesses, compel their attendance, administer
9 oaths, take the testimony of any person under oath and require the
10 production of any books or papers when the department, subject to the
11 approval of the board, deems such measures necessary in the exercise of
12 its rule-making power or in determining whether or not any license,
13 certificate, or permit shall be granted or extended.

14 **Sec. 20.** RCW 43.27A.130 and 1988 c 127 s 26 are each amended to
15 read as follows:

16 The department of ~~((ecology))~~ water resources may make complete
17 inventories of the state's water resources and enter into such
18 agreements with the director of the United States geological survey as
19 will insure that investigations and surveys are carried on in an
20 economical manner.

21 **Sec. 21.** RCW 43.27A.190 and 1987 c 109 s 11 are each amended to
22 read as follows:

23 Notwithstanding and in addition to any other powers granted to the
24 department of ~~((ecology))~~ water resources, whenever it appears to the
25 department that a person is violating or is about to violate any of the
26 provisions of the following:

- 27 (1) Chapter 90.03 RCW; or
28 (2) Chapter 90.44 RCW; or
29 ~~((Chapter 86.16 RCW; or~~
30 ~~((4)))~~ Chapter 43.37 RCW; or
31 ~~((+5))~~ (4) Chapter 43.27A RCW; or
32 ~~((+6))~~ (5) Any other law relating to water resources administered
33 by the department; or

34 ~~((+7))~~ (6) A rule or regulation adopted, or a directive or order
35 issued by the ~~((department))~~ water resources board relating to
36 subsections (1) through ~~((+6))~~ (5) of this section; the department,
37 through the board, may cause a written regulatory order to be served

1 upon said person either personally, or by registered or certified mail
2 delivered to addressee only with return receipt requested and
3 acknowledged by him or her. The order shall specify the provision of
4 the statute, rule, regulation, directive or order alleged to be or
5 about to be violated, and the facts upon which the conclusion of
6 violating or potential violation is based, and shall order the act
7 constituting the violation or the potential violation to cease and
8 desist or, in appropriate cases, shall order necessary corrective
9 action to be taken with regard to such acts within a specific and
10 reasonable time. The regulation of a headgate or controlling works as
11 provided in RCW 90.03.070, by a watermaster, stream patrolman, or other
12 person so authorized by the department shall constitute a regulatory
13 order within the meaning of this section. A regulatory order issued
14 hereunder shall become effective immediately upon receipt by the person
15 to whom the order is directed, except for regulations under RCW
16 90.03.070 which shall become effective when a written notice is
17 attached as provided therein. Any person aggrieved by such order may
18 appeal the order pursuant to RCW 43.21B.310.

19 NEW SECTION. **Sec. 22.** A new section is added to chapter 43.21A
20 RCW to read as follows:

21 Notwithstanding and in addition to any other powers granted to the
22 department of water resources, whenever it appears to the department
23 that a person is violating or is about to violate any of the provisions
24 of chapter 86.16 RCW or a rule or regulation adopted thereunder, or a
25 directive or order issued by the department relating to chapter 86.16
26 RCW; the department may cause a written regulatory order to be served
27 upon said person either personally, or by registered or certified mail
28 delivered to addressee only with return receipt requested and
29 acknowledged by him or her. The order shall specify the provision of
30 the statute, rule, regulation, directive or order alleged to be or
31 about to be violated, and the facts upon which the conclusion of
32 violating or potential violation is based, and shall order the act
33 constituting the violation or the potential violation to cease and
34 desist or, in appropriate cases, shall order necessary corrective
35 action to be taken with regard to such acts within a specific and
36 reasonable time. Any person aggrieved by such order may appeal the
37 order pursuant to RCW 43.21B.310.

1 NEW SECTION. **Sec. 23.** (1) All powers, duties, and functions of
2 the department of ecology pertaining to water quantity matters
3 prescribed by law, including management, conservation, utilization,
4 planning, development, and adjudication are transferred to the water
5 resources board. All references to the director or the department of
6 ecology in the Revised Code of Washington shall be construed to mean
7 the director or the water resources board when referring to the
8 functions transferred in this section.

9 (2)(a) All reports, documents, surveys, books, records, files,
10 papers, or written material in the possession of the department of
11 ecology pertaining to the powers, functions, and duties transferred
12 shall be delivered to the custody of the water resources board. All
13 cabinets, furniture, office equipment, motor vehicles, and other
14 tangible property employed by the department of ecology in carrying out
15 the powers, functions, and duties transferred shall be made available
16 to the water resources board. All funds, credits, or other assets held
17 in connection with the powers, functions, and duties transferred shall
18 be assigned to the water resources board.

19 (b) Any appropriations made to the department of ecology for
20 carrying out the powers, functions, and duties transferred shall, on
21 the effective date of this section, be transferred and credited to the
22 water resources board.

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

29 (3) All rules and all pending business before the department of
30 ecology pertaining to the powers, functions, and duties transferred
31 shall be continued and acted upon by the water resources board. All
32 existing contracts and obligations shall remain in full force and shall
33 be performed by the water resources board.

34 (4) The transfer of the powers, duties, functions, and personnel of
35 the department of ecology shall not affect the validity of any act
36 performed before the effective date of this section.

37 (5) If apportionments of budgeted funds are required because of the
38 transfers directed by this section, the director of financial
39 management shall certify the apportionments to the agencies affected,

1 the state auditor, and the state treasurer. Each of these shall make
2 the appropriate transfer and adjustments in funds and appropriation
3 accounts and equipment records in accordance with the certification.

4 NEW SECTION. **Sec. 24.** (1) All employees of the department of
5 ecology engaged in performing the powers, functions, and duties
6 transferred are transferred to the jurisdiction of the water resources
7 board for a period of ninety days after the board is appointed. The
8 board shall during this ninety-day period, make decisions regarding the
9 structure and staffing needs of the department.

10 (2) Nothing contained in this section may be construed to alter any
11 existing collective bargaining unit or the provisions of any existing
12 collective bargaining agreement until the agreement has expired or
13 until the bargaining unit has been modified by action of the personnel
14 board as provided by law.

15 **Sec. 25.** RCW 43.83B.300 and 1988 c 47 s 1, 1988 c 46 s 2, and 1988
16 c 45 s 1 are each reenacted and amended to read as follows:

17 The legislature finds that the fundamentals of water resource
18 policy in this state must be reviewed by the legislature to ensure that
19 the water resources of the state are protected and fully utilized for
20 the greatest benefit to the people of the state of Washington. The
21 legislature further finds that it is necessary to provide the
22 department of ((ecology)) water resources with emergency powers to
23 authorize withdrawals of public surface and ground waters, including
24 dead storage within reservoirs, on a temporary basis, and construction
25 of facilities in relation thereto, in order to alleviate emergency
26 water supply conditions arising from the drought forecast for the state
27 of Washington during 1977 and during 1987 through 1989.

28 The legislature further finds that there is a continuing water
29 supply shortage in many areas of the state and that there is an urgent
30 need to assure the survival of irrigated crops and of the state's
31 fisheries.

32 The legislature further finds that in addition to water storage
33 facilities or other augmentation programs, improved efficiency of water
34 use could provide an important new supply of water in many parts of the
35 state with which to meet future water needs and that improved
36 efficiency of water use should receive greater emphasis in the
37 management of the state's water resources.

1 In order to study the fundamentals of water resource policy of the
2 state and to provide needed moneys for the planning, acquisition,
3 construction, and improvement of water supply facilities and for other
4 appropriate measures to assure the survival of irrigated crops and/or
5 the state's fisheries to alleviate emergency water supply conditions
6 arising from droughts occurring from time to time in the state of
7 Washington, and to carry out a comprehensive water use efficiency study
8 for the state of Washington, the state finance committee is authorized
9 to issue general obligation bonds of the state of Washington in the sum
10 of eighteen million dollars, or so much thereof as may be required to
11 finance such projects, and all costs incidental thereto. No bonds
12 authorized by this section and RCW 43.83B.360 through 43.83B.375 shall
13 be offered for sale without prior legislative appropriation, and these
14 bonds shall be paid and discharged within thirty years of the date of
15 issuance in accordance with Article VIII, section 1 of the state
16 Constitution.

17 **Sec. 26.** RCW 89.16.040 and 1981 c 216 s 2 are each amended to read
18 as follows:

19 From the moneys appropriated from the reclamation account there
20 shall be paid, upon vouchers approved by the director of ((ecology))
21 water resources, the administrative expenses of the director under this
22 chapter and such amounts as are found necessary for the investigation
23 and survey of reclamation projects proposed to be financed in whole or
24 in part by the director, and such amounts as may be authorized by him
25 or her for the reclamation of lands in diking, diking improvement,
26 drainage, drainage improvement, diking and drainage, diking and
27 drainage improvement, irrigation and irrigation improvement districts,
28 and such other districts as are authorized by law for the reclamation
29 or development of waste or undeveloped lands or the rehabilitation of
30 existing reclamation projects, and all such districts and improvement
31 districts shall, for the purposes of this chapter be known as
32 reclamation districts.

33 **Sec. 27.** RCW 89.16.045 and 1972 ex.s. c 51 s 4 are each amended to
34 read as follows:

35 Notwithstanding any other provisions of this chapter, the director
36 of ((ecology)) water resources may, by written contract with a
37 reclamation district, loan moneys from the reclamation account to said

1 district for use in financing a project of construction, reconstruction
2 or improvement of district facilities, or a project of additions to
3 such facilities. No such contract shall exceed fifty thousand dollars
4 per project or a term of ten years, or provide for an interest rate of
5 more than eight percent per annum. The director shall not execute any
6 contract as provided in this section until he or she determines that
7 the project for which the moneys are furnished is within the scope of
8 the district's powers to undertake, that the project is feasible, that
9 its construction is in the best interest of the state and the district,
10 and that the district proposing the project is in a sound financial
11 condition and capable of repaying the loan with interest in not more
12 than ten annual payments. Any district is empowered to enter into a
13 contract, as provided for in this section, and to levy assessments
14 based on the special benefits accruing to lands within the district as
15 are necessary to satisfy the contract, when a resolution of the
16 governing body of the reclamation district authorizing its execution is
17 approved by the body: PROVIDED, That no district shall be empowered to
18 execute with the director any such contract during the term of any
19 previously executed contract authorized by this section.

20 **Sec. 28.** RCW 89.16.050 and 1983 c 167 s 248 are each amended to
21 read as follows:

22 In carrying out the purposes of this chapter, the director of the
23 department of ((ecology)) water resources of the state of Washington
24 shall be authorized and empowered:

25 To make surveys and investigations of the wholly or partially
26 unreclaimed and undeveloped lands in this state and to determine the
27 relative agricultural values, productiveness and uses, and the
28 feasibility and cost of reclamation and development thereof;

29 To formulate and adopt a sound policy for the reclamation and
30 development of the agricultural resources of the state, and from time
31 to time select for reclamation and development such lands as may be
32 deemed advisable, and the director may in his or her discretion advise
33 as to the formation and assist in the organization of reclamation
34 districts under the laws of this state;

35 To purchase the bonds of any reclamation district whose project is
36 approved by the director and which is found to be upon a sound
37 financial basis, to contract with any such district for making surveys
38 and furnishing engineering plans and supervision for the construction

1 of its project, or for constructing or completing its project and to
2 advance money to the credit of the district for any or all of such
3 purposes, and to accept the bonds, notes or warrants of such district
4 in payment therefor, and to expend the moneys appropriated from the
5 reclamation account in the purchase of such bonds, notes or warrants or
6 in carrying out such contracts: PROVIDED, That interest not to exceed
7 the annual rate provided for in the bonds, notes or warrants agreed to
8 be purchased, shall be charged and received for all moneys advanced to
9 the district prior to the delivery of the bonds, notes or warrants and
10 the amount of such interest shall be included in the purchase price of
11 such bonds, notes or warrants: PROVIDED FURTHER, That no district, the
12 bonds, notes or warrants of which have been purchased by the state
13 under the provisions of the state reclamation act, shall thereafter
14 during the life of said bonds, notes or warrants make expenditures of
15 any kind from the bond or warrant funds of the district or incur
16 obligations chargeable against such funds or issue any additional notes
17 without previous written approval of the director of ((ecology)) water
18 resources of the state of Washington, and any obligations incurred
19 without such approval shall be void;

20 To sell and dispose of any reclamation district bonds acquired by
21 the director, at public or private sale, and to pay the proceeds of
22 such sale into the reclamation account: PROVIDED, That such bonds
23 shall not be sold for less than the purchase price plus accrued
24 interest, except in case of a sale to an agency supplied with money by
25 the United States of America, or to the United States of America in
26 furtherance of refunding operations of any irrigation district, diking
27 or drainage district, or diking or drainage improvement district, now
28 pending or hereafter carried on by such district, in which case the
29 director shall have authority to sell any bonds of such district owned
30 by the state of Washington under the provisions of the state
31 reclamation act, to the United States of America, or other federal
32 agency on such terms as said United States of America, or other federal
33 agency shall prescribe for bonds of the same issue of such district as
34 that held by the state of Washington in connection with such refunding
35 operations;

36 To borrow money upon the security of any bonds, including refunding
37 bonds, of any reclamation district, acquired by the director, on such
38 terms and rate of interest and over such period of time as the director
39 may see fit, and to hypothecate and pledge reclamation district bonds

