
HOUSE BILL 2590

State of Washington

53rd Legislature

1994 Regular Session

By Representatives King, Quall, Jones and Springer; by request of Statute Law Committee

Read first time 01/19/94. Referred to Committee on Fisheries & Wildlife.

1 AN ACT Relating to obsolete references; amending RCW 9.41.090,
2 9.41.310, 10.93.020, 15.85.010, 15.85.060, 16.68.190, 17.21.230,
3 19.02.050, 36.61.040, 36.61.050, 38.52.420, 39.04.150, 43.19.450,
4 43.21A.170, 43.21J.030, 43.51.340, 43.51.432, 43.51.456, 43.51.675,
5 43.51.943, 43.52.350, 43.63A.247, 43.63A.260, 43.81.010, 43.82.010,
6 43.83I.188, 43.98B.030, 43.99.110, 43.220.020, 43.220.090, 43.220.120,
7 46.09.130, 46.09.170, 46.10.130, 46.10.220, 69.04.935, 69.30.070,
8 70.104.080, 70.105.020, 72.63.020, 72.63.030, 75.10.220, 75.28.770,
9 75.54.070, 76.09.040, 76.09.050, 76.09.180, 76.48.040, 77.04.030,
10 77.12.020, 77.12.031, 77.17.010, 77.17.020, 77.17.030, 79.01.805,
11 79.01.815, 79.66.080, 79.70.030, 79.70.070, 79.70.080, 79.72.020,
12 79.81.030, 79.94.390, 79.94.400, 79.96.030, 79.96.040, 79.96.050,
13 79.96.100, 79.96.110, 79.96.130, 79.96.906, 80.50.030, 84.34.055,
14 86.26.040, 86.26.050, 87.84.061, 88.12.055, 88.12.305, 90.03.280,
15 90.03.290, 90.03.360, 90.22.010, 90.22.020, 90.24.030, 90.24.060,
16 90.38.040, 90.48.170, 90.48.368, 90.48.400, 90.56.100, 90.56.110,
17 90.62.020, 90.70.045, and 90.70.065; reenacting and amending RCW
18 41.06.070, 41.26.030, 43.31.621, and 90.03.247; decodifying RCW
19 43.220.140; and providing an effective date.

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

1 **Sec. 1.** RCW 9.41.090 and 1988 c 36 s 2 are each amended to read as
2 follows:

3 (1) In addition to the other requirements of this chapter, no
4 commercial seller shall deliver a pistol to the purchaser thereof
5 until:

6 (a) The purchaser produces a valid concealed pistol license and the
7 commercial seller has recorded the purchaser's name, license number,
8 and issuing agency, such record to be made in triplicate and processed
9 as provided in subsection (4) of this section; or

10 (b) The seller is notified in writing by the chief of police of the
11 municipality or the sheriff of the county that the purchaser meets the
12 requirements of RCW 9.41.040 and that the application to purchase is
13 granted; or

14 (c) Five consecutive days including Saturday, Sunday and holidays
15 have elapsed from the time of receipt of the application for the
16 purchase thereof as provided herein by the chief of police or sheriff
17 designated in subsection (4) of this section, and, when delivered, said
18 pistol shall be securely wrapped and shall be unloaded. However, if
19 the purchaser does not have a valid permanent Washington driver's
20 license or state identification card or has not been a resident of the
21 state for the previous consecutive ninety days, the waiting period
22 under this subsection (1)(c) shall be up to sixty days.

23 (2) In any case under subsection (1)(c) of this section where the
24 applicant has an outstanding warrant for his or her arrest from any
25 court of competent jurisdiction for a felony or misdemeanor, the seller
26 shall hold the delivery of the pistol until the warrant for arrest is
27 served and satisfied by appropriate court appearance. The local
28 jurisdiction for purposes of the sale shall confirm the existence of
29 outstanding warrants within seventy-two hours after notification of the
30 application to purchase a pistol is received. The local jurisdiction
31 shall also immediately confirm the satisfaction of the warrant on
32 request of the seller so that the hold may be released if the warrant
33 was for a crime other than a crime of violence.

34 (3) In any case where the chief or sheriff of the local
35 jurisdiction has reasonable grounds based on the following
36 circumstances: (a) Open criminal charges, (b) pending criminal
37 proceedings, (c) pending commitment proceedings, (d) an outstanding
38 warrant for a crime of violence, or (e) an arrest for a crime of
39 violence if the records of disposition have not yet been reported or

1 entered sufficiently to determine eligibility to purchase a pistol, the
2 local jurisdiction may hold the sale and delivery of the pistol beyond
3 five days up to thirty days in order to confirm existing records in
4 this state or elsewhere. After thirty days, the hold will be lifted
5 unless an extension of the thirty days is approved by a local district
6 court or municipal court for good cause shown. An applicant shall be
7 notified of each hold placed on the sale by local law enforcement and
8 of any application to the court for additional hold period to confirm
9 records or confirm the identity of the applicant.

10 (4) At the time of applying for the purchase of a pistol, the
11 purchaser shall sign in triplicate and deliver to the seller an
12 application containing his or her full name, address, place of birth,
13 and the date and hour of the application; the applicant's driver's
14 license number or state identification card number; and a description
15 of the weapon including, the make, model, caliber and manufacturer's
16 number; and a statement that the purchaser is eligible to own a pistol
17 under RCW 9.41.040. The application shall contain a warning
18 substantially as follows:

19 CAUTION: Although state and local laws do not differ, federal
20 law and state law on the possession of firearms differ. If you
21 are prohibited by federal law from possessing a firearm, you
22 may be prosecuted in federal court. State permission to
23 purchase a firearm is not a defense to a federal prosecution.

24 The purchaser shall be given a copy of the department of fish and
25 wildlife pamphlet on the legal limits of the use of firearms, firearms
26 safety, and the fact that local laws and ordinances on firearms are
27 preempted by state law and must be consistent with state law.

28 The seller shall, by the end of the business day, sign and attach
29 his or her address and deliver the original of the application and such
30 other documentation as required under subsection (1) of this section to
31 the chief of police of the municipality or the sheriff of the county of
32 which the seller is a resident. The seller shall deliver the pistol to
33 the purchaser following the period of time specified in this section
34 unless the seller is notified in writing by the chief of police of the
35 municipality or the sheriff of the county, whichever is applicable,
36 denying the purchaser's application to purchase and the grounds
37 thereof. The application shall not be denied unless the purchaser
38 fails to meet the requirements specified in RCW 9.41.040. The chief of

1 police of the municipality or the county sheriff shall maintain a file
2 containing the original of the application to purchase a pistol.

3 **Sec. 2.** RCW 9.41.310 and 1988 c 36 s 4 are each amended to read as
4 follows:

5 After a public hearing, the department of fish and wildlife shall
6 publish a pamphlet on firearms safety and the legal limits of the use
7 of firearms. The pamphlet shall include current information on
8 firearms laws and regulations and state preemption of local firearms
9 laws. This pamphlet may be used in the department's hunter safety
10 education program and shall be provided to the department of licensing
11 for distribution to firearms dealers and persons authorized to issue
12 concealed pistol licenses. The department of fish and wildlife shall
13 reimburse the department of licensing for costs associated with
14 distribution of the pamphlet.

15 **Sec. 3.** RCW 10.93.020 and 1988 c 36 s 5 are each amended to read
16 as follows:

17 As used in this chapter, the following terms have the meanings
18 indicated unless the context clearly requires otherwise.

19 (1) "General authority Washington law enforcement agency" means any
20 agency, department, or division of a municipal corporation, political
21 subdivision, or other unit of local government of this state, and any
22 agency, department, or division of state government, having as its
23 primary function the detection and apprehension of persons committing
24 infractions or violating the traffic or criminal laws in general, as
25 distinguished from a limited authority Washington law enforcement
26 agency, and any other unit of government expressly designated by
27 statute as a general authority Washington law enforcement agency. The
28 Washington state patrol is a general authority Washington law
29 enforcement agency.

30 (2) "Limited authority Washington law enforcement agency" means any
31 agency, political subdivision, or unit of local government of this
32 state, and any agency, department, or division of state government,
33 having as one of its functions the apprehension or detection of persons
34 committing infractions or violating the traffic or criminal laws
35 relating to limited subject areas, including but not limited to, the
36 state departments of natural resources, (~~(fisheries)~~) fish and
37 wildlife, and social and health services, the state gambling

1 commission, the state lottery commission, the state parks and
2 recreation commission, the state utilities and transportation
3 commission, the state liquor control board, and the state department of
4 corrections.

5 (3) "General authority Washington peace officer" means any full-
6 time, fully compensated and elected, appointed, or employed officer of
7 a general authority Washington law enforcement agency who is
8 commissioned to enforce the criminal laws of the state of Washington
9 generally.

10 (4) "Limited authority Washington peace officer" means any full-
11 time, fully compensated officer of a limited authority Washington law
12 enforcement agency empowered by that agency to detect or apprehend
13 violators of the laws in some or all of the limited subject areas for
14 which that agency is responsible. A limited authority Washington peace
15 officer may be a specially commissioned Washington peace officer if
16 otherwise qualified for such status under this chapter.

17 (5) "Specially commissioned Washington peace officer", for the
18 purposes of this chapter, means any officer, whether part-time or full-
19 time, compensated or not, commissioned by a general authority
20 Washington law enforcement agency to enforce some or all of the
21 criminal laws of the state of Washington, who does not qualify under
22 this chapter as a general authority Washington peace officer for that
23 commissioning agency, specifically including reserve peace officers,
24 and specially commissioned full-time, fully compensated peace officers
25 duly commissioned by the states of Oregon or Idaho or any such peace
26 officer commissioned by a unit of local government of Oregon or Idaho.
27 A reserve peace officer is an individual who is an officer of a
28 Washington law enforcement agency who does not serve such agency on a
29 full-time basis but who, when called by the agency into active service,
30 is fully commissioned on the same basis as full-time peace officers to
31 enforce the criminal laws of the state.

32 (6) "Federal peace officer" means any employee or agent of the
33 United States government who has the authority to carry firearms and
34 make warrantless arrests and whose duties involve the enforcement of
35 criminal laws of the United States.

36 (7) "Agency with primary territorial jurisdiction" means a city or
37 town police agency which has responsibility for police activity within
38 its boundaries; or a county police or sheriff's department which has
39 responsibility with regard to police activity in the unincorporated

1 areas within the county boundaries; or a statutorily authorized port
2 district police agency or four-year state college or university police
3 agency which has responsibility for police activity within the
4 statutorily authorized enforcement boundaries of the port district,
5 state college, or university.

6 (8) "Primary commissioning agency" means (a) the employing agency
7 in the case of a general authority Washington peace officer, a limited
8 authority Washington peace officer, an Indian tribal peace officer, or
9 a federal peace officer, and (b) the commissioning agency in the case
10 of a specially commissioned Washington peace officer (i) who is
11 performing functions within the course and scope of the special
12 commission and (ii) who is not also a general authority Washington
13 peace officer, a limited authority Washington peace officer, an Indian
14 tribal peace officer, or a federal peace officer.

15 (9) "Primary function of an agency" means that function to which
16 greater than fifty percent of the agency's resources are allocated.

17 (10) "Mutual law enforcement assistance" includes, but is not
18 limited to, one or more law enforcement agencies aiding or assisting
19 one or more other such agencies through loans or exchanges of personnel
20 or of material resources, for law enforcement purposes.

21 **Sec. 4.** RCW 15.85.010 and 1985 c 457 s 1 are each amended to read
22 as follows:

23 The legislature declares that aquatic farming provides a consistent
24 source of quality food, offers opportunities of new jobs, increased
25 farm income stability, and improves balance of trade.

26 The legislature finds that many areas of the state of Washington
27 are scientifically and biologically suitable for aquaculture
28 development, and therefore the legislature encourages promotion of
29 aquacultural activities, programs, and development with the same status
30 as other agricultural activities, programs, and development within the
31 state.

32 The legislature finds that aquaculture should be considered a
33 branch of the agricultural industry of the state for purposes of any
34 laws that apply to or provide for the advancement, benefit, or
35 protection of the agriculture industry within the state.

36 The legislature further finds that in order to ensure the maximum
37 yield and quality of cultured aquatic products, the department of

1 ((fisheries)) fish and wildlife should provide diagnostic services that
2 are workable and proven remedies to aquaculture disease problems.

3 It is therefore the policy of this state to encourage the
4 development and expansion of aquaculture within the state. It is also
5 the policy of this state to protect wildstock fisheries by providing an
6 effective disease inspection and control program and prohibiting the
7 release of salmon or steelhead trout by the private sector into the
8 public waters of the state and the subsequent recapture of such species
9 as in the practice commonly known as ocean ranching.

10 **Sec. 5.** RCW 15.85.060 and 1988 c 36 s 6 are each amended to read
11 as follows:

12 The director shall establish identification requirements for
13 private sector cultured aquatic products to the extent that identifying
14 the source and quantity of the products is necessary to permit the
15 department(~~(s of fisheries))~~ of fish and wildlife to administer and
16 enforce Titles 75 and 77 RCW effectively. The rules shall apply only
17 to those private sector cultured aquatic products the transportation,
18 sale, processing, or other possession of which would otherwise be
19 required to be licensed under Title 75 or 77 RCW if they were not
20 cultivated by aquatic farmers. The rules shall apply to the
21 transportation or possession of such products on land other than
22 aquatic lands and may require that they be: (1) Placed in labeled
23 containers or accompanied by bills of lading or sale or similar
24 documents identifying the name and address of the producer of the
25 products and the quantity of the products governed by the documents; or
26 (2) both labeled and accompanied by such documents.

27 The director shall consult with the director(~~(s of the~~
28 ~~departments))~~ of ((fisheries)) fish and wildlife to ensure that such
29 rules enable the department(~~(s of fisheries))~~ of fish and wildlife to
30 enforce the programs administered under those titles. If rules adopted
31 under chapter 69.30 RCW satisfy the identification required under this
32 section for shellfish, the director shall not establish different
33 shellfish identification requirements under this section.

34 **Sec. 6.** RCW 16.68.190 and 1988 c 36 s 7 are each amended to read
35 as follows:

1 Nothing in this chapter shall prohibit the ((state)) department of
2 fish and wildlife from using the carcasses of dead animals for trap
3 bait in their regular trapping operations.

4 **Sec. 7.** RCW 17.21.230 and 1989 c 380 s 54 are each amended to read
5 as follows:

6 There is hereby created a pesticide advisory board consisting of
7 three licensed pesticide applicators residing in the state (one shall
8 be licensed to operate ground apparatus, one shall be licensed to
9 operate aerial apparatus, and one shall be licensed for structural pest
10 control), one licensed pest control consultant, one licensed pesticide
11 dealer manager, one entomologist in public service, one toxicologist in
12 public service, one pesticide coordinator from Washington State
13 University, one member from the agricultural chemical industry, one
14 member from the food processing industry, one member representing
15 agricultural labor, one health care practitioner in private practice,
16 one member from the environmental community, and two producers of
17 agricultural crops or products on which pesticides are applied or which
18 may be affected by the application of pesticides. Such members shall
19 be appointed by the governor for terms of four years and may be
20 appointed for successive four year terms at the discretion of the
21 governor. The governor may remove any member of the pesticide advisory
22 board prior to the expiration of his or her term of appointment for
23 cause. The pesticide advisory board shall also include the following
24 nonvoting members: The director of the department of labor and
25 industries or a duly authorized representative, the environmental
26 health specialist from the division of health of the department of
27 social and health services, the supervisor of the chemical division of
28 the department, and the directors, or their appointed representatives,
29 of the departments of fish and wildlife, ((fisheries,)) natural
30 resources, and ecology.

31 **Sec. 8.** RCW 19.02.050 and 1989 1st ex.s. c 9 s 317 are each
32 amended to read as follows:

33 (1) The legislature hereby directs the full participation by the
34 following agencies in the implementation of this chapter:

35 (a) Department of agriculture;

36 (b) Secretary of state;

37 (c) Department of social and health services;

- 1 (d) Department of revenue;
- 2 (e) Department of (~~(fisheries)~~) fish and wildlife;
- 3 (f) Department of employment security;
- 4 (g) Department of labor and industries;
- 5 (h) Department of community, trade, and economic development;
- 6 (i) Liquor control board;
- 7 (j) Department of health;
- 8 (k) Department of licensing;
- 9 (l) Utilities and transportation commission; and
- 10 (m) Other agencies as determined by the governor.

11 **Sec. 9.** RCW 36.61.040 and 1988 c 36 s 9 are each amended to read
12 as follows:

13 Notice of the public hearing shall be published in at least two
14 consecutive issues of a newspaper of general circulation in the
15 proposed lake management district, the date of the first publication to
16 be at least fifteen days prior to the date fixed for the public hearing
17 by the resolution of intention. Notice of the public hearing shall
18 also be given to the owner or reputed owner of any lot, tract, parcel
19 of land, or other property within the proposed lake management district
20 by mailing the notice at least fifteen days before the date fixed for
21 the public hearing to the owner or reputed owner of the property as
22 shown on the tax rolls of the county assessor at the address shown
23 thereon. Notice of the public hearing shall also be mailed to the
24 departments of (~~(fisheries)~~) fish and wildlife(~~(ecology)~~) and ecology at
25 least fifteen days before the date fixed for the public hearing.

26 Notices of the public hearing shall: (1) Refer to the resolution
27 of intention; (2) designate the proposed lake management district by
28 number; (3) set forth a proposed plan describing: (a) The nature of
29 the proposed lake improvement or maintenance activities; (b) the amount
30 of special assessments or rates and charges proposed to be raised by
31 the lake management district; (c) if special assessments are proposed
32 to be imposed, whether the special assessments will be imposed annually
33 for the duration of the lake management district, or the full special
34 assessments will be payable at one time, with the possibility of
35 periodic installments being paid and lake management bonds being
36 issued, or both; (d) if rates and charges are proposed to be imposed,
37 the annual amount of revenue proposed to be collected and whether
38 revenue bonds payable from the rates and charges are proposed to be

1 issued; and (e) the proposed duration of the lake management district;
2 and (4) indicate the date, time, and place of the public hearing
3 designated in the resolution of intention.

4 In the case of the notice sent to each owner or reputed owner by
5 mail, the notice shall set forth the estimated amount of the cost of
6 the lake improvement or maintenance activities to be borne by special
7 assessment, or annual special assessments, or rates and charges on the
8 lot, tract, parcel of land, or other property owned by the owner or
9 reputed owner.

10 If the county legislative authority has designated a committee of
11 itself or an officer to hear complaints and make recommendations to the
12 full county legislative authority, as provided in RCW 36.61.060, the
13 notice shall also describe this additional step before the full county
14 legislative authority may adopt a resolution creating the lake
15 management district.

16 **Sec. 10.** RCW 36.61.050 and 1988 c 36 s 10 are each amended to read
17 as follows:

18 The county legislative authority shall hold a public hearing on the
19 proposed lake management district at the date, time, and place
20 designated in the resolution of intention.

21 At this hearing the county legislative authority shall hear
22 objections from any person affected by the formation of the lake
23 management district. Representatives of the departments of
24 (~~(fisheries)~~) fish and wildlife(~~(fish and wildlife)~~) and ecology shall be afforded
25 opportunities to make presentations on and comment on the proposal.
26 Members of the public shall be afforded an opportunity to comment on
27 the proposal. The county legislative authority must consider
28 recommendations provided to it by the departments of (~~(fisheries)~~)
29 fish and wildlife(~~(fish and wildlife)~~) and ecology. The public hearing may be extended
30 to other times and dates declared at the public hearing. The county
31 legislative authority may make such changes in the boundaries of the
32 lake management district or such modification in plans for the proposed
33 lake improvement or maintenance activities as it deems necessary. The
34 county legislative authority may not change boundaries of the lake
35 management district to include property that was not included
36 previously without first passing an amended resolution of intention and
37 giving new notice to the owners or reputed owners of property newly
38 included in the proposed lake management district in the manner and

1 form and within the time provided for the original notice. The county
2 legislative authority shall not alter the plans for the proposed lake
3 improvement or maintenance activities to result in an increase in the
4 amount of money proposed to be raised, and shall not increase the
5 amount of money proposed to be raised, without first passing an amended
6 resolution of intention and giving new notice to property owners in the
7 manner and form and within the time provided for the original notice.

8 **Sec. 11.** RCW 38.52.420 and 1988 c 36 s 11 are each amended to read
9 as follows:

10 (1) The department of community, trade, and economic development,
11 in consultation with appropriate federal agencies, the departments of
12 natural resources, fish and wildlife, (~~(fisheries,)~~) and ecology,
13 representatives of local government, and any other person the director
14 may deem appropriate, shall develop a model contingency plan,
15 consistent with other plans required for hazardous materials by federal
16 and state law, to serve as a draft plan for local governments which may
17 be incorporated into the state and local emergency management plans.

