

2 **ESHB 2026** - S COMM AMD

3 By Committee on Agriculture & Water Resources

4 Adopted 4/18/91 - Voice Vote

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

7 "NEW SECTION. **Sec. 1.** (1) It is the policy of the state of
8 Washington to recognize and preserve water rights in accordance with
9 RCW 90.03.010.

10 (2) The legislature finds that:

11 (a) Consistent with RCW 90.54.180, conservation and water use
12 efficiency programs, including storage, should be the preferred methods
13 of addressing water uses because they can relieve current critical
14 water situations, provide for presently unmet needs, and assist in
15 meeting future water needs. Presently unmet needs or current needs
16 includes the water required to increase the frequency of occurrence of
17 base or minimum flow levels in streams of the state, the water
18 necessary to satisfy existing water rights, or the water necessary to
19 provide full supplies to existing water systems with current supply
20 deficiencies; and

21 (b) The interests of the state will be served by developing
22 programs and regional water resource plans, in cooperation with local
23 governments, federally recognized tribal governments, appropriate
24 federal agencies, private citizens, and the various water users and
25 water interests in the state, that increase the overall ability to
26 manage the state's waters in order to better satisfy both present and
27 future needs for water.

1 (3) Consistent with the findings of this section, the purposes of
2 this chapter are to:

3 (a) Improve the ability of the state to work with the United
4 States, local governments, federally recognized tribal governments,
5 water right holders, water users, and various water interests in water
6 conservation and water use efficiency programs designed to satisfy
7 existing rights, presently unmet needs, and future needs, both instream
8 and out-of-stream;

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

11 (c) Establish improved means to disseminate information to the
12 public and provide technical assistance regarding ways to improve the
13 efficiency of water use;

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

17 (e) Accelerate the adoption of water efficiency, conservation, and
18 recycling, including water efficient plumbing fixtures, irrigation
19 systems and methods, landscaping techniques, conservation rates,
20 conservation plans, and wastewater reclamation and reuse;

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

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

25 (h) Add achievement of water conservation as a factor to be
26 considered by water supply utilities in setting water rates."

27 "NEW SECTION. **Sec. 2.** A new section is added to chapter 90.54 RCW
28 to read as follows:

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

7 (2) Consistent with RCW 90.54.180, priority shall be given, to the
8 maximum extent possible within state or federal legal requirements, to
9 those water conservation projects funded by the state that will result
10 in the greatest net water savings."

11 **"Sec. 3.** RCW 90.54.045 and 1990 c 295 s 3 are each amended to read
12 as follows:

13 (1) In the development and implementation of the comprehensive
14 state water resources program required in RCW 90.54.040(1), the process
15 described therein shall involve participation of appropriate state
16 agencies, Indian tribes, local governments, and interested parties, and
17 shall be applied on a regional basis pursuant to subsection (2) of this
18 section.

19 (2) Prior to (~~January~~) July 1, 1991, the department, with advice
20 from appropriate state agencies, Indian tribes, local government, and
21 interested parties, shall identify regions and establish regional
22 boundaries for water resource planning and shall designate two regions
23 in which the process shall be initiated on a pilot basis. One region
24 shall encompass an area within the Puget Sound basin in which critical
25 water resource issues exist. A concurrent pilot process may encompass
26 a region east of the Cascade mountains.

27 (3) The department shall report to the chairs of the appropriate
28 legislative committees prior to July 1st each year summarizing the
29 progress of the pilot process in the two regions. The pilot process in

1 each region shall be completed and shall produce a regional water plan
2 by December 31, 1993.

3 (4) Appropriate state agencies, Indian tribes, local governments,
4 and interested parties in regions not selected for the pilot program
5 are strongly encouraged to commence water resource planning within
6 their regions."

7 "NEW SECTION. Sec. 4. (1) The legislature finds that a need
8 exists to develop and test a means to facilitate the voluntary transfer
9 of water and water rights, including conserved water, to provide water
10 for presently unmet needs and emerging needs. Further, the legislature
11 finds that water conservation activities have the potential of
12 affecting the quantity of return flow waters to which existing water
13 right holders have a right to and rely upon. It is the intent of the
14 legislature that persons holding rights to water, including return
15 flows, not be adversely affected in the implementation of the
16 provisions of this chapter.