1 or refunding bonds acquired by the director as security for such loan.
2 Such loans shall have, as their sole security, the bonds so pledged and
3 the revenues therefrom, and the director shall not have authority to
4 pledge the general credit of the state of Washington: PROVIDED, That
5 in reloaning any money so borrowed, or obtained from a sale of bonds it
6 shall be the duty of the director to fix such rates of interest as will
7 prevent impairment of the reclamation revolving account;

8 To purchase delinquent general tax or delinquent special assessment
9 certificates chargeable against lands included within any reclamation
10 district obligated to the state under the provisions of the state
11 reclamation act, and to purchase lands included in such districts and
12 placed on sale on account of delinquent taxes or delinquent assessments
13 with the same rights, privileges and powers with respect thereto as a
14 private holder and owner of said certificates, or as a private
15 purchaser of said lands: PROVIDED, That the director shall be entitled
16 to a delinquent tax certificate upon application to the proper county
17 treasurer therefor without the necessity of a resolution of the county
18 legislative authority authorizing the issuance of certificates of
19 delinquency required by law in the case of the sale of such
20 certificates to private purchasers;

21 To sell said delinquent certificates or the lands acquired at sale
22 on account of delinquent taxes or delinquent assessments at public or
23 private sale, and on such conditions as the director shall determine;

24 To, whenever the director shall deem it advisable, require any
25 district with which he or she may contract, to provide such safeguards
26 as he or she may deem necessary to assure bona fide settlement and
27 development of the lands within such district, by securing from the
28 owners of lands therein agreements to limit the amount of their
29 holdings to such acreage as they can properly farm and to sell their
30 excess land holdings at reasonable prices;

31 To employ all necessary experts, assistants and employees and fix
32 their compensation and to enter into any and all contracts and
33 agreements necessary to carry out the purposes of this chapter;

34 To have the assistance, cooperation and services of, and the use of
35 the records and files in, all the departments and institutions of the
36 state, particularly the office of the commissioner of public lands, the
37 state department of agriculture, Washington State University, and the
38 University of Washington; and all state officers and the governing
39 authorities of all state institutions are hereby authorized and

1 directed to cooperate with the director in furthering the purpose of
2 this chapter;

3 To cooperate with the United States in any plan of land
4 reclamation, land settlement or agricultural development which the
5 congress of the United States may provide and which may effect the
6 development of agricultural resources within the state of Washington,
7 and the director shall have full power to carry out the provisions of
8 any cooperative land settlement act that may be enacted by the United
9 States.

10 **Sec. 29.** RCW 89.16.055 and 1993 c 387 s 27 are each amended to
11 read as follows:

12 In addition to the powers provided in RCW 89.16.050, the department
13 of ~~((ecology))~~ water resources is authorized and empowered to:

14 (1) Conduct surveys, studies, investigations, and water right
15 examinations for proposed reclamation projects or the rehabilitation of
16 existing reclamation projects that may be funded fully or partially
17 from the receipts of the sale of bonds issued by the state of
18 Washington.

19 (2) Support the preparation for and administration of proceedings,
20 provided in RCW 90.03.110 or 90.44.220, or both, pertaining to river
21 systems or other water bodies that are associated with existing or
22 proposed reclamation projects.

23 (3) Conduct a regulatory program for well construction as provided
24 in chapter 18.104 RCW.

25 Funds of the account established by RCW 89.16.020 may, as
26 appropriated by the legislature, be used in relation to the powers
27 provided in this section, notwithstanding any other provisions of
28 chapter 89.16 RCW that may be to the contrary.

29 **Sec. 30.** RCW 89.16.060 and 1972 ex.s. c 51 s 6 are each amended to
30 read as follows:

31 The department of ~~((ecology))~~ water resources shall have the power
32 to cooperate and to contract with the United States for the reclamation
33 of lands in this state by the United States, and shall have the power
34 to contract with the United States for the handling of such reclamation
35 work by the United States and for the repayment of such moneys as the
36 department ~~((of ecology))~~ shall invest from the reclamation account,
37 under such terms and conditions as the United States laws and the

1 regulations of the interior department shall provide for the repayment
2 of reclamation costs by the lands reclaimed.

3 **Sec. 31.** RCW 89.16.080 and 1972 ex.s. c 51 s 7 are each amended to
4 read as follows:

5 Whenever in the judgment of the department of natural resources any
6 state, school, granted, or other public lands of the state will be
7 specially benefited by any proposed reclamation project approved by the
8 department of ((ecology)) water resources, it may consent that such
9 lands be included in any reclamation district organized for the purpose
10 of carrying out such reclamation project, and in that event the
11 department of natural resources shall be authorized to pay, out of
12 current appropriations, the district assessments levied as provided by
13 law against such lands, and any such assessments paid shall be made a
14 charge against the lands upon which they were levied, and the amount
15 thereof, but without interest, shall be included in the appraised value
16 of such lands when sold or leased.

17 **Sec. 32.** RCW 89.30.055 and 1988 c 127 s 70 are each amended to
18 read as follows:

19 Upon the giving of notice of hearing on the petition by the clerk
20 of the county board aforesaid, there is hereby authorized and created
21 a commission composed of the chairman of the board of county
22 commissioners of each of the counties in which any of the lands to be
23 included in the proposed reclamation district are situated, and of the
24 state director of ((ecology)) water resources, which commission shall
25 consider and determine said petition.

26 **Sec. 33.** RCW 89.30.058 and 1988 c 127 s 71 are each amended to
27 read as follows:

28 The state director of ((ecology)) water resources shall be ex
29 officio chairman of said commission, and the clerk of the county board
30 of the county in which the petition is filed, shall be ex officio clerk
31 of said commission. A majority of the members of said commission shall
32 constitute a quorum for the transaction or exercise of any of its
33 powers, functions, duties and business.

34 **Sec. 34.** RCW 89.30.070 and 1988 c 127 s 72 are each amended to
35 read as follows:

1 Except as otherwise herein provided the necessary expenses of the
2 commission and of the members thereof in performing the duties and
3 functions of said commission shall be borne by the respective counties
4 concerned in proportion to the taxable value of the acreage of each
5 included in the proposed reclamation district and said respective
6 counties are hereby made liable for such expenses. The individual
7 expenses of the state director of ((ecology)) water resources shall be
8 borne by the state.

9 **Sec. 35.** RCW 89.30.427 and 1983 c 167 s 254 are each amended to
10 read as follows:

11 (1) In any instance where the district, general improvement or
12 divisional district is selling, renting or leasing water or electric
13 energy under the provisions of this chapter and there is reasonable
14 certainty of a permanent fixed income from this source, the district
15 board shall have authority to create a special fund derived from a
16 fixed proportion of the gross income thus obtained and to issue bonds
17 of the district payable from such special fund and to sell the same to
18 raise revenue for the payment or amortization of the cost of the
19 construction and/or the operation and maintenance of the reclamation
20 district or general improvement or divisional district works and for
21 such other purposes as the state of Washington and/or the United States
22 may require: PROVIDED, That the state of Washington may, through the
23 director of ((ecology)) water resources, enter into a contract with the
24 reclamation district, improvement or divisional district or districts
25 or the United States to purchase, rent or lease and to sell or resell
26 and/or distribute all or any part of the electric energy developed or
27 to be developed at the reclamation, improvement or divisional district
28 works at a price sufficient to amortize the cost of power development
29 over a period of fifty years after the completion of such power
30 development and to provide a surplus sufficient to reduce the cost of
31 reclaiming the lands of the district or districts within economic
32 limits: AND PROVIDED FURTHER, That no contract or contracts as in this
33 section provided shall be finally consummated or become binding in any
34 way whatsoever until the legislature of the state of Washington in
35 special or regular session shall approve the same, and provided further
36 in such sale and/or distribution of power by the director of
37 ((ecology)) water resources preference in the purchase and/or
38 distribution thereof shall be given to municipal corporations and

1 cooperative associations: AND PROVIDED FURTHER, That general
2 improvement and divisional districts shall have (in addition to the
3 powers granted them in chapter 254 of the Session Laws of 1927 and in
4 this act) the same powers as are given to the reclamation districts
5 under RCW 89.30.007.

6 (2) Such bonds may be issued and sold in accordance with chapter
7 39.46 RCW.

8 **Sec. 36.** RCW 90.03.005 and 1989 c 348 s 2 are each amended to read
9 as follows:

10 It is the policy of the state to promote the use of the public
11 waters in a fashion which provides for obtaining maximum net benefits
12 arising from both diversionary uses of the state's public waters and
13 the retention of waters within streams and lakes in sufficient quantity
14 and quality to protect instream and natural values and rights.
15 Consistent with this policy, the state supports economically feasible
16 and environmentally sound development of physical facilities through
17 the concerted efforts of the state with the United States, public
18 corporations, Indian tribes, or other public or private entities.
19 Further, based on the tenet of water law which precludes wasteful
20 practices in the exercise of rights to the use of waters, the
21 department of ((ecology)) water resources shall reduce these practices
22 to the maximum extent practicable, taking into account sound principles
23 of water management, the benefits and costs of improved water use
24 efficiency, and the most effective use of public and private funds,
25 and, when appropriate, to work to that end in concert with the agencies
26 of the United States and other public and private entities.

27 **Sec. 37.** RCW 90.03.015 and 1987 c 109 s 65 are each amended to
28 read as follows:

29 As used in this chapter:

30 (1) "Department" means the department of ((ecology)) water
31 resources;

32 (2) "Director" means the director of ((ecology)) water resources;
33 and

34 (3) "Person" means any firm, association, water users' association,
35 corporation, irrigation district, or municipal corporation, as well as
36 an individual.

1 **Sec. 38.** RCW 90.03.130 and 1987 c 109 s 74 are each amended to
2 read as follows:

3 Service of said summons shall be made in the same manner and with
4 the same force and effect as service of summons in civil actions
5 commenced in the superior courts of the state: PROVIDED, That for good
6 cause, the court, at the request of the department, as an alternative
7 to personal service, may authorize service of summons to be made by
8 certified mail, with return receipt signed by defendant, a spouse of a
9 defendant, or another person authorized to accept service. If the
10 defendants, or either of them, cannot be found within the state of
11 Washington, of which the return of the sheriff of the county in which
12 the proceeding is pending shall be prima facie evidence, upon the
13 filing of an affidavit by the department, or its attorney, in
14 conformity with the statute relative to the service of summons by
15 publication in civil actions, such service may be made by publication
16 in a newspaper of general circulation in the county in which such
17 proceeding is pending, and also publication of said summons in a
18 newspaper of general circulation in each county in which any portion of
19 the water is situated, once a week for six consecutive weeks (six
20 publications). In cases where personal service can be had, such
21 summons shall be served at least twenty days before the return day
22 thereof. The summons by publication shall state that statements of
23 claim must be filed within twenty days after the last publication or
24 before the return date, whichever is later.

25 Personal service of summons may be made by department of
26 ((ecology)) water resources' employees for actions pertaining to water
27 rights.

28 **Sec. 39.** RCW 90.03.247 and 1994 c 264 s 82 are each amended to
29 read as follows:

30 Whenever an application for a permit to make beneficial use of
31 public waters is approved relating to a stream or other water body for
32 which minimum flows or levels have been adopted and are in effect at
33 the time of approval, the permit shall be conditioned to protect the
34 levels or flows. No agency may establish minimum flows and levels or
35 similar water flow or level restrictions for any stream or lake of the
36 state other than the department of ((ecology)) water resources whose
37 authority to establish is exclusive, as provided in chapter 90.03 RCW
38 and RCW 90.22.010 and 90.54.040. The provisions of other statutes,

1 including but not limited to RCW 75.20.100 and chapter 43.21C RCW, may
2 not be interpreted in a manner that is inconsistent with this section.
3 In establishing such minimum flows, levels, or similar restrictions,
4 the department shall, during all stages of development by the
5 department of ((ecology)) water resources of minimum flow proposals,
6 consult with, and carefully consider the recommendations of, the
7 department of fish and wildlife, the state energy office, the
8 department of agriculture, and representatives of the affected Indian
9 tribes. Nothing herein shall preclude the department of fish and
10 wildlife, the energy office, or the department of agriculture from
11 presenting its views on minimum flow needs at any public hearing or to
12 any person or agency, and the department of fish and wildlife, the
13 energy office, and the department of agriculture are each empowered to
14 participate in proceedings of the federal energy regulatory commission
15 and other agencies to present its views on minimum flow needs.

16 **Sec. 40.** RCW 90.03.345 and 1979 ex.s. c 216 s 7 are each amended
17 to read as follows:

18 The establishment of reservations of water for agriculture,
19 hydroelectric energy, municipal, industrial, and other beneficial uses
20 under RCW 90.54.050(1) or minimum flows or levels under RCW 90.22.010
21 or 90.54.040 shall constitute appropriations within the meaning of this
22 chapter with priority dates as of the effective dates of their
23 establishment. Whenever an application for a permit to make beneficial
24 use of public waters embodied in a reservation, established after
25 September 1, 1979, is filed with the department of ((ecology)) water
26 resources after the effective date of such reservation, the priority
27 date for a permit issued pursuant to an approval by the department of
28 ((ecology)) water resources of the application shall be the effective
29 date of the reservation.

30 **Sec. 41.** RCW 90.03.360 and 1994 c 264 s 85 are each amended to
31 read as follows:

32 (1) The owner or owners of any water diversion shall maintain, to
33 the satisfaction of the department of ((ecology)) water resources,
34 substantial controlling works and a measuring device constructed and
35 maintained to permit accurate measurement and practical regulation of
36 the flow of water diverted. Every owner or manager of a reservoir for
37 the storage of water shall construct and maintain, when required by the

1 department, any measuring device necessary to ascertain the natural
2 flow into and out of said reservoir.