18 (2) The model contingency plan shall:

19 (a) Include specific recommendations for pollution control
20 facilities which are deemed to be most appropriate for the control,
21 collection, storage, treatment, disposal, and recycling of oil and
22 other spilled material and furthering the prevention and mitigation of
23 such pollution;

24 (b) Include recommendations for the training of local personnel
25 consistent with other training proposed, funded, or required by federal
26 or state laws for hazardous materials;

27 (c) Suggest cooperative training exercises between the public and
28 private sector consistent with other training proposed, funded, or
29 required by federal or state laws for hazardous materials;

30 (d) Identify federal and state laws requiring contingency or
31 management plans applicable or related to prevention of pollution,
32 emergency response capabilities, and hazardous waste management,
33 together with a list of funding sources that local governments may use
34 in development of their specific plans;

35 (e) Promote formal agreements between the department of community,
36 trade, and economic development and local entities for effective spill
37 response; and

1 (f) Develop policies and procedures for the augmentation of
2 emergency services and agency spill response personnel through the use
3 of volunteers: PROVIDED, That no contingency plan may require the use
4 of volunteers by a responding responsible party without that party's
5 consent.

6 **Sec. 12.** RCW 39.04.150 and 1993 c 379 s 112 are each amended to
7 read as follows:

8 (1) As used in this section, "agency" means the department of
9 general administration, (~~the department of fisheries,~~) the department
10 of fish and wildlife, and the state parks and recreation commission.

11 (2) In addition to any other power or authority that an agency may
12 have, each agency, alone or in concert, may establish a small works
13 roster consisting of all qualified contractors who have requested to be
14 included on the roster.

15 (3) The small works roster may make distinctions between
16 contractors based on the geographic areas served and the nature of the
17 work the contractor is qualified to perform. At least once every year,
18 the agency shall advertise in a newspaper of general circulation the
19 existence of the small works roster and shall add to the roster those
20 contractors who request to be included on the roster.

21 (4) Construction, repair, or alteration projects estimated to cost
22 less than fifty thousand dollars, or less than one hundred thousand
23 dollars for projects managed by the department of general
24 administration for community colleges and technical colleges, as
25 defined under chapter 28B.50 RCW, are exempt from the requirement that
26 the contracts be awarded after advertisement and competitive bid as
27 defined by RCW 39.04.010. In lieu of advertisement and competitive
28 bid, the agency shall solicit at least five quotations, confirmed in
29 writing, from contractors chosen by random number generated by computer
30 from the contractors on the small works roster for the category of job
31 type involved and shall award the work to the party with the lowest
32 quotation or reject all quotations. If the agency is unable to solicit
33 quotations from five qualified contractors on the small works roster
34 for a particular project, then the project shall be advertised and
35 competitively bid. The agency shall solicit quotations randomly from
36 contractors on the small works roster in a manner which will equitably
37 distribute the opportunity for these contracts among contractors on the
38 roster: PROVIDED, That whenever possible, the agency shall invite at

1 least one proposal from a minority contractor who shall otherwise
2 qualify to perform such work. Immediately after an award is made, the
3 bid quotations obtained shall be recorded, open to public inspection,
4 and available by telephone request.

5 (5) The breaking down of any public work or improvement into units
6 or accomplishing any public work or improvement by phases for the
7 purpose of avoiding the minimum dollar amount for bidding is contrary
8 to public policy and is prohibited.

9 (6) The director of general administration shall adopt by rule a
10 procedure to prequalify contractors for inclusion on the small works
11 roster. Each agency shall follow the procedure adopted by the director
12 of general administration. No agency shall be required to make
13 available for public inspection or copying under chapter 42.17 RCW
14 financial information required to be provided by the prequalification
15 procedure.

16 (7) An agency may adopt by rule procedures to implement this
17 section which shall not be inconsistent with the procedures adopted by
18 the director of the department of general administration pursuant to
19 subsection (6) of this section.

20 **Sec. 13.** RCW 41.06.070 and 1993 sp.s. c 2 s 15 and 1993 c 379 s
21 306 are each reenacted and amended to read as follows:

22 (1) The provisions of this chapter do not apply to:

23 (a) The members of the legislature or to any employee of, or
24 position in, the legislative branch of the state government including
25 members, officers, and employees of the legislative council,
26 legislative budget committee, statute law committee, and any interim
27 committee of the legislature;

28 (b) The justices of the supreme court, judges of the court of
29 appeals, judges of the superior courts or of the inferior courts, or to
30 any employee of, or position in the judicial branch of state
31 government;

32 (c) Officers, academic personnel, and employees of technical
33 colleges;

34 (d) The officers of the Washington state patrol;

35 (e) Elective officers of the state;

36 (f) The chief executive officer of each agency;

37 (g) In the departments of employment security((7)) and social and
38 health services, the director and the director's confidential

1 secretary; in all other departments, the executive head of which is an
2 individual appointed by the governor, the director, his or her
3 confidential secretary, and his or her statutory assistant directors;

4 (h) In the case of a multimember board, commission, or committee,
5 whether the members thereof are elected, appointed by the governor or
6 other authority, serve ex officio, or are otherwise chosen:

7 (i) All members of such boards, commissions, or committees;

8 (ii) If the members of the board, commission, or committee serve on
9 a part-time basis and there is a statutory executive officer: The
10 secretary of the board, commission, or committee; the chief executive
11 officer of the board, commission, or committee; and the confidential
12 secretary of the chief executive officer of the board, commission, or
13 committee;

14 (iii) If the members of the board, commission, or committee serve
15 on a full-time basis: The chief executive officer or administrative
16 officer as designated by the board, commission, or committee; and a
17 confidential secretary to the chair of the board, commission, or
18 committee;

19 (iv) If all members of the board, commission, or committee serve ex
20 officio: The chief executive officer; and the confidential secretary
21 of such chief executive officer;

22 (i) The confidential secretaries and administrative assistants in
23 the immediate offices of the elective officers of the state;

24 (j) Assistant attorneys general;

25 (k) Commissioned and enlisted personnel in the military service of
26 the state;

27 (l) Inmate, student, part-time, or temporary employees, and part-
28 time professional consultants, as defined by the Washington personnel
29 resources board;

30 (m) The public printer or to any employees of or positions in the
31 state printing plant;

32 (n) Officers and employees of the Washington state fruit
33 commission;

34 (o) Officers and employees of the Washington state apple
35 advertising commission;

36 (p) Officers and employees of the Washington state dairy products
37 commission;

38 (q) Officers and employees of the Washington tree fruit research
39 commission;

1 (r) Officers and employees of the Washington state beef commission;

2 (s) Officers and employees of any commission formed under chapter
3 15.66 RCW;

4 (t) Officers and employees of the state wheat commission formed
5 under chapter 15.63 RCW;

6 (u) Officers and employees of agricultural commissions formed under
7 chapter 15.65 RCW;

8 (v) Officers and employees of the nonprofit corporation formed
9 under chapter 67.40 RCW;

10 (w) Liquor vendors appointed by the Washington state liquor control
11 board pursuant to RCW 66.08.050: PROVIDED, HOWEVER, That rules adopted
12 by the Washington personnel resources board pursuant to RCW 41.06.150
13 regarding the basis for, and procedures to be followed for, the
14 dismissal, suspension, or demotion of an employee, and appeals
15 therefrom shall be fully applicable to liquor vendors except those part
16 time agency vendors employed by the liquor control board when, in
17 addition to the sale of liquor for the state, they sell goods, wares,
18 merchandise, or services as a self-sustaining private retail business;

19 (x) Executive assistants for personnel administration and labor
20 relations in all state agencies employing such executive assistants
21 including but not limited to all departments, offices, commissions,
22 committees, boards, or other bodies subject to the provisions of this
23 chapter and this subsection shall prevail over any provision of law
24 inconsistent herewith unless specific exception is made in such law;

25 (y) In each agency with fifty or more employees: Deputy agency
26 heads, assistant directors or division directors, and not more than
27 three principal policy assistants who report directly to the agency
28 head or deputy agency heads;

29 (z) All employees of the marine employees' commission;

30 (aa) Up to a total of five senior staff positions of the western
31 library network under chapter 27.26 RCW responsible for formulating
32 policy or for directing program management of a major administrative
33 unit. This subsection shall expire on June 30, 1997.

34 (2) The following classifications, positions, and employees of
35 institutions of higher education and related boards are hereby exempted
36 from coverage of this chapter:

37 (a) Members of the governing board of each institution of higher
38 education and related boards, all presidents, vice-presidents and their
39 confidential secretaries, administrative and personal assistants;

1 deans, directors, and chairs; academic personnel; and executive heads
2 of major administrative or academic divisions employed by institutions
3 of higher education; principal assistants to executive heads of major
4 administrative or academic divisions; other managerial or professional
5 employees in an institution or related board having substantial
6 responsibility for directing or controlling program operations and
7 accountable for allocation of resources and program results, or for the
8 formulation of institutional policy, or for carrying out personnel
9 administration or labor relations functions, legislative relations,
10 public information, development, senior computer systems and network
11 programming, or internal audits and investigations; and any employee of
12 a community college district whose place of work is one which is
13 physically located outside the state of Washington and who is employed
14 pursuant to RCW 28B.50.092 and assigned to an educational program
15 operating outside of the state of Washington;

16 (b) Student, part-time, or temporary employees, and part-time
17 professional consultants, as defined by the Washington personnel
18 resources board, employed by institutions of higher education and
19 related boards;

20 (c) The governing board of each institution, and related boards,
21 may also exempt from this chapter classifications involving research
22 activities, counseling of students, extension or continuing education
23 activities, graphic arts or publications activities requiring
24 prescribed academic preparation or special training as determined by
25 the board: PROVIDED, That no nonacademic employee engaged in office,
26 clerical, maintenance, or food and trade services may be exempted by
27 the board under this provision;

28 (d) Printing craft employees in the department of printing at the
29 University of Washington.

30 (3) In addition to the exemptions specifically provided by this
31 chapter, the Washington personnel resources board may provide for
32 further exemptions pursuant to the following procedures. The governor
33 or other appropriate elected official may submit requests for exemption
34 to the Washington personnel resources board stating the reasons for
35 requesting such exemptions. The Washington personnel resources board
36 shall hold a public hearing, after proper notice, on requests submitted
37 pursuant to this subsection. If the board determines that the position
38 for which exemption is requested is one involving substantial
39 responsibility for the formulation of basic agency or executive policy

1 or one involving directing and controlling program operations of an
2 agency or a major administrative division thereof, the Washington
3 personnel resources board shall grant the request and such
4 determination shall be final as to any decision made before July 1,
5 1993. The total number of additional exemptions permitted under this
6 subsection shall not exceed one percent of the number of employees in
7 the classified service not including employees of institutions of
8 higher education and related boards for those agencies not directly
9 under the authority of any elected public official other than the
10 governor, and shall not exceed a total of twenty-five for all agencies
11 under the authority of elected public officials other than the
12 governor. The Washington personnel resources board shall report to
13 each regular session of the legislature during an odd-numbered year all
14 exemptions granted under subsections (1) (x) and (y) and (2) of this
15 section, together with the reasons for such exemptions.

16 The salary and fringe benefits of all positions presently or
17 hereafter exempted except for the chief executive officer of each
18 agency, full-time members of boards and commissions, administrative
19 assistants and confidential secretaries in the immediate office of an
20 elected state official, and the personnel listed in subsections (1) (j)
21 through (v) and (2) of this section, shall be determined by the
22 Washington personnel resources board.

23 Any person holding a classified position subject to the provisions
24 of this chapter shall, when and if such position is subsequently
25 exempted from the application of this chapter, be afforded the
26 following rights: If such person previously held permanent status in
27 another classified position, such person shall have a right of
28 reversion to the highest class of position previously held, or to a
29 position of similar nature and salary.

30 Any classified employee having civil service status in a classified
31 position who accepts an appointment in an exempt position shall have
32 the right of reversion to the highest class of position previously
33 held, or to a position of similar nature and salary.

34 A person occupying an exempt position who is terminated from the
35 position for gross misconduct or malfeasance does not have the right of
36 reversion to a classified position as provided for in this section.

37 **Sec. 14.** RCW 41.26.030 and 1993 c 502 s 1 and 1993 c 322 s 1 are
38 each reenacted and amended to read as follows:

1 As used in this chapter, unless a different meaning is plainly
2 required by the context:

3 (1) "Retirement system" means the "Washington law enforcement
4 officers' and fire fighters' retirement system" provided herein.

5 (2)(a) "Employer" for plan I members, means the legislative
6 authority of any city, town, county, or district or the elected
7 officials of any municipal corporation that employs any law enforcement
8 officer and/or fire fighter, any authorized association of such
9 municipalities, and, except for the purposes of RCW 41.26.150, any
10 labor guild, association, or organization, which represents the fire
11 fighters or law enforcement officers of at least seven cities of over
12 20,000 population and the membership of each local lodge or division of
13 which is composed of at least sixty percent law enforcement officers or
14 fire fighters as defined in this chapter.

15 (b) "Employer" for plan II members, means the following entities to
16 the extent that the entity employs any law enforcement officer and/or
17 fire fighter:

18 (i) The legislative authority of any city, town, county, or
19 district;

20 (ii) The elected officials of any municipal corporation; or

21 (iii) The governing body of any other general authority law
22 enforcement agency.

23 (3) "Law enforcement officer" beginning January 1, 1994, means any
24 person who is commissioned and employed by an employer on a full time,
25 fully compensated basis to enforce the criminal laws of the state of
26 Washington generally, with the following qualifications:

27 (a) No person who is serving in a position that is basically
28 clerical or secretarial in nature, and who is not commissioned shall be
29 considered a law enforcement officer;

30 (b) Only those deputy sheriffs, including those serving under a
31 different title pursuant to county charter, who have successfully
32 completed a civil service examination for deputy sheriff or the
33 equivalent position, where a different title is used, and those persons
34 serving in unclassified positions authorized by RCW 41.14.070 except a
35 private secretary will be considered law enforcement officers;

36 (c) Only such full time commissioned law enforcement personnel as
37 have been appointed to offices, positions, or ranks in the police
38 department which have been specifically created or otherwise expressly
39 provided for and designated by city charter provision or by ordinance

1 enacted by the legislative body of the city shall be considered city
2 police officers;

3 (d) The term "law enforcement officer" also includes the executive
4 secretary of a labor guild, association or organization (which is an
5 employer under RCW 41.26.030(2) as now or hereafter amended) if that
6 individual has five years previous membership in the retirement system
7 established in chapter 41.20 RCW. The provisions of this subsection
8 (3)(d) shall not apply to plan II members; and

9 (e) The term "law enforcement officer" also includes a person
10 employed on or after January 1, 1993, as a public safety officer or
11 director of public safety, so long as the job duties substantially
12 involve only either police or fire duties, or both, and no other duties
13 in a city or town with a population of less than ten thousand. The
14 provisions of this subsection (3)(e) shall not apply to any public
15 safety officer or director of public safety who is receiving a
16 retirement allowance under this chapter as of May 12, 1993.

17 (4) "Fire fighter" means:

18 (a) Any person who is serving on a full time, fully compensated
19 basis as a member of a fire department of an employer and who is
20 serving in a position which requires passing a civil service
21 examination for fire fighter, and who is actively employed as such;

22 (b) Anyone who is actively employed as a full time fire fighter
23 where the fire department does not have a civil service examination;

24 (c) Supervisory fire fighter personnel;

25 (d) Any full time executive secretary of an association of fire
26 protection districts authorized under RCW 52.12.031. The provisions of
27 this subsection (4)(d) shall not apply to plan II members;

28 (e) The executive secretary of a labor guild, association or
29 organization (which is an employer under RCW 41.26.030(2) as now or
30 hereafter amended), if such individual has five years previous
31 membership in a retirement system established in chapter 41.16 or 41.18
32 RCW. The provisions of this subsection (4)(e) shall not apply to plan
33 II members;

34 (f) Any person who is serving on a full time, fully compensated
35 basis for an employer, as a fire dispatcher, in a department in which,
36 on March 1, 1970, a dispatcher was required to have passed a civil
37 service examination for fire fighter; and

38 (g) Any person who on March 1, 1970, was employed on a full time,
39 fully compensated basis by an employer, and who on May 21, 1971, was

1 making retirement contributions under the provisions of chapter 41.16
2 or 41.18 RCW.

3 (5) "Department" means the department of retirement systems created
4 in chapter 41.50 RCW.

5 (6) "Surviving spouse" means the surviving widow or widower of a
6 member. "Surviving spouse" shall not include the divorced spouse of a
7 member except as provided in RCW 41.26.162.

8 (7)(a) "Child" or "children" means an unmarried person who is under
9 the age of eighteen or mentally or physically handicapped as determined
10 by the department, except a handicapped person in the full time care of
11 a state institution, who is:

12 (i) A natural born child;

13 (ii) A stepchild where that relationship was in existence prior to
14 the date benefits are payable under this chapter;

15 (iii) A posthumous child;

16 (iv) A child legally adopted or made a legal ward of a member prior
17 to the date benefits are payable under this chapter; or

18 (v) An illegitimate child legitimized prior to the date any
19 benefits are payable under this chapter.

20 (b) A person shall also be deemed to be a child up to and including
21 the age of twenty years and eleven months while attending any high
22 school, college, or vocational or other educational institution
23 accredited, licensed, or approved by the state, in which it is located,
24 including the summer vacation months and all other normal and regular
25 vacation periods at the particular educational institution after which
26 the child returns to school.

27 (8) "Member" means any fire fighter, law enforcement officer, or
28 other person as would apply under subsections (3) or (4) of this
29 section whose membership is transferred to the Washington law
30 enforcement officers' and fire fighters' retirement system on or after
31 March 1, 1970, and every law enforcement officer and fire fighter who
32 is employed in that capacity on or after such date.

33 (9) "Retirement fund" means the "Washington law enforcement
34 officers' and fire fighters' retirement system fund" as provided for
35 herein.

36 (10) "Employee" means any law enforcement officer or fire fighter
37 as defined in subsections (3) and (4) of this section.

1 (11)(a) "Beneficiary" for plan I members, means any person in
2 receipt of a retirement allowance, disability allowance, death benefit,
3 or any other benefit described herein.

4 (b) "Beneficiary" for plan II members, means any person in receipt
5 of a retirement allowance or other benefit provided by this chapter
6 resulting from service rendered to an employer by another person.

7 (12)(a) "Final average salary" for plan I members, means (i) for a
8 member holding the same position or rank for a minimum of twelve months
9 preceding the date of retirement, the basic salary attached to such
10 same position or rank at time of retirement; (ii) for any other member,
11 including a civil service member who has not served a minimum of twelve
12 months in the same position or rank preceding the date of retirement,
13 the average of the greatest basic salaries payable to such member
14 during any consecutive twenty-four month period within such member's
15 last ten years of service for which service credit is allowed, computed
16 by dividing the total basic salaries payable to such member during the
17 selected twenty-four month period by twenty-four; (iii) in the case of
18 disability of any member, the basic salary payable to such member at
19 the time of disability retirement; (iv) in the case of a member who
20 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
21 such member at the time of vesting.

22 (b) "Final average salary" for plan II members, means the monthly
23 average of the member's basic salary for the highest consecutive sixty
24 service credit months of service prior to such member's retirement,
25 termination, or death. Periods constituting authorized unpaid leaves
26 of absence may not be used in the calculation of final average salary.

27 (13)(a) "Basic salary" for plan I members, means the basic monthly
28 rate of salary or wages, including longevity pay but not including
29 overtime earnings or special salary or wages, upon which pension or
30 retirement benefits will be computed and upon which employer
31 contributions and salary deductions will be based.

32 (b) "Basic salary" for plan II members, means salaries or wages
33 earned by a member during a payroll period for personal services,
34 including overtime payments, and shall include wages and salaries
35 deferred under provisions established pursuant to sections 403(b),
36 414(h), and 457 of the United States Internal Revenue Code, but shall
37 exclude lump sum payments for deferred annual sick leave, unused
38 accumulated vacation, unused accumulated annual leave, or any form of
39 severance pay. In any year in which a member serves in the legislature

1 the member shall have the option of having such member's basic salary
2 be the greater of:

3 (i) The basic salary the member would have received had such member
4 not served in the legislature; or

5 (ii) Such member's actual basic salary received for nonlegislative
6 public employment and legislative service combined. Any additional
7 contributions to the retirement system required because basic salary
8 under (b)(i) of this subsection is greater than basic salary under
9 (b)(ii) of this subsection shall be paid by the member for both member
10 and employer contributions.

11 (14)(a) "Service" for plan I members, means all periods of
12 employment for an employer as a fire fighter or law enforcement
13 officer, for which compensation is paid, together with periods of
14 suspension not exceeding thirty days in duration. For the purposes of
15 this chapter service shall also include service in the armed forces of
16 the United States as provided in RCW 41.26.190. Credit shall be
17 allowed for all service credit months of service rendered by a member
18 from and after the member's initial commencement of employment as a
19 fire fighter or law enforcement officer, during which the member worked
20 for seventy or more hours, or was on disability leave or disability
21 retirement. Only service credit months of service shall be counted in
22 the computation of any retirement allowance or other benefit provided
23 for in this chapter.

