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SENATE BILL 5736

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State of Washington                      52nd Legislature                      1991 Regular Session

By Senators Barr, Madsen, Bailey and Williams; by request of Jnt Sel Com on Water Resource Policy.

Read first time February 19, 1991.                      Referred to Committee on Agriculture & Water Resources.

1            AN ACT Relating to water resource management; amending RCW  
2 90.03.380, 19.27.170, 35.67.020, 56.16.090, and 57.20.020; reenacting  
3 and amending RCW 35.92.010; adding a new section to chapter 90.54 RCW;  
4 adding a new section to chapter 90.14 RCW; adding new sections to  
5 chapter 82.08 RCW; adding new sections to chapter 82.12 RCW; adding a  
6 new section to chapter 82.04 RCW; adding a new section to chapter 43.19  
7 RCW; adding a new section to chapter 90.03 RCW; adding a new section to  
8 chapter 18.104 RCW; adding a new chapter to Title 90 RCW; creating new  
9 sections; prescribing penalties; and making appropriations.

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

11            NEW SECTION.    **Sec. 1.**            (1) The legislature finds that:  
12            (a) The state of Washington is faced with a continuing shortage of  
13 water with which to meet existing and future water needs;  
14            (b) The state, local governments, federally recognized tribal  
15 governments, and various private interests representing a broad range

1 of water users and interests have agreed to pursue a cooperative water  
2 resources planning and management effort. This effort will address  
3 both current water needs, conflicts, critical situations, and long-term  
4 future needs;

5 (c) Conservation and water use efficiency programs should be the  
6 preferred method of addressing water uses because they can relieve  
7 current critical water situations, provide for presently unmet needs,  
8 and assist in meeting future water needs; and

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

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

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

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

26 (c) Establish improved means to disseminate information to the  
27 public and provide technical assistance regarding ways to improve the  
28 efficiency of water use;

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

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

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

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

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

14 (i) Establish a water restoration account for deposit of water  
15 resources civil penalties and for use in restoring damaged water and  
16 related resources; and

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

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

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

27 (2) Priority shall be given, to the maximum extent possible within  
28 state or federal legal requirements, to those water conservation

1 projects funded by the state that will result in the greatest water  
2 savings.

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

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

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

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

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

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

24 (4) "Water conservation project" means any project or program that  
25 achieves physical or operational improvements that provide for  
26 increased water use efficiency in existing systems of diversion,  
27 conveyance, application, or use of water under water rights existing on  
28 the effective date of this section.



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

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

11 NEW SECTION. **Sec. 6.** (1) The state may acquire all or  
12 portions of existing water rights, by purchase, gift, or other  
13 appropriate means other than by condemnation, from any person or entity  
14 or combination of persons or entities. Once acquired, such rights are  
15 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 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 and critical resource area agreements, or for

1 other areas of the state as determined by the department under the  
2 guidelines required in this section.

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

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

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

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

1 notice containing pertinent information to all appropriate state  
2 agencies, potentially affected local governments and federally  
3 recognized tribal governments, and other interested parties.

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

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

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

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

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

23 (3) Criteria for prioritizing water conservation projects;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (2) The legislature recognizes that a phasing-in approach to these  
4 new standards is appropriate. Therefore, standards in subsection  
5 (~~(3)~~) (4) of this section shall take effect on July 1, 1990. The  
6 standards in subsection (~~(4)~~) (5) of this section shall take effect  
7 July 1, (~~1993~~) 1992.

8 (3) Beginning July 1, 1992, no individual, public or private  
9 corporation, firm, political subdivision, government agency, or other  
10 legal entity may, for purposes of use in this state, distribute, sell,  
11 offer for sale, import, install, or approve for installation any  
12 plumbing fixtures unless the fixtures meet the standards as provided  
13 for in this section.

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

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

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

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

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

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

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

1 Kitchen faucets..... 3.0 gpm.

2 Replacement aerators..... 3.0 gpm.

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

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

9 ((+4)) (5) Standards for water use efficiency effective July 1,  
10 ((1993)) 1992.

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

14 Tank-type toilets..... 1.6 gpf.

15 Flushometer-tank toilets..... 1.6 gpf.

16 Electromechanical hydraulic toilets..... 1.6 gpf.

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

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

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

24 Bathroom faucets..... 2.5 gpm.

25 Lavatory faucets..... 2.5 gpm.

26 Kitchen faucets..... 2.5 gpm.

27 Replacement aerators..... 2.5 gpm.

28 (e) Except where designed and installed for use by the physically  
29 handicapped, lavatory faucets located in restrooms intended for use by

1 the general public must be equipped with a metering valve designed to  
2 close by water pressure when unattended (self-closing).

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

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

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

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

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

29 (8) This section shall not apply to fixtures installed before the  
30 effective date of this section that are removed and relocated to

1 another room or area of the same building after the effective date of  
2 this section, nor shall it apply to fixtures, as determined by the  
3 council, that in order to perform a specialized function, cannot meet  
4 the standards specified in this section.