3 Metering of diversions or measurement by other approved methods
4 shall be required as a condition for all new surface water right
5 permits, and except as provided in subsection (2) of this section, may
6 be required as a condition for all previously existing surface water
7 rights. The department may also require, as a condition for all water
8 rights, metering of diversions, and reports regarding such metered
9 diversions as to the amount of water being diverted. Such reports
10 shall be in a form prescribed by the department.

11 (2) Where water diversions are from waters in which the salmonid
12 stock status is depressed or critical, as determined by the department
13 of fish and wildlife, or where the volume of water being diverted
14 exceeds one cubic foot per second, the department shall require
15 metering or measurement by other approved methods as a condition for
16 all new and previously existing water rights or claims. The department
17 shall attempt to integrate the requirements of this subsection into its
18 existing compliance workload priorities, but shall prioritize the
19 requirements of this subsection ahead of the existing compliance
20 workload where a delay may cause the decline of wild salmonids. The
21 department shall notify the department of fish and wildlife of the
22 status of fish screens associated with these diversions.

23 This subsection (2) shall not apply to diversions for public or
24 private hatcheries or fish rearing facilities if the diverted water is
25 returned directly to the waters from which it was diverted.

26 **Sec. 42.** RCW 90.03.383 and 1991 c 350 s 1 are each amended to read
27 as follows:

28 (1) The legislature recognizes the value of interties for improving
29 the reliability of public water systems, enhancing their management,
30 and more efficiently utilizing the increasingly limited resource.
31 Given the continued growth in the most populous areas of the state, the
32 increased complexity of public water supply management, and the trend
33 toward regional planning and regional solutions to resource issues,
34 interconnections of public water systems through interties provide a
35 valuable tool to ensure reliable public water supplies for the citizens
36 of the state. Public water systems have been encouraged in the past to
37 utilize interties to achieve public health and resource management
38 objectives. The legislature finds that it is in the public interest to

1 recognize interties existing and in use as of January 1, 1991, and to
2 have associated water rights modified by the department of ((ecology))
3 water resources to reflect current use of water through those
4 interties, pursuant to subsection (3) of this section. The legislature
5 further finds it in the public interest to develop a coordinated
6 process to review proposals for interties commencing use after January
7 1, 1991.

8 (2) For the purposes of this section, the following definitions
9 shall apply:

10 (a) "Interties" are interconnections between public water systems
11 permitting exchange or delivery of water between those systems for
12 other than emergency supply purposes, where such exchange or delivery
13 is within established instantaneous and annual withdrawal rates
14 specified in the systems' existing water right permits or certificates,
15 or contained in claims filed pursuant to chapter 90.14 RCW, and which
16 results in better management of public water supply consistent with
17 existing rights and obligations. Interties include interconnections
18 between public water systems permitting exchange or delivery of water
19 to serve as primary or secondary sources of supply, but do not include
20 development of new sources of supply to meet future demand.

21 (b) "Service area" is the area designated in a water system plan or
22 a coordinated water system plan pursuant to chapter 43.20 or 70.116 RCW
23 respectively. When a public water system does not have a designated
24 service area subject to the approval process of those chapters, the
25 service area shall be the designated place of use contained in the
26 water right permit or certificate, or contained in the claim filed
27 pursuant to chapter 90.14 RCW.

28 (3) Public water systems with interties existing and in use as of
29 January 1, 1991, or that have received written approval from the
30 department of health prior to that date, shall file written notice of
31 those interties with the department of health and the department of
32 ((ecology)) water resources. The notice may be incorporated into the
33 public water system's five-year update of its water system plan, but
34 shall be filed no later than June 30, 1996. The notice shall identify
35 the location of the intertie; the dates of its first use; the purpose,
36 capacity, and current use; the intertie agreement of the parties and
37 the service areas assigned; and other information reasonably necessary
38 to modify the water right permit. Notwithstanding the provisions of
39 RCW 90.03.380 and 90.44.100, for public water systems with interties

1 existing and in use as of January 1, 1991, the department of
2 ((ecology)) water resources, upon receipt of notice meeting the
3 requirements of this subsection, shall, as soon as practicable, modify
4 the place of use descriptions in the water right permits, certificates,
5 or claims to reflect the actual use through such interties, provided
6 that the place of use is within service area designations established
7 in a water system plan approved pursuant to chapter 43.20 RCW, or a
8 coordinated water system plan approved pursuant to chapter 70.116 RCW,
9 and further provided that the water used is within the instantaneous
10 and annual withdrawal rates specified in the water right permit and
11 that no outstanding complaints of impairment to existing water rights
12 have been filed with the department of ((ecology)) water resources
13 prior to September 1, 1991. Where such complaints of impairment have
14 been received, the department of ((ecology)) water resources shall make
15 all reasonable efforts to resolve them in a timely manner through
16 agreement of the parties or through available administrative remedies.

17 (4) Notwithstanding the provisions of RCW 90.03.380 and 90.44.100,
18 exchange or delivery of water through interties commencing use after
19 January 1, 1991, shall be permitted when the intertie improves overall
20 system reliability, enhances the manageability of the systems, provides
21 opportunities for conjunctive use, or delays or avoids the need to
22 develop new water sources, and otherwise meets the requirements of this
23 section, provided that each public water system's water use shall not
24 exceed the instantaneous or annual withdrawal rate specified in its
25 water right authorization, shall not adversely affect existing water
26 rights, and shall not be inconsistent with state-approved plans such as
27 water system plans or other plans which include specific proposals for
28 construction of interties. Interties commencing use after January 1,
29 1991, shall not be inconsistent with regional water resource plans
30 developed pursuant to chapter 90.54 RCW.

31 (5) For public water systems subject to the approval process of
32 chapter 43.20 RCW or chapter 70.116 RCW, proposals for interties
33 commencing use after January 1, 1991, shall be incorporated into water
34 system plans pursuant to chapter 43.20 RCW or coordinated water system
35 plans pursuant to chapter 70.116 RCW and submitted to the department of
36 health and the department of ((ecology)) water resources for review and
37 approval as provided for in subsections (5) through (9) of this
38 section. The plan shall state how the proposed intertie will improve
39 overall system reliability, enhance the manageability of the systems,

1 provide opportunities for conjunctive use, or delay or avoid the need
2 to develop new water sources.

3 (6) The department of health shall be responsible for review and
4 approval of proposals for new interties. In its review the department
5 of health shall determine whether the intertie satisfies the criteria
6 of subsection (4) of this section, with the exception of water rights
7 considerations, which are the responsibility of the department of
8 ((ecology)) water resources, and shall determine whether the intertie
9 is necessary to address emergent public health or safety concerns
10 associated with public water supply.

11 (7) If the intertie is determined by the department of health to be
12 necessary to address emergent public health or safety concerns
13 associated with public water supply, the public water system shall
14 amend its water system plan as required and shall file an application
15 with the department of ((ecology)) water resources to change its
16 existing water right to reflect the proposed use of the water as
17 described in the approved water system plan. The department of
18 ((ecology)) water resources shall process the application for change
19 pursuant to RCW 90.03.380 or 90.44.100 as appropriate, except that,
20 notwithstanding the requirements of those sections regarding notice and
21 protest periods, applicants shall be required to publish notice one
22 time, and the comment period shall be fifteen days from the date of
23 publication of the notice. Within sixty days of receiving the
24 application, the department of ((ecology)) water resources shall issue
25 findings and advise the department of health if existing water rights
26 are determined to be adversely affected. If no determination is
27 provided by the department of ((ecology)) water resources within the
28 sixty-day period, the department of health shall proceed as if existing
29 rights are not adversely affected by the proposed intertie. The
30 department of ((ecology)) water resources may obtain an extension of
31 the sixty-day period by submitting written notice to the department of
32 health and to the applicant indicating a definite date by which its
33 determination will be made. No additional extensions shall be granted,
34 and in no event shall the total review period for the department of
35 ((ecology)) water resources exceed one hundred eighty days.

36 (8) If the department of health determines the proposed intertie
37 appears to meet the requirements of subsection (4) of this section but
38 is not necessary to address emergent public health or safety concerns
39 associated with public water supply, the department of health shall

1 instruct the applicant to submit to the department of ((ecology)) water
2 resources an application for change to the underlying water right or
3 claim as necessary to reflect the new place of use. The department of
4 ((ecology)) water resources shall consider the applications pursuant to
5 the provisions of RCW 90.03.380 and 90.44.100 as appropriate. If in
6 its review of proposed interties and associated water rights the
7 department of ((ecology)) water resources determines that additional
8 information is required to act on the application, the department may
9 request applicants to provide information necessary for its decision,
10 consistent with ((agency)) water resources board rules and written
11 guidelines. Parties disagreeing with the decision of the department of
12 ((ecology)) water resources on the application for change in place of
13 use may appeal the decision to the ((~~pollution control hearings board~~))
14 superior court.

15 (9) The department of health may approve plans containing intertie
16 proposals prior to the department of ((ecology's)) water resource's
17 decision on the water right application for change in place of use.
18 However, notwithstanding such approval, construction work on the
19 intertie shall not begin until the department of ((ecology)) water
20 resources issues the appropriate water right document to the applicant
21 consistent with the approved plan.

22 **Sec. 43.** RCW 90.03.386 and 1991 c 350 s 2 are each amended to read
23 as follows:

24 Within service areas established pursuant to chapters 43.20 and
25 70.116 RCW, the department of ((ecology)) water resources and the
26 department of health shall coordinate approval procedures to ensure
27 compliance and consistency with the approved water system plan.

28 **Sec. 44.** RCW 90.03.390 and 1991 c 350 s 3 are each amended to read
29 as follows:

30 RCW 90.03.380 shall not be construed to prevent water users from
31 making a seasonal or temporary change of point of diversion or place of
32 use of water when such change can be made without detriment to existing
33 rights, but in no case shall such change be made without the permission
34 of the water master of the district in which such proposed change is
35 located, or of the department. Nor shall RCW 90.03.380 be construed to
36 prevent construction of emergency interties between public water
37 systems to permit exchange of water during short-term emergency

1 situations, or rotation in the use of water for bringing about a more
2 economical use of the available supply, provided however, that the
3 department of health in consultation with the department of ((ecology))
4 water resources shall adopt rules or develop written guidelines setting
5 forth standards for determining when a short-term emergency exists and
6 the circumstances in which emergency interties are permitted. The
7 rules or guidelines shall be consistent with the procedures established
8 in RCW 43.83B.400 through 43.83B.420. Water users owning lands to
9 which water rights are attached may rotate in the use of water to which
10 they are collectively entitled, or an individual water user having
11 lands to which are attached water rights of a different priority, may
12 in like manner rotate in use when such rotation can be made without
13 detriment to other existing water rights, and has the approval of the
14 water master or department.

15 **Sec. 45.** RCW 90.03.471 and 1987 c 109 s 99 are each amended to
16 read as follows:

17 All fees, collections and revenues derived under RCW 90.03.470 or
18 by virtue of RCW 90.03.180, shall be used exclusively for the purpose
19 of carrying out the work and performing the functions of the ((division
20 of water resources of the)) department.

21 **Sec. 46.** RCW 90.03.600 and 1987 c 109 s 157 are each amended to
22 read as follows:

23 The power is granted to the department ((of ecology)) to levy civil
24 penalties of up to one hundred dollars per day for violation of any of
25 the provisions of this chapter and chapters 43.83B, 90.22, and 90.44
26 RCW, and rules, permits, and similar documents and regulatory orders of
27 the ((department of ecology)) water resources board adopted or issued
28 pursuant to such chapters. The procedures of RCW 90.48.144 shall be
29 applicable to all phases of the levying of a penalty as well as review
30 and appeal of the same.

31 **Sec. 47.** RCW 90.08.040 and 1977 c 22 s 1 are each amended to read
32 as follows:

33 Where water rights of a stream have been adjudicated a stream
34 patrolman shall be appointed by the director of the department of
35 ((ecology)) water resources upon application of water users having
36 adjudicated water rights in each particular water resource making a

1 reasonable showing of the necessity therefor, which application shall
2 have been approved by the district water master if one has been
3 appointed, at such time, for such stream, and for such periods of
4 service as local conditions may indicate to be necessary to provide the
5 most practical supervision and to secure to water users and owners the
6 best protection in their rights.

7 The stream patrolman shall have the same powers as a water master
8 appointed under RCW 90.03.060, but his or her district shall be
9 confined to the regulation of waters of a designated stream or streams.
10 Such patrolman shall be under the supervision of the director or his or
11 her designated representative. He or she shall also enforce such
12 special rules and regulations as the director may prescribe from time
13 to time.

14 **Sec. 48.** RCW 90.14.041 and 1988 c 127 s 73 are each amended to
15 read as follows:

16 All persons using or claiming the right to withdraw or divert and
17 make beneficial use of public surface or ground waters of the state,
18 except as hereinafter provided in this section, shall file with the
19 department of ecology not later than June 30, 1974, a statement of
20 claim for each water right asserted on a form provided by the
21 department. This section shall not apply to any water rights which are
22 based on the authority of a permit or certificate issued by the
23 department of ecology or one of its predecessors. The authority under
24 this section is transferred to the department of water resources.

25 **Sec. 49.** RCW 90.14.043 and 1985 c 435 s 1 are each amended to read
26 as follows:

27 (1) Notwithstanding any time restrictions imposed by the provisions
28 of chapter 90.14 RCW, a person may file a claim pursuant to RCW
29 90.14.041 if such person obtains a certification from the (~~pollution~~
30 ~~control hearings board~~) superior court as provided in this section.