17 The purpose of this chapter is to provide the mechanism for
18 accomplishing this in a manner that will not impair existing rights to
19 water and to test the mechanism in two pilot planning areas.

20 (2) This chapter shall only be in effect in the pilot planning
21 areas designated pursuant to RCW 90.54.045(2)."

22 "NEW SECTION. Sec. 5. Unless the context clearly requires
23 otherwise, the definitions in this section apply throughout this
24 chapter.

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

26 (2) "Net water savings" means the amount of water that is
27 determined to be conserved and usable within a specified stream reach
28 or reaches for other purposes without impairment or detriment to water

1 rights existing at the time that a water conservation project is
2 undertaken, reducing the ability to deliver water, or reducing the
3 supply of water that otherwise would have been available to other
4 existing water uses.

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

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

10 (5) "Water conservation project" means any project or program that
11 achieves physical or operational improvements that provide for
12 increased water use efficiency in existing systems of diversion,
13 conveyance, application, or use of water under water rights existing on
14 the effective date of this section."

15 NEW SECTION. **Sec. 6.** (1) For purposes of this chapter, the
16 state may enter into contracts to provide moneys to assist in the
17 financing of water conservation projects located within pilot planning
18 areas. In consideration for the financial assistance provided, the
19 state shall obtain public benefits defined in guidelines developed
20 under section 8 of this act.

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

1 negotiating for the acquisition of conserved water or net water
2 savings, or a portion thereof, the state may require evidence of a
3 valid water right.

4 (3) As part of the contract, the water right holder and the state
5 shall specify the amount of water the water right holder would continue
6 to be entitled to once the water conservation project is in place.

7 (4) The state shall cooperate fully with the United States in the
8 implementation of this chapter. Trust water rights may be acquired
9 through expenditure of funds provided by the United States and shall be
10 treated in the same manner as trust water rights resulting from the
11 expenditure of state funds.

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

16 (6) The state shall not contract with any person to acquire a water
17 right served by an irrigation district without the approval of the
18 board of directors of the irrigation district. Disapproval by a board
19 shall be factually based on probable adverse effects on the ability of
20 the district to deliver water to other members or on maintenance of the
21 financial integrity of the district."

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

28 (2) The department shall issue a water right certificate in the
29 name of the state of Washington for each permanent trust water right

1 conveyed to the state indicating the reach or reaches of the stream,
2 the quantity, and the use or uses to which it may be applied. A
3 superseding certificate shall be issued that specifies the amount of
4 water the water right holder would continue to be entitled to as a
5 result of the water conservation project. The superseding certificate
6 shall retain the same priority date as the original right. For
7 nonpermanent conveyances, the department shall issue certificates or
8 such other instruments as are necessary to reflect the changes in
9 purpose or place of use or point of diversion or withdrawal. Water
10 rights for which such nonpermanent conveyances are arranged shall not
11 be subject to relinquishment for nonuse.

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

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

23 (5) Before any trust water right is created or modified, the
24 department shall, at a minimum, require that a notice be published in
25 a newspaper of general circulation published in the county or counties
26 in which the storage, diversion, and use are to be made, and in other
27 newspapers as the department determines is necessary, once a week for
28 two consecutive weeks. At the same time the department shall send a
29 notice containing pertinent information to all appropriate state

1 agencies, potentially affected local governments and federally
2 recognized tribal governments, and other interested parties.

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

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

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

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

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

22 (3) Criteria for prioritizing water conservation projects;

23 (4) A description of potential public benefits that will affect
24 consideration for state financial assistance in section 6 of this act;

25 (5) Procedures for providing notification to potentially interested
26 parties;

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

1 (7) Contracting procedures and other procedures not specifically
2 addressed in this section.

3 These guidelines shall be submitted to the joint select committee
4 on water resource policy before adoption."

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

9 "NEW SECTION. **Sec. 10.** Nothing in this chapter authorizes the
10 involuntary impairment of any existing water rights."