24 (i) For members retiring after May 21, 1971 who were employed under
25 the coverage of a prior pension act before March 1, 1970, "service"
26 shall also include (A) such military service not exceeding five years
27 as was creditable to the member as of March 1, 1970, under the member's
28 particular prior pension act, and (B) such other periods of service as
29 were then creditable to a particular member under the provisions of RCW
30 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
31 be allowed for any service rendered prior to March 1, 1970, where the
32 member at the time of rendition of such service was employed in a
33 position covered by a prior pension act, unless such service, at the
34 time credit is claimed therefor, is also creditable under the
35 provisions of such prior act.

36 (ii) A member who is employed by two employers at the same time
37 shall only be credited with service to one such employer for any month
38 during which the member rendered such dual service.

1 (b) "Service" for plan II members, means periods of employment by
2 a member for one or more employers for which basic salary is earned for
3 ninety or more hours per calendar month which shall constitute a
4 service credit month. Periods of employment by a member for one or
5 more employers for which basic salary is earned for at least seventy
6 hours but less than ninety hours per calendar month shall constitute
7 one-half service credit month. Periods of employment by a member for
8 one or more employers for which basic salary is earned for less than
9 seventy hours shall constitute a one-quarter service credit month.

10 Members of the retirement system who are elected or appointed to a
11 state elective position may elect to continue to be members of this
12 retirement system.

13 Service credit years of service shall be determined by dividing the
14 total number of service credit months of service by twelve. Any
15 fraction of a service credit year of service as so determined shall be
16 taken into account in the computation of such retirement allowance or
17 benefits.

18 If a member receives basic salary from two or more employers during
19 any calendar month, the individual shall receive one service credit
20 month's service credit during any calendar month in which multiple
21 service for ninety or more hours is rendered; or one-half service
22 credit month's service credit during any calendar month in which
23 multiple service for at least seventy hours but less than ninety hours
24 is rendered; or one-quarter service credit month during any calendar
25 month in which multiple service for less than seventy hours is ren-
26 dered.

27 (15) "Accumulated contributions" means the employee's contributions
28 made by a member plus accrued interest credited thereon.

29 (16) "Actuarial reserve" means a method of financing a pension or
30 retirement plan wherein reserves are accumulated as the liabilities for
31 benefit payments are incurred in order that sufficient funds will be
32 available on the date of retirement of each member to pay the member's
33 future benefits during the period of retirement.

34 (17) "Actuarial valuation" means a mathematical determination of
35 the financial condition of a retirement plan. It includes the
36 computation of the present monetary value of benefits payable to
37 present members, and the present monetary value of future employer and
38 employee contributions, giving effect to mortality among active and

1 retired members and also to the rates of disability, retirement,
2 withdrawal from service, salary and interest earned on investments.

3 (18) "Disability board" for plan I members means either the county
4 disability board or the city disability board established in RCW
5 41.26.110.

6 (19) "Disability leave" means the period of six months or any
7 portion thereof during which a member is on leave at an allowance equal
8 to the member's full salary prior to the commencement of disability
9 retirement. The definition contained in this subsection shall apply
10 only to plan I members.

11 (20) "Disability retirement" for plan I members, means the period
12 following termination of a member's disability leave, during which the
13 member is in receipt of a disability retirement allowance.

14 (21) "Position" means the employment held at any particular time,
15 which may or may not be the same as civil service rank.

16 (22) "Medical services" for plan I members, shall include the
17 following as minimum services to be provided. Reasonable charges for
18 these services shall be paid in accordance with RCW 41.26.150.

19 (a) Hospital expenses: These are the charges made by a hospital,
20 in its own behalf, for

21 (i) Board and room not to exceed semiprivate room rate unless
22 private room is required by the attending physician due to the
23 condition of the patient.

24 (ii) Necessary hospital services, other than board and room,
25 furnished by the hospital.

26 (b) Other medical expenses: The following charges are considered
27 "other medical expenses", provided that they have not been considered
28 as "hospital expenses".

29 (i) The fees of the following:

30 (A) A physician or surgeon licensed under the provisions of chapter
31 18.71 RCW;

32 (B) An osteopath licensed under the provisions of chapter 18.57
33 RCW;

34 (C) A chiropractor licensed under the provisions of chapter 18.25
35 RCW.

36 (ii) The charges of a registered graduate nurse other than a nurse
37 who ordinarily resides in the member's home, or is a member of the
38 family of either the member or the member's spouse.

39 (iii) The charges for the following medical services and supplies:

1 (A) Drugs and medicines upon a physician's prescription;
2 (B) Diagnostic x-ray and laboratory examinations;
3 (C) X-ray, radium, and radioactive isotopes therapy;
4 (D) Anesthesia and oxygen;
5 (E) Rental of iron lung and other durable medical and surgical
6 equipment;
7 (F) Artificial limbs and eyes, and casts, splints, and trusses;
8 (G) Professional ambulance service when used to transport the
9 member to or from a hospital when injured by an accident or stricken by
10 a disease;
11 (H) Dental charges incurred by a member who sustains an accidental
12 injury to his or her teeth and who commences treatment by a legally
13 licensed dentist within ninety days after the accident;
14 (I) Nursing home confinement or hospital extended care facility;
15 (J) Physical therapy by a registered physical therapist;
16 (K) Blood transfusions, including the cost of blood and blood
17 plasma not replaced by voluntary donors;
18 (L) An optometrist licensed under the provisions of chapter 18.53
19 RCW.

20 (23) "Regular interest" means such rate as the director may
21 determine.

22 (24) "Retiree" for persons who establish membership in the
23 retirement system on or after October 1, 1977, means any member in
24 receipt of a retirement allowance or other benefit provided by this
25 chapter resulting from service rendered to an employer by such member.

26 (25) "Director" means the director of the department.

27 (26) "State actuary" or "actuary" means the person appointed
28 pursuant to RCW 44.44.010(2).

29 (27) "State elective position" means any position held by any
30 person elected or appointed to state-wide office or elected or
31 appointed as a member of the legislature.

32 (28) "Plan I" means the law enforcement officers' and fire
33 fighters' retirement system, plan I providing the benefits and funding
34 provisions covering persons who first became members of the system
35 prior to October 1, 1977.

36 (29) "Plan II" means the law enforcement officers' and fire
37 fighters' retirement system, plan II providing the benefits and funding
38 provisions covering persons who first became members of the system on
39 and after October 1, 1977.

1 (30) "Service credit year" means an accumulation of months of
2 service credit which is equal to one when divided by twelve.

3 (31) "Service credit month" means a full service credit month or an
4 accumulation of partial service credit months that are equal to one.

5 (32) "General authority law enforcement agency" means any agency,
6 department, or division of a municipal corporation, political
7 subdivision, or other unit of local government of this state, and any
8 agency, department, or division of state government, having as its
9 primary function the detection and apprehension of persons committing
10 infractions or violating the traffic or criminal laws in general, but
11 not including the Washington state patrol. Such an agency, department,
12 or division is distinguished from a limited authority law enforcement
13 agency having as one of its functions the apprehension or detection of
14 persons committing infractions or violating the traffic or criminal
15 laws relating to limited subject areas, including but not limited to,
16 the state departments of natural resources, (~~(fisheries,~~) fish and
17 wildlife, and social and health services, the state gambling
18 commission, the state lottery commission, the state parks and
19 recreation commission, the state utilities and transportation
20 commission, the state liquor control board, and the state department of
21 corrections.

22 **Sec. 15.** RCW 43.19.450 and 1988 c 36 s 14 are each amended to read
23 as follows:

24 The director of general administration shall appoint and deputize
25 an assistant director to be known as the supervisor of engineering and
26 architecture who shall have charge and supervision of the division of
27 engineering and architecture. With the approval of the director, the
28 supervisor may appoint and employ such assistants and personnel as may
29 be necessary to carry out the work of the division.

30 No person shall be eligible for appointment as supervisor of
31 engineering and architecture unless he or she is licensed to practice
32 the profession of engineering or the profession of architecture in the
33 state of Washington and for the last five years prior to his or her
34 appointment has been licensed to practice the profession of engineering
35 or the profession of architecture.

36 As used in this section, "state facilities" includes all state
37 buildings, related structures, and appurtenances constructed for any
38 elected state officials, institutions, departments, boards,

1 commissions, colleges, community colleges, except the state
2 universities, The Evergreen State College and regional universities.
3 "State facilities" does not include facilities owned by or used for
4 operational purposes and constructed for the department of
5 transportation, (~~department of fisheries,~~) department of fish and
6 wildlife, department of natural resources, or state parks and
7 recreation commission.

8 The director of general administration, through the division of
9 engineering and architecture shall:

10 (1) Prepare cost estimates and technical information to accompany
11 the capital budget and prepare or contract for plans and specifications
12 for new construction and major repairs and alterations to state
13 facilities.

14 (2) Contract for professional architectural, engineering, and
15 related services for the design of new state facilities and major
16 repair or alterations to existing state facilities.

17 (3) Provide contract administration for new construction and the
18 repair and alteration of existing state facilities.

19 (4) In accordance with the public works laws, contract on behalf of
20 the state for the new construction and major repair or alteration of
21 state facilities.

22 The director may delegate any and all of the functions under
23 subsections (1) through (4) of this section to any agency upon such
24 terms and conditions as considered advisable.

25 The director may delegate the authority granted to the department
26 under RCW 39.04.150 to any agency upon such terms as considered
27 advisable.

28 **Sec. 16.** RCW 43.21A.170 and 1989 1st ex.s. c 9 s 217 are each
29 amended to read as follows:

30 There is hereby created an ecological commission. The commission
31 shall consist of seven members to be appointed by the governor from the
32 electors of the state who shall have a general knowledge of and
33 interest in environmental matters. No persons shall be eligible for
34 appointment who hold any other state, county or municipal elective or
35 appointive office.

36 (a) One public member shall be a representative of organized labor.

37 (b) One public member shall be a representative of the business
38 community.

1 (c) One public member shall be a representative of the agricultural
2 community.

3 (d) Four persons representing the public at large.

4 The members of the initial commission shall be appointed within
5 thirty days after July 1, 1970. Of the members of the initial
6 commission, two shall be appointed for terms ending June 30, 1974, two
7 shall be appointed for terms ending on June 30, 1973, two shall be
8 appointed for terms ending on June 30, 1972, and one shall be appointed
9 for a term ending June 30, 1971. Thereafter, each member of the
10 commission shall be appointed for a term of four years. Vacancies
11 shall be filled within ninety days for the remainder of the unexpired
12 term by appointment of the governor in the same manner as the original
13 appointments. Each member of the commission shall continue in office
14 until his or her successor is appointed. No member shall be appointed
15 for more than two consecutive terms. The chairman of the commission
16 shall be appointed from the members by the governor.

17 The governor may remove any commission member for cause giving him
18 or her a copy of the charges against him or her, and an opportunity of
19 being publicly heard in person, or by counsel in his or her own
20 defense. There shall be no right of review in any court whatsoever.
21 The director or administrator, or a designated representative, of each
22 of the following state agencies:

- 23 (1) The department of agriculture;
24 (2) The department of community, trade, and economic development;
25 (3) The department of ~~((fisheries;~~
26 ~~(4) The department of))~~ fish and wildlife;
27 ~~((+5))~~ (4) The department of health;
28 ~~((+6))~~ (5) The department of natural resources; and
29 ~~((+7))~~ (6) The state parks and recreation commission shall be
30 given notice of and may attend all meetings of the commission and shall
31 be given full opportunity to examine and be heard on all proposed
32 orders, regulations or recommendations.

33 **Sec. 17.** RCW 43.21J.030 and 1993 c 516 s 5 are each amended to
34 read as follows:

35 (1) There is created the environmental enhancement and job creation
36 task force within the office of the governor. The purpose of the task
37 force is to provide a coordinated and comprehensive approach to
38 implementation of chapter 516, Laws of 1993. The task force shall

1 consist of the commissioner of public lands, the director of the
2 department of fish and wildlife, (~~the director of the department of~~
3 ~~fisheries,~~) the director of the department of ecology, the director of
4 the parks and recreation commission, the timber team coordinator, the
5 executive director of the work force training and education
6 coordinating board, and the executive director of the Puget Sound water
7 quality authority, or their designees. The task force may seek the
8 advice of the following agencies and organizations: The department of
9 community, trade, and economic development, (~~the department of trade~~
10 ~~and economic development,~~) the conservation commission, the employment
11 security department, the interagency committee for outdoor recreation,
12 appropriate federal agencies, appropriate special districts, the
13 Washington state association of counties, the association of Washington
14 cities, labor organizations, business organizations, timber-dependent
15 communities, environmental organizations, and Indian tribes. The
16 governor shall appoint the task force chair. Members of the task force
17 shall serve without additional pay. Participation in the work of the
18 committee by agency members shall be considered in performance of their
19 employment. The governor shall designate staff and administrative
20 support to the task force and shall solicit the participation of agency
21 personnel to assist the task force.

22 (2) The task force shall have the following responsibilities:

23 (a) Soliciting and evaluating, in accordance with the criteria set
24 forth in RCW 43.21J.040, requests for funds from the environmental and
25 forest restoration account and making distributions from the account.
26 The task force shall award funds for projects and training programs it
27 approves and may allocate the funds to state agencies for disbursement
28 and contract administration;

29 (b) Coordinating a process to assist state agencies and local
30 governments to implement effective environmental and forest restoration
31 projects funded under this chapter;

32 (c) Considering unemployment profile data provided by the
33 employment security department;

34 (d) No later than December 31, 1993, providing recommendations to
35 the appropriate standing committees of the legislature for improving
36 the administration of grants for projects or training programs funded
37 under this chapter that prevent habitat and environmental degradation
38 or provide for its restoration;

1 (e) Submitting to the appropriate standing committees of the
2 legislature a biennial report summarizing the jobs and the
3 environmental benefits created by the projects funded under this
4 chapter.

5 (3) Beginning July 1, 1994, the task force shall have the following
6 responsibilities:

7 (a) To solicit and evaluate proposals from state and local
8 agencies, private nonprofit organizations, and tribes for environmental
9 and forest restoration projects;

10 (b) To rank the proposals based on criteria developed by the task
11 force in accordance with RCW 43.21J.040; and

12 (c) To determine funding allocations for projects to be funded from
13 the account created in RCW 43.21J.020 and for projects or programs as
14 designated in the omnibus operating and capital appropriations acts.

15 **Sec. 18.** RCW 43.31.621 and 1993 c 316 s 2 and 1993 c 280 s 49 are
16 each reenacted and amended to read as follows:

17 (1) There is established the agency timber task force. The task
18 force shall be chaired by the timber recovery coordinator. It shall be
19 the responsibility of the coordinator that all directives of chapter
20 314, Laws of 1991 are carried out expeditiously by the agencies
21 represented in the task force. The task force shall consist of the
22 directors, or representatives of the directors, of the following
23 agencies: The department of community, trade, and economic
24 development, employment security department, department of social and
25 health services, state board for community and technical colleges,
26 state work force training and education coordinating board, or its
27 replacement entity, department of natural resources, department of
28 transportation, state energy office, department of fish and wildlife,
29 University of Washington center for international trade in forest
30 products, and department of ecology. The task force may consult and
31 enlist the assistance of the following: The higher education
32 coordinating board, University of Washington college of forest
33 resources, Washington State University school of forestry, Northwest
34 policy center, state superintendent of public instruction, the
35 Evergreen partnership, Washington association of counties, and rural
36 development council.

37 (2) This section shall expire June 30, 1995.

1 **Sec. 19.** RCW 43.51.340 and 1990 c 49 s 1 are each amended to read
2 as follows:

3 (1) There is created a winter recreation advisory committee to
4 advise the parks and recreation commission in the administration of
5 this chapter and to assist and advise the commission in the development
6 of winter recreation facilities and programs.

7 (2) The committee shall consist of:

8 (a) Six representatives of the nonsnowmobiling winter recreation
9 public appointed by the commission, including a resident of each of the
10 six geographical areas of this state where nonsnowmobiling winter
11 recreation activity occurs, as defined by the commission.

12 (b) Three representatives of the snowmobiling public appointed by
13 the commission.

14 (c) One representative of the department of natural resources, one
15 representative of the department of fish and wildlife, and one
16 representative of the Washington state association of counties, each of
17 whom shall be appointed by the director of the particular department or
18 association.

19 (3) The terms of the members appointed under subsection (2) (a) and
20 (b) of this section shall begin on October 1st of the year of
21 appointment and shall be for three years or until a successor is
22 appointed, except in the case of appointments to fill vacancies for the
23 remainder of the unexpired term: PROVIDED, That the first of these
24 members shall be appointed for terms as follows: Three members shall
25 be appointed for one year, three members shall be appointed for two
26 years, and three members shall be appointed for three years.

27 (4) Members of the committee shall be reimbursed from the winter
28 recreational program account created by RCW 43.51.310 for travel
29 expenses as provided in RCW 43.03.050 and 43.03.060.

30 (5) The committee shall meet at times and places it determines not
31 less than twice each year and additionally as required by the committee
32 chairman or by majority vote of the committee. The chairman of the
33 committee shall be chosen under procedures adopted by the committee.
34 The committee shall adopt any other procedures necessary to govern its
35 proceedings.

36 (6) The director of parks and recreation or the director's designee
37 shall serve as secretary to the committee and shall be a nonvoting
38 member.

1 (7) The winter recreation advisory committee and its powers and
2 duties shall terminate on June 30, 2001.

3 **Sec. 20.** RCW 43.51.432 and 1993 c 267 s 2 are each amended to read
4 as follows:

5 The state parks and recreation commission may establish a system of
6 underwater parks to provide for diverse recreational diving
7 opportunities and to conserve and protect unique marine resources of
8 the state of Washington. In establishing and maintaining an underwater
9 park system, the commission may:

10 (1) Plan, construct, and maintain underwater parks;

11 (2) Acquire property and enter management agreements with other
12 units of state government for the management of lands, tidelands, and
13 bedlands as underwater parks;

14 (3) Construct artificial reefs and other underwater features to
15 enhance marine life and recreational uses of an underwater park;

16 (4) Accept gifts and donations for the benefit of underwater parks;

17 (5) Facilitate private efforts to construct artificial reefs and
18 underwater parks;

19 (6) Work with the federal government, local governments and other
20 appropriate agencies of state government, including but not limited to:
21 The department of natural resources, (~~the department of fisheries,~~)
22 the department of fish and wildlife and the natural heritage council to
23 carry out the purposes of RCW 43.51.430 through 43.51.438; and

24 (7) Contract with other state agencies or local governments for the
25 management of an underwater park unit.

26 **Sec. 21.** RCW 43.51.456 and 1993 c 182 s 9 are each amended to read
27 as follows:

28 (1) There is created a water trail advisory committee to advise the
29 parks and recreation commission in the administration of RCW 43.51.440
30 through 43.51.454 and to assist and advise the commission in the
31 development of water trail facilities and programs.

32 (2) The advisory committee shall consist of twelve members, who
33 shall be appointed as follows:

34 (a) Five public members representing recreational water trail
35 users, to be appointed by the commission;

36 (b) Two public members representing commercial sectors with an
37 interest in the water trail system, to be appointed by the commission;

1 (c) One representative each from the department of natural
2 resources, the department of fish and wildlife, the Washington state
3 association of counties, and the association of Washington cities, to
4 be appointed by the director of the agency or association. The
5 director of the Washington state parks and recreation commission or the
6 director's designee shall serve as secretary to the committee and shall
7 be a nonvoting member.

8 (3) Except as provided in this section, the terms of the public
9 members appointed by the commission shall begin on January 1st of the
10 year of appointment and shall be for three years or until a successor
11 is appointed, except in the case of appointments to fill vacancies for
12 the remainder of an unexpired term. In making the initial appointments
13 to the advisory committee, the commission shall appoint two public
14 members to serve one year, two public members to serve for two years,
15 and three public members to serve for three years. Public members of
16 the advisory committee may be reimbursed from the water trail program
17 account for travel expenses as provided in RCW 43.03.050 and 43.03.060.

18 (4) The committee shall select a chair and adopt rules necessary to
19 govern its proceedings. The committee shall meet at the times and
20 places it determines, not less than twice a year, and additionally as
21 required by the committee chair or by majority vote of the committee.

22 **Sec. 22.** RCW 43.51.675 and 1988 c 75 s 17 are each amended to read
23 as follows:

24 Nothing in RCW 43.51.650 through 43.51.685 and 43.51.695 through
25 43.51.765 shall be construed to interfere with the powers, duties and
26 authority of the department of (~~fisheries~~) fish and wildlife to
27 regulate the conservation or taking of food fish and shellfish. Nor
28 shall anything in RCW 43.51.650 through 43.51.685 and 43.51.695 through
29 43.51.765 be construed to interfere with the powers, duties and
30 authority of the (~~state~~) department of fish and wildlife to regulate,
31 manage, conserve, and provide for the harvest of wildlife within such
32 area: PROVIDED, HOWEVER, That no hunting shall be permitted in any
33 state park.