31 (2) A certification shall be issued by the (~~pollution control~~
32 ~~hearings board~~) court if, upon petition to the (~~board~~) court, it is
33 shown to the satisfaction of the (~~board~~) court that:

34 (a) Waters of the state have been applied to beneficial use
35 continuously (with no period of nonuse exceeding five consecutive
36 years) in the case of surface water beginning not later than June 7,

1 1917, and in the case of ground water beginning not later than June 7,
2 1945, or

3 (b) Waters of the state have been applied to beneficial use
4 continuously (with no period of nonuse exceeding five consecutive
5 years) from the date of entry of a court decree confirming a water
6 right and any failure to register a claim resulted from a reasonable
7 misinterpretation of the requirements as they related to such court
8 decreed rights.

9 (3) The ~~((board))~~ court shall have jurisdiction to accept petitions
10 for certification from any person through September 1, 1985, and not
11 thereafter.

12 (4) A petition for certification shall include complete information
13 on the claim pursuant to RCW 90.14.051 (1) through (8), and any such
14 information as the ~~((board))~~ court may require.

15 (5) The department ~~((of ecology))~~ is directed to accept for filing
16 any claim certified by the ~~((board))~~ court as provided in subsection
17 (2) of this section. The department ~~((of ecology))~~, upon request of
18 the ~~((board))~~ court, may provide assistance to the ~~((board))~~ court
19 pertinent to any certification petition.

20 (6) A certification by the ~~((pollution control hearings board))~~
21 court or a filing with the department ~~((of ecology))~~ of a claim under
22 this section shall not constitute a determination or confirmation that
23 a water right exists.

24 (7) The provisions of RCW 90.14.071 shall have no applicability to
25 certified claims filed pursuant to this section.

26 (8) This section shall have no applicability to ground waters
27 resulting from the operations of reclamation projects.

28 **Sec. 50.** RCW 90.14.061 and 1988 c 127 s 74 are each amended to
29 read as follows:

30 Filing of a statement of a claim shall take place and be completed
31 upon receipt by the department of ecology, at its office in Olympia, of
32 an original statement signed by the claimant or his or her authorized
33 agent, and two copies thereof. Any person required to file hereunder
34 may file through a designated representative. A company, district,
35 public or municipal corporation, or the United States when furnishing
36 to persons water pertaining to water rights required to be filed under
37 RCW 90.14.041, shall have the right to file one claim on behalf of said
38 persons on a form prepared by the department for the total benefits of

1 each person served; provided that a separate claim shall be filed by
2 such company, district, public or private corporation, or the United
3 States for each operating unit of the filing entity providing such
4 water and for each water source. Within thirty days after receipt of
5 a statement of claim the department shall acknowledge the same by a
6 notation on one copy indicating receipt thereof and the date of
7 receipt, together with the wording of the first sentence of RCW
8 90.14.081, and shall return said copy by certified or registered mail
9 to the claimant at the address set forth in the statement of claim. No
10 statement of claim shall be accepted for filing by the department of
11 ecology unless accompanied by a two dollar filing fee. The department
12 of water resources shall administer this section after the effective
13 date of this section.

14 **Sec. 51.** RCW 90.14.065 and 1987 c 93 s 1 are each amended to read
15 as follows:

16 Any person or entity, or successor to such person or entity, having
17 a statement of claim on file with the water rights claims registry on
18 April 20, 1987, may submit to the department of (~~ecology~~) water
19 resources for filing, an amendment to such a statement of claim if the
20 submitted amendment is based on:

21 (1) An error in estimation of the quantity of the applicant's water
22 claim prescribed in RCW 90.14.051 if the applicant provides reasons for
23 the failure to claim such right in the original claim;

24 (2) A change in circumstances not foreseeable at the time the
25 original claim was filed, if such change in circumstances relates only
26 to the manner of transportation or diversion of the water and not to
27 the use or quantity of such water; or

28 (3) The amendment is ministerial in nature.

29 The department shall accept any such submission and file the same
30 in the registry unless the department by written determination
31 concludes that the requirements of subsection (1), (2), or (3) of this
32 section have not been satisfied. Any person aggrieved by a
33 determination of the department may obtain a review thereof by filing
34 a petition for review with the (~~pollution control hearings board~~)
35 superior court within thirty days of the date of the determination by
36 the department. The provisions of RCW 90.14.081 shall apply to any
37 amendment filed under this section.

1 (2) It shall cause a notice substantially the same as a notice in
2 writing to be broadcast by each commercial television station operating
3 in the United States and viewed in the state, and by at least one
4 commercial radio station operating from each county of the state having
5 such a station regularly at six month intervals for five consecutive
6 years.

7 (3) It shall cause a notice in writing to be placed in a prominent
8 and conspicuous location in each county court house in the state.

9 (4) The county treasurer of each county shall enclose with each
10 mailing of one or more statements of taxes due issued in 1972 a copy of
11 a notice in writing and a declaration that it shall be the duty of the
12 recipient of the statement of taxes due to forward the notice to the
13 beneficial owner of the property. A sufficient number of copies of the
14 notice and declaration shall be supplied to each county treasurer by
15 the director of ecology before the fifteenth day of January, 1972. In
16 the implementation of this subsection the department of ecology shall
17 provide reimbursement to the county treasurer for the reasonable
18 additional costs, if any there may be, incurred by said treasurer
19 arising from the inclusion of a notice in writing as required herein.

20 (5) It shall provide copies of the notice in writing to the press
21 services with offices located in Thurston county during January of the
22 years 1970, 1971, 1972, 1973 and 1974.

23 The director of the department may also in his or her discretion
24 give notice in any other manner which will carry out the purposes of
25 this section. Where notice in writing is given pursuant to subsections
26 (1) and (3) of this section, RCW 90.14.041, 90.14.051 and 90.14.071
27 shall be set forth and quoted in full.

28 The department of water resources shall administer this section
29 after the effective date of this section.

30 **Sec. 54.** RCW 90.14.111 and 1988 c 127 s 77 are each amended to
31 read as follows:

32 The department of ecology is directed to establish a registry
33 entitled the "Water Rights Claims Registry". All claims set forth
34 pursuant to RCW 90.14.041, 90.14.051 and 90.14.061 shall be filed in
35 the registry alphabetically and consecutively by control number, and by
36 such other manner as deemed appropriate by the department.

37 The department of water resources shall administer this section
38 after the effective date of this section.

1 **Sec. 55.** RCW 90.14.130 and 1987 c 109 s 13 are each amended to
2 read as follows:

3 When it appears to the department of (~~ecology~~) water resources
4 that a person entitled to the use of water has not beneficially used
5 his or her water right or some portion thereof, and it appears that
6 said right has or may have reverted to the state because of such
7 nonuse, as provided by RCW 90.14.160, 90.14.170, or 90.14.180, the
8 department of (~~ecology~~) water resources shall notify such person by
9 order: PROVIDED, That where a company, association, district, or the
10 United States has filed a blanket claim under the provisions of RCW
11 90.14.060 for the total benefits of those served by it, the notice
12 shall be served on such company, association, district or the United
13 States and not upon any of its individual water users who may not have
14 used the water or some portion thereof which they were entitled to use.
15 The order shall contain: (1) A description of the water right,
16 including the approximate location of the point of diversion, the
17 general description of the lands or places where such waters were used,
18 the water source, the amount involved, the purpose of use, and the
19 apparent authority upon which the right is based; (2) a statement that
20 unless sufficient cause be shown on appeal the water right will be
21 declared relinquished; and (3) a statement that such order may be
22 appealed to the (~~pollution control hearings board~~) superior court.
23 Any person aggrieved by such an order may appeal it to the (~~pollution~~
24 ~~control hearings board~~) superior court pursuant to RCW 43.21B.310.
25 The order shall be served by registered or certified mail to the last
26 known address of the person and be posted at the point of division or
27 withdrawal. The order by itself shall not alter the recipient's right
28 to use water, if any.

29 **Sec. 56.** RCW 90.14.150 and 1987 c 109 s 100 are each amended to
30 read as follows:

31 Nothing in this chapter shall be construed to affect any rights or
32 privileges arising from any permit to withdraw public waters or any
33 application for such permit, but the department of (~~ecology~~) water
34 resources shall grant extensions of time to the holder of a preliminary
35 permit only as provided by RCW 90.03.290.

36 **Sec. 57.** RCW 90.14.180 and 1987 c 109 s 101 are each amended to
37 read as follows:

1 Any person hereafter entitled to divert or withdraw waters of the
2 state through an appropriation authorized under RCW 90.03.330,
3 90.44.080, or 90.44.090 who abandons the same, or who voluntarily
4 fails, without sufficient cause, to beneficially use all or any part of
5 said right to withdraw for any period of five successive years shall
6 relinquish such right or portion thereof, and such right or portion
7 thereof shall revert to the state, and the waters affected by said
8 right shall become available for appropriation in accordance with RCW
9 90.03.250. All certificates hereafter issued by the department of
10 ((ecology)) water resources pursuant to RCW 90.03.330 shall expressly
11 incorporate this section by reference.

12 **Sec. 58.** RCW 90.14.190 and 1987 c 109 s 14 are each amended to
13 read as follows:

14 Any person feeling aggrieved by any decision of the department of
15 ((ecology)) water resources may have the same reviewed pursuant to RCW
16 43.21B.310. In any such review, the findings of fact as set forth in
17 the report of the department of ((ecology)) water resources shall be
18 prima facie evidence of the fact of any waiver or relinquishment of a
19 water right or portion thereof. If the ~~((hearings board affirms the
20 decision of the department, a party seeks review in superior court of
21 that hearings board decision pursuant to chapter 34.05 RCW, and the))~~
22 court determines that the party was injured by an arbitrary,
23 capricious, or erroneous order of the department, the court may award
24 reasonable attorneys' fees.

25 **Sec. 59.** RCW 90.14.200 and 1989 c 175 s 180 are each amended to
26 read as follows:

27 (1) All matters relating to the implementation and enforcement of
28 this chapter by the department of ((ecology)) water resources shall be
29 carried out in accordance with chapter 34.05 RCW, the Administrative
30 Procedure Act, except where the provisions of this chapter expressly
31 conflict with chapter 34.05 RCW. Proceedings held pursuant to RCW
32 90.14.130 are adjudicative proceedings within the meaning of chapter
33 34.05 RCW. Final decisions of the department ((of ecology)) in these
34 proceedings are subject to review ~~((in accordance with chapter 43.21B
35 RCW))~~ by superior court.

36 (2) RCW 90.14.130 provides nonexclusive procedures for determining
37 a relinquishment of water rights under RCW 90.14.160, 90.14.170, and

1 90.14.180. RCW 90.14.160, 90.14.170, and 90.14.180 may be applied in,
2 among other proceedings, general adjudication proceedings initiated
3 under RCW 90.03.110 or 90.44.220: PROVIDED, That nothing herein shall
4 apply to litigation involving determinations of the department ((of
5 ecology)) under RCW 90.03.290 relating to the impairment of existing
6 rights.

7 **Sec. 60.** RCW 90.14.230 and 1987 c 109 s 102 are each amended to
8 read as follows:

9 The department of ((ecology)) water resources, through the water
10 resources board, is authorized to promulgate such rules ((and
11 regulations)) as are necessary to carry out the provisions of this
12 chapter.

13 **Sec. 61.** RCW 90.16.060 and 1988 c 127 s 78 are each amended to
14 read as follows:

15 The license fee herein required shall be paid in advance to the
16 state department of ((ecology)) water resources and shall be
17 accompanied by written statement, showing the extent of the claim.
18 Said statement shall set forth the name and address of the claimant,
19 the name of the stream from which the water is appropriated or claimed
20 for power development, a description of the forty acres or smallest
21 legal subdivision in which the point of diversion and point of return
22 are located, the date of the right as claimed, the maximum amount of
23 water claimed, expressed in cubic feet per second of time, the total
24 average fall utilized under such claim, the manner of developing power
25 and the use to which the power is applied. If the regular flow is
26 supplemented by water stored in a reservoir, the location of such
27 reservoir, its capacity in acre feet, and the stream from which it is
28 filled and fed, should be given, also the date of the right as claimed
29 for storage purposes.

30 Should any claimant fail or neglect to file such statement within
31 the time specified, or fail or neglect to pay such fees within the time
32 specified, the fees due and payable shall be at the schedule rates set
33 out in RCW 90.16.050, increased twenty-five percent, and the state
34 shall have preference lien therefor, with interest at the rate of ten
35 percent per annum from the date of delinquency, upon the property of
36 claimant used or necessary for use in the development of the right or
37 claim, together with any improvements erected thereon for such

1 development, and upon request from the director of ((ecology)) water
2 resources the attorney general shall proceed to foreclose the lien, and
3 collect the amount due, as herein provided, in the same manner as other
4 liens for general state and county taxes on real property are
5 foreclosed.

6 The filing of a claim to water in excess of the amount to which the
7 claimant is legally entitled shall not operate to vest in such claimant
8 any right to the use of such excess water, nor shall the payment of the
9 annual license fees, provided for herein, operate to vest in any
10 claimant any right to the use of such water beyond the amount to which
11 claimant is legally entitled. The filing of such claim, or claims to
12 water shall be conclusive evidence of abandonment by the claimant of
13 all right to water for power purposes not covered by the claim, or
14 claims, as filed; and the failure to file statement and pay the fees,
15 as herein required, for any power site or claim of power rights on
16 account of riparian ownership within two years after June 12, 1929,
17 shall be conclusive evidence of abandonment. The amount of the
18 theoretical horsepower upon which fees shall be paid shall be computed
19 by multiplying the maximum amount of water claimed, expressed in cubic
20 feet per second of time, by the average fall utilized, expressed in
21 feet, and dividing the product by 8.8.