11 "NEW SECTION. **Sec. 11.** (1) Within the pilot planning areas, the
12 state may acquire all or portions of existing water rights, by
13 purchase, gift, or other appropriate means other than by condemnation,
14 from any person or entity or combination of persons or entities. Once
15 acquired, such rights are trust water rights.

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

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

22 (4) The provisions of RCW 90.03.380 and 90.03.390 apply to
23 transfers of water rights under this section."

24 "NEW SECTION. **Sec. 12.** It is the intent of the legislature that
25 jurisdictional authorities that exist in law not be expanded,
26 diminished, or altered in any manner whatsoever by this chapter."

1 "NEW SECTION. Sec. 13. A new section is added to chapter 90.14
2 RCW to read as follows:

3 This chapter shall not apply to trust water rights held or
4 exercised by the department of ecology under chapter 90.38 or 90.-- RCW
5 (sections 1 and 4 through 12 of this act)."

6 "**Sec. 14.** RCW 90.03.380 and 1987 c 109 s 94 are each amended to
7 read as follows:

8 The right to the use of water which has been applied to a
9 beneficial use in the state shall be and remain appurtenant to the land
10 or place upon which the same is used: PROVIDED, HOWEVER, That said
11 right may be transferred to another or to others and become appurtenant
12 to any other land or place of use without loss of priority of right
13 theretofore established if such change can be made without detriment or
14 injury to existing rights. The point of diversion of water for
15 beneficial use or the purpose of use may be changed, if such change can
16 be made without detriment or injury to existing rights. Before any
17 transfer of such right to use water or change of the point of diversion
18 of water or change of purpose of use can be made, any person having an
19 interest in the transfer or change, shall file a written application
20 therefor with the department, and said application shall not be granted
21 until notice of said application shall be published as provided in RCW
22 90.03.280. If it shall appear that such transfer or such change may be
23 made without injury or detriment to existing rights, the department
24 shall issue to the applicant a certificate in duplicate granting the
25 right for such transfer or for such change of point of diversion or of
26 use. The certificate so issued shall be filed and be made a record
27 with the department and the duplicate certificate issued to the
28 applicant may be filed with the county auditor in like manner and with

1 the same effect as provided in the original certificate or permit to
2 divert water.

3 If an application for change proposes to transfer water rights from
4 one irrigation district to another, the department shall, before
5 publication of notice, receive concurrence from each of the irrigation
6 districts that such transfer or change will not adversely affect the
7 ability to deliver water to other land owners or impair the financial
8 integrity of either of the districts.

9 A change in place of use by an individual water user or users
10 within an irrigation district need only receive approval for the change
11 from the board of directors of the district.

12 This section shall not apply to trust water rights acquired by the
13 state through the funding of water conservation projects under chapter
14 90.38 RCW or RCW 90.--.--- through 90.--.--- (sections 4 through 10 of
15 this 1991 act)."

16 "Sec. 15. RCW 19.27.170 and 1989 c 348 s 8 are each amended to
17 read as follows:

18 (1) The state building code council shall adopt rules under chapter
19 34.05 RCW that implement and incorporate the water conservation
20 performance standards in subsections (~~((3))~~) (4) and (~~((4))~~) (5) of
21 this section. These standards shall apply to all new construction and
22 all remodeling involving replacement of plumbing fixtures in all
23 residential, hotel, motel, school, industrial, commercial use, or other
24 occupancies determined by the council to use significant quantities of
25 water.

26 (2) The legislature recognizes that a phasing-in approach to these
27 new standards is appropriate. Therefore, standards in subsection
28 (~~((3))~~) (4) of this section shall take effect on July 1, 1990. The

1 standards in subsection (~~(4)~~) (5) of this section shall take effect
2 July 1, 1993.

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

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

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

- 12 Tank-type toilets..... 3.5 gpf.
- 13 Flushometer-valve toilets..... 3.5 gpf.
- 14 Flushometer-tank toilets..... 3.5 gpf.
- 15 Electromechanical hydraulic toilets..... 3.5 gpf.