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

9 NEW SECTION. Sec. 14. A new section is added to chapter 82.08 RCW  
10 to read as follows:

11 The tax levied by RCW 82.08.020 shall not apply to sales of water  
12 conserving irrigation equipment and the installation of such equipment  
13 when such equipment will be used for growing agricultural,  
14 horticultural, or silvicultural crops. For purposes of this section  
15 "water conserving irrigation equipment" means all new pumping piping  
16 equipment or other material necessary to move irrigation water that  
17 results in at least fifteen percent less water being used annually to  
18 grow agricultural, horticultural, or silvicultural crops.

19 NEW SECTION. Sec. 15. A new section is added to chapter 82.12  
20 RCW to read as follows:

21 The provisions of this chapter shall not apply to sales of water  
22 conserving irrigation equipment and the installation of such equipment  
23 when such equipment will be used for growing agricultural,  
24 horticultural, or silvicultural crops. For purposes of this section  
25 "water conserving irrigation equipment" means all new pumping piping  
26 equipment or other material necessary to move irrigation water that  
27 results in at least fifteen percent less water being used annually to  
28 grow agricultural, horticultural, or silvicultural crops.

1        NEW SECTION.    **Sec. 16.**    A new section is added to chapter 82.04 RCW  
2 to read as follows:

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

8        NEW SECTION.    **Sec. 17.**    A new section is added to chapter 82.12 RCW  
9 to read as follows:

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

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

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

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

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

8 **Sec. 19.** RCW 35.67.020 and 1965 c 7 s 35.67.020 are each amended  
9 to read as follows:

10 Every city and town may construct, condemn and purchase, acquire,  
11 add to, maintain, conduct, and operate systems of sewerage and systems  
12 and plants for refuse collection and disposal together with additions,  
13 extensions, and betterments thereto, within and without its limits,  
14 with full jurisdiction and authority to manage, regulate, and control  
15 them and to fix, alter, regulate, and control the rates and charges for  
16 the use thereof: PROVIDED, That the rates charged must be uniform for  
17 the same class of customers or service. In classifying customers  
18 served or service furnished by such system of sewerage, the city or  
19 town legislative body may in its discretion consider any or all of the  
20 following factors: The difference in cost of service to the various  
21 customers; the location of the various customers within and without the  
22 city or town; the difference in cost of maintenance, operation, repair,  
23 and replacement of the various parts of the system; the different  
24 character of the service furnished various customers; the quantity and  
25 quality of the sewage delivered and the time of its delivery; the  
26 achievement of water conservation goals and the discouragement of  
27 wasteful water use practices; capital contributions made to the system,  
28 including but not limited to, assessments; and any other matters which  
29 present a reasonable difference as a ground for distinction.

1       **Sec. 20.** 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. In classifying customers served or  
16 service furnished, the city or town governing body may in its  
17 discretion consider any or all of the following factors: The  
18 difference in cost of service to the various customers; location of the  
19 various customers within and without the city or town; the difference  
20 in cost of maintenance, operation, repair, and replacement of the  
21 various parts of the system; the different character of the service  
22 furnished various customers; the quantity and quality of the water  
23 furnished; the time of its use; the achievement of water conservation  
24 goals and 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. No rate shall be charged that  
28 is less than the cost of the water and service to the class of  
29 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. 21.** RCW 56.16.090 and 1974 ex.s. c 58 s 3 are each amended to  
28 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. In classifying customers served  
10 or service furnished by such system of sewerage, the board of  
11 commissioners may in its discretion consider any or all of the  
12 following factors: The difference in cost of service to the various  
13 customers; the location of the various customers within and without the  
14 district; the difference in cost of maintenance, operation, repair, and  
15 replacement of the various parts of the system; the different character  
16 of the service furnished various customers; the quantity and quality of  
17 the sewage delivered and the time of its delivery; the achievement of  
18 water conservation goals and the discouragement of wasteful water use  
19 practices; capital contributions made to the system including but not  
20 limited to assessments; and any other matters which present a  
21 reasonable difference as a ground for distinction. Such rates are to  
22 be made on a monthly basis and shall produce revenues sufficient to  
23 take care of the costs of maintenance and operation, revenue bond and  
24 warrant interest and principal amortization requirements, and all other  
25 charges necessary for efficient and proper operation of the system.

26       **Sec. 22.** RCW 57.20.020 and 1983 c 167 s 164 are each amended to  
27 read as follows:

28       (1) Whenever any issue or issues of water revenue bonds have been  
29 authorized in compliance with the provisions of RCW 57.16.010 through

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

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

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

25        When any such special fund shall have been heretofore or shall be  
26 hereafter created and any such bonds shall have been heretofore or  
27 shall hereafter be issued against the same a fixed proportion or a  
28 fixed amount out of and not to exceed such fixed proportion, or a fixed  
29 amount or amounts without regard to any fixed proportion, of revenue  
30 shall be set aside and paid into said special fund as provided in the

1 resolution creating such fund or authorizing such bonds, and in case  
2 any water district shall fail thus to set aside and pay said fixed  
3 proportion or amount as aforesaid, the owner of any bond payable from  
4 such special fund may bring suit or action against the water district  
5 and compel such setting aside and payment.