34 **Sec. 23.** RCW 43.51.943 and 1988 c 36 s 17 are each amended to read
35 as follows:

36 The state department of natural resources and the state parks and
37 recreation commission have joined together in excellent cooperation in

1 the conducting of this study along with the citizen advisory
2 subcommittee and have joined together in cooperation with the ((state))
3 department of fish and wildlife to accomplish other projects of
4 multidisciplinary concern, and because it may be in the best interests
5 of the state to continue such cooperation, the state parks and
6 recreation commission, the department of natural resources, and the
7 department of fish and wildlife are hereby directed to consider both
8 short and long term objectives, the expertise of each agency's staff,
9 and alternatives such as reasonably may be expected to safeguard the
10 conservation area's values as described in RCW 43.51.940 giving due
11 regard to efficiency and economy of management: PROVIDED, That the
12 interests conveyed to or by the state agencies identified in this
13 section shall be managed by the department of natural resources until
14 such time as the state parks and recreation commission or other public
15 agency is managing public recreation areas and facilities located in
16 such close proximity to the conservation area described in RCW
17 43.51.942 so as to make combined management of those areas and
18 facilities and transfer of management of the conservation area more
19 efficient and economical than continued management by the department of
20 natural resources. At that time the department of natural resources is
21 directed to negotiate with the appropriate public agency for the
22 transfer of those management responsibilities for the interests
23 obtained within the conservation area under RCW 43.51.940 through
24 43.51.945: PROVIDED FURTHER, That the state agencies identified in
25 this section may, by mutual agreement, undertake management of portions
26 of the conservation area as they may from time to time determine in
27 accordance with those rules and regulations established for natural
28 area preserves under chapter 79.70 RCW, for natural and conservation
29 areas under present WAC 352-16-020(3) and (6), and under chapter 77.12
30 RCW.

31 **Sec. 24.** RCW 43.52.350 and 1988 c 36 s 18 are each amended to read
32 as follows:

33 An operating agency shall, at the time of the construction of any
34 dam or obstruction, construct and shall thereafter maintain and operate
35 such fishways, fish protective facilities and hatcheries as the
36 director of fish and wildlife ((and the director of fisheries may
37 jointly)) finds necessary to permit anadromous fish to pass any dam or
38 other obstruction operated by the operating agency or to replace

1 fisheries damaged or destroyed by such dam or obstruction and an
2 operating agency is further authorized to enter into contracts with the
3 department of fish and wildlife (~~(and the department of fisheries)~~) to
4 provide for the construction and/or operation of such fishways,
5 facilities and hatcheries.

6 **Sec. 25.** RCW 43.63A.247 and 1993 c 280 s 65 are each amended to
7 read as follows:

8 The senior environmental corps is created within the department of
9 community, trade, and economic development. The departments of
10 agriculture, community, trade, and economic development, employment
11 security, ecology, (~~(fisheries)~~) fish and wildlife, health, and natural
12 resources, (~~(and wildlife,~~) the parks and recreation commission, and
13 the Puget Sound water quality authority shall participate in the
14 administration and implementation of the corps and shall appoint
15 representatives to the council.

16 **Sec. 26.** RCW 43.63A.260 and 1993 c 280 s 66 are each amended to
17 read as follows:

18 The department shall convene a senior environmental corps
19 coordinating council to meet as needed to establish and assess
20 policies, define standards for projects, evaluate and select projects,
21 develop recruitment, training, and placement procedures, receive and
22 review project status and completion reports, and provide for
23 recognition of volunteer activity. The council shall include
24 representatives appointed by the departments of agriculture, community,
25 trade, and economic development, ecology, (~~(fisheries)~~) fish and
26 wildlife, health, and natural resources, (~~(and wildlife,~~) the parks
27 and recreation commission, and the Puget Sound water quality authority.
28 The council shall develop bylaws, policies and procedures to govern its
29 activities.

30 The council shall advise the director on distribution of available
31 funding for corps activities.

32 **Sec. 27.** RCW 43.81.010 and 1988 c 36 s 19 are each amended to read
33 as follows:

34 The legislature recognizes that significant benefits accrue to the
35 state and that certain types of state operations are more efficient
36 when personnel services are available on an extended basis. Such

1 operations include certain types of facilities managed by agencies such
2 as the departments of natural resources, corrections, (~~fisheries,~~)
3 fish and wildlife, social and health services, transportation, and
4 veterans affairs, and the parks and recreation commission.

5 The means of assuring that such personnel are available on an
6 extended basis is through the establishment of on-site state-owned or
7 leased living facilities. The legislature also recognizes the
8 restrictions and hardship placed upon those personnel who are required
9 to reside in such state-owned or leased living facilities in order to
10 provide extended personnel services.

11 The legislature further recognizes that there are instances where
12 it is to the benefit of the state to have state-owned or leased living
13 facilities occupied even though such occupancy is not required by the
14 agency as a condition of employment.

15 **Sec. 28.** RCW 43.82.010 and 1990 c 47 s 1 are each amended to read
16 as follows:

17 (1) The director of the department of general administration, on
18 behalf of the agency involved, shall purchase, lease, rent, or
19 otherwise acquire all real estate, improved or unimproved, as may be
20 required by elected state officials, institutions, departments,
21 commissions, boards, and other state agencies, or federal agencies
22 where joint state and federal activities are undertaken and may grant
23 easements and transfer, exchange, sell, lease, or sublease all or part
24 of any surplus real estate for those state agencies which do not
25 otherwise have the specific authority to dispose of real estate. This
26 section does not transfer financial liability for the acquired property
27 to the department of general administration.

28 (2) Except for real estate occupied by federal agencies, the
29 director shall determine the location, size, and design of any real
30 estate or improvements thereon acquired or held pursuant to subsection
31 (1) of this section.

32 (3) The director is authorized to purchase, lease, rent, or
33 otherwise acquire improved or unimproved real estate as owner or lessee
34 and to lease or sublet all or a part of such real estate to state or
35 federal agencies. The director shall charge each using agency its
36 proportionate rental which shall include an amount sufficient to pay
37 all costs, including, but not limited to, those for utilities,
38 janitorial and accounting services, and sufficient to provide for

1 contingencies; which shall not exceed five percent of the average
2 annual rental, to meet unforeseen expenses incident to management of
3 the real estate.

4 (4) If the director determines that it is necessary or advisable to
5 undertake any work, construction, alteration, repair, or improvement on
6 any real estate acquired pursuant to subsections (1) or (3) of this
7 section, the director shall cause plans and specifications thereof and
8 an estimate of the cost of such work to be made and filed in his or her
9 office and the state agency benefiting thereby is hereby authorized to
10 pay for such work out of any available funds: PROVIDED, That the cost
11 of executing such work shall not exceed the sum of twenty-five thousand
12 dollars. Work, construction, alteration, repair, or improvement in
13 excess of twenty-five thousand dollars, other than that done by the
14 owner of the property if other than the state, shall be performed in
15 accordance with the public works law of this state.

16 (5) In order to obtain maximum utilization of space, the director
17 shall make space utilization studies, and shall establish standards for
18 use of space by state agencies.

19 (6) The director may construct new buildings on, or improve
20 existing facilities, and furnish and equip, all real estate under his
21 or her management.

22 (7) All conveyances and contracts to purchase, lease, rent,
23 transfer, exchange, or sell real estate and to grant and accept
24 easements shall be approved as to form by the attorney general, signed
25 by the director or the director's designee, and recorded with the
26 county auditor of the county in which the property is located.

27 (8) The director may delegate any or all of the functions specified
28 in this section to any agency upon such terms and conditions as the
29 director deems advisable.

30 (9) This section does not apply to the acquisition of real estate
31 by:

32 (a) The state college and universities for research or experimental
33 purposes;

34 (b) The state liquor control board for liquor stores and
35 warehouses; and

36 (c) The department of natural resources, (~~the department of~~
37 ~~fisheries,~~) the department of fish and wildlife, the department of
38 transportation, and the state parks and recreation commission for

1 purposes other than the leasing of offices, warehouses, and real estate
2 for similar purposes.

3 (10) Notwithstanding any provision in this chapter to the contrary,
4 the department of general administration may negotiate ground leases
5 for public lands on which property is to be acquired under a financing
6 contract pursuant to chapter 39.94 RCW under terms approved by the
7 state finance committee.

8 **Sec. 29.** RCW 43.83I.188 and 1983 1st ex.s. c 59 s 3 are each
9 amended to read as follows:

10 The proceeds from the sale of the bonds deposited under RCW
11 43.83I.186 in the fisheries capital projects account of the general
12 fund shall be administered by the department of ((fisheries)) fish and
13 wildlife, subject to legislative appropriation.

14 **Sec. 30.** RCW 43.98B.030 and 1992 c 153 s 5 are each amended to
15 read as follows:

16 (1) Moneys appropriated for this chapter from the state wildlife
17 and recreation lands management account shall be expended in the
18 following manner:

19 (a) Not less than thirty percent for basic stewardship;

20 (b) Not less than twenty percent for improved or developed
21 resources;

22 (c) Not less than fifteen percent for human use management; and

23 (d) Not more than fifteen percent for administration.

24 (e) The remaining twenty to thirty-five percent shall be considered
25 unallocated.

26 (2) In the event that moneys appropriated for this chapter to the
27 state wildlife and recreation lands management account under the
28 initial allocation prove insufficient to meet basic stewardship needs,
29 the unallocated amount shall be used to fund basic stewardship needs.

30 (3) Each eligible agency is not required to meet this specific
31 percentage distribution. However, funding across agencies should meet
32 these percentages during each biennium.

33 (4) It is intended that moneys disbursed from this account not
34 replace existing operation and maintenance funding levels from other
35 state sources.

1 (5) Agencies eligible to receive funds from this account are the
2 departments of (~~(fisheries,)~~) fish and wildlife and natural resources,
3 (~~(and wildlife,)~~) and the state parks and recreation commission.

4 (6) Moneys appropriated for this chapter from the state wildlife
5 and recreation lands management account shall be distributed in the
6 following manner:

7 (a) Not less than twenty-five percent to the state parks and
8 recreation commission.

9 (b) Not less than twenty-five percent to the department of natural
10 resources.

11 (c) Not less than twenty-five percent to the department of fish and
12 wildlife.

13 (d) The remaining funds shall be allocated to eligible agencies
14 based upon an evaluation of remaining unfunded needs.

15 (7) The office of financial management shall review eligible state
16 agency requests and make recommendations on the allocation of funds
17 provided under this chapter as part of the governor's operating budget
18 request to the legislature.

19 **Sec. 31.** RCW 43.99.110 and 1988 c 36 s 21 are each amended to read
20 as follows:

21 There is created the interagency committee for outdoor recreation
22 consisting of the commissioner of public lands, the director of parks
23 and recreation, and the director of fish and wildlife, (~~(the director~~
24 ~~of fisheries,)~~) or their designees, and, by appointment of the governor
25 with the advice and consent of the senate, five members from the public
26 at large who have a demonstrated interest in and a general knowledge of
27 outdoor recreation in the state. The terms of members appointed from
28 the public at large shall commence on January 1st of the year of
29 appointment and shall be for three years or until a successor is
30 appointed, except in the case of appointments to fill vacancies which
31 shall be for the remainder of the unexpired term; provided the first
32 such members shall be appointed for terms as follows: One member for
33 one year, two members for two years, and two members for three years.
34 The governor shall appoint one of the members from the public at large
35 to serve as chairman of the committee for the duration of the member's
36 term. Members employed by the state shall serve without additional pay
37 and participation in the work of the committee shall be deemed
38 performance of their employment. Members from the public at large

1 shall be compensated in accordance with RCW 43.03.240 and shall be
2 entitled to reimbursement individually for travel expenses incurred in
3 performance of their duties as members of the committee in accordance
4 with RCW 43.03.050 and 43.03.060.

5 **Sec. 32.** RCW 43.220.020 and 1988 c 36 s 23 are each amended to
6 read as follows:

7 The Washington conservation corps is hereby created, to be
8 implemented by the following state departments: The employment
9 security department, the department of ecology, the department of fish
10 and wildlife, the department of natural resources, (~~the department of~~
11 ~~fisheries,~~) the department of agriculture, and the state parks and
12 recreation commission.

13 **Sec. 33.** RCW 43.220.090 and 1983 1st ex.s. c 40 s 9 are each
14 amended to read as follows:

15 (1) There is established a conservation corps within the department
16 of ecology.

17 (2) Specific work project areas of the ecology conservation corps
18 may include the following:

19 (a) Litter pickup as a supplement to the role of the litter patrol
20 established by the waste reduction, recycling, and model litter control
21 (~~and recycling~~) act, chapter 70.93 RCW;

22 (b) Stream rehabilitation, including trash removal, in-stream
23 debris removal, and clearance of log jams and silt accumulation, to the
24 extent that such projects do not conflict with similar tasks undertaken
25 by the department of (~~fisheries~~) fish and wildlife;

26 (c) Minimum flow field work and stream gauging;

27 (d) Identification of indiscriminate solid waste dump sites;

28 (e) Laboratory and office assistance;

29 (f) General maintenance and custodial work at sewage treatment
30 plants;

31 (g) Irrigation district assistance, including ditch cleaning and
32 supervised work in surveying and engineering;

33 (h) Streambank erosion control; and

34 (i) Other projects as the director may determine. If a project
35 requires certain levels of academic training, the director may assign
36 corps members to categories of work projects according to educational

1 background. If appropriate facilities are available, the director may
2 authorize carrying out projects which involve overnight stays.

3 **Sec. 34.** RCW 43.220.120 and 1988 c 36 s 24 are each amended to
4 read as follows:

5 (1) There is established a conservation corps within the department
6 of fish and wildlife.

7 (2) Specific work project areas of the game conservation corps may
8 include the following:

9 (a) Habitat development;

10 (b) Land clearing;

11 (c) Construction projects;

12 (d) Noxious weed control;

13 (e) Brush cutting;

14 (f) Reader board construction;

15 (g) Painting;

16 (h) Cleaning and repair of rearing ponds;

17 (i) Fishtrap construction;

18 (j) Brush clearance;

19 (k) Spawning channel restoration;

20 (l) Log removal;

21 (m) Nest box maintenance and cleaning;

22 (n) Fence building;

23 (o) Winter game feeding and herding; ((and))

24 (p) Stream rehabilitation;

25 (q) Fish hatchery operation and maintenance;

26 (r) Fish tagging; and

27 (s) Such other projects as the director of fish and wildlife may
28 determine. If appropriate facilities are available, the director of
29 fish and wildlife may authorize carrying out projects which involve
30 overnight stays.

31 **Sec. 35.** RCW 46.09.130 and 1989 c 297 s 3 are each amended to read
32 as follows:

33 No person may operate a nonhighway vehicle in such a way as to
34 endanger human life. No person shall operate a nonhighway vehicle in
35 such a way as to run down or harass any wildlife or animal, nor carry,
36 transport, or convey any loaded weapon in or upon, nor hunt from, any
37 nonhighway vehicle except by permit issued by the director of fish and

1 wildlife under RCW 77.32.237: PROVIDED, That it shall not be unlawful
2 to carry, transport, or convey a loaded pistol in or upon a nonhighway
3 vehicle if the person complies with the terms and conditions of chapter
4 9.41 RCW.

5 Violation of this section is a gross misdemeanor.

6 **Sec. 36.** RCW 46.09.170 and 1990 c 42 s 115 are each amended to
7 read as follows:

8 (1) From time to time, but at least once each year, the state
9 treasurer shall refund from the motor vehicle fund one percent of the
10 motor vehicle fuel tax revenues collected under chapter 82.36 RCW,
11 based on the tax rate in effect January 1, 1990, less proper deductions
12 for refunds and costs of collection as provided in RCW 46.68.090. The
13 treasurer shall place these funds in the general fund as follows:

14 (a) Forty percent shall be credited to the ORV and nonhighway
15 vehicle account and administered by the department of natural resources
16 solely for planning, maintenance, and management of ORV recreation
17 facilities, nonhighway roads, and nonhighway road recreation
18 facilities. The funds under this subsection shall be expended in
19 accordance with the following limitations:

20 (i) Not more than five percent may be expended for information
21 programs under this chapter;

22 (ii) Not less than ten percent and not more than fifty percent may
23 be expended for ORV recreation facilities;

24 (iii) Not more than twenty-five percent may be expended for
25 maintenance of nonhighway roads;

26 (iv) Not more than fifty percent may be expended for nonhighway
27 road recreation facilities;

28 (v) Ten percent shall be transferred to the interagency committee
29 for outdoor recreation for grants to law enforcement agencies in those
30 counties where the department of natural resources maintains ORV
31 facilities. This amount is in addition to those distributions made by
32 the interagency committee for outdoor recreation under (d)(i) of this
33 subsection;

34 (b) Three and one-half percent shall be credited to the ORV and
35 nonhighway vehicle account and administered by the department of fish
36 and wildlife solely for the acquisition, planning, development,
37 maintenance, and management of nonhighway roads and recreation
38 facilities;

1 (c) Two percent shall be credited to the ORV and nonhighway vehicle
2 account and administered by the parks and recreation commission solely
3 for the maintenance and management of ORV use areas and facilities; and

4 (d) Fifty-four and one-half percent, together with the funds
5 received by the interagency committee for outdoor recreation under RCW
6 46.09.110, shall be credited to the outdoor recreation account to be
7 administered by the committee for planning, acquisition, development,
8 maintenance, and management of ORV recreation facilities and nonhighway
9 road recreation facilities; ORV user education and information; and ORV
10 law enforcement programs. The funds under this subsection shall be
11 expended in accordance with the following limitations:

12 (i) Not more than twenty percent may be expended for ORV education,
13 information, and law enforcement programs under this chapter;

14 (ii) Not less than an amount equal to the funds received by the
15 interagency committee for outdoor recreation under RCW 46.09.110 and
16 not more than sixty percent may be expended for ORV recreation
17 facilities;

18 (iii) Not more than twenty percent may be expended for nonhighway
19 road recreation facilities.

20 (2) On a yearly basis an agency may not, except as provided in RCW
21 46.09.110, expend more than ten percent of the funds it receives under
22 this chapter for general administration expenses incurred in carrying
23 out this chapter.

24 **Sec. 37.** RCW 46.10.130 and 1989 c 297 s 4 are each amended to read
25 as follows:

26 No person shall operate a snowmobile in such a way as to endanger
27 human life. No person shall operate a snowmobile in such a way as to
28 run down or harass deer, elk, or any wildlife, or any domestic animal,
29 nor shall ((he)) any person carry any loaded weapon upon, nor hunt
30 from, any snowmobile except by permit issued by the director of fish
31 and wildlife under RCW 77.32.237. Any person violating the provisions
32 of this section shall be guilty of a gross misdemeanor.

33 **Sec. 38.** RCW 46.10.220 and 1989 c 175 s 110 are each amended to
34 read as follows:

35 (1) There is created in the Washington state parks and recreation
36 commission a snowmobile advisory committee to advise the commission
37 regarding the administration of this chapter.

1 (2) The purpose of the committee is to assist and advise the
2 commission in the planned development of snowmobile facilities and
3 programs.

4 (3) The committee shall consist of:

5 (a) Six interested snowmobilers, appointed by the commission; each
6 such member shall be a resident of one of the six geographical areas
7 throughout this state where snowmobile activity occurs, as defined by
8 the commission;

9 (b) Three representatives of the nonsnowmobiling public, appointed
10 by the commission; and

11 (c) One representative of the department of natural resources, one
12 representative of the department of fish and wildlife, and one
13 representative of the Washington state association of counties; each of
14 whom shall be appointed by the director of such department or
15 association.

16 (4) Terms of the members appointed under subsection (3)(a) and (b)
17 of this section shall commence on October 1st of the year of
18 appointment and shall be for three years or until a successor is
19 appointed, except in the case of appointments to fill vacancies which
20 shall be for the remainder of the unexpired term: PROVIDED, That the
21 first such members shall be appointed for terms as follows: Three
22 members shall be appointed for one year, three members shall be
23 appointed for two years, and three members shall be appointed for three
24 years.

25 (5) Members of the committee shall be reimbursed for travel
26 expenses as provided in RCW 43.03.050 and 43.03.060. Expenditures
27 under this subsection shall be from the snowmobile account created by
28 RCW 46.10.075.

29 (6) The committee may meet at times and places fixed by the
30 committee. The committee shall meet not less than twice each year and
31 additionally as required by the committee chairman or by majority vote
32 of the committee. One of the meetings shall be coincident with a
33 meeting of the commission at which the committee shall provide a report
34 to the commission. The chairman of the committee shall be chosen under
35 procedures adopted by the committee from those members appointed under
36 subsection (3)(a) and (b) of this section.

37 (7) The Washington state parks and recreation commission shall
38 serve as recording secretary to the committee. A representative of the
39 department of licensing shall serve as an ex officio member of the

1 committee and shall be notified of all meetings of the committee. The
2 recording secretary and the ex officio member shall be nonvoting
3 members.