22 **Sec. 62.** RCW 90.16.090 and 1988 c 127 s 79 are each amended to
23 read as follows:

24 All fees paid under provisions of this chapter, shall be credited
25 by the state treasurer to the reclamation revolving account and subject
26 to legislative appropriation, be allocated and expended by the director
27 of ((ecology)) water resources for investigations and surveys of
28 natural resources in cooperation with the federal government, or
29 independently thereof, including stream gaging, hydrographic,
30 topographic, river, underground water, mineral and geological surveys:
31 PROVIDED, That in any one biennium all said expenditures shall not
32 exceed total receipts from said power license fees collected during
33 said biennium: AND PROVIDED FURTHER, That the portion of money
34 allocated by said director to be expended in cooperation with the
35 federal government shall be contingent upon the federal government
36 making available equal amounts for such investigations and surveys.

1 **Sec. 63.** RCW 90.22.010 and 1994 c 264 s 86 are each amended to
2 read as follows:

3 The department of ~~((ecology))~~ water resources may establish minimum
4 water flows or levels for streams, lakes or other public waters for the
5 purposes of protecting fish, game, birds or other wildlife resources,
6 or recreational or aesthetic values of said public waters whenever it
7 appears to be in the public interest to establish the same. In
8 addition, the department ~~((of ecology))~~ shall, when requested by the
9 department of fish and wildlife to protect fish, game or other wildlife
10 resources under the jurisdiction of the requesting state agency, or if
11 the department ~~((of ecology))~~ finds it necessary to preserve water
12 quality, establish such minimum flows or levels as are required to
13 protect the resource or preserve the water quality described in the
14 request or determination. Any request submitted by the department of
15 fish and wildlife shall include a statement setting forth the need for
16 establishing a minimum flow or level. When the department acts to
17 preserve water quality, ~~((it))~~ the department, through the water
18 resources board shall include a similar statement with the proposed
19 rule filed with the code reviser. This section shall not apply to
20 waters artificially stored in reservoirs, provided that in the granting
21 of storage permits by the department ~~((of ecology))~~ in the future, full
22 recognition shall be given to downstream minimum flows, if any there
23 may be, which have theretofore been established hereunder.

24 ~~((The current guidelines, standards, or criteria governing the~~
25 ~~instream flow programs established pursuant to this chapter shall not~~
26 ~~be altered or amended after March 15, 1988, in accordance with RCW~~
27 ~~90.54.022(5).))~~

28 **Sec. 64.** RCW 90.22.030 and 1988 c 127 s 81 are each amended to
29 read as follows:

30 The establishment of levels and flows pursuant to RCW 90.22.010
31 shall in no way affect existing water and storage rights and the use
32 thereof, including but not limited to rights relating to the operation
33 of any hydroelectric or water storage reservoir or related facility.
34 No right to divert or store public waters shall be granted by the
35 department of ~~((ecology))~~ water resources which shall conflict with
36 regulations adopted pursuant to RCW 90.22.010 and 90.22.020
37 establishing flows or levels. All regulations establishing flows or

1 levels shall be filed in a "Minimum Water Level and Flow Register" of
2 the department ((of ecology)).

3 **Sec. 65.** RCW 90.22.040 and 1987 c 109 s 104 are each amended to
4 read as follows:

5 It shall be the policy of the state, and the department of
6 ((ecology)) water resources shall be so guided in the implementation of
7 RCW 90.22.010 and 90.22.020, to retain sufficient minimum flows or
8 levels in streams, lakes or other public waters to provide adequate
9 waters in such water sources to satisfy stockwatering requirements for
10 stock on riparian grazing lands which drink directly therefrom where
11 such retention shall not result in an unconscionable waste of public
12 waters. The policy hereof shall not apply to stockwatering relating to
13 feed lots and other activities which are not related to normal
14 stockgrazing land uses.

15 **Sec. 66.** RCW 90.24.010 and 1985 c 398 s 28 are each amended to
16 read as follows:

17 Ten or more owners of real property abutting on a meandered lake
18 may petition the superior court of the county in which the lake is
19 situated, for an order to provide for the regulation of the outflow of
20 the lake in order to maintain a certain water level therein. The
21 court, after hearing, is authorized to make an order fixing the water
22 level thereof and directing the department of ((ecology)) water
23 resources to regulate the outflow therefrom in accordance with the
24 purposes described in the petition. This section shall not apply to
25 any meandered lake or reservoir used for the storage of water for
26 irrigation or other beneficial purposes, or to lakes navigable from the
27 sea.

28 **Sec. 67.** RCW 90.24.030 and 1994 c 264 s 88 are each amended to
29 read as follows:

30 The petition shall be entitled "In the matter of fixing the level
31 of Lake in county, Washington", and shall be
32 filed with the clerk of the court and a copy thereof, together with a
33 copy of the order fixing the time for hearing the petition, shall be
34 served on each owner of property abutting on the lake, not less than
35 ten days before the hearing. Like copies shall also be served upon the
36 director of fish and wildlife and the director of ((ecology)) water

1 resources. The copy of the petition and of the order fixing time for
2 hearing shall be served in the manner provided by law for the service
3 of summons in civil actions, or in such other manner as may be
4 prescribed by order of the court. For the benefit of every riparian
5 owner abutting on a stream or river flowing from such lake, a copy of
6 the notice of hearing shall be published at least once a week for two
7 consecutive weeks before the time set for hearing in a newspaper in
8 each county or counties wherein located, said notice to contain a brief
9 statement of the reasons and necessity for such application.

10 **Sec. 68.** RCW 90.24.040 and 1985 c 398 s 29 are each amended to
11 read as follows:

12 At the hearing evidence shall be introduced in support of the
13 petition and all interested parties may be heard for or against it.
14 The court shall make findings and conclusions and enter an order
15 granting or refusing the petition, and if the petition is granted,
16 shall fix the water level to be maintained and direct the department of
17 ((ecology)) water resources to regulate and control the outflow of the
18 lake so as to properly maintain the water level so far as practicable
19 within maximum and minimum limits when the proper control devices are
20 installed: PROVIDED, That the court shall have continuing jurisdiction
21 after a petition is once granted and shall, upon subsequent petition
22 filed and heard in accordance with the preceding sections, make such
23 further findings and conclusions and enter such further orders as are
24 necessary to accomplish fully the objectives sought in the initial
25 petition: AND PROVIDED FURTHER, That shall the court find any such
26 riparian owners abutting on a stream or river flowing from such lake be
27 adversely affected in any way by the granting of such a petition, such
28 petition shall be refused.

29 **Sec. 69.** RCW 90.24.050 and 1988 c 127 s 82 are each amended to
30 read as follows:

31 In the event the court shall find that to protect fish and game
32 fish in said lake that fish ladders or other devices should be
33 constructed therein or that other construction shall be necessary in
34 order to maintain the determined lake level, the court shall find the
35 proper device to be constructed, the probable cost thereof and by its
36 order and judgment shall apportion the cost thereof among the persons
37 whose property abuts on said lake in proportion to the lineal feet of

1 waterfront owned by each, which sum so found shall constitute a lien
2 against said real property and shall be paid to the county treasurer
3 and by him or her placed in a special fund to be known as "Lake
4 Improvement Fund." The director of ((ecology)) water
5 resources shall appoint a suitable person to be compensated by the
6 property owners to regulate the determined level as decreed by the
7 court.

8 **Sec. 70.** RCW 90.24.060 and 1994 c 264 s 89 are each amended to
9 read as follows:

10 Such improvement or device in said lake for the protection of the
11 fish and game fish therein shall be installed by and under the
12 direction of the board of county commissioners of said county with the
13 approval of the respective directors of the department of fish and
14 wildlife and the department of ((ecology)) water resources of the state
15 of Washington and paid for out of the special fund provided for in RCW
16 90.24.050.

17 **Sec. 71.** RCW 90.38.010 and 1989 c 429 s 2 are each amended to read
18 as follows:

19 Unless the context clearly requires otherwise, the definitions in
20 this section apply throughout this chapter.

21 (1) "Department" means the department of ((ecology)) water
22 resources.

23 (2) "Net water savings" means the amount of water that through
24 hydrological analysis is determined to be conserved and usable for
25 other purposes without impairing existing water rights, reducing the
26 ability to deliver water, or reducing the supply of water that
27 otherwise would have been available to other water users.

28 (3) "Trust water right" means that portion of an existing water
29 right, constituting net water savings, that is no longer required to be
30 diverted for beneficial use due to the installation of a water
31 conservation project that improves an existing system. The term "trust
32 water right" also applies to any other water right acquired by the
33 department under this chapter for management in the Yakima river basin
34 trust water rights program.

35 (4) "Water conservation project" means any project funded to
36 further the purposes of this chapter and that achieves physical or
37 operational improvements of efficiency in existing systems for

1 diversion, conveyance, or application of water under existing water
2 rights.

3 **Sec. 72.** RCW 90.40.090 and 1988 c 127 s 83 are each amended to
4 read as follows:

5 An application filed by the department of ((ecology)) water
6 resources or its assignee, the United States Bureau of Reclamation, for
7 a permit to appropriate waters of the Columbia River under chapter
8 90.03 RCW, for the development of the Grand Coulee project shall be
9 perfected in the same manner and to the same extent as though such
10 appropriation had been made by a private person, corporation or
11 association, but no fees, as provided for in RCW 90.03.470, shall be
12 required.

13 **Sec. 73.** RCW 90.42.020 and 1991 c 347 s 6 are each amended to read
14 as follows:

15 Unless the context clearly requires otherwise, the definitions in
16 this section apply throughout this chapter.

17 (1) "Department" means the department of ((ecology)) water
18 resources.

19 (2) "Net water savings" means the amount of water that is
20 determined to be conserved and usable within a specified stream reach
21 or reaches for other purposes without impairment or detriment to water
22 rights existing at the time that a water conservation project is
23 undertaken, reducing the ability to deliver water, or reducing the
24 supply of water that otherwise would have been available to other
25 existing water uses.

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

29 (4) "Pilot planning areas" means the geographic areas designated
30 under RCW 90.54.045(2).

31 (5) "Water conservation project" means any project or program that
32 achieves physical or operational improvements that provide for
33 increased water use efficiency in existing systems of diversion,
34 conveyance, application, or use of water under water rights existing on
35 July 28, 1991.

1 **Sec. 74.** RCW 90.44.035 and 1987 c 109 s 107 are each amended to
2 read as follows:

3 For purposes of this chapter:

4 (1) "Department" means the department of (~~ecology~~) water
5 resources;

6 (2) "Director" means the director of (~~ecology~~) water resources;

7 (3) "Ground waters" means all waters that exist beneath the land
8 surface or beneath the bed of any stream, lake or reservoir, or other
9 body of surface water within the boundaries of this state, whatever may
10 be the geological formation or structure in which such water stands or
11 flows, percolates or otherwise moves. There is a recognized
12 distinction between natural ground water and artificially stored ground
13 water;

14 (4) "Natural ground water" means water that exists in underground
15 storage owing wholly to natural processes; and

16 (5) "Artificially stored ground water" means water that is made
17 available in underground storage artificially, either intentionally, or
18 incidentally to irrigation and that otherwise would have been
19 dissipated by natural waste.

20 **Sec. 75.** RCW 90.44.130 and 1987 c 109 s 116 are each amended to
21 read as follows:

22 As between appropriators of public ground water, the prior
23 appropriator shall as against subsequent appropriators from the same
24 ground water body be entitled to the preferred use of such ground water
25 to the extent of his or her appropriation and beneficial use, and shall
26 enjoy the right to have any withdrawals by a subsequent appropriator of
27 ground water limited to an amount that will maintain and provide a safe
28 sustaining yield in the amount of the prior appropriation. The
29 department shall have jurisdiction over the withdrawals of ground water
30 and shall administer the ground water rights under the principle just
31 set forth, and it shall have the jurisdiction to limit withdrawals by
32 appropriators of ground water so as to enforce the maintenance of a
33 safe sustaining yield from the ground water body. For this purpose,
34 the department shall have authority and it shall be its duty from time
35 to time, as adequate factual data become available, to designate ground
36 water areas or sub-areas, to designate separate depth zones within any
37 such area or sub-area, or to modify the boundaries of such existing
38 area, or sub-area, or zones to the end that the withdrawals therefrom

1 may be administratively controlled as prescribed in RCW 90.44.180 in
2 order that overdraft of public ground waters may be prevented so far as
3 is feasible. Each such area or zone shall, as nearly as known facts
4 permit, be so designated as to enclose a single and distinct body of
5 public ground water. Each such sub-area may be so designated as to
6 enclose all or any part of a distinct body of public ground water, as
7 the department deems will most effectively accomplish the purposes of
8 this chapter.

