

2 **HB 2867** - S AMD
3 By Committee on Energy & Utilities

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

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 43.21A
8 RCW to read as follows:

9 (1) Except as provided in subsection (2) of this section, with
10 respect to the safety of any dam, canal, ditch, hydraulic power plant,
11 reservoir, project, or other work, system, or plant that requires a
12 license under the federal power act, no licensee shall be required to:

13 (a) Submit proposals, plans, specifications, or other documents for
14 approval by the department;

15 (b) Seek a permit, license, or other form, permission, or
16 authorization from the department;

17 (c) Submit to inspection by the department; or

18 (d) Change the design, construction, modification, maintenance, or
19 operation of such facilities at the demand of the department.

20 (2) The department may review and comment upon reports, plans, and
21 specifications submitted by a licensee to the federal energy regulatory
22 commission, and conduct inspections for the purpose of commenting upon
23 reports, plans, and specifications when requested by the federal energy
24 regulatory commission or a licensee.

25 (3) For the purposes of this section, "licensee" means an owner or
26 operator, or any employee thereof, of a dam, canal, ditch, hydraulic
27 power plant, reservoir, project, or other work, system, or plant that
28 requires a license under the federal power act.

29 **Sec. 2.** RCW 43.21A.064 and 1977 c 75 s 46 are each amended to read
30 as follows:

31 Subject to section 1 of this act, the director of the department of
32 ecology shall have the following powers and duties:

33 (1) The supervision of public waters within the state and their
34 appropriation, diversion, and use, and of the various officers
35 connected therewith;

1 (2) Insofar as may be necessary to assure safety to life or
2 property, he shall inspect the construction of all dams, canals,
3 ditches, irrigation systems, hydraulic power plants, and all other
4 works, systems, and plants pertaining to the use of water, and he may
5 require such necessary changes in the construction or maintenance of
6 said works, to be made from time to time, as will reasonably secure
7 safety to life and property;

8 (3) He shall regulate and control the diversion of water in
9 accordance with the rights thereto;

10 (4) He shall determine the discharge of streams and springs and
11 other sources of water supply, and the capacities of lakes and of
12 reservoirs whose waters are being or may be utilized for beneficial
13 purposes;

14 (5) He shall keep such records as may be necessary for the
15 recording of the financial transactions and statistical data thereof,
16 and shall procure all necessary documents, forms, and blanks. He shall
17 keep a seal of the office, and all certificates by him covering any of
18 his acts or the acts of his office, or the records and files of his
19 office, under such seal, shall be taken as evidence thereof in all
20 courts;

21 (6) He shall render when required by the governor, a full written
22 report of the work of his office with such recommendations for
23 legislation as he may deem advisable for the better control and
24 development of the water resources of the state;

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

26 (8) He shall establish and promulgate rules governing the
27 administration of chapter 90.03 RCW;

28 (9) He shall perform such other duties as may be prescribed by law.

29 **Sec. 3.** RCW 86.16.025 and 1989 c 64 s 2 are each amended to read
30 as follows:

31 Subject to section 1 of this act, with respect to such features as
32 may affect flood conditions, the department shall have authority to
33 examine, approve or reject designs and plans for any structure or
34 works, public or private, to be erected or built or to be reconstructed
35 or modified upon the banks or in or over the channel or over and across
36 the floodway of any stream or body of water in this state.

37 **Sec. 4.** RCW 86.16.035 and 1987 c 523 s 9 and 1987 c 109 s 53 are

1 each reenacted and amended to read as follows:

2 Subject to section 1 of this act, the department of ecology shall
3 have supervision and control over all dams and obstructions in streams,
4 and may make reasonable regulations with respect thereto concerning the
5 flow of water which he deems necessary for the protection to life and
6 property below such works from flood waters.

7 **Sec. 5.** RCW 90.03.350 and 1987 c 109 s 91 are each amended to read
8 as follows:

9 Except as provided in section 1 of this act, any person,
10 corporation or association intending to construct or modify any dam or
11 controlling works for the storage of ten acre feet or more of water,
12 shall before beginning said construction or modification, submit plans
13 and specifications of the same to the department for examination and
14 approval as to its safety. Such plans and specifications shall be
15 submitted in duplicate, one copy of which shall be retained as a public
16 record, by the department, and the other returned with its approval or
17 rejection endorsed thereon. No such dam or controlling works shall be
18 constructed or modified until the same or any modification thereof
19 shall have been approved as to its safety by the department. Any such
20 dam or controlling works constructed or modified in any manner other
21 than in accordance with plans and specifications approved by the
22 department or which shall not be maintained in accordance with the
23 order of the department shall be presumed to be a public nuisance and
24 may be abated in the manner provided by law, and it shall be the duty
25 of the attorney general or prosecuting attorney of the county wherein
26 such dam or controlling works, or the major portion thereof, is
27 situated to institute abatement proceedings against the owner or owners
28 of such dam or controlling works, whenever he is requested to do so by
29 the department.

30 **Sec. 6.** RCW 90.03.370 and 1987 c 109 s 93 are each amended to read
31 as follows:

32 Except as provided in section 1 of this act, all applications for
33 reservoir permits shall be subject to the provisions of RCW 90.03.250
34 through 90.03.320. But the party or parties proposing to apply to a
35 beneficial use the water stored in any such reservoir shall also file
36 an application for a permit, to be known as the secondary permit, which
37 shall be in compliance with the provisions of RCW 90.03.250 through

1 90.03.320. Such secondary application shall refer to such reservoir as
2 its source of water supply and shall show documentary evidence that an
3 agreement has been entered into with the owners of the reservoir for a
4 permanent and sufficient interest in said reservoir to impound enough
5 water for the purposes set forth in said application. When the
6 beneficial use has been completed and perfected under the secondary
7 permit, the department shall take the proof of the water users under
8 such permit and the final certificate of appropriation shall refer to
9 both the ditch and works described in the secondary permit and the
10 reservoir described in the primary permit."

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14 On page 1, line 1 of the title, after "resources;" strike the
15 remainder of the title and insert "amending RCW 43.21A.064, 86.16.025,
16 90.03.350, and 90.03.370; reenacting and amending RCW 86.16.035; and
17 adding a new section to chapter 43.21A RCW."

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