4 (8) The committee shall adopt procedures to govern its proceedings.

5 **Sec. 39.** RCW 69.04.935 and 1993 c 282 s 5 are each amended to read
6 as follows:

7 To promote honesty and fair dealing for consumers, the director, in
8 consultation with the director of the department of ((fisheries)) fish
9 and wildlife, shall adopt rules:

10 (1) Fixing and establishing a reasonable definition and standard of
11 identity for salmon for purposes of identifying and selling salmon;

12 (2) Enforcing RCW 69.04.933 and 69.04.934.

13 **Sec. 40.** RCW 69.30.070 and 1955 c 144 s 7 are each amended to read
14 as follows:

15 Any certificate of approval issued under the provisions of this
16 chapter shall not relieve any person from complying with the laws,
17 rules and/or regulations of the ((state)) department of ((fisheries))
18 fish and wildlife, relative to shellfish.

19 **Sec. 41.** RCW 70.104.080 and 1991 c 3 s 363 are each amended to
20 read as follows:

21 (1) There is hereby created a pesticide incident reporting and
22 tracking review panel consisting of the following members:

23 (a) The directors, secretaries, or designees of the departments of
24 labor and industries, agriculture, natural resources, fish and
25 wildlife, and ecology;

26 (b) The ((director-[secretary])) secretary of the department of
27 health or his or her designee, who shall serve as the coordinating
28 agency for the review panel;

29 (c) The chair of the department of environmental health of the
30 University of Washington, or his or her designee;

31 (d) The pesticide coordinator and specialist of the cooperative
32 extension at Washington State University or his or her designee;

33 (e) A representative of the Washington poison control center
34 network;

35 (f) A practicing toxicologist and a member of the general public,
36 who shall each be appointed by the governor for terms of two years and

1 may be appointed for a maximum of four terms at the discretion of the
2 governor. The governor may remove either member prior to the
3 expiration of his or her term of appointment for cause. Upon the
4 death, resignation, or removal for cause of a member of the review
5 panel, the governor shall fill such vacancy, within thirty days of its
6 creation, for the remainder of the term in the manner herein prescribed
7 for appointment to the review panel.

8 (2) The review panel shall be chaired by the secretary of the
9 department of health, or the secretary's designee. The members of the
10 review panel shall meet at least monthly at a time and place specified
11 by the chair, or at the call of a majority of the review panel.

12 **Sec. 42.** RCW 70.105.020 and 1988 c 36 s 28 are each amended to
13 read as follows:

14 The department after notice and public hearing shall:

15 (1) Adopt regulations designating as extremely hazardous wastes
16 subject to the provisions of this chapter those substances which
17 exhibit characteristics consistent with the definition provided in RCW
18 70.105.010(6);

19 (2) Adopt and may revise when appropriate, minimum standards and
20 regulations for disposal of extremely hazardous wastes to protect
21 against hazards to the public, and to the environment. Before adoption
22 of such standards and regulations, the department shall consult with
23 appropriate agencies of interested local governments and secure
24 technical assistance from the department of agriculture, the department
25 of social and health services, the department of fish and wildlife, the
26 department of natural resources, (~~the department of fisheries,~~) the
27 department of labor and industries, and the department of community,
28 trade, and economic development, through the director of fire
29 protection.

30 **Sec. 43.** RCW 72.63.020 and 1988 c 36 s 29 are each amended to read
31 as follows:

32 The departments of corrections(~~(, fisheries,)~~) and fish and
33 wildlife shall establish at or near appropriate state institutions, as
34 defined in RCW 72.65.010, prison work programs that use prisoners to
35 undertake state food fish, shellfish, and game fish rearing projects
36 and state game bird and game animal improvement, restoration, and
37 protection projects and that meet the requirements of RCW 72.09.100.

1 The department of corrections shall seek to identify a group of
2 prisoners at each appropriate state institution, as defined by RCW
3 72.65.010, that are interested in participating in prison work programs
4 established by this chapter.

5 If the department of corrections is unable to identify a group of
6 prisoners to participate in work programs authorized by this chapter,
7 it may enter into an agreement with the department(~~(s of fisheries or)~~)
8 of fish and wildlife for the purpose of designing projects for any
9 institution. Costs under this section shall be borne by the department
10 of corrections.

11 The departments of corrections(~~(, fisheries,)~~) and fish and
12 wildlife shall use prisoners, where appropriate, to perform work in
13 state projects that may include the following types:

14 (1) Food fish, shellfish, and game fish rearing projects, including
15 but not limited to egg planting, egg boxes, juvenile planting, pen
16 rearing, pond rearing, raceway rearing, and egg taking;

17 (2) Game bird and game animal projects, including but not limited
18 to habitat improvement and restoration, replanting and transplanting,
19 nest box installation, pen rearing, game protection, and supplemental
20 feeding: PROVIDED, That no project shall be established at the
21 department of fish and wildlife's south Tacoma game farm;

22 (3) Manufacturing of equipment for use in fish and game volunteer
23 cooperative projects permitted by the (~~department of fisheries or~~
24 ~~the~~) department of fish and wildlife, or for use in prison work
25 programs with fish and game; and

26 (4) Maintenance, repair, restoration, and redevelopment of
27 facilities operated by the department(~~(s)~~) of fish and wildlife (~~(and~~
28 ~~fisheries)~~).

29 **Sec. 44.** RCW 72.63.030 and 1988 c 36 s 30 are each amended to read
30 as follows:

31 (1) The department(~~(s of fisheries)~~) of fish and wildlife(~~(, as~~
32 ~~appropriate,)~~) shall provide professional assistance from biologists,
33 fish culturists, pathologists, engineers, habitat managers, and other
34 departmental staff to assist the development and productivity of prison
35 work programs under RCW 72.63.020, upon agreement with the department
36 of corrections.

37 (2) The department(~~(s of fisheries)~~) of fish and wildlife shall
38 identify and describe potential and pilot projects that are compatible

1 with the goals of the various departments involved and that are
2 particularly suitable for prison work programs.

3 (3) The department(~~(s of fisheries or)~~) of fish and wildlife(~~(, or~~
4 ~~both, as appropriate,~~) may make available surplus hatchery rearing
5 space, net pens, egg boxes, portable rearing containers, incubators,
6 and any other departmental facilities or property that are available
7 for loan to the department of corrections to carry out prison work
8 programs under RCW 72.63.020.

9 (4) The department(~~(s of fisheries or)~~) of fish and wildlife(~~(, or~~
10 ~~both, as appropriate,~~) shall provide live fish eggs, bird eggs,
11 juvenile fish, game animals, or other appropriate seed stock,
12 juveniles, or brood stock of acceptable disease history and genetic
13 composition for the prison work projects at no cost to the department
14 of corrections, to the extent that such resources are available. Fish
15 food, bird food, or animal food may be provided by the department(~~(s of~~
16 ~~fisheries)~~) of fish and wildlife to the extent that funding is
17 available.

18 (5) The department of natural resources shall assist in the
19 implementation of the program where project sites are located on public
20 beaches or state owned aquatic lands.

21 **Sec. 45.** RCW 75.10.220 and 1993 c 82 s 6 are each amended to read
22 as follows:

23 (1) (~~The department of wildlife shall notify the department~~) Upon
24 receipt of a report of failure to comply with the terms of a citation
25 issued for a recreational violation from the licensing authority of a
26 state that is a party to the wildlife violator compact under RCW
27 77.17.010(~~(-)~~), the department shall suspend the violator's
28 recreational license privileges under this title until satisfactory
29 evidence of compliance with the terms of the wildlife citation (~~has~~
30 ~~been furnished by the department of wildlife~~). The department shall
31 adopt by rule procedures for the timely notification and administrative
32 review of such suspension of recreational licensing privileges.

33 (2) (~~The department of wildlife shall notify the department~~) Upon
34 receipt of a report of a conviction for a recreational offense from the
35 licensing authority of a state that is a party to the wildlife violator
36 compact under RCW 77.17.010(~~(-)~~), the department shall enter such
37 conviction in its records and shall treat such conviction as if it

1 occurred in the state of Washington for the purposes of suspension,
2 revocation, or forfeiture of recreational license privileges.

3 **Sec. 46.** RCW 75.28.770 and 1993 sp.s. c 4 s 4 are each amended to
4 read as follows:

5 The department (~~(of fisheries)~~) shall evaluate and recommend, in
6 consultation with the Indian tribes, salmon fishery management
7 strategies and gear types, as well as a schedule for implementation,
8 that will minimize the impact of commercial and recreational fishing in
9 the mixed stock fishery on critical and depressed wild stocks of
10 salmonids. As part of this evaluation, the department, in conjunction
11 with the commercial and recreational fishing industries, shall evaluate
12 commercial and recreational salmon fishing gear types developed by
13 these industries. The department (~~(of fisheries)~~) shall present status
14 reports to the appropriate committees of the legislature by December 31
15 of each year in 1993, 1994, and 1995, and shall present the final
16 evaluation and recommendations by December 31, 1996.

17 **Sec. 47.** RCW 75.54.070 and 1993 sp.s. c 2 s 89 are each amended to
18 read as follows:

19 The department shall work with the department of ecology(~~(, the~~
20 ~~department of wildlife,)~~) and local government entities to streamline
21 the siting process for new enhancement projects. The department is
22 encouraged to work with the legislature to develop statutory changes
23 that enable expeditious processing and granting of permits for fish
24 enhancement projects.

25 **Sec. 48.** RCW 76.09.040 and 1993 c 443 s 2 are each amended to read
26 as follows:

27 (1) Where necessary to accomplish the purposes and policies stated
28 in RCW 76.09.010, and to implement the provisions of this chapter, the
29 board shall promulgate forest practices regulations pursuant to chapter
30 34.05 RCW and in accordance with the procedures enumerated in this
31 section that:

32 (a) Establish minimum standards for forest practices;

33 (b) Provide procedures for the voluntary development of resource
34 management plans which may be adopted as an alternative to the minimum
35 standards in (a) of this subsection if the plan is consistent with the

1 purposes and policies stated in RCW 76.09.010 and the plan meets or
2 exceeds the objectives of the minimum standards;

3 (c) Set forth necessary administrative provisions; and

4 (d) Establish procedures for the collection and administration of
5 forest practice fees as set forth by this chapter.

6 Forest practices regulations pertaining to water quality protection
7 shall be promulgated individually by the board and by the department of
8 ecology after they have reached agreement with respect thereto. All
9 other forest practices regulations shall be promulgated by the board.

10 Forest practices regulations shall be administered and enforced by
11 the department except as otherwise provided in this chapter. Such
12 regulations shall be promulgated and administered so as to give
13 consideration to all purposes and policies set forth in RCW 76.09.010.

14 (2) The board shall prepare proposed forest practices regulations.
15 In addition to any forest practices regulations relating to water
16 quality protection proposed by the board, the department of ecology
17 shall prepare proposed forest practices regulations relating to water
18 quality protection.

19 Prior to initiating the rule making process, the proposed
20 regulations shall be submitted for review and comments to the
21 department of (~~fisheries, the department of~~) fish and wildlife(~~(7)~~)
22 and to the counties of the state. After receipt of the proposed forest
23 practices regulations, the department(~~(s of fisheries)~~) of fish and
24 wildlife and the counties of the state shall have thirty days in which
25 to review and submit comments to the board, and to the department of
26 ecology with respect to its proposed regulations relating to water
27 quality protection. After the expiration of such thirty day period the
28 board and the department of ecology shall jointly hold one or more
29 hearings on the proposed regulations pursuant to chapter 34.05 RCW. At
30 such hearing(s) any county may propose specific forest practices
31 regulations relating to problems existing within such county. The
32 board and the department of ecology may adopt such proposals if they
33 find the proposals are consistent with the purposes and policies of
34 this chapter.

35 **Sec. 49.** RCW 76.09.050 and 1993 c 443 s 3 are each amended to read
36 as follows:

37 (1) The board shall establish by rule which forest practices shall
38 be included within each of the following classes:

1 Class I: Minimal or specific forest practices that have no direct
2 potential for damaging a public resource that may be conducted without
3 submitting an application or a notification;

4 Class II: Forest practices which have a less than ordinary
5 potential for damaging a public resource that may be conducted without
6 submitting an application and may begin five calendar days, or such
7 lesser time as the department may determine, after written notification
8 by the operator, in the manner, content, and form as prescribed by the
9 department, is received by the department. However, the work may not
10 begin until all forest practice fees required under RCW 76.09.065 have
11 been received by the department. Class II shall not include forest
12 practices:

13 (a) On lands platted after January 1, 1960, or being converted to
14 another use;

15 (b) Which require approvals under the provisions of the hydraulics
16 act, RCW 75.20.100;

17 (c) Within "shorelines of the state" as defined in RCW 90.58.030;
18 or

19 (d) Excluded from Class II by the board;

20 Class III: Forest practices other than those contained in Class I,
21 II, or IV. A Class III application must be approved or disapproved by
22 the department within thirty calendar days from the date the department
23 receives the application. However, the applicant may not begin work on
24 that forest practice until all forest practice fees required under RCW
25 76.09.065 have been received by the department;

26 Class IV: Forest practices other than those contained in Class I
27 or II: (a) On lands platted after January 1, 1960, (b) on lands being
28 converted to another use, (c) on lands which, pursuant to RCW 76.09.070
29 as now or hereafter amended, are not to be reforested because of the
30 likelihood of future conversion to urban development, and/or (d) which
31 have a potential for a substantial impact on the environment and
32 therefore require an evaluation by the department as to whether or not
33 a detailed statement must be prepared pursuant to the state
34 environmental policy act, chapter 43.21C RCW. Such evaluation shall be
35 made within ten days from the date the department receives the
36 application: PROVIDED, That nothing herein shall be construed to
37 prevent any local or regional governmental entity from determining that
38 a detailed statement must be prepared for an action pursuant to a Class
39 IV forest practice taken by that governmental entity concerning the

1 land on which forest practices will be conducted. A Class IV
2 application must be approved or disapproved by the department within
3 thirty calendar days from the date the department receives the
4 application, unless the department determines that a detailed statement
5 must be made, in which case the application must be approved or
6 disapproved by the department within sixty calendar days from the date
7 the department receives the application, unless the commissioner of
8 public lands, through the promulgation of a formal order, determines
9 that the process cannot be completed within such period. However, the
10 applicant may not begin work on that forest practice until all forest
11 practice fees required under RCW 76.09.065 have been received by the
12 department.

13 Forest practices under Classes I, II, and III are exempt from the
14 requirements for preparation of a detailed statement under the state
15 environmental policy act.

16 (2) No Class II, Class III, or Class IV forest practice shall be
17 commenced or continued after January 1, 1975, unless the department has
18 received a notification with regard to a Class II forest practice or
19 approved an application with regard to a Class III or Class IV forest
20 practice containing all information required by RCW 76.09.060 as now or
21 hereafter amended: PROVIDED, That any person commencing a forest
22 practice during 1974 may continue such forest practice until April 1,
23 1975, if such person has submitted an application to the department
24 prior to January 1, 1975: PROVIDED, FURTHER, That in the event forest
25 practices regulations necessary for the scheduled implementation of
26 this chapter and RCW 90.48.420 have not been adopted in time to meet
27 such schedules, the department shall have the authority to regulate
28 forest practices and approve applications on such terms and conditions
29 consistent with this chapter and RCW 90.48.420 and the purposes and
30 policies of RCW 76.09.010 until applicable forest practices regulations
31 are in effect.

32 (3) If a notification or application is delivered in person to the
33 department by the operator or ((his)) the operator's agent, the
34 department shall immediately provide a dated receipt thereof. In all
35 other cases, the department shall immediately mail a dated receipt to
36 the operator.

37 (4) Forest practices shall be conducted in accordance with the
38 forest practices regulations, orders and directives as authorized by

1 this chapter or the forest practices regulations, and the terms and
2 conditions of any approved applications.

3 (5) The department of natural resources shall notify the applicant
4 in writing of either its approval of the application or its disapproval
5 of the application and the specific manner in which the application
6 fails to comply with the provisions of this section or with the forest
7 practices regulations. Except as provided otherwise in this section,
8 if the department fails to either approve or disapprove an application
9 or any portion thereof within the applicable time limit, the
10 application shall be deemed approved and the operation may be
11 commenced: PROVIDED, That this provision shall not apply to
12 applications which are neither approved nor disapproved pursuant to the
13 provisions of subsection (7) of this section: PROVIDED, FURTHER, That
14 if seasonal field conditions prevent the department from being able to
15 properly evaluate the application, the department may issue an approval
16 conditional upon further review within sixty days: PROVIDED, FURTHER,
17 That the department shall have until April 1, 1975, to approve or
18 disapprove an application involving forest practices allowed to
19 continue to April 1, 1975, under the provisions of subsection (2) of
20 this section. Upon receipt of any notification or any satisfactorily
21 completed application the department shall in any event no later than
22 two business days after such receipt transmit a copy to the departments
23 of ecology((~~7~~)) and fish and wildlife((~~7~~, ~~and fisheries~~)), and to the
24 county, city, or town in whose jurisdiction the forest practice is to
25 be commenced. Any comments by such agencies shall be directed to the
26 department of natural resources.

27 (6) If the county, city, or town believes that an application is
28 inconsistent with this chapter, the forest practices regulations, or
29 any local authority consistent with RCW 76.09.240 as now or hereafter
30 amended, it may so notify the department and the applicant, specifying
31 its objections.

32 (7) The department shall not approve portions of applications to
33 which a county, city, or town objects if:

34 (a) The department receives written notice from the county, city,
35 or town of such objections within fourteen business days from the time
36 of transmittal of the application to the county, city, or town, or one
37 day before the department acts on the application, whichever is later;
38 and

39 (b) The objections relate to lands either:

1 (i) Platted after January 1, 1960; or

2 (ii) Being converted to another use.

3 The department shall either disapprove those portions of such
4 application or appeal the county, city, or town objections to the
5 appeals board. If the objections related to subparagraphs (b) (i) and
6 (ii) of this subsection are based on local authority consistent with
7 RCW 76.09.240 as now or hereafter amended, the department shall
8 disapprove the application until such time as the county, city, or town
9 consents to its approval or such disapproval is reversed on appeal.
10 The applicant shall be a party to all department appeals of county,
11 city, or town objections. Unless the county, city, or town either
12 consents or has waived its rights under this subsection, the department
13 shall not approve portions of an application affecting such lands until
14 the minimum time for county, city, or town objections has expired.

15 (8) In addition to any rights under the above paragraph, the
16 county, city, or town may appeal any department approval of an
17 application with respect to any lands within its jurisdiction. The
18 appeals board may suspend the department's approval in whole or in part
19 pending such appeal where there exists potential for immediate and
20 material damage to a public resource.

21 (9) Appeals under this section shall be made to the appeals board
22 in the manner and time provided in RCW 76.09.220(8). In such appeals
23 there shall be no presumption of correctness of either the county,
24 city, or town or the department position.

25 (10) The department shall, within four business days notify the
26 county, city, or town of all notifications, approvals, and disapprovals
27 of an application affecting lands within the county, city, or town,
28 except to the extent the county, city, or town has waived its right to
29 such notice.

30 (11) A county, city, or town may waive in whole or in part its
31 rights under this section, and may withdraw or modify any such waiver,
32 at any time by written notice to the department.

33 **Sec. 50.** RCW 76.09.180 and 1988 c 36 s 48 are each amended to read
34 as follows:

35 All penalties received or recovered by state agency action for
36 violations as prescribed in RCW 76.09.170 shall be deposited in the
37 state general fund. All such penalties recovered as a result of local
38 government action shall be deposited in the local government general

1 fund. Any funds recovered as reimbursement for damages pursuant to RCW
2 76.09.080 and 76.09.090 shall be transferred to that agency with
3 jurisdiction over the public resource damaged, including but not
4 limited to political subdivisions, the department of fish and wildlife,
5 (~~the department of fisheries,~~) the department of ecology, the
6 department of natural resources, or any other department that may be so
7 designated: PROVIDED, That nothing herein shall be construed to affect
8 the provisions of RCW 90.48.142.

9 **Sec. 51.** RCW 76.48.040 and 1988 c 36 s 49 are each amended to read
10 as follows:

11 Agencies charged with the enforcement of this chapter shall
12 include, but not be limited to, the Washington state patrol, county
13 sheriffs and their deputies, county or municipal police forces,
14 authorized personnel of the United States forest service, and
15 authorized personnel of the departments of natural resources(~~(~~
16 ~~fisheries,~~) and fish and wildlife. Primary enforcement responsibility
17 lies in the county sheriffs and their deputies.