9 Designation of, or modification of the boundaries of such a ground
10 water area, sub-area, or zone may be proposed by the department on its
11 own motion or by petition to the department signed by at least fifty or
12 one-fourth, whichever is the lesser number, of the users of ground
13 water in a proposed ground water area, sub-area, or zone. Before any
14 proposed ground water area, sub-area, or zone shall be designated, or
15 before the boundaries or any existing ground water area, sub-area, or
16 zone shall be modified the department shall publish a notice setting
17 forth: (1) In terms of the appropriate legal subdivisions a
18 description of all lands enclosed within the proposed area, sub-area,
19 or zone, or within the area, sub-area, or zone whose boundaries are
20 proposed to be modified; (2) the object of the proposed designation or
21 modification of boundaries; and (3) the day and hour, and the place
22 where written objections may be submitted and heard. Such notice shall
23 be published in three consecutive weekly issues of a newspaper of
24 general circulation in the county or counties containing all or the
25 greater portion of the lands involved, and the newspaper of publication
26 shall be selected by the department. Publication as just prescribed
27 shall be construed as sufficient notice to the landowners and water
28 users concerned.

29 Objections having been heard as herein provided, the department
30 shall make and file in its office written findings of fact with respect
31 to the proposed designation or modification and, if the findings are in
32 the affirmative, shall also enter a written order designating the
33 ground water area, or sub-area, or zone or modifying the boundaries of
34 the existing area, sub-area, or zone. Such findings and order shall
35 also be published substantially in the manner herein prescribed for
36 notice of hearing, and when so published shall be final and conclusive
37 unless an appeal therefrom is taken (~~within the period and in the~~
38 ~~manner prescribed by RCW 43.21B.310~~) to superior court. Publication
39 of such findings and order shall give force and effect to the remaining

1 provisions of this section and to the provisions of RCW 90.44.180, with
2 respect to the particular area, sub-area, or zone.

3 Priorities of right to withdraw public ground water shall be
4 established separately for each ground water area, sub-area, or zone
5 and, as between such rights, the first in time shall be the superior in
6 right. The priority of the right acquired under a certificate of
7 ground water right shall be the date of filing of the original
8 application for a withdrawal with the department, or the date or
9 approximate date of the earliest beneficial use of water as set forth
10 in a certificate of a vested ground water right, under the provisions
11 of RCW 90.44.090.

12 Within ninety days after the designation of a ground water area,
13 sub-area or zone as herein provided, any person, firm or corporation
14 then claiming to be the owner of artificially stored ground water
15 within such area, sub-area, or zone shall file a certified declaration
16 to that effect with the department on a form prescribed by the
17 department. Such declaration shall cover: (1) The location and
18 description of the works by whose operation such artificial ground
19 water storage is purported to have been created, and the name or names
20 of the owner or owners thereof; (2) a description of the lands
21 purported to be underlain by such artificially stored ground water, and
22 the name or names of the owner or owners thereof; (3) the amount of
23 such water claimed; (4) the date or approximate date of the earliest
24 artificial storage; (5) evidence competent to show that the water
25 claimed is in fact water that would have been dissipated naturally
26 except for artificial improvements by the claimant; and (6) such
27 additional factual information as reasonably may be required by the
28 department. If any of the purported artificially stored ground water
29 has been or then is being withdrawn, the claimant also shall file (1)
30 the declarations which this chapter requires of claimants to a vested
31 right to withdraw public ground waters, and (2) evidence competent to
32 show that none of the water withdrawn under those declarations is in
33 fact public ground water from the area, sub-area, or zone concerned:
34 PROVIDED, HOWEVER, That in case of failure to file a declaration within
35 the ninety-day period herein provided, the claimant may apply to the
36 department for a reasonable extension of time, which shall not exceed
37 two additional years and which shall be granted only upon a showing of
38 good cause for such failure.

1 Following publication of the declaration and findings--as in the
2 case of an original application, permit, or certificate of right to
3 appropriate public ground waters--the department shall accept or reject
4 such declaration or declarations with respect to ownership or
5 withdrawal of artificially stored ground water. Acceptance of such
6 declaration or declarations by the department shall convey to the
7 declarant no right to withdraw public ground waters from the particular
8 area, sub-area, or zone, nor to impair existing or subsequent rights to
9 such public waters.

10 Any person, firm or corporation hereafter claiming to be the owner
11 of ground water within a designated ground water area, sub-area, or
12 zone by virtue of its artificial storage subsequent to such designation
13 shall, within three years following the earliest artificial storage
14 file a declaration of claim with the department, as herein prescribed
15 for claims based on artificial storage prior to such designation:
16 PROVIDED, HOWEVER, That in case of such failure the claimant may apply
17 to the department for a reasonable extension of time, which shall not
18 exceed two additional years and which shall be granted upon a showing
19 of good cause for such failure.

20 Any person, firm or corporation hereafter withdrawing ground water
21 claimed to be owned by virtue of artificial storage subsequent to
22 designation of the relevant ground water area, sub-area, or zone shall,
23 within ninety days following the earliest such withdrawal, file with
24 the department the declarations required by this chapter with respect
25 to withdrawals of public ground water.

26 **Sec. 76.** RCW 90.44.400 and 1985 c 453 s 1 are each amended to read
27 as follows:

28 (1) This legislation is enacted for the purpose of identifying
29 ground water management procedures that are consistent with both local
30 needs and state water resource policies and management objectives;
31 including the protection of water quality, assurance of quantity, and
32 efficient management of water resources to meet future needs.

33 In recognition of existing water rights and the need to manage
34 ground water aquifers for future use, the department (~~(of ecology)~~),
35 through the water resources board, shall, by rule, establish standards,
36 criteria, and a process for the designation of specific ground water
37 areas or sub-areas, or separate depth zones within such area or sub-
38 area, and provide for either the department (~~(of ecology)~~), local

1 governments, or ground water users of the area to initiate development
2 of a ground water management program for each area or sub-area,
3 consistent with state and local government objectives, policies, and
4 authorities. The department, through the water resources board, shall
5 develop and adopt these rules by January 1, 1986.

6 (2) The department (~~of ecology~~), in cooperation with other state
7 agencies, local government, and user groups, shall identify probable
8 ground water management areas or sub-areas. The department shall also
9 prepare a general schedule for the development of ground water
10 management programs that recognizes the available local or state agency
11 staff and financial resources to carry out the intent of RCW 90.44.400
12 through 90.44.420. The department shall also provide the option for
13 locally initiated studies and for local government to assume the lead
14 agency role in developing the ground water management program and in
15 implementing the provisions of RCW 90.44.400 through 90.44.420. The
16 criteria to guide identification of the ground water areas or sub-areas
17 shall include but not be limited to, the following:

18 (a) Aquifer systems that are declining due to restricted recharge
19 or over-utilization;

20 (b) Aquifer systems in which over-appropriation may have occurred
21 and adjudication of water rights has not yet been completed;

22 (c) Aquifer systems currently being considered for water supply
23 reservation under chapter 90.54 RCW for future beneficial uses;

24 (d) Aquifers identified as the primary source of supply for public
25 water supply systems;

26 (e) Aquifers designated as a sole source aquifer by the federal
27 environmental protection agency; and

28 (f) Geographical areas where land use may result in contamination
29 or degradation of the ground water quality.

30 (3) In developing the ground water management programs, priority
31 shall be given to areas or sub-areas where water quality is imminently
32 threatened.

33 **Sec. 77.** RCW 90.44.410 and 1985 c 453 s 2 are each amended to read
34 as follows:

35 (1) To assist in the development of ground water management
36 programs, a ground water management advisory committee, with
37 representation from major user and public interest groups, and state
38 and local governments shall be appointed by the department for each

1 area or sub-area. The procedure for advisory committee appointment,
2 terms of appointment, and committee responsibilities shall be addressed
3 in the rules prepared under RCW 90.44.400.

4 (2) The ground water area or sub-area management programs shall
5 include:

6 (a) A description of the specific ground water area or sub-areas,
7 or separate depth zones within any such area or sub-area, and the
8 relationship of this zone or area to the land use management
9 responsibilities of county government;

10 (b) A management program based on long-term monitoring and resource
11 management objectives for the area or sub-area;

12 (c) Identification of water resources and the allocation of the
13 resources to meet state and local needs;

14 (d) Projection of water supply needs for existing and future
15 identified user groups and beneficial uses;

16 (e) Identification of water resource management policies and/or
17 practices that may impact the recharge of the designated area or
18 policies that may affect the safe yield and quantity of water available
19 for future appropriation;

20 (f) Identification of land use and other activities that may impact
21 the quality and efficient use of the ground water, including domestic,
22 industrial, solid, and other waste disposal, underground storage
23 facilities, or storm water management practices;

24 (g) The design of the program necessary to manage the resource to
25 assure long-term benefits to the citizens of the state;

26 (h) Identification of water quality objectives for the aquifer
27 system which recognize existing and future uses of the aquifer and that
28 are in accordance with department of (~~ecology~~) water resources and
29 department of social and health services drinking and surface water
30 quality standards;

31 (i) Long-term policies and construction practices necessary to
32 protect existing water rights and subsequent facilities installed in
33 accordance with the ground water area or sub-area management programs
34 and/or other water right procedures;

35 (j) Annual withdrawal rates and safe yield guidelines which are
36 directed by the long-term management programs that recognize annual
37 variations in aquifer recharge;

1 (k) A description of conditions and potential conflicts and
2 identification of a program to resolve conflicts with existing water
3 rights;

4 (l) Alternative management programs to meet future needs and
5 existing conditions, including water conservation plans; and

6 (m) A process for the periodic review of the ground water
7 management program and monitoring of the implementation of the program.

8 (3) The ground water area or sub-area management programs shall be
9 submitted for review in accordance with the state environmental policy
10 act.

11 **Sec. 78.** RCW 90.44.410 and 1988 c 186 s 1 are each amended to read
12 as follows:

13 (1) The ground water area or sub-area management programs shall
14 include:

15 (a) A description of the specific ground water area or sub-areas,
16 or separate depth zones within any such area or sub-area, and the
17 relationship of this zone or area to the land use management
18 responsibilities of county government;

19 (b) A management program based on long-term monitoring and resource
20 management objectives for the area or sub-area;

21 (c) Identification of water resources and the allocation of the
22 resources to meet state and local needs;

23 (d) Projection of water supply needs for existing and future
24 identified user groups and beneficial uses;

25 (e) Identification of water resource management policies and/or
26 practices that may impact the recharge of the designated area or
27 policies that may affect the safe yield and quantity of water available
28 for future appropriation;

29 (f) Identification of land use and other activities that may impact
30 the quality and efficient use of the ground water, including domestic,
31 industrial, solid, and other waste disposal, underground storage
32 facilities, or storm water management practices;

33 (g) The design of the program necessary to manage the resource to
34 assure long-term benefits to the citizens of the state;

35 (h) Identification of water quality objectives for the aquifer
36 system which recognize existing and future uses of the aquifer and that
37 are in accordance with department of (~~ecology~~) water resources and

1 department of social and health services drinking and surface water
2 quality standards;

3 (i) Long-term policies and construction practices necessary to
4 protect existing water rights and subsequent facilities installed in
5 accordance with the ground water area or sub-area management programs
6 and/or other water right procedures;

7 (j) Annual withdrawal rates and safe yield guidelines which are
8 directed by the long-term management programs that recognize annual
9 variations in aquifer recharge;

10 (k) A description of conditions and potential conflicts and
11 identification of a program to resolve conflicts with existing water
12 rights;

13 (l) Alternative management programs to meet future needs and
14 existing conditions, including water conservation plans; and

15 (m) A process for the periodic review of the ground water
16 management program and monitoring of the implementation of the program.

17 (2) The ground water area or sub-area management programs shall be
18 submitted for review in accordance with the state environmental policy
19 act.

20 **Sec. 79.** RCW 90.44.420 and 1985 c 453 s 3 are each amended to read
21 as follows:

22 The department of ~~((ecology))~~ water resources shall consider the
23 ground water area or sub-area management plan for adoption in
24 accordance with this chapter and chapter 90.54 RCW.

25 Upon completion of the ground water area or sub-area management
26 program, the department ~~((of ecology))~~ shall hold a public hearing
27 within the designated ground water management area for the purpose of
28 taking public testimony on the proposed program. Following the public
29 hearing, the department ~~((of ecology))~~ and affected local governments
30 shall (1) prepare findings which either provide for the subsequent
31 adoption of the program as proposed or identify the revisions necessary
32 to ensure that the program is consistent with the intent of this
33 chapter, and (2) adopt regulations, ordinances, and/or programs for
34 implementing those provisions of the ground water management program
35 which are within their respective jurisdictional authorities.

36 **Sec. 80.** RCW 90.44.430 and 1985 c 453 s 4 are each amended to read
37 as follows:

1 The department of ((ecology)) water resources, the department of
2 social and health services, and affected local governments shall be
3 guided by the adopted program when reviewing and considering approval
4 of all studies, plans, and facilities that may utilize or impact the
5 implementation of the program.

6 **Sec. 81.** RCW 90.44.450 and 1989 c 348 s 7 are each amended to read
7 as follows:

8 The department of ((ecology)) water resources may require
9 withdrawals of ground water to be metered, or measured by other
10 approved methods, as a condition for a new water right permit. The
11 department may also require, as a condition for such permits, reports
12 regarding such withdrawals as to the amount of water being withdrawn.
13 These reports shall be in a form prescribed by the department.

14 **Sec. 82.** RCW 90.46.005 and 1992 c 204 s 1 are each amended to read
15 as follows:

16 The legislature finds that by encouraging the use of reclaimed
17 water while assuring the health and safety of all Washington citizens
18 and the protection of its environment, the state of Washington will
19 continue to use water in the best interests of present and future
20 generations.