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

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

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

- 23 Bathroom faucets..... 3.0 gpm.
- 24 Lavatory faucets..... 3.0 gpm.
- 25 Kitchen faucets..... 3.0 gpm.
- 26 Replacement aerators..... 3.0 gpm.

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

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

3 ~~((4))~~ (5) Standards for water use efficiency effective July 1,
4 1993.

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

8 Tank-type toilets..... 1.6 gpf.

9 Flushometer-tank toilets..... 1.6 gpf.

10 Electromechanical hydraulic toilets..... 1.6 gpf.

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

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

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

18 Bathroom faucets..... 2.5 gpm.

19 Lavatory faucets..... 2.5 gpm.

20 Kitchen faucets..... 2.5 gpm.

21 Replacement aerators..... 2.5 gpm.

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

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

28 ~~((5) The building code council shall make an assessment regarding
29 the low volume fixtures required under subsection (4) of this section.
30 The assessment shall consider the availability of low volume fixtures~~

1 ~~which are technologically feasible, will operate effectively, and are~~
2 ~~economically justified. The council shall also assess the potential~~
3 ~~impact on the necessary flow of water required to insure sewerage or~~
4 ~~septic lines and treatment plants will effectively operate.~~

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

9 (6) The building code council shall establish methods and
10 procedures for testing and identifying fixtures that meet the standards
11 established in subsection (5) of this section. The council shall use
12 the testing standards designated as American national standards,
13 written under American national standards institute procedures or other
14 widely recognized national testing standards. The council shall either
15 review test results from independent testing laboratories that are
16 submitted by manufacturers of plumbing fixtures or accept data
17 submitted to and evaluated by the international association of plumbing
18 and mechanical officials. The council shall publish and widely
19 distribute a current list of fixtures that meet the standards
20 established in subsection (5) of this section.

21 (7) The building code council shall adopt rules for marking and
22 labeling fixtures meeting the standards established in subsection (5)
23 of this section.

24 (8) This section shall not apply to fixtures installed before the
25 effective date of this section that are removed and relocated to
26 another room or area of the same building after the effective date of
27 this section, nor shall it apply to fixtures, as determined by the
28 council, that in order to perform a specialized function, cannot meet
29 the standards specified in this section.

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

5 "**Sec. 16.** RCW 35.67.020 and 1965 c 7 s 35.67.020 are each amended
6 to read as follows:

7 Every city and town may construct, condemn and purchase, acquire,
8 add to, maintain, conduct, and operate systems of sewerage and systems
9 and plants for refuse collection and disposal together with additions,
10 extensions, and betterments thereto, within and without its limits,
11 with full jurisdiction and authority to manage, regulate, and control
12 them and to fix, alter, regulate, and control the rates and charges for
13 the use thereof: PROVIDED, That the rates charged must be uniform for
14 the same class of customers or service.

15 In classifying customers served or service furnished by such system
16 of sewerage, the city or town legislative body may in its discretion
17 consider any or all of the following factors: The difference in cost
18 of service to the various customers; the location of the various
19 customers within and without the city or town; the difference in cost
20 of maintenance, operation, repair, and replacement of the various parts
21 of the system; the different character of the service furnished various
22 customers; the quantity and quality of the sewage delivered and the
23 time of its delivery; the achievement of water conservation goals and
24 the discouragement of wasteful water use practices; capital
25 contributions made to the system, including but not limited to,
26 assessments; and any other matters which present a reasonable
27 difference as a ground for distinction."

1 **"Sec. 17.** RCW 35.92.010 and 1985 c 445 s 4 and 1985 c 444 s 2 are
2 each reenacted and amended to read as follows:

3 A city or town may construct, condemn and purchase, purchase,
4 acquire, add to, alter, maintain and operate waterworks, within or
5 without its limits, for the purpose of furnishing the city and its
6 inhabitants, and any other persons, with an ample supply of water for
7 all purposes, public and private, including water power and other power
8 derived therefrom, with full power to regulate and control the use,
9 distribution, and price thereof: PROVIDED, That the rates charged must
10 be uniform for the same class of customers or service. Such waterworks
11 may include facilities for the generation of electricity as a byproduct
12 and such electricity may be used by the city or town or sold to an
13 entity authorized by law to distribute electricity. Such electricity
14 is a byproduct when the electrical generation is subordinate to the
15 primary purpose of water supply.