18 **Sec. 52.** RCW 77.04.030 and 1993 sp.s. c 2 s 60 are each amended to
19 read as follows:

20 The (~~state~~) fish and wildlife commission consists of nine
21 registered voters of the state. In January of each odd-numbered year,
22 the governor shall appoint with the advice and consent of the senate
23 two registered voters to the commission to serve for terms of six years
24 from that January or until their successors are appointed and
25 qualified. If a vacancy occurs on the commission prior to the expira-
26 tion of a term, the governor shall appoint a registered voter within
27 sixty days to complete the term. Three members shall be residents of
28 that portion of the state lying east of the summit of the Cascade
29 mountains, and three shall be residents of that portion of the state
30 lying west of the summit of the Cascade mountains. Three additional
31 members shall be appointed at-large effective July 1, 1993; one of whom
32 shall serve a one and one-half year term to end December 31, 1994; one
33 of whom shall serve a three and one-half year term to end December 31,
34 1996; and one of whom shall serve a five and one-half year term to end
35 December 31, 1998. Thereafter all members are to serve a six-year
36 term. No two members may be residents of the same county. The legal

1 office of the commission is at the administrative office of the
2 department in Olympia.

3 **Sec. 53.** RCW 77.12.020 and 1987 c 506 s 13 are each amended to
4 read as follows:

5 (1) The director shall investigate the habits and distribution of
6 the various species of wildlife native to or adaptable to the habitats
7 of the state. The commission shall determine whether a species should
8 be managed by the department and, if so, classify it under this
9 section.

10 (2) The commission may classify by rule wild animals as game
11 animals and game animals as fur-bearing animals.

12 (3) The commission may classify by rule wild birds as game birds or
13 predatory birds. All wild birds not otherwise classified are protected
14 wildlife.

15 (4) In addition to those species listed in RCW 77.08.020, the
16 commission may classify by rule as game fish other species of the class
17 Osteichthyes that are commonly found in fresh water except those
18 classified as food fish by the director (~~(of fisheries)~~).

19 (5) The director may recommend to the commission that a species of
20 wildlife should not be hunted or fished. The commission may designate
21 species of wildlife as protected.

22 (6) If the director determines that a species of wildlife is
23 seriously threatened with extinction in the state of Washington, the
24 director may request its designation as an endangered species. The
25 commission may designate an endangered species.

26 (7) If the director determines that a species of the animal
27 kingdom, not native to Washington, is dangerous to the environment or
28 wildlife of the state, the director may request its designation as
29 deleterious exotic wildlife. The commission may designate deleterious
30 exotic wildlife.

31 **Sec. 54.** RCW 77.12.031 and 1993 c 80 s 4 are each amended to read
32 as follows:

33 The authority of the department (~~(of wildlife)~~) does not extend to
34 preventing, controlling, or suppressing diseases in llamas or alpacas
35 or to controlling the movement or sale of llamas or alpacas.

1 This section shall not be construed as granting or denying
2 authority to the department (~~(of wildlife)~~) to prevent, control, or
3 suppress diseases in any animals other than llamas and alpacas.

4 **Sec. 55.** RCW 77.17.010 and 1993 c 82 s 1 are each amended to read
5 as follows:

6 The wildlife violator compact is hereby established in the form
7 substantially as follows, and the Washington state department of fish
8 and wildlife is authorized to enter into such compact on behalf of the
9 state with all other jurisdictions legally joining therein:

10 ARTICLE I

11 FINDINGS, DECLARATION OF POLICY, AND PURPOSE

12 (a) The party states find that:

13 (1) Wildlife resources are managed in trust by the respective
14 states for the benefit of all residents and visitors.

15 (2) The protection of their respective wildlife resources can be
16 materially affected by the degree of compliance with state statute,
17 law, regulation, ordinance, or administrative rule relating to the
18 management of those resources.

19 (3) The preservation, protection, management, and restoration of
20 wildlife contributes immeasurably to the aesthetic, recreational, and
21 economic aspects of these natural resources.

22 (4) Wildlife resources are valuable without regard to political
23 boundaries, therefore, all persons should be required to comply with
24 wildlife preservation, protection, management, and restoration laws,
25 ordinances, and administrative rules and regulations of all party
26 states as a condition precedent to the continuance or issuance of any
27 license to hunt, fish, trap, or possess wildlife.

28 (5) Violation of wildlife laws interferes with the management of
29 wildlife resources and may endanger the safety of persons and property.

30 (6) The mobility of many wildlife law violators necessitates the
31 maintenance of channels of communications among the various states.

32 (7) In most instances, a person who is cited for a wildlife
33 violation in a state other than the person's home state:

34 (i) Must post collateral or bond to secure appearance for a trial
35 at a later date; or

36 (ii) If unable to post collateral or bond, is taken into custody
37 until the collateral or bond is posted; or

1 (iii) Is taken directly to court for an immediate appearance.

2 (8) The purpose of the enforcement practices described in paragraph
3 (7) of this subdivision is to ensure compliance with the terms of a
4 wildlife citation by the person who, if permitted to continue on the
5 person's way after receiving the citation, could return to the person's
6 home state and disregard the person's duty under the terms of the
7 citation.

8 (9) In most instances, a person receiving a wildlife citation in
9 the person's home state is permitted to accept the citation from the
10 officer at the scene of the violation and to immediately continue on
11 the person's way after agreeing or being instructed to comply with the
12 terms of the citation.

13 (10) The practice described in paragraph (7) of this subdivision
14 causes unnecessary inconvenience and, at times, a hardship for the
15 person who is unable at the time to post collateral, furnish a bond,
16 stand trial, or pay the fine, and thus is compelled to remain in
17 custody until some alternative arrangement can be made.

18 (11) The enforcement practices described in paragraph (7) of this
19 subdivision consume an undue amount of law enforcement time.

20 (b) It is the policy of the party states to:

21 (1) Promote compliance with the statutes, laws, ordinances,
22 regulations, and administrative rules relating to management of
23 wildlife resources in their respective states.

24 (2) Recognize the suspension of wildlife license privileges of any
25 person whose license privileges have been suspended by a party state
26 and treat this suspension as if it had occurred in their state.

27 (3) Allow violators to accept a wildlife citation, except as
28 provided in subdivision (b) of Article III, and proceed on the
29 violator's way without delay whether or not the person is a resident in
30 the state in which the citation was issued, provided that the
31 violator's home state is party to this compact.

32 (4) Report to the appropriate party state, as provided in the
33 compact manual, any conviction recorded against any person whose home
34 state was not the issuing state.

35 (5) Allow the home state to recognize and treat convictions
36 recorded for their residents which occurred in another party state as
37 if they had occurred in the home state.

1 (6) Extend cooperation to its fullest extent among the party states
2 for obtaining compliance with the terms of a wildlife citation issued
3 in one party state to a resident of another party state.

4 (7) Maximize effective use of law enforcement personnel and
5 information.

6 (8) Assist court systems in the efficient disposition of wildlife
7 violations.

8 (c) The purpose of this compact is to:

9 (1) Provide a means through which the party states may participate
10 in a reciprocal program to effectuate policies enumerated in
11 subdivision (b) of this article in a uniform and orderly manner.

12 (2) Provide for the fair and impartial treatment of wildlife
13 violators operating within party states in recognition of the person's
14 right of due process and the sovereign status of a party state.

15 ARTICLE II
16 DEFINITIONS

17 Unless the context requires otherwise, the definitions in this
18 article apply through this compact and are intended only for the
19 implementation of this compact:

20 (a) "Citation" means any summons, complaint, ticket, penalty
21 assessment, or other official document issued by a wildlife officer or
22 other peace officer for a wildlife violation containing an order which
23 requires the person to respond.

24 (b) "Collateral" means any cash or other security deposited to
25 secure an appearance for trial, in connection with the issuance by a
26 wildlife officer or other peace officer of a citation for a wildlife
27 violation.

28 (c) "Compliance" with respect to a citation means the act of
29 answering the citation through appearance at a court, a tribunal, or
30 payment of fines, costs, and surcharges, if any, or both such
31 appearance and payment.

32 (d) "Conviction" means a conviction, including any court
33 conviction, of any offense related to the preservation, protection,
34 management, or restoration of wildlife which is prohibited by state
35 statute, law, regulation, ordinance, or administrative rule, or a
36 forfeiture of bail, bond, or other security deposited to secure
37 appearance by a person charged with having committed any such offense,

1 or payment of a penalty assessment, or a plea of nolo contendere, or
2 the imposition of a deferred or suspended sentence by the court.

3 (e) "Court" means a court of law, including Magistrate's Court and
4 the Justice of the Peace Court.

5 (f) "Home state" means the state of primary residence of a person.

6 (g) "Issuing state" means the party state which issues a wildlife
7 citation to the violator.

8 (h) "License" means any license, permit, or other public document
9 which conveys to the person to whom it was issued the privilege of
10 pursuing, possessing, or taking any wildlife regulated by statute, law,
11 regulation, ordinance, or administrative rule of a party state.

12 (i) "Licensing authority" means the department or division within
13 each party state which is authorized by law to issue or approve
14 licenses or permits to hunt, fish, trap, or possess wildlife.

15 (j) "Party state" means any state which enacts legislation to
16 become a member of this wildlife compact.

17 (k) "Personal recognizance" means an agreement by a person made at
18 the time of issuance of the wildlife citation that the person will
19 comply with the terms of that citation.

20 (l) "State" means any state, territory, or possession of the United
21 States, the District of Columbia, Commonwealth of Puerto Rico,
22 Provinces of Canada, or other countries.

23 (m) "Suspension" means any revocation, denial, or withdrawal of any
24 or all license privileges, including the privilege to apply for,
25 purchase, or exercise the benefits conferred by any license.

26 (n) "Terms of the citation" means those conditions and options
27 expressly stated upon the citation.

28 (o) "Wildlife" means all species of animals, including but not
29 necessarily limited to mammals, birds, fish, reptiles, amphibians,
30 mollusks, and crustaceans, which are defined as "wildlife" and are
31 protected or otherwise regulated by statute, law, regulation,
32 ordinance, or administrative rule in a party state. "Wildlife" also
33 means food fish and shellfish as defined by statute, law, regulation,
34 ordinance, or administrative rule in a party state. Species included
35 in the definition of "wildlife" vary from state to state and
36 determination of whether a species is "wildlife" for the purposes of
37 this compact shall be based on local law.

1 (p) "Wildlife law" means any statute, law, regulation, ordinance,
2 or administrative rule developed and enacted to manage wildlife
3 resources and the use thereof.

4 (q) "Wildlife officer" means any individual authorized by a party
5 state to issue a citation for a wildlife violation.

6 (r) "Wildlife violation" means any cited violation of a statute,
7 law, regulation, ordinance, or administrative rule developed and
8 enacted to manage wildlife resources and the use thereof.

9 ARTICLE III

10 PROCEDURES FOR ISSUING STATE

11 (a) When issuing a citation for a wildlife violation, a wildlife
12 officer shall issue a citation to any person whose primary residence is
13 in a party state in the same manner as if the person were a resident of
14 the home state and shall not require the person to post collateral to
15 secure appearance, subject to the exceptions contained in subdivision
16 (b) of this article, if the officer receives the person's personal
17 recognizance that the person will comply with the terms of the
18 citation.

19 (b) Personal recognizance is acceptable:

20 (1) If not prohibited by local law or the compact manual; and

21 (2) If the violator provides adequate proof of the violator's
22 identification to the wildlife officer.

23 (c) Upon conviction or failure of a person to comply with the terms
24 of a wildlife citation, the appropriate official shall report the
25 conviction or failure to comply to the licensing authority of the party
26 state in which the wildlife citation was issued. The report shall be
27 made in accordance with procedures specified by the issuing state and
28 shall contain the information specified in the compact manual as
29 minimum requirements for effective processing by the home state.

30 (d) Upon receipt of the report of conviction or noncompliance
31 required by subdivision (c) of this article, the licensing authority of
32 the issuing state shall transmit to the licensing authority in the home
33 state of the violator the information in a form and content as
34 contained in the compact manual.

35 ARTICLE IV

36 PROCEDURES FOR HOME STATE

1 (a) Upon receipt of a report of failure to comply with the terms of
2 a citation from the licensing authority of the issuing state, the
3 licensing authority of the home state shall notify the violator, shall
4 initiate a suspension action in accordance with the home state's
5 suspension procedures and shall suspend the violator's license
6 privileges until satisfactory evidence of compliance with the terms of
7 the wildlife citation has been furnished by the issuing state to the
8 home state licensing authority. Due process safeguards will be
9 accorded.

10 (b) Upon receipt of a report of conviction from the licensing
11 authority of the issuing state, the licensing authority of the home
12 state shall enter such conviction in its records and shall treat such
13 conviction as if it occurred in the home state for the purposes of the
14 suspension of license privileges.

15 (c) The licensing authority of the home state shall maintain a
16 record of actions taken and make reports to issuing states as provided
17 in the compact manual.

18 ARTICLE V

19 RECIPROCAL RECOGNITION OF SUSPENSION

20 All party states shall recognize the suspension of license
21 privileges of any person by any state as if the violation on which the
22 suspension is based had in fact occurred in their state and could have
23 been the basis for suspension of license privileges in their state.

24 ARTICLE VI

25 APPLICABILITY OF OTHER LAWS

26 Except as expressly required by provisions of this compact, nothing
27 herein shall be construed to affect the right of any party state to
28 apply any of its laws relating to license privileges to any person or
29 circumstance, or to invalidate or prevent any agreement or other
30 cooperative arrangements between a party state and a nonparty state
31 concerning wildlife law enforcement.

32 ARTICLE VII

33 COMPACT ADMINISTRATOR PROCEDURES

34 (a) For the purpose of administering the provisions of this compact
35 and to serve as a governing body for the resolution of all matters
36 relating to the operation of this compact, a board of compact

1 administrators is established. The board shall be composed of one
2 representative from each of the party states to be known as the compact
3 administrator. The compact administrator shall be appointed by the
4 head of the licensing authority of each party state and will serve and
5 be subject to removal in accordance with the laws of the state the
6 administrator represents. A compact administrator may provide for the
7 discharge of the administrator's duties and the performance of the
8 administrator's functions as a board member by an alternate. An
9 alternate may not be entitled to serve unless written notification of
10 the alternate's identity has been given to the board.

11 (b) Each member of the board of compact administrators shall be
12 entitled to one vote. No action of the board shall be binding unless
13 taken at a meeting at which a majority of the total number of votes on
14 the board are cast in favor thereof. Action by the board shall be only
15 at a meeting at which a majority of the party states are represented.

16 (c) The board shall elect annually, from its membership, a
17 chairperson and vice-chairperson.

18 (d) The board shall adopt bylaws, not inconsistent with the
19 provisions of this compact or the laws of a party state, for the
20 conduct of its business and shall have the power to amend and rescind
21 its bylaws.

22 (e) The board may accept for any of its purposes and functions
23 under this compact all donations and grants of money, equipment,
24 supplies, materials, and services, conditional or otherwise, from any
25 state, the United States, or any governmental agency, and may receive,
26 utilize, and dispose of the same.

27 (f) The board may contract with or accept services or personnel
28 from any governmental or intergovernmental agency, individual, firm,
29 corporation, or any private nonprofit organization or institution.

30 (g) The board shall formulate all necessary procedures and develop
31 uniform forms and documents for administering the provisions of this
32 compact. All procedures and forms adopted pursuant to board action
33 shall be contained in the compact manual.

34 ARTICLE VIII

35 ENTRY INTO COMPACT AND WITHDRAWAL

36 (a) This compact shall become effective when it has been adopted by
37 at least two states.

1 (b)(1) Entry into the compact shall be made by resolution of
2 ratification executed by the authorized officials of the applying state
3 and submitted to the chairperson of the board.

4 (2) The resolution shall be in a form and content as provided in
5 the compact manual and shall include statements that in substance are
6 as follows:

7 (i) A citation of the authority by which the state is empowered to
8 become a party to this compact;

9 (ii) Agreement to comply with the terms and provisions of the
10 compact; and

11 (iii) That compact entry is with all states then party to the
12 compact and with any state that legally becomes a party to the compact.

13 (3) The effective date of entry shall be specified by the applying
14 state, but shall not be less than sixty days after notice has been
15 given by the chairperson of the board of compact administrators or by
16 the secretariat of the board to each party state that the resolution
17 from the applying state has been received.

18 (c) A party state may withdraw from this compact by official
19 written notice to the other party states, but a withdrawal shall not
20 take effect until ninety days after notice of withdrawal is given. The
21 notice shall be directed to the compact administrator of each member
22 state. No withdrawal shall affect the validity of this compact as to
23 the remaining party states.

24 ARTICLE IX

25 AMENDMENTS TO THE COMPACT

26 (a) This compact may be amended from time to time. Amendments
27 shall be presented in resolution form to the chairperson of the board
28 of compact administrators and may be initiated by one or more party
29 states.

30 (b) Adoption of an amendment shall require endorsement by all party
31 states and shall become effective thirty days after the date of the
32 last endorsement.

33 (c) Failure of a party state to respond to the compact chairperson
34 within one hundred twenty days after receipt of the proposed amendment
35 shall constitute endorsement.

36 ARTICLE X

37 CONSTRUCTION AND SEVERABILITY

1 This compact shall be liberally construed so as to effectuate the
2 purposes stated herein. The provisions of this compact shall be
3 severable and if any phrase, clause, sentence, or provision of this
4 compact is declared to be contrary to the constitution of any party
5 state or of the United States or the applicability thereof to any
6 government, agency, individual, or circumstance is held invalid, the
7 compact shall not be affected thereby. If this compact shall be held
8 contrary to the constitution of any party state thereto, the compact
9 shall remain in full force and effect as to the remaining states and in
10 full force and effect as to the state affected as to all severable
11 matters.

12 ARTICLE XI

13 TITLE

14 This compact shall be known as the wildlife violator compact.

15 **Sec. 56.** RCW 77.17.020 and 1993 c 82 s 2 are each amended to read
16 as follows:

17 For purposes of Article VII of RCW 77.17.010, the term "licensing
18 authority," with reference to this state, means the department ((of
19 wildlife)). The director ((of the department of wildlife)) is
20 authorized to appoint a compact administrator.

21 **Sec. 57.** RCW 77.17.030 and 1993 c 82 s 3 are each amended to read
22 as follows:

23 The director ((of the department of wildlife)) shall furnish to the
24 appropriate authorities of the participating states any information or
25 documents reasonably necessary to facilitate the administration of the
26 compact.

27 **Sec. 58.** RCW 79.01.805 and 1993 c 283 s 3 are each amended to read
28 as follows:

29 The maximum daily wet weight harvest or possession of seaweed for
30 personal use from all private and public tidelands and state bedlands
31 is ten pounds per person. The department of natural resources in
32 cooperation with the department of ((fisheries)) fish and wildlife may
33 establish seaweed harvest limits of less than ten pounds for
34 conservation purposes. This section shall in no way affect the ability

1 of any state agency to prevent harvest of any species of marine aquatic
2 plant from lands under its control, ownership, or management.

3 **Sec. 59.** RCW 79.01.815 and 1993 c 283 s 5 are each amended to read
4 as follows:

5 The department of ((fisheries)) fish and wildlife may enforce the
6 provisions of RCW 79.01.805 and 79.01.810.

7 **Sec. 60.** RCW 79.66.080 and 1988 c 36 s 53 are each amended to read
8 as follows:

9 Periodically, at intervals to be determined by the board of natural
10 resources, the department of natural resources shall identify trust
11 lands which are expected to convert to commercial, residential, or
12 industrial uses within ten years. The department shall adhere to
13 existing local comprehensive plans, zoning classifications, and duly
14 adopted local policies when making this identification and determining
15 the fair market value of the property.

16 The department shall hold a public hearing on the proposal in the
17 county where the state land is located. At least fifteen days but not
18 more than thirty days before the hearing, the department shall publish
19 a public notice of reasonable size in display advertising form, setting
20 forth the date, time, and place of the hearing, at least once in one or
21 more daily newspapers of general circulation in the county and at least
22 once in one or more weekly newspapers circulated in the area where the
23 trust land is located. At the same time that the published notice is
24 given, the department shall give written notice of the hearings to the
25 departments of ((fisheries,)) fish and wildlife((,)) and general
26 administration, to the parks and recreation commission, and to the
27 county, city, or town in which the property is situated. The
28 department shall disseminate a news release pertaining to the hearing
29 among printed and electronic media in the area where the trust land is
30 located. The public notice and news release also shall identify trust
31 lands in the area which are expected to convert to commercial,
32 residential, or industrial uses within ten years.

33 A summary of the testimony presented at the hearings shall be
34 prepared for the board's consideration. The board of natural resources
35 shall designate trust lands which are expected to convert to
36 commercial, residential, or industrial uses as urban land.
37 Descriptions of lands designated by the board shall be made available

1 to the county and city or town in which the land is situated and for
2 public inspection and copying at the department's administrative office
3 in Olympia, Washington and at each area office.

4 The hearing and notice requirements of this section apply to those
5 trust lands which have been identified by the department prior to July
6 1, 1984, as being expected to convert to commercial, residential, or
7 industrial uses within the next ten years, and which have not been sold
8 or exchanged prior to July 1, 1984.