21 To facilitate the opportunity to use reclaimed water as soon as is
22 practicable, the legislature encourages the cooperative efforts of the
23 public and private sectors and the use of pilot projects to effectuate
24 the goals of this chapter. The legislature further directs the
25 department of health and the department of ((ecology)) water resources
26 to coordinate efforts towards developing an efficient and streamlined
27 process for creating and implementing processes for the use of
28 reclaimed water.

29 **Sec. 83.** RCW 90.46.020 and 1992 c 204 s 3 are each amended to read
30 as follows:

31 (1) The department of ((ecology)) water resources shall, in
32 coordination with the department of health, develop interim standards
33 for pilot projects under subsection (3) of this section on or before
34 July 1, 1992, for the use of reclaimed water in land applications.

35 (2) The department of health shall, in coordination with the
36 department of ((ecology)) water resources, develop interim standards

1 for pilot projects under subsection (3) of this section on or before
2 November 15, 1992, for the use of reclaimed water in commercial and
3 industrial activities.

4 (3) The department of (~~ecology~~) water resources and the
5 department of health shall assist interested parties in the development
6 of pilot projects to aid in achieving the purposes of this chapter.

7 **Sec. 84.** RCW 90.46.030 and 1992 c 204 s 4 are each amended to read
8 as follows:

9 (1) The department of health shall, in coordination with the
10 department of (~~ecology~~) water resources, adopt a single set of
11 standards, procedures, and guidelines on or before August 1, 1993, for
12 the industrial and commercial use of reclaimed water.

13 (2) The department of health may issue a reclaimed water permit for
14 industrial and commercial uses of reclaimed water to the generator of
15 reclaimed water who may then distribute the water, subject to
16 provisions in the permit governing the location, rate, water quality,
17 and purposes of use.

18 (3) The department of health in consultation with the advisory
19 committee established in RCW 90.46.050, shall develop recommendations
20 for a fee structure for permits issued under subsection (2) of this
21 section. Fees shall be established in amounts to fully recover, and
22 not exceed, expenses incurred by the department of health in processing
23 permit applications and modifications, monitoring and evaluating
24 compliance with permits, and conducting inspections and supporting the
25 reasonable overhead expenses that are directly related to these
26 activities. Permit fees may not be used for research or enforcement
27 activities. The department of health shall not issue permits under
28 this section until a fee structure has been established.

29 (4) A permit under this section for use of reclaimed water may be
30 issued only to a municipal, quasi-municipal, or other governmental
31 entity or to the holder of a waste discharge permit issued under
32 chapter 90.48 RCW.

33 (5) The authority and duties created in this section are in
34 addition to any authority and duties already provided in law with
35 regard to sewage and wastewater collection, treatment, and disposal for
36 the protection of health and safety of the state's waters. Nothing in
37 this section limits the powers of the state or any political
38 subdivision to exercise such authority.

1 **Sec. 85.** RCW 90.46.040 and 1992 c 204 s 5 are each amended to read
2 as follows:

3 (1) The department of (~~ecology~~) water resources shall, in
4 coordination with the department of health, adopt a single set of
5 standards, procedures, and guidelines, on or before August 1, 1993, for
6 land applications of reclaimed water.

7 (2) A permit is required for any land application of reclaimed
8 water. The department of (~~ecology~~) water resources may issue a
9 reclaimed water permit under chapter 90.48 RCW to the generator of
10 reclaimed water who may then distribute the water, subject to
11 provisions in the permit governing the location, rate, water quality,
12 and purpose of use. The department (~~of ecology~~) shall not issue more
13 than one permit for any individual land application of reclaimed water
14 to a single generator.

15 (3) In cases where the department of (~~ecology~~) water resources
16 determines, in land applications of reclaimed water, that a significant
17 risk to the public health exists, the department shall refer the
18 application to the department of health for review and consultation and
19 the department of health may require fees appropriate for review and
20 consultation from the applicant pursuant to RCW 43.70.250.

21 (4) A permit under this section for use of reclaimed water may be
22 issued only to a municipal, quasi-municipal, or other governmental
23 entity or to the holder of a waste discharge permit issued under
24 chapter 90.48 RCW.

25 (5) The authority and duties created in this section are in
26 addition to any authority and duties already provided in law. Nothing
27 in this section limits the powers of the state or any political
28 subdivision to exercise such authority.

29 **Sec. 86.** RCW 90.54.010 and 1990 c 295 s 1 are each amended to read
30 as follows:

31 (1) The legislature finds that:

32 (a) Proper utilization of the water resources of this state is
33 necessary to the promotion of public health and the economic well-being
34 of the state and the preservation of its natural resources and
35 aesthetic values. Although water is a renewable resource, its supply
36 and availability are becoming increasingly limited, particularly during
37 summer and fall months and dry years when demand is greatest. Growth
38 and prosperity have significantly increased the competition for this

1 limited resource. Adequate water supplies are essential to meet the
2 needs of the state's growing population and economy. At the same time
3 instream resources and values must be preserved and protected so that
4 future generations can continue to enjoy them.

5 (b) All citizens of Washington share an interest in the proper
6 stewardship of our invaluable water resources. To ensure that
7 available water supplies are managed to best meet both instream and
8 offstream needs, a comprehensive planning process is essential. The
9 people of the state have the unique opportunity to work together to
10 plan and manage our water. Through a comprehensive planning process
11 that includes the state, Indian tribes, local governments, and
12 interested parties, it is possible to make better use of available
13 water supplies and achieve better management of water resources.
14 Through comprehensive planning, conflicts among water users and
15 interests can be reduced or resolved. It is in the best interests of
16 the state that comprehensive water resource planning be given a high
17 priority so that water resources and associated values can be utilized
18 and enjoyed today and protected for tomorrow.

19 (c) Diverse hydrologic, climatic, cultural, and socioeconomic
20 conditions exist throughout the regions of the state. Water resource
21 issues vary significantly across regions. Comprehensive water resource
22 planning is best accomplished through a regional planning process
23 sensitive to the unique characteristics and issues of each region.

24 (d) Comprehensive water resource planning must provide interested
25 parties adequate opportunity to participate. Water resource issues are
26 best addressed through cooperation and coordination among the state,
27 Indian tribes, local governments, and interested parties.

28 (e) The long-term needs of the state require ongoing assessment of
29 water availability, use, and demand. A thorough inventory of available
30 resources is essential to water resource management. Current state
31 water resource data and data management is inadequate to meet changing
32 needs and respond to competing water demands. Therefore, a state water
33 resource data program is needed to support an effective water resource
34 management program. Efforts should be made to coordinate and
35 consolidate into one resource data system all relevant information
36 developed by the department of ((ecology)) water resources and other
37 agencies relating to the use, protection, and management of the state's
38 water resources.

1 (2) It is the purpose of this chapter to set forth fundamentals of
2 water resource policy for the state to insure that waters of the state
3 are protected and fully utilized for the greatest benefit to the people
4 of the state of Washington and, in relation thereto, to provide
5 direction to the department of ((ecology)) water resources, other state
6 agencies and officials, and local government in carrying out water and
7 related resources programs. It is the intent of the legislature to
8 work closely with the executive branch, Indian tribes, local
9 government, and interested parties to ensure that water resources of
10 the state are wisely managed.

11 **Sec. 87.** RCW 90.54.100 and 1971 ex.s. c 225 s 11 are each amended
12 to read as follows:

13 The department of ((ecology)) water resources shall as a matter of
14 high priority evaluate the needs for water resource development
15 projects and the alternative methods of financing of the same by public
16 and private agencies, including financing by federal, state and local
17 governments and combinations thereof. Such evaluations shall be
18 broadly based and be included as a part of the comprehensive state
19 water resources program relating to uses and management as defined in
20 RCW 90.54.030. A report of the department relating to such
21 evaluations, including any recommendations, shall be submitted to the
22 legislature in accordance with RCW 90.54.070.

23 **Sec. 88.** RCW 90.54.110 and 1971 ex.s. c 225 s 12 are each amended
24 to read as follows:

25 The department of ((ecology)) water resources is authorized to
26 obtain the benefits including acceptance of grants, of any program of
27 the federal government or any other source to carry out the provisions
28 of this chapter and is empowered to take such actions as are necessary
29 and appropriate to secure such benefits.

30 **Sec. 89.** RCW 90.54.120 and 1971 ex.s. c 225 s 13 are each amended
31 to read as follows:

32 For the purposes of this chapter, unless the context is clearly to
33 the contrary, the following definitions shall be used:

34 (1) "Department" means department of ((ecology)) water resources.

35 (2) "Utilize" or "utilization" shall not only mean use of water for
36 such long recognized consumptive or nonconsumptive beneficial purposes

1 as domestic, stock watering, industrial, commercial, agricultural,
2 irrigation, hydroelectric power production, thermal power production,
3 mining, recreational, maintenance of wildlife and fishlife purposes,
4 but includes the retention of water in lakes and streams for the
5 protection of environmental, scenic, aesthetic and related purposes,
6 upon which economic values have not been placed historically and are
7 difficult to quantify.

8 **Sec. 90.** RCW 90.54.130 and 1984 c 253 s 4 are each amended to read
9 as follows:

10 The department of ((ecology)) water resources may recommend land
11 use management policy modifications it finds appropriate for the
12 further protection of ground and surface water resources in this state.
13 Such advisory recommendations may be made to other state regulatory
14 agencies, local governments, water systems, and other appropriate
15 bodies.

16 **Sec. 91.** RCW 90.54.140 and 1984 c 253 s 5 are each amended to read
17 as follows:

18 The legislature hereby declares that the protection of ground water
19 aquifers which are the sole drinking water source for a given
20 jurisdiction shall be of the uppermost priority of the state department
21 of ((ecology)) water resources, department of social and health
22 services, and all local government agencies with jurisdiction over such
23 areas. In administration of programs related to the disposal of wastes
24 and other practices which may impact such water quality, the department
25 of ((ecology)) water resources, department of social and health
26 services, and such affected local agencies shall explore all possible
27 measures for the protection of the aquifer, including any appropriate
28 incentives, penalties, or other measures designed to bring about
29 practices which provide for the least impact on the quality of the
30 ground water.

31 **Sec. 92.** RCW 90.54.150 and 1979 ex.s. c 216 s 9 are each amended
32 to read as follows:

33 When feasible, the department of ((ecology)) water resources shall
34 cooperate with the United States and other public entities, including
35 Indian tribes, in the planning, development, and operation of
36 comprehensive water supply projects designed primarily to resolve

1 controversies and conflicts over water use by increasing water quantity
2 and improving water quality within a stream or river system, or other
3 bodies of water, as well as to enhance opportunities for both instream
4 and diversionary water uses within the system, and, in relation
5 thereto, the department may:

6 (1) Participate with the federal government and other public
7 entities in the planning, development, operation, and management of
8 various phases of water projects hereafter authorized by congress;

9 (2) Provide rights to the use of public waters under the state's
10 surface and ground water codes for these projects when the waters are
11 available for allocation; and

12 (3) Provide financial assistance through grants and loans for
13 projects when moneys are made available to the department for this
14 assistance by other provisions of this code.

15 **Sec. 93.** RCW 90.66.040 and 1979 c 3 s 4 are each amended to read
16 as follows:

17 For the purposes of this chapter, the following definitions shall
18 be applicable:

19 (1) "Family farm" means a geographic area including not more than
20 two thousand acres of irrigated agricultural lands, whether contiguous
21 or noncontiguous, the controlling interest in which is held by a person
22 having a controlling interest in no more than two thousand acres of
23 irrigated agricultural lands in the state of Washington which are
24 irrigated under rights acquired after December 8, 1977.

25 (2) "Person" means any individual, corporation, partnership,
26 limited partnership, organization, or other entity whatsoever, whether
27 public or private. The term "person" shall include as one person all
28 corporate or partnership entities with a common ownership of more than
29 one-half of the assets of each of any number of such entities.

30 (3) "Controlling interest" means a property interest that can be
31 transferred to another person, the percentage interest so transferred
32 being sufficient to effect a change in control of the landlord's rights
33 and benefits. Ownership of property held in trust shall not be deemed
34 a controlling interest where no part of the trust has been established
35 through expenditure or assignment of assets of the beneficiary of the
36 trust and where the rights of the family farm permit which is a part of
37 the trust cannot be transferred to another by the beneficiary of the
38 trust under terms of the trust. Each trust of a separate donor origin

1 shall be treated as a separate entity and the administration of
2 property under trust shall not represent a controlling interest on the
3 part of the trust officer.

4 (4) "Department" means the department of ~~((ecology))~~ water
5 resources of the state of Washington.

6 (5) "Application", "permit" and "public waters" shall have the
7 meanings attributed to these terms in chapters 90.03 and 90.44 RCW.

8 (6) "Public water entity" means any public or governmental entity
9 with authority to administer and operate a system to supply water for
10 irrigation of agricultural lands.

11 **Sec. 94.** RCW 90.66.080 and 1979 c 3 s 8 are each amended to read
12 as follows:

13 The department is hereby empowered to promulgate such rules as may
14 be necessary to carry out the provisions of this chapter. Decisions of
15 the department, other than rule making, shall be subject to review ~~((in~~
16 ~~accordance with chapter 43.21B RCW))~~ by superior court.

17 NEW SECTION. **Sec. 95.** A new section is added to chapter 90.03 RCW
18 to read as follows:

19 After the effective date of this act, the water resources board
20 must make a final determination on water rights applications within
21 twelve months for applications in areas without a regional water
22 resource plan and within three months for applications in areas with a
23 regional water resource plan.