16 In classifying customers served or service furnished, the city or
17 town governing body may in its discretion consider any or all of the
18 following factors: The difference in cost of service to the various
19 customers; location of the various customers within and without the
20 city or town; the difference in cost of maintenance, operation, repair,
21 and replacement of the various parts of the system; the different
22 character of the service furnished various customers; the quantity and
23 quality of the water furnished; the time of its use; the achievement of
24 water conservation goals and the discouragement of wasteful water use
25 practices; capital contributions made to the system including, but not
26 limited to, assessments; and any other matters which present a
27 reasonable difference as a ground for distinction. No rate shall be
28 charged that is less than the cost of the water and service to the
29 class of customers served.

1 For such purposes any city or town may take, condemn and purchase,
2 purchase, acquire, and retain water from any public or navigable lake
3 or watercourse, surface or ground, and, by means of aqueducts or pipe
4 lines, conduct it to the city or town; and it may erect and build dams
5 or other works across or at the outlet of any lake or watercourse in
6 this state for the purpose of storing and retaining water therein up to
7 and above high water mark; and for all the purposes of erecting such
8 aqueducts, pipe lines, dams, or waterworks or other necessary
9 structures in storing and retaining water, or for any of the purposes
10 provided for by this chapter, the city or town may occupy and use the
11 beds and shores up to the high water mark of any such watercourse or
12 lake, and acquire the right by purchase, or by condemnation and
13 purchase, or otherwise, to any water, water rights, easements or
14 privileges named in this chapter, or necessary for any of said
15 purposes, and the city or town may acquire by purchase or condemnation
16 and purchase any properties or privileges necessary to be had to
17 protect its water supply from pollution. Should private property be
18 necessary for any such purposes or for storing water above high water
19 mark, the city or town may condemn and purchase, or purchase and
20 acquire such private property. For the purposes of waterworks which
21 include facilities for the generation of electricity as a byproduct,
22 nothing in this section may be construed to authorize a city or town
23 that does not own or operate an electric utility system to condemn
24 electric generating, transmission, or distribution rights or facilities
25 of entities authorized by law to distribute electricity, or to acquire
26 such rights or facilities without the consent of the owner."

27 "Sec. 18. RCW 56.16.090 and 1974 ex.s. c 58 s 3 are each amended
28 to read as follows:

1 The sewer commissioners of any sewer district, in the event that
2 such sewer revenue bonds are issued, shall provide for revenues by
3 fixing rates and charges for the furnishing of sewerage disposal
4 service to those to whom such service is available. Such rates and
5 charges may be combined for the furnishing of more than one type of
6 sewer service such as but not limited to storm or surface water and
7 sanitary. Such rates and charges are to be fixed as deemed necessary
8 by such sewer commissioners, so that uniform charges will be made for
9 the same class of customer or service.

10 In classifying customers served or service furnished by such system
11 of sewerage, the board of commissioners may in its discretion consider
12 any or all of the following factors: The difference in cost of service
13 to the various customers; the location of the various customers within
14 and without the district; the difference in cost of maintenance,
15 operation, repair, and replacement of the various parts of the system;
16 the different character of the service furnished various customers; the
17 quantity and quality of the sewage delivered and the time of its
18 delivery; the achievement of water conservation goals and the
19 discouragement of wasteful water use practices; capital contributions
20 made to the system including but not limited to assessments; and any
21 other matters which present a reasonable difference as a ground for
22 distinction. Such rates are to be made on a monthly basis and shall
23 produce revenues sufficient to take care of the costs of maintenance
24 and operation, revenue bond and warrant interest and principal
25 amortization requirements, and all other charges necessary for
26 efficient and proper operation of the system."

27 "**Sec. 19.** RCW 57.20.020 and 1983 c 167 s 164 are each amended to
28 read as follows:

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

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

1 from any utility local improvement district or districts pledged to
2 secure such bonds, subject only to operating and maintenance expenses.