9 **Sec. 61.** RCW 79.70.030 and 1988 c 36 s 54 are each amended to read
10 as follows:

11 In order to set aside, preserve and protect natural areas within
12 the state, the department is authorized, in addition to any other
13 powers, to:

14 (1) Establish by rule and regulation the criteria for selection,
15 acquisition, management, protection and use of such natural areas;

16 (2) Cooperate or contract with any federal, state, or local
17 governmental agency, private organizations or individuals in carrying
18 out the purpose of this chapter;

19 (3) Consistent with the plan, acquire by gift, devise, purchase,
20 grant, dedication, or means other than eminent domain, the fee or any
21 lesser right or interest in real property which shall be held and
22 managed as a natural area;

23 (4) Acquire by gift, devise, grant or donation any personal
24 property to be used in the acquisition and/or management of natural
25 areas;

26 (5) Inventory existing public, state and private lands in
27 cooperation with the council to assess possible natural areas to be
28 preserved within the state;

29 (6) Maintain a natural heritage program to provide assistance in
30 the selection and nomination of areas containing natural heritage
31 resources for registration or dedication. The program shall maintain
32 a classification of natural heritage resources, an inventory of their
33 locations, and a data bank for such information. The department of
34 natural resources shall cooperate with the department of fish and
35 wildlife in the selection and nomination of areas from the data bank
36 that relate to critical wildlife habitats. Information from the data
37 bank shall be made available to public and private agencies and
38 individuals for environmental assessment and proprietary land

1 management purposes. Usage of the classification, inventory or data
2 bank of natural heritage resources for any purpose inconsistent with
3 the natural heritage program is not authorized;

4 (7) Prepare a natural heritage plan which shall govern the natural
5 heritage program in the conduct of activities to create and manage a
6 system of natural areas which may include areas designated under the
7 research natural area program on federal lands in the state;

8 (a) The plan shall list the natural heritage resources to be
9 considered for registration and shall provide criteria for the
10 selection and approval of natural areas under this chapter;

11 (b) The department shall provide opportunities for input, comment,
12 and review to the public, other public agencies, and private groups
13 with special interests in natural heritage resources during preparation
14 of the plan;

15 (c) Upon approval by the council and adoption by the department,
16 the plan shall be updated and submitted biennially to the appropriate
17 committees of the legislature for their information and review. The
18 plan shall take effect ninety days after the adjournment of the
19 legislative session in which it is submitted unless the reviewing
20 committees suggest changes or reject the plan; and

21 (8) Maintain a state register of natural areas containing
22 significant natural heritage resources to be called the Washington
23 register of natural area preserves. Selection of natural areas for
24 registration shall be in accordance with criteria listed in the natural
25 heritage plan and accomplished through voluntary agreement between the
26 owner of the natural area and the department. No privately owned lands
27 may be proposed to the council for registration without prior notice to
28 the owner or registered without voluntary consent of the owner. No
29 state or local governmental agency may require such consent as a
30 condition of any permit or approval of or settlement of any civil or
31 criminal proceeding or to penalize any landowner in any way for failure
32 to give, or for withdrawal of, such consent.

33 (a) The department shall adopt rules and regulations as authorized
34 by RCW 43.30.310 and 79.70.030(1) and chapter 34.05 RCW relating to
35 voluntary natural area registration.

36 (b) After approval by the council, the department may place sites
37 onto the register or remove sites from the register.

38 (c) The responsibility for management of registered natural area
39 preserves shall be with the preserve owner. A voluntary management

1 agreement may be developed between the department and the owners of the
2 sites on the register.

3 (d) Any public agency may register lands under provisions of this
4 chapter.

5 **Sec. 62.** RCW 79.70.070 and 1988 c 36 s 55 are each amended to read
6 as follows:

7 (1) The natural heritage advisory council is hereby established.
8 The council shall consist of fifteen members, nine of whom shall be
9 chosen as follows and who shall elect from the council's membership a
10 chairperson:

11 (a) Five individuals, appointed by the commissioner, who shall be
12 recognized experts in the ecology of natural areas and represent the
13 public, academic, and private sectors. Desirable fields of expertise
14 are biological and geological sciences; and

15 (b) Four individuals, appointed by the commissioner, who shall be
16 selected from the various regions of the state. At least one member
17 shall be or represent a private forest landowner and at least one
18 member shall be or represent a private agricultural landowner.

19 (2) Members appointed under subsection (1) of this section shall
20 serve for terms of four years.

21 (3) In addition to the members appointed by the commissioner, the
22 director of the department of fish and wildlife, the director of the
23 department of ecology, (~~the director of the department of fisheries,~~)
24 the supervisor of the department of natural resources, the director of
25 the state parks and recreation commission, and the administrator of the
26 interagency committee for outdoor recreation, or an authorized
27 representative of each agency officer, shall serve as ex officio,
28 nonvoting members of the council.

29 (4) Any vacancy on the council shall be filled by appointment for
30 the unexpired term by the commissioner.

31 (5) In order to provide for staggered terms, of the initial members
32 of the council:

33 (a) Three shall serve for a term of two years;

34 (b) Three shall serve for a term of three years; and

35 (c) Three shall serve for a term of four years.

36 (6) Members of the natural preserves advisory committee serving on
37 July 26, 1981, shall serve as members of the council until the
38 commissioner appoints a successor to each. The successor appointment

1 shall be specifically designated to replace a member of the natural
2 preserves advisory committee until all members of that committee have
3 been replaced. A member of the natural preserves advisory committee is
4 eligible for appointment to the council if otherwise qualified.

5 (7) Members of the council shall serve without compensation.
6 Members shall be reimbursed for travel expenses as provided in RCW
7 43.03.050 and 43.03.060 as now or hereafter amended.

8 **Sec. 63.** RCW 79.70.080 and 1988 c 36 s 56 are each amended to read
9 as follows:

10 (1) The council shall:

11 (a) Meet at least annually and more frequently at the request of
12 the chairperson;

13 (b) Recommend policy for the natural heritage program through the
14 review and approval of the natural heritage plan;

15 (c) Advise the department, the department of fish and wildlife, the
16 state parks and recreation commission, (~~the department of fisheries,~~)
17 and other state agencies managing state-owned land or natural resources
18 regarding areas under their respective jurisdictions which are
19 appropriate for natural area registration or dedication;

20 (d) Advise the department of rules and regulations that the council
21 considers necessary in carrying out this chapter; and

22 (e) Review and approve area nominations by the department or other
23 agencies for registration and review and comment on legal documents for
24 the voluntary dedication of such areas.

25 (2) From time to time, the council shall identify areas from the
26 natural heritage data bank which qualify for registration. Priority
27 shall be based on the natural heritage plan and shall generally be
28 given to those resources which are rarest, most threatened, or under-
29 represented in the heritage conservation system on a state-wide basis.
30 After qualifying areas have been identified, the department shall
31 advise the owners of such areas of the opportunities for acquisition or
32 voluntary registration or dedication.

33 **Sec. 64.** RCW 79.72.020 and 1988 c 36 s 57 are each amended to read
34 as follows:

35 The definitions set forth in this section apply throughout this
36 chapter unless the context clearly requires otherwise.

37 (1) "Department" means the state parks and recreation commission.

1 (2) "Committee of participating agencies" or "committee" means a
2 committee composed of the executive head, or the executive's designee,
3 of each of the state departments of ecology, (~~(fisheries,)~~) fish and
4 wildlife, natural resources, and transportation, the state parks and
5 recreation commission, the interagency committee for outdoor
6 recreation, the Washington state association of counties, and the
7 association of Washington cities. In addition, the governor shall
8 appoint two public members of the committee. Public members of the
9 committee shall be compensated in accordance with RCW 43.03.220 and
10 shall receive reimbursement for their travel expenses as provided in
11 RCW 43.03.050 and (~~(RCW)~~) 43.03.060.

12 When a specific river or river segment of the state's scenic river
13 system is being considered by the committee, a representative of each
14 participating local government associated with that river or river
15 segment shall serve as a member of the committee.

16 (3) "Participating local government" means the legislative
17 authority of any city or county, a portion of whose territorial
18 jurisdiction is bounded by or includes a river or river segment of the
19 state's scenic river system.

20 (4) "River" means a flowing body of water or a section, segment, or
21 portion thereof.

22 (5) "River area" means a river and the land area in its immediate
23 environs as established by the participating agencies not exceeding a
24 width of one-quarter mile landward from the streamway on either side of
25 the river.

26 (6) "Scenic easement" means the negotiated right to control the use
27 of land, including the air space above the land, for the purpose of
28 protecting the scenic view throughout the visual corridor.

29 (7) "Streamway" means that stream-dependent corridor of single or
30 multiple, wet or dry, channel or channels within which the usual
31 seasonal or stormwater run-off peaks are contained, and within which
32 environment the flora, fauna, soil, and topography is dependent on or
33 influenced by the height and velocity of the fluctuating river
34 currents.

35 (8) "System" means all the rivers and river areas in the state
36 designated by the legislature for inclusion as scenic rivers but does
37 not include tributaries of a designated river unless specifically
38 included by the legislature. The inclusion of a river in the system
39 does not mean that other rivers or tributaries in a drainage basin

1 shall be required to be part of the management program developed for
2 the system unless the rivers and tributaries within the drainage basin
3 are specifically designated for inclusion by the legislature.

4 (9) "Visual corridor" means that area which can be seen in a normal
5 summer month by a person of normal vision walking either bank of a
6 river included in the system. The visual corridor shall not exceed the
7 river area.

8 **Sec. 65.** RCW 79.81.030 and 1989 c 23 s 3 are each amended to read
9 as follows:

10 The department shall have the authority to coordinate
11 implementation of the plan with appropriate state agencies including
12 the parks and recreation commission and the departments of ecology(~~(~~
13 ~~fisheries~~~~,~~) and fish and wildlife. The department is authorized to
14 promulgate, in consultation with affected agencies, the necessary rules
15 to provide for the cleanup and to prevent pollution of the waters of
16 the state and aquatic lands by plastic and other marine debris.

17 **Sec. 66.** RCW 79.94.390 and 1983 1st ex.s. c 46 s 181 are each
18 amended to read as follows:

19 The following described tidelands, being public lands of the state,
20 are withdrawn from sale or lease and reserved as public areas for
21 recreational use and for the taking of fish and shellfish for personal
22 use as defined in RCW 75.08.011:

23 Parcel No. 1. (Point Whitney) The tidelands of the second class,
24 owned by the state of Washington, situate in front of, adjacent to or
25 abutting upon lots 3, 4, and 5, section 7, township 26 north, range 1
26 west, W.M., with a frontage of 72.45 lineal chains, more or less.

27 Excepting, however, those portions of the above described tidelands
28 of the second class conveyed to the state of Washington, department of
29 (~~(fisheries and game)~~) fish and wildlife through deed issued May 14,
30 1925, under application No. 8136, records of department of public
31 lands.

32 Parcel No. 2. (Point Whitney) The tidelands of the second class
33 lying below the line of mean low tide, owned by the state of
34 Washington, situate in front of lot 1, section 6, township 26 north,
35 range 1 west, W.M., with a frontage of 21.00 lineal chains, more or
36 less; also

1 The tidelands of the second class, owned by the state of
2 Washington, situate in front of, adjacent to or abutting upon lots 6
3 and 7, and that portion of lot 5, section 1, township 26 north, range
4 1 west, W.M., lying south of a line running due west from a point on
5 the government meander line which is S 22° E 1.69 chains from an angle
6 point in said meander line which is S 15° W 1.20 chains, more or less,
7 from the point of intersection of the north line of said lot 5 and said
8 meander line, with a frontage of 40.31 lineal chains, more or less.

9 Parcel No. 3. (Toandos Peninsula) The tidelands of the second
10 class, owned by the state of Washington, situate in front of, adjacent
11 to, or abutting upon lots 1, 2, and 3, section 5, lots 1, 2, and 3,
12 section 4, and lot 1, section 3, all in township 25 north, range 1
13 west, W.M., with a frontage of 158.41 lineal chains, more or less.

14 Parcel No. 4. (Shine) The tidelands of the second class, owned by
15 the state of Washington, situate in front of, adjacent to, or abutting
16 upon lots 1, 2, 3 and that portion of lot 4 lying north of the south
17 8.35 chains thereof as measured along the government meander line, all
18 in section 35, township 28 north, range 1 east, W.M., with a frontage
19 of 76.70 lineal chains, more or less.

20 Subject to an easement for right of way for county road granted to
21 Jefferson county December 8, 1941 under application No. 1731, records
22 of department of public lands.

23 Parcel No. 5. (Lilliwaup) The tidelands of the second class, owned
24 by the state of Washington, lying easterly of the east line of vacated
25 state oyster reserve plat No. 133 produced southerly and situate in
26 front of, adjacent to or abutting upon lot 9, section 30, lot 8,
27 section 19 and lot 5 and the south 20 acres of lot 4, section 20, all
28 in township 23 north, range 3 west, W.M., with a frontage of 62.46
29 lineal chains, more or less.

30 Subject to easements for rights of way for state road granted
31 through the filing of state road plats No. 374 December 15, 1930, No.
32 661, March 29, 1949, and No. 666 August 25, 1949, records of department
33 of public lands.

34 Parcel No. 6. (Nemah) Those portions of the tidelands of the
35 second class, owned by the state of Washington, situate in front of,
36 adjacent to, or abutting upon lots 5, 6, and 7, section 3 and lots 1,
37 2, and 3, section 4, township 12 north, range 10 west, W.M., lots 1, 2,
38 3, and 4, section 34, section 27 and lots 1, 2, 3 and 4, section 28,
39 township 13 north, range 10 west, W.M., lying easterly of the easterly

1 line of the Nemah Oyster reserve and easterly of the easterly line of
2 a tract of tidelands of the second class conveyed through deed issued
3 July 28, 1938, pursuant to the provisions of chapter 24, Laws of 1895,
4 under application No. 9731, with a frontage of 326.22 lineal chains,
5 more or less.

6 Parcels No. 7 and 8. (Penn Cove) The unplatted tidelands of the
7 first class, and tidelands of the second class, owned by the state of
8 Washington, situate in front of, adjacent to, or abutting upon lots 1
9 and 2, section 33, lots 1, 2, 3, and 4, section 32, lots 2 and 3 and
10 the B.P. Barstow D.L.C. No. 49, sections 30 and 31 and that portion of
11 the R.H. Lansdale D.L.C. No. 54 in section 30, lying west of the east
12 3.00 chains thereof as measured along the government meander line, all
13 in township 32 north, range 1 east, W.M., with a frontage of 260.34
14 lineal chains, more or less.

15 Excepting, however, the tidelands above the line of mean low tide
16 in front of said lot 1, section 32 which were conveyed as tidelands of
17 the second class through deed issued December 29, 1908, application No.
18 4957, records of department of public lands.

19 Subject to an easement for right of way for transmission cable line
20 granted to the United States of America Army Engineers June 7, 1943,
21 under application No. 17511, records of department of public lands.

22 Parcel No. 9. (South of Penn Cove) The tidelands of the second
23 class, owned by the state of Washington, situate in front of, adjacent
24 to, or abutting upon lots 2, 3 and 4, section 17 and lots 1, 2 and 3,
25 section 20, township 31 north, range 2 east, W.M., with a frontage of
26 129.97 lineal chains, more or less.

27 Parcel No. 10. (Mud Bay--Lopez Island) The tidelands of the second
28 class, owned by the state of Washington situate in front of, adjacent
29 to, or abutting upon lots 5, 6 and 7, section 18, lot 5, section 7 and
30 lots 3, 4, and 5, section 8, all in township 34 north, range 1 west,
31 W.M., with a frontage of 172.11 lineal chains, more or less.

32 Excepting, however, any tideland of the second class in front of
33 said lot 3, section 8 conveyed through deeds issued April 14, 1909,
34 pursuant to the provisions of chapter 24, Laws of 1895, under
35 application No. 4985, records of department of public lands.

36 Parcel No. 11. (Cattle Point) The tidelands of the second class,
37 owned by the state of Washington, situate in front of, adjacent to, or
38 abutting upon lot 1, section 6, lots 1, 3, 4, 5, 6, 7, 8, 9, and 10,
39 section 7, lots 1, 2, 3, 4, 5, 6 and 7, section 8 and lot 1, section 5,

1 all in township 34 north, range 2 west, W.M., with a frontage of 463.88
2 lineal chains, more or less.

3 Excepting, however, any tidelands of the second class in front of
4 said lot 10, section 7 conveyed through deed issued June 1, 1912, under
5 application No. 6906, records of department of public lands.

6 Parcel No. 12. (Spencer Spit) The tidelands of the second class,
7 owned by the state of Washington, situate in front of, adjacent to, or
8 abutting upon lots 1, 3, and 4, section 7, and lot 5, section 18 all in
9 township 35 north, range 1 west, W.M., with a frontage of 118.80 lineal
10 chains, more or less.

11 **Sec. 67.** RCW 79.94.400 and 1982 1st ex.s. c 21 s 125 are each
12 amended to read as follows:

13 The director of ((fisheries)) fish and wildlife may take
14 appropriate action to provide public and private access, including
15 roads and docks, to and from the tidelands described in RCW 79.94.390.

16 **Sec. 68.** RCW 79.96.030 and 1987 c 374 s 1 are each amended to read
17 as follows:

18 (1) The department of natural resources, upon the receipt of an
19 application for a lease for the purpose of planting and cultivating
20 oyster beds or for the purpose of cultivating clams or other edible
21 shellfish, shall notify the director of ((fisheries)) fish and wildlife
22 of the filing of the application describing the tidelands or beds of
23 navigable waters applied for. The director of ((fisheries)) fish and
24 wildlife shall cause an inspection of the lands applied for to be made
25 and shall make a full report to the department of natural resources of
26 his or her findings as to whether it is necessary, in order to protect
27 existing natural oyster beds, and to secure adequate seeding thereof,
28 to retain the lands described in the application for lease or any part
29 thereof, and in the event the director deems it advisable to retain the
30 lands or any part thereof for the protection of existing natural oyster
31 beds or to guarantee the continuance of an adequate seed stock for
32 existing natural oyster beds, the same shall not be subject to lease.
33 However, if the director determines that the lands applied for or any
34 part thereof may be leased, ((he)) the director shall so notify the
35 department of natural resources and the director shall cause an
36 examination of the lands to be made to determine the presence, if any,
37 of natural oysters, clams, or other edible shellfish on said lands, and

1 to fix the rental value of the lands for use for oyster, clam, or other
2 edible shellfish cultivation. In his or her report to the department,
3 the director shall recommend a minimum rental for said lands and an
4 estimation of the value of the oysters, clams, or other edible
5 shellfish, if any, then present on the lands applied for. The lands
6 approved by the director for lease may then be leased to the applicant
7 for a period of not less than five years nor more than ten years at a
8 rental not less than the minimum rental recommended by the director of
9 ((fisheries)) fish and wildlife. In addition, before entering upon
10 possession of the land, the applicant shall pay the value of the
11 oysters, clams, or other edible shellfish, if any, then present on the
12 land as determined by the director, plus the expense incurred by the
13 director in investigating the quantity of oysters, clams, or other
14 edible shellfish, present on the land applied for.

15 (2) When issuing new leases or reissuing existing leases the
16 department shall not permit the commercial harvest of subtidal
17 hardshell clams by means of hydraulic escalating when the upland within
18 five hundred feet of any lease tract is zoned for residential
19 development.

20 **Sec. 69.** RCW 79.96.040 and 1982 1st ex.s. c 21 s 137 are each
21 amended to read as follows:

22 Before entering into possession of any leased tidelands or beds of
23 navigable waters, the applicant shall cause the same to be surveyed by
24 a registered land surveyor, and he or she shall furnish to the
25 department of natural resources and to the director of ((fisheries))
26 fish and wildlife, a map of the leased premises signed and certified by
27 the registered land surveyor. The lessee shall also cause the
28 boundaries of the leased premises to be marked by piling monuments or
29 other markers of a permanent nature as the director of ((fisheries))
30 fish and wildlife may direct.

31 **Sec. 70.** RCW 79.96.050 and 1993 c 295 s 2 are each amended to read
32 as follows:

33 The department of natural resources may, upon the filing of an
34 application for a renewal lease, cause the tidelands or beds of
35 navigable waters to be inspected, and if he ((deem[s+])) or she deems it
36 in the best interests of the state to re-lease said lands, he or she
37 shall issue to the applicant a renewal lease for such further period

1 not exceeding thirty years and under such terms and conditions as may
2 be determined by the department: PROVIDED, That in the case of an
3 application for a renewal lease it shall not be necessary for the lands
4 to be inspected and reported upon by the director of ((fisheries)) fish
5 and wildlife.

6 **Sec. 71.** RCW 79.96.100 and 1982 1st ex.s. c 21 s 143 are each
7 amended to read as follows:

8 The department of natural resources, upon the receipt of an
9 application for the lease of any first or second class tidelands owned
10 by the state which have heretofore or which may hereafter be set aside
11 as state oyster reserves, shall notify the director of ((fisheries))
12 fish and wildlife of the filing of the application describing the lands
13 applied for. It shall be the duty of the director of ((fisheries))
14 fish and wildlife to cause an inspection of the reserve to be made for
15 the purpose of determining whether said reserve or any part thereof
16 should be retained as a state oyster reserve or vacated.