24 NEW SECTION. **Sec. 96.** The regional water resource planning
25 process must be initiated by filing a petition with the state water
26 resources board. The petition must be signed by a local government, a
27 tribal government, or at least one hundred persons claiming the right
28 to water in the same water resource inventory area. The board shall
29 hold a hearing on the petition within ninety days of its receipt. The
30 board shall hold the hearing within the boundaries of the proposed
31 region.

32 NEW SECTION. **Sec. 97.** The petition under section 96 of this act
33 shall include the following:

34 (1) The description of the water resource inventory area or areas
35 that are proposed to be included in the regional planning area. A

1 region may consist of one or more water resource inventory areas. If
2 more than one water resource inventory area is proposed to be included
3 in a region, the petition shall include the rationale for inclusion of
4 the additional area or areas;

5 (2) The governmental units that would be in charge of managing the
6 local water resource planning process;

7 (3) An identification of major groups, not to exceed ten groups,
8 with an interest in the basin who would serve as members of the local
9 planning committee;

10 (4) The method of choosing representatives from each major group
11 and the number of representatives from each group;

12 (5) The proposed date to start the planning process and the target
13 date that the final draft regional water resource plan will be
14 transmitted to the state water resources board. The planning period
15 may not exceed two years unless exceptional circumstances are found to
16 exist by the state water resources board and an extension is granted
17 for a specified period of time;

18 (6) A proposed budget and a specific proposed method to fund fifty
19 percent of the cost of the planning process through locally generated
20 funds; and

21 (7) A list of all local governments within the proposed regional
22 planning area.

23 NEW SECTION. **Sec. 98.** (1) The petition under section 96 of this
24 act shall be reviewed by the director for completeness. The director
25 of the board shall return petitions found to be incomplete to the
26 petitioning parties within twenty working days of receipt, with a list
27 of those items that need to be completed.

28 (2) The director shall send a copy of the completed petition to
29 each unit of local government within the proposed region and interested
30 tribal governments, along with a notice announcing the time and date of
31 the hearing on the proposed petition. The notice must be sent at least
32 twenty working days before the hearing. Notice of the hearing shall
33 also be published at least once a week for two consecutive weeks in a
34 daily newspaper of general circulation in the region.

35 (3) The state water resources board shall hold a hearing on the
36 petition as submitted. A decision to approve or deny the petition
37 shall be made within one hundred twenty days from the date of the
38 hearing. After the hearing, the state water resources board may make

1 changes to the proposal. The board may approve the petition if it is
2 determined that there is general local support and need for initiating
3 the planning process, and a reasonable chance that the planning process
4 will succeed in producing a draft water resource plan for the region.
5 The approval shall establish a budget for the planning process,
6 including a limitation on the amount of funds to be provided by the
7 state, which shall not exceed fifty percent of the original budgeted
8 amount.

9 NEW SECTION. **Sec. 99.** Once a final draft plan has been developed
10 by the regional water resource planning committee, the board shall,
11 within sixty days, hold a hearing on the draft plan. For regional
12 water resource plans that have been submitted to the board's
13 predecessor agency, the board shall have one hundred eighty days from
14 the effective date of this section to hold a hearing on the proposed
15 plan.

16 The board shall evaluate the plan based on the following criteria:

17 (1) The plan can be legally implemented within existing or by
18 specific changes to state law;

19 (2) The plan has the general support of the community and local
20 governments within the affected planning area and of affected tribal
21 governments;

22 (3) Funds are available or will be requested by the board to
23 provide for the state share of the cost of implementing the plan;

24 (4) The plan provides for adequate protection of fish habitat in
25 the region; and

26 (5) The plan provides adequate water for the needs of the people in
27 the basin and the economies upon which they depend as viewed by the
28 people in the basin.

29 NEW SECTION. **Sec. 100.** (1) Within ninety days after the public
30 hearing on the final draft regional water resource plan, the board
31 shall either: (a) Approve the plan as submitted, or (b) make comments
32 and recommend changes to the plan. The board may meet with the
33 regional water resource planning committee to discuss the resolution of
34 issues between the board and the committee. If the board recommends
35 changes to the plan, the regional water resource planning committee
36 shall have an additional ninety days to modify the draft plan and to
37 resubmit it to the board.

1 (2) If the board declines to approve the plan as resubmitted, the
2 board shall return to the regional water resource planning committee a
3 proposed revised plan with specific changes or approval of specified
4 components of the plan. The regional water resource planning committee
5 shall have sixty days to either accept the board's revised plan or to
6 withdraw the proposed plan from consideration by the board. Any plan
7 that was revised by the board but rejected by the regional water
8 resource planning committee may not be adopted by the board, however
9 this shall not be construed to prevent the board from initiating a
10 general water right adjudication in the basin in accordance with
11 procedures contained in chapter 90.03 RCW.

12 (3) If the board approves the plan, it may do so contingent upon
13 action by the state legislature to provide adequate funding or to
14 modify state law necessary to implement the plan. The board shall
15 prepare any funding requests and proposed changes to state law
16 necessary to implement approved regional water resource plans to the
17 next session of the legislature.

18 NEW SECTION. **Sec. 101.** New regional water resource programs, in
19 existence on the effective date of this section or amendments to water
20 resource programs contained in chapters 173-501 through 173-592 WAC
21 shall be adopted as a rule under the administrative procedure act,
22 chapter 34.05 RCW.

23 **Sec. 102.** RCW 90.54.040 and 1988 c 47 s 5 are each amended to read
24 as follows:

25 (1) The ((department)) board, through the adoption of appropriate
26 rules, is directed, as a matter of high priority to insure that the
27 waters of the state are utilized for the best interests of the people,
28 to develop and implement in accordance with the policies of this
29 chapter and the procedures in sections 96 through 101 of this act a
30 comprehensive state water resources program which will provide a
31 process for making decisions on future water resource allocation and
32 use. The ((department)) board may develop the program in segments so
33 that immediate attention may be given to waters of a given
34 physioeconomic region of the state or to specific critical problems of
35 water allocation and use.

36 ~~((The current guidelines, standards, or criteria governing the
37 elements of the water resource program established pursuant to this~~

1 subsection shall not be altered or amended after March 15, 1988, in
2 accordance with RCW 90.54.022(5).))

3 (2) In relation to the management and regulatory programs relating
4 to water resources vested in it, the ((department)) board is further
5 directed to modify existing regulations and adopt new regulations, when
6 needed and possible, to insure that existing regulatory programs are in
7 accord with the water resource policy of this chapter, and the
8 procedures in sections 96 through 101 of this act, and the program
9 established in subsection (1) of this section. ((The current
10 guidelines, standards, or criteria governing the department's
11 implementation of this subsection shall not be altered or amended after
12 March 15, 1988, in accordance with subsection (1) of this section.))

13 (3) The ((department)) board is directed to review all statutes
14 relating to water resources which it is responsible for implementing.
15 When any of the same appear to the ((department)) board to be
16 ambiguous, unclear, unworkable, unnecessary, or otherwise deficient, it
17 shall make recommendations to the legislature including appropriate
18 proposals for statutory modifications or additions. Whenever it
19 appears that the policies of any such statutes are in conflict with the
20 policies of this chapter, and the ((department)) board is unable to
21 fully perform as provided in subsection (2) of this section, the
22 ((department)) board is directed to submit statutory modifications to
23 the legislature which, if enacted, would allow the ((department)) board
24 to carry out such statutes in harmony with this chapter.

25 NEW SECTION. Sec. 103. A new section is added to chapter 43.27A
26 RCW to read as follows:

27 The purpose of this section is to set forth the powers of the
28 department to regulate the withdrawal or diversion of public waters and
29 water or water rights related thereto including regulation based on
30 dates of priority or other pertinent factors. Regulatory actions taken
31 under this section shall be based on examination and determination by
32 the department or the court, as applicable, of the various water rights
33 involved according to the department's records and other records and
34 pertinent facts. The powers set forth in this section may be exercised
35 whether or not a general adjudication relating to the water rights
36 involved has been conducted.

37 (1) In a regulatory situation (a) where a water right or all water
38 rights proposed for regulation by the department, as well as any right

1 or rights of a senior priority that the proposed regulation is designed
2 to protect, is or are embodied in a certificate or certificates issued
3 under RCW 90.03.240, 90.03.330, 90.38.040, 90.42.040, or 90.44.060 or
4 a permit or permits issued pursuant to RCW 90.03.290 or 90.44.060; or
5 (b) where a flow or level has been established by rule pursuant to
6 chapter 90.22 or 90.54 RCW; or (c) where it appears to the department
7 that public waters are being withdrawn without any right or other
8 appropriate authority whatsoever, the department in its discretion is
9 authorized to regulate the right or rights under either RCW 43.27A.190
10 or subsection (2) of this section.

11 (2) In a regulatory situation where one or more of the water rights
12 proposed for regulation by the department, as well as any right or
13 rights of a senior priority that the proposed regulation is designed to
14 protect, is not or are not embodied in a permit or certificate as
15 described in subsection (1) of this section, the department, as its
16 sole and exclusive power to regulate, is authorized to bring an
17 appropriate action at law or in equity, including seeking injunctive
18 relief, as it may deem necessary. Where actions are brought in a state
19 court, the actions shall be initiated in the superior court of the
20 county where the point or points of diversion of the water right or
21 rights proposed for regulation are located. If the points of diversion
22 are located in more than one county, the department may bring the
23 action in a county where a point of diversion is located.

24 (3) Nothing in this section authorizes the department to accomplish
25 a general adjudication of water rights proceeding or the substantial
26 equivalent of a general adjudication of water rights. The exclusive
27 procedure for accomplishing a general adjudication of water rights is
28 under RCW 90.03.110 through 90.03.245 or 90.44.220.

29 (4) Nothing in this section shall amend, reuse, or repeal RCW
30 90.14.130 or 90.14.200.

31 (5) This section does not in any way modify regulatory powers
32 previously placed with the department except as provided in subsections
33 (1) and (2) of this section.

34 NEW SECTION. **Sec. 104.** The legislature believes it is important
35 that the legislature and the public be regularly informed as to how the
36 statutory water resource policies and related programs are being
37 implemented. Additionally, the legislature and the public should be

1 periodically updated on the short-term and long-term plans for the
2 management and administration of water resources programs.

3 NEW SECTION. **Sec. 105.** A new section is added to chapter 43.27A
4 RCW to read as follows:

5 The water policy and program review group is hereby created. The
6 group shall meet with the water resources board at least once every six
7 months and shall report to the legislature annually on the progress and
8 direction of the water resources board to assure that policies and
9 actions taken by the board are balanced and do not favor any particular
10 segment or interest group. The regularly scheduled twice-yearly
11 meetings shall occur in June and December.

12 The water resources board shall provide to the review group,
13 through the chair of the review group, any information as requested by
14 the review group on the board's policies, programs, plans, and fiscal
15 matters. Before the review group's annual meeting, the chair of the
16 group shall inform the board of the subject matter and the general
17 format for the requested information.

18 By December 31st each year, the water policy and program review
19 group shall submit a written report to the chief clerk of the house of
20 representatives and the secretary of the senate, for transmittal to
21 appropriate standing committees, and to the governor. The report shall
22 contain an evaluation of the work of the water resources board.
23 Members of the review group may request to the chair that additional
24 copies of the report be distributed to specific organizations. The
25 chair shall provide copies of the report to the public upon request.

26 NEW SECTION. **Sec. 106.** A new section is added to chapter 43.27A
27 RCW to read as follows:

28 The water policy and program review group under section 105 of this
29 act shall be composed of ten members, who are appointed as follows:

30 (1) Six members, to be appointed jointly by the speaker of the
31 house of representatives and the president of the senate from persons
32 nominated from each of the following interests: Agriculture, business,
33 environmental, public water systems, fishing, and tribal;

34 (2) Two members of the Washington state house of representatives,
35 one from each major caucus, to be appointed by the speaker of the house
36 of representatives;

1 (3) Two members of the Washington state senate, one from each major
2 caucus, to be appointed by the president of the senate.

3 In making the above appointments, the speaker and the president
4 shall consult with the leaders of each of the caucus leaders in their
5 respective chambers. Nominations of the interest group representatives
6 shall be submitted by state-wide organizations to the speaker or the
7 president by May 1st in each odd-numbered year. The speaker and the
8 president shall choose from among the names that are submitted. If an
9 interest group fails to submit a name, the speaker and the president
10 may consult with organizations that represent the interest group and
11 appoint a person to represent that interest group. It is the
12 responsibility of the interest group representative to communicate with
13 organizations and persons of that interest group as necessary before
14 and following meetings with the board. All appointments shall take
15 effect on June 1st of each odd-numbered year for a term of two years.

16 The water resources board shall assign a staff person to set up
17 meetings and otherwise provide staff support to the review group.

18 At each June meeting, the water policy and program review group
19 shall elect a chair and establish rules and procedures to guide the
20 operation of the group. The chair is responsible for assembling the
21 final contents of the report and its submission to the legislature.

22 NEW SECTION. **Sec. 107.** Sections 4 through 8, 23, and 24 of this
23 act shall constitute a new chapter in Title 43 RCW.

24 NEW SECTION. **Sec. 108.** Sections 96 through 101 of this act are
25 each added to chapter 90.54 RCW.

26 NEW SECTION. **Sec. 109.** This act is necessary for the immediate
27 preservation of the public peace, health, or safety, or support of the
28 state government and its existing public institutions, and shall take
29 effect July 1, 1995, except section 78 of this act shall take effect
30 June 30, 1998.

31 NEW SECTION. **Sec. 110.** Section 77 of this act shall expire June
32 30, 1998.

--- END ---