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

27 When any such special fund shall have been heretofore or shall be
28 hereafter created and any such bonds shall have been heretofore or
29 shall hereafter be issued against the same a fixed proportion or a
30 fixed amount out of and not to exceed such fixed proportion, or a fixed

1 amount or amounts without regard to any fixed proportion, of revenue
2 shall be set aside and paid into said special fund as provided in the
3 resolution creating such fund or authorizing such bonds, and in case
4 any water district shall fail thus to set aside and pay said fixed
5 proportion or amount as aforesaid, the owner of any bond payable from
6 such special fund may bring suit or action against the water district
7 and compel such setting aside and payment.

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

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

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

1 operation, revenue bond and warrant interest and principal amortization
2 requirements and all other charges necessary for efficient and proper
3 operation of the system."

4 "Sec. 20. RCW 54.24.080 and 1959 c 218 s 9 are each amended to
5 read as follows:

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

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

22 "Sec. 21. RCW 80.28.010 and 1990 1st ex.s. c 1 s 5 are each
23 amended to read as follows:

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

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

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

8 (4) Until June 30, 1991:

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

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

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

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

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

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

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

20 (b) The utility shall:

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

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

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

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

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

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

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

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

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

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

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

5 **"Sec. 22.** RCW 80.28.025 and 1980 c 149 s 2 are each amended to
6 read as follows:

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

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

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

7 "NEW SECTION. Sec. 23. A new section is added to chapter 82.04
8 RCW to read as follows:

9 The tax imposed by RCW 82.04.240 shall not apply to the treatment
10 or processing of effluent water purchased for commercial use directly
11 from a sewage treatment facility operated by any county, city, town,
12 political subdivision, or municipal or quasi-municipal corporation of
13 this state. This section shall expire December 31, 1993, unless
14 extended by the legislature."

15 "NEW SECTION. Sec. 24. A new section is added to chapter 82.12
16 RCW to read as follows:

17 This chapter shall not apply with respect to the use of treated or
18 processed effluent water purchased for commercial use directly from a
19 sewage treatment facility operated by any county, city, town, political
20 subdivision, or municipal or quasi-municipal corporation of this state.
21 This section shall expire December 31, 1993, unless extended by the
22 legislature."

23 "**Sec. 25.** RCW 90.14.140 and 1987 c 125 s 1 are each amended to
24 read as follows:

25 (1) For the purposes of RCW 90.14.130 through 90.14.180,
26 "sufficient cause" shall be defined as the nonuse of all or a portion

1 of the water by the owner of a water right for a period of five or more
2 consecutive years where such nonuse occurs as a result of:

3 (a) Drought, or other unavailability of water;

4 (b) Active service in the armed forces of the United States during
5 military crisis;

6 (c) Nonvoluntary service in the armed forces of the United States;

7 (d) The operation of legal proceedings;

8 (e) Federal laws imposing land or water use restrictions either
9 directly or through the voluntary enrollment of a landowner in a
10 federal program implementing those laws, or acreage limitations, or
11 production quotas.

12 (2) Notwithstanding any other provisions of RCW 90.14.130 through
13 90.14.180, there shall be no relinquishment of any water right:

14 (a) If such right is claimed for power development purposes under
15 chapter 90.16 RCW and annual license fees are paid in accordance with
16 chapter 90.16 RCW, or

17 (b) If such right is used for a standby or reserve water supply to
18 be used in time of drought or other low flow period so long as
19 withdrawal or diversion facilities are maintained in good operating
20 condition for the use of such reserve or standby water supply, or

21 (c) If such right is claimed for a determined future development to
22 take place either within fifteen years of July 1, 1967, or the most
23 recent beneficial use of the water right, whichever date is later, or

24 (d) If such right is claimed for municipal water supply purposes
25 under chapter 90.03 RCW, or

26 (e) If such right is claimed by an irrigation district for the
27 benefit of lands lying within such district, or

28 (f) If such waters are not subject to appropriation under the
29 applicable provisions of RCW 90.40.030 as now or hereafter amended."