17 **Sec. 72.** RCW 79.96.110 and 1982 1st ex.s. c 21 s 144 are each
18 amended to read as follows:

19 In case the director of ((fisheries)) fish and wildlife approves
20 the vacation of the whole or any part of said reserve, the department
21 of natural resources may vacate and offer for lease such parts or all
22 of said reserve as it deems to be for the best interest of the state,
23 and all moneys received for the lease of such lands shall be paid to
24 the department of natural resources in accordance with RCW 79.94.190:
25 PROVIDED, That nothing in RCW 79.96.090 through 79.96.110 shall be
26 construed as authorizing the lease of any tidelands which have
27 heretofore, or which may hereafter, be set aside as state oyster
28 reserves in Eld Inlet, Hammersley Inlet, or Totten Inlet, situated in
29 Mason or Thurston counties: PROVIDED FURTHER, That any portion of Plat
30 138, Clifton's Oyster Reserve, which has already been vacated, may be
31 leased by the department.

32 **Sec. 73.** RCW 79.96.130 and 1990 c 163 s 9 are each amended to read
33 as follows:

34 (1) If a person wrongfully takes shellfish or causes shellfish to
35 be wrongfully taken from the public lands and the wrongful taking is
36 intentional and knowing, then the person shall be liable for damages of

1 treble the fair market retail value of the amount of shellfish
2 wrongfully taken. If a person wrongfully takes shellfish from the
3 public lands under other circumstances, then the person shall be liable
4 for damages of double the fair market value of the amount of shellfish
5 wrongfully taken.

6 (2) For purposes of this section, a person "wrongfully takes"
7 shellfish from public lands if the person takes shellfish: (a) Above
8 the limits of any applicable laws that govern the harvest of shellfish
9 from public lands; (b) without reporting the harvest to the department
10 of ((fisheries)) fish and wildlife or the department of natural
11 resources where such reporting is required by law or contract; (c)
12 outside the area or above the limits that an agreement or contract from
13 the department of natural resources allows the harvest of shellfish
14 from public lands; or (d) without a lease or purchase of the shellfish
15 where such lease or purchase is required by law prior to harvest of the
16 shellfish.

17 (3) The remedies in this section are for civil damages and shall be
18 proved by a preponderance of the evidence. The department of natural
19 resources may file a civil action in Thurston county superior court or
20 the county where the shellfish were taken against any person liable
21 under this section. Damages recovered under this section shall be
22 applied in the same way as received under geoduck harvesting agreements
23 authorized by RCW 79.96.080.

24 (4) For purposes of the remedies created by this section, the
25 amount of shellfish wrongfully taken by a person may be established
26 either:

27 (a) By surveying the aquatic lands to reasonably establish the
28 amount of shellfish taken from the immediate area where a person is
29 shown to have been wrongfully taking shellfish;

30 (b) By weighing the shellfish on board any vessel or in possession
31 of a person shown to be wrongfully taking shellfish; or

32 (c) By any other evidence that reasonably establishes the amount of
33 shellfish wrongfully taken.

34 The amount of shellfish established by (a) or (b) of this
35 subsection shall be presumed to be the amount wrongfully taken unless
36 the defendant shows by a preponderance of evidence that the shellfish
37 were lawfully taken or that the defendant did not take the shellfish
38 presumed to have been wrongfully taken. Whenever there is reason to
39 believe that shellfish in the possession of any person were wrongfully

1 taken, the department of natural resources or the department of
2 (~~(fisheries)~~) fish and wildlife may require the person to proceed to a
3 designated off-load point and to weigh all shellfish in possession of
4 the person or on board the person's vessel.

5 (5) This civil remedy is supplemental to the state's power to
6 prosecute any person for theft of shellfish, for other crimes where
7 shellfish are involved, or for violation of regulations of the
8 department of (~~(fisheries)~~) fish and wildlife.

9 **Sec. 74.** RCW 79.96.906 and 1984 c 221 s 26 are each amended to
10 read as follows:

11 The department of natural resources may enter into agreements with
12 the department of (~~(fisheries)~~) fish and wildlife for the development
13 of an intensive management plan for geoducks including the development
14 and operation of a geoduck hatchery.

15 The department of natural resources shall evaluate the progress of
16 the intensive geoduck management program and provide a written report
17 to the legislature by December 1, 1990, for delivery to the appropriate
18 standing committees. The evaluation shall determine the benefits and
19 costs of continued operation of the program, and shall discuss
20 alternatives including continuance, modification, and termination of
21 the intensive geoduck management program.

22 **Sec. 75.** RCW 80.50.030 and 1990 c 12 s 3 are each amended to read
23 as follows:

24 (1) There is created and established the energy facility site
25 evaluation council.

26 (2)(a) The chairman of the council shall be appointed by the
27 governor with the advice and consent of the senate, shall have a vote
28 on matters before the council, shall serve for a term coextensive with
29 the term of the governor, and is removable for cause. The chairman may
30 designate a member of the council to serve as acting chairman in the
31 event of the chairman's absence. The chairman is a "state employee"
32 for the purposes of chapter 42.18 RCW. As applicable, when attending
33 meetings of the council(~~({,})~~), members may receive reimbursement for
34 travel expenses in accordance with RCW 43.03.050 and 43.03.060, and are
35 eligible for compensation under RCW 43.03.240.

36 (b) The chairman or a designee shall execute all official
37 documents, contracts, and other materials on behalf of the council.

1 The Washington state energy office shall provide all administrative and
2 staff support for the council. The director of the energy office has
3 supervisory authority over the staff of the council and shall employ
4 such personnel as are necessary to implement this chapter. Not more
5 than three such employees may be exempt from chapter 41.06 RCW.

6 (3) The council shall consist of the directors, administrators, or
7 their designees, of the following departments, agencies, commissions,
8 and committees or their statutory successors:

9 (a) Department of ecology;

10 (b) Department of ~~((fisheries;~~

11 ~~(c) Department of)) fish and wildlife;~~

12 ~~((d))~~ (c) Parks and recreation commission;

13 ~~((e))~~ (d) Department of health;

14 ~~((f))~~ (e) State energy office;

15 ~~((g))~~ (f) Department of community, trade, and economic
16 development;

17 ~~((h))~~ (g) Utilities and transportation commission;

18 ~~((i))~~ (h) Office of financial management;

19 ~~((j))~~ (i) Department of natural resources;

20 ~~((k) Department of community development;~~

21 ~~(l))~~ (j) Department of agriculture;

22 ~~((m))~~ (k) Department of transportation.

23 (4) The appropriate county legislative authority of every county
24 wherein an application for a proposed site is filed shall appoint a
25 member or designee as a voting member to the council. The member or
26 designee so appointed shall sit with the council only at such times as
27 the council considers the proposed site for the county which he or she
28 represents, and such member or designee shall serve until there has
29 been a final acceptance or rejection of the proposed site;

30 (5) The city legislative authority of every city within whose
31 corporate limits an energy plant is proposed to be located shall
32 appoint a member or designee as a voting member to the council. The
33 member or designee so appointed shall sit with the council only at such
34 times as the council considers the proposed site for the city which he
35 or she represents, and such member or designee shall serve until there
36 has been a final acceptance or rejection of the proposed site.

37 (6) For any port district wherein an application for a proposed
38 port facility is filed subject to this chapter, the port district shall
39 appoint a member or designee as a nonvoting member to the council. The

1 member or designee so appointed shall sit with the council only at such
2 times as the council considers the proposed site for the port district
3 which he or she represents, and such member or designee shall serve
4 until there has been a final acceptance or rejection of the proposed
5 site. The provisions of this subsection shall not apply if the port
6 district is the applicant, either singly or in partnership or
7 association with any other person.

8 **Sec. 76.** RCW 84.34.055 and 1988 c 36 s 62 are each amended to read
9 as follows:

10 (1) The county legislative authority may direct the county planning
11 commission to set open space priorities and adopt, after a public
12 hearing, an open space plan and public benefit rating system for the
13 county. The plan shall consist of criteria for determining eligibility
14 of lands, the process for establishing a public benefit rating system,
15 and an assessed valuation schedule. The assessed valuation schedule
16 shall be developed by the county assessor and shall be a percentage of
17 market value based upon the public benefit rating system. The open
18 space plan, the public benefit rating system, and the assessed
19 valuations schedule shall not be effective until approved by the county
20 legislative authority after at least one public hearing: PROVIDED,
21 That any county which has complied with the procedural requisites of
22 (~~this act~~) chapter 393, Laws of 1985, prior to July 28, 1985, need
23 not repeat those procedures in order to adopt an open space plan
24 pursuant to (~~this act~~) chapter 393, Laws of 1985.

25 (2) In adopting an open space plan, recognized sources shall be
26 used unless the county does its own survey of important open space
27 priorities or features, or both. Recognized sources include but are
28 not limited to the natural heritage data base; the state office of
29 historic preservation; the interagency committee for outdoor recreation
30 inventory of dry accretion beach and shoreline features; state,
31 national, county, or city registers of historic places; the shoreline
32 master program; or studies by the parks and recreation commission and
33 by the departments of (~~fisheries~~) fish and wildlife(~~)~~ and natural
34 resources. Features and sites may be verified by an outside expert in
35 the field and approved by the appropriate state or local agency to be
36 sent to the county legislative authority for final approval as open
37 space.

1 (3) When the county open space plan is adopted, owners of open
2 space lands then classified under this chapter shall be notified in the
3 same manner as is provided in RCW 84.40.045 of their new assessed
4 value. These lands may be removed from classification, upon request of
5 owner, without penalty within thirty days of notification of value.

6 (4) The open space plan and public benefit rating system under this
7 section may be adopted for taxes payable in 1986 and thereafter.

8 **Sec. 77.** RCW 86.26.040 and 1988 c 36 s 63 are each amended to read
9 as follows:

10 Whenever state grants under this chapter are used in a flood
11 control maintenance project, the engineer of the county within which
12 the project is located shall approve all plans for the specific project
13 and shall supervise the work. The approval of such plans, construction
14 and expenditures by the department of ecology, in consultation with the
15 department of (~~fisheries and the department of~~) fish and wildlife,
16 shall be a condition precedent to state participation in the cost of
17 any project beyond planning and designing the specific project.

18 Additionally, state grants may be made to counties for preparation
19 of a comprehensive flood control management plan required to be
20 prepared under RCW 86.26.050.

21 **Sec. 78.** RCW 86.26.050 and 1991 c 322 s 6 are each amended to read
22 as follows:

23 (1) State participation shall be in such preparation of
24 comprehensive flood control management plans under this chapter and
25 chapter 86.12 RCW, cost sharing feasibility studies for new flood
26 control projects, projects pursuant to section 33, chapter 322, Laws of
27 1991, and flood control maintenance projects as are affected with a
28 general public and state interest, as differentiated from a private
29 interest, and as are likely to bring about public benefits commensurate
30 with the amount of state funds allocated thereto.

31 (2) No participation for flood control maintenance projects may
32 occur with a county or other municipal corporation unless the director
33 of ecology has approved the flood plain management activities of the
34 county, city, or town having planning jurisdiction over the area where
35 the flood control maintenance project will be, on the one hundred year
36 flood plain surrounding such area.

1 The department of ecology shall adopt rules concerning the flood
2 plain management activities of a county, city, or town that are
3 adequate to protect or preclude flood damage to structures, works, and
4 improvements, including the restriction of land uses within a river's
5 meander belt or floodway to only flood-compatible uses. Whenever the
6 department has approved county, city, and town flood plain management
7 activities, as a condition of receiving an allocation of funds under
8 this chapter, each revision to the flood plain management activities
9 must be approved by the department of ecology, in consultation with the
10 department of (~~fisheries and the department of~~) fish and wildlife.

11 No participation with a county or other municipal corporation for
12 flood control maintenance projects may occur unless the county engineer
13 of the county within which the flood control maintenance project is
14 located certifies that a comprehensive flood control management plan
15 has been completed and adopted by the appropriate local authority, or
16 is being prepared for all portions of the river basin or other area,
17 within which the project is located in that county, that are subject to
18 flooding with a frequency of one hundred years or less.

19 (3) Participation for flood control maintenance projects and
20 preparation of comprehensive flood control management plans shall be
21 made from grants made by the department of ecology from the flood
22 control assistance account. Comprehensive flood control management
23 plans, and any revisions to the plans, must be approved by the
24 department of ecology, in consultation with the department of
25 (~~fisheries and the department of~~) fish and wildlife. The department
26 may only grant financial assistance to local governments that, in the
27 opinion of the department, are making good faith efforts to take
28 advantage of, or comply with, federal and state flood control programs.

29 **Sec. 79.** RCW 87.84.061 and 1988 c 127 s 69 are each amended to
30 read as follows:

31 The water in any natural or impounded lake, wholly or partially
32 within the boundaries of an irrigation and rehabilitation district,
33 together with all use of said water and the bottom and shore lines to
34 the line established by the highest level where water has been or shall
35 be stored in said lake, shall be regulated, controlled and used by the
36 irrigation and rehabilitation district in order to further the health,
37 safety, recreation and welfare of the residents in the district and the
38 citizens and guests of the state of Washington, subject to rights of

1 the United States bureau of reclamation and any irrigation districts
2 organized under the laws of the state of Washington.

3 In addition to the powers expressly or impliedly enumerated above,
4 the directors of an irrigation and rehabilitation district shall have
5 the power and authority to:

6 (1) Control and regulate the use of boats, skiers, skin divers,
7 aircraft, ice skating, ice boats, swimmers or any other use of said
8 lake, by means of appropriate rules and regulations not inconsistent
9 with state fish, game or aeronautics laws.

10 (2) Expend district funds for the control of mosquitoes or other
11 harmful insects which may affect the use of any lake located in the
12 district: PROVIDED, That the state department of social and health
13 services gives its approval in writing to any district program
14 instituted under the authority of this item. District funds may be
15 expended for mosquito and insect control or other district projects or
16 activities even though it may be necessary to place chemicals or carry
17 on activities on areas located outside of an irrigation and
18 rehabilitation district's boundaries. These funds may be transferred
19 to the jurisdictional health department for the purpose of carrying out
20 the provisions of this item.

21 (3) Except for state highways, control, regulate or prohibit by
22 means of rules and regulations, the building, construction, placing or
23 allowing to be placed from adjoining land, sand, gravel, dirt, rock,
24 tires, lumber, logs, bottles, cans, garbage and trash, or any
25 loathsome, noxious substances or materials of any kind, and any piling,
26 causeways, fill, roads, culverts, wharfs, bulkheads, buildings,
27 structures, floats, or markers, in, on or above the line established by
28 the highest level where water has been or shall be stored in said lake,
29 located in the district, in order to further the interests of the
30 citizens of the state of Washington, and residents of the district.

31 (4) Except for state highways, control, regulate and require the
32 placing, maintenance and use of culverts and boat accesses under and
33 through existing fills constructed over and/or across any lake located
34 within the district to facilitate water circulation, navigation and the
35 reduction of flood danger.

36 (5) Control the taking of carp or other rough fish located in the
37 district and including the right to grant or sell an exclusive or
38 concurrent franchise for the taking of carp or other rough fish,
39 providing the (~~state fisheries~~) department of fish and wildlife give

1 their approval in writing to any district project regarding the
2 capture, or sale of fish.

3 (6) Control and regulate by means of rules and regulations the
4 direct or indirect introduction into any lake within the district of
5 any human, animal or industrial waste products, sewage, effluent or
6 byproducts, treated or untreated: PROVIDED, That the state department
7 of ecology gives its approval in writing to any district program
8 instituted under this section, and nothing herein shall be deemed to
9 amend, repeal, supersede, or otherwise modify any laws or regulations
10 relating to public health or to the department of ecology.

11 (7) Except for state highways, construct, maintain, place, and/or
12 restore roads, buildings, docks, dams, canals, locks, mechanical lifts
13 or any other type of transportation facility; dredge, purchase land, or
14 lease land, or enter into agreements with other agencies or conduct any
15 other activity within or without the district boundaries in order to
16 carry out district projects or activities to further the recreational
17 potential of the area.

18 **Sec. 80.** RCW 88.12.055 and 1993 c 244 s 9 are each amended to read
19 as follows:

20 (1) Every law enforcement officer of this state and its political
21 subdivisions has the authority to enforce this chapter. Law
22 enforcement officers may enforce recreational boating rules adopted by
23 the commission. Such law enforcement officers include, but are not
24 limited to, county sheriffs, officers of other local law enforcement
25 entities, wildlife agents ((of the department of wildlife)) and
26 fisheries patrol officers of the department of ((fisheries)) fish and
27 wildlife, through ((their directors)) the director, the state patrol,
28 through its chief, and state park rangers. In the exercise of this
29 responsibility, all such officers may stop and board any vessel and
30 direct it to a suitable pier or anchorage to enforce this chapter.

31 (2) This chapter shall be construed to supplement federal laws and
32 regulations. To the extent this chapter is inconsistent with federal
33 laws and regulations, the federal laws and regulations shall control.

34 **Sec. 81.** RCW 88.12.305 and 1989 c 393 s 3 are each amended to read
35 as follows:

36 The commission, in consultation with the departments of ecology,
37 ((fisheries,)) fish and wildlife, natural resources, social and health

1 services, and the Puget Sound water quality authority shall conduct a
2 literature search and analyze pertinent studies to identify areas which
3 are polluted or environmentally sensitive within the state's waters.
4 Based on this review the commission shall designate appropriate areas
5 as polluted or environmentally sensitive, for the purposes of ((this
6 act)) chapter 393, Laws of 1989 only.

7 **Sec. 82.** RCW 90.03.247 and 1987 c 506 s 95 and 1987 c 505 s 81 are
8 each reenacted and amended to read as follows:

9 Whenever an application for a permit to make beneficial use of
10 public waters is approved relating to a stream or other water body for
11 which minimum flows or levels have been adopted and are in effect at
12 the time of approval, the permit shall be conditioned to protect the
13 levels or flows. No agency may establish minimum flows and levels or
14 similar water flow or level restrictions for any stream or lake of the
15 state other than the department of ecology whose authority to establish
16 is exclusive, as provided in chapter 90.03 RCW and RCW 90.22.010 and
17 90.54.040. The provisions of other statutes, including but not limited
18 to RCW 75.20.100 and chapter 43.21C RCW, may not be interpreted in a
19 manner that is inconsistent with this section. In establishing such
20 minimum flows, levels, or similar restrictions, the department shall,
21 during all stages of development by the department of ecology of
22 minimum flow proposals, consult with, and carefully consider the
23 recommendations of, (~~the department of fisheries,~~) the department of
24 fish and wildlife, the state energy office, the department of
25 agriculture, and representatives of the affected Indian tribes.
26 Nothing herein shall preclude (~~the department of fisheries,~~) the
27 department of fish and wildlife, the energy office, or the department
28 of agriculture from presenting its views on minimum flow needs at any
29 public hearing or to any person or agency, and (~~the department of~~
30 ~~fisheries,~~) the department of fish and wildlife, the energy office,
31 and the department of agriculture are each empowered to participate in
32 proceedings of the federal energy regulatory commission and other
33 agencies to present its views on minimum flow needs.

34 **Sec. 83.** RCW 90.03.280 and 1988 c 36 s 65 are each amended to read
35 as follows:

36 Upon receipt of a proper application, the department shall instruct
37 the applicant to publish notice thereof in a form and within a time

1 prescribed by ((him)) the department in a newspaper of general
2 circulation published in the county or counties in which the storage,
3 diversion, and use is to be made, and in such other newspapers as
4 ((he)) the department may direct, once a week for two consecutive
5 weeks. Upon receipt by the department of an application it shall send
6 notice thereof containing pertinent information to ((~~the director of~~
7 ~~fisheries and~~)) the director of fish and wildlife.

8 **Sec. 84.** RCW 90.03.290 and 1988 c 36 s 66 are each amended to read
9 as follows:

10 When an application complying with the provisions of this chapter
11 and with the rules and regulations of the department has been filed,
12 the same shall be placed on record with the department, and it shall be
13 its duty to investigate the application, and determine what water, if
14 any, is available for appropriation, and find and determine to what
15 beneficial use or uses it can be applied. If it is proposed to
16 appropriate water for irrigation purposes, the department shall
17 investigate, determine and find what lands are capable of irrigation by
18 means of water found available for appropriation. If it is proposed to
19 appropriate water for the purpose of power development, the department
20 shall investigate, determine and find whether the proposed development
21 is likely to prove detrimental to the public interest, having in mind
22 the highest feasible use of the waters belonging to the public. If the
23 application does not contain, and the applicant does not promptly
24 furnish sufficient information on which to base such findings, the
25 department may issue a preliminary permit, for a period of not to
26 exceed three years, requiring the applicant to make such surveys,
27 investigations, studies, and progress reports, as in the opinion of the
28 department may be necessary. If the applicant fails to comply with the
29 conditions of the preliminary permit, it and the application or
30 applications on which it is based shall be automatically canceled and