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

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

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

1 requirements and all other charges necessary for efficient and proper  
2 operation of the system.

3 NEW SECTION. **Sec. 23.** A new section is added to chapter 90.03 RCW  
4 to read as follows:

5 The water restoration account is created in the state treasury.  
6 All receipts from the collection of penalties under RCW 90.03.600 and  
7 18.104.155 shall be deposited into the account. Moneys in the account  
8 may be spent only after appropriation. Expenditures from the account  
9 may be used only for the restoration of water and related resources  
10 damaged by violations of chapters 18.104, 43.83B, 90.03, 90.22, 90.44,  
11 and 90.54 RCW, and rules, permits, and other documents or orders issued  
12 by the department of ecology in enforcing those chapters.

13 NEW SECTION. **Sec. 24.** A new section is added to chapter 18.104  
14 RCW to read as follows:

15 Civil penalties collected under RCW 18.104.155 shall be deposited  
16 in the water restoration account created in section 23 of this act.

17 NEW SECTION. **Sec. 25.** The sum of five million nine hundred  
18 forty-two thousand dollars, or as much thereof as may be necessary, is  
19 appropriated for the biennium ending June 30, 1993, from the general  
20 fund to the department of ecology for the purposes of implementing the  
21 Chelan agreement including (1) conservation pursuant to this act; (2)  
22 the water resources forum; (3) the critical area consultation process;  
23 (4) enhanced compliance efforts; and (5) a participatory grant program.

24 NEW SECTION. **Sec. 26.** The sum of eight hundred forty thousand  
25 dollars, or as much thereof as may be necessary, is appropriated for  
26 the biennium ending June 30, 1993, from the general fund to the

1 department of health for the purposes of implementing the Chelan  
2 agreement, specifically including (1) water reuse standards, model  
3 rates, and a metering program; (2) the water resources forum; and (3)  
4 the critical area consultation process.

5 NEW SECTION. **Sec. 27.** The sum of one hundred ten thousand  
6 dollars, or as much thereof as may be necessary, is appropriated for  
7 the biennium ending June 30, 1993, from the general fund to the state  
8 building code council for the purposes of section 13 of this act.

9 NEW SECTION. **Sec. 28.** The sum of two hundred thousand dollars,  
10 or as much thereof as may be necessary, is appropriated for the  
11 biennium ending June 30, 1993, from the general fund to the department  
12 of general administration for the purposes of section 18 of this act.

13 NEW SECTION. **Sec. 29.** The sum of twenty-four thousand dollars,  
14 or as much thereof as may be necessary, is appropriated for the  
15 biennium ending June 30, 1993, from the general fund to the department  
16 of agriculture for the purpose of implementing the Chelan agreement,  
17 specifically (1) the water resources forum and (2) the critical area  
18 consultation process.

19 NEW SECTION. **Sec. 30.** The sum of one hundred sixteen thousand  
20 dollars, or as much thereof as may be necessary, is appropriated for  
21 the biennium ending June 30, 1993, from the general fund to the parks  
22 and recreation commission for the purpose of implementing the Chelan  
23 agreement, specifically (1) the water resources forum and (2) the  
24 critical area consultation process.

1        NEW SECTION.    **Sec. 31.**        The sum of thirty thousand dollars, or  
2 as much thereof as may be necessary, is appropriated for the biennium  
3 ending June 30, 1993, from the general fund to the conservation  
4 commission for the purpose of implementing the Chelan agreement,  
5 specifically (1) the water resources forum and (2) the critical area  
6 consultation process.

7        NEW SECTION.    **Sec. 32.**        The sum of seventy-two thousand dollars,  
8 or as much thereof as may be necessary, is appropriated for the  
9 biennium ending June 30, 1993, from the general fund to the department  
10 of wildlife for the purpose of implementing the Chelan agreement,  
11 specifically (1) the water resources forum and (2) the critical area  
12 consultation process.

13        NEW SECTION.    **Sec. 33.**        The sum of one hundred fifty-eight  
14 thousand dollars, or as much thereof as may be necessary, is  
15 appropriated for the biennium ending June 30, 1993, from the general  
16 fund to the department of fisheries for the purpose of implementing the  
17 Chelan agreement, specifically (1) the water resources forum and (2)  
18 the critical area consultation process.

19        NEW SECTION.    **Sec. 34.**        Sections 3 through 10 of this act shall  
20 constitute a new chapter in Title 90 RCW.

21        NEW SECTION.    **Sec. 35.**        This act shall be null and void in the  
22 event that the legislature fails to appropriate such funds for this act  
23 by July 1, 1991, and if such appropriation does not derive from new  
24 revenues developed pursuant to this act.

1        NEW SECTION.    **Sec. 36.**        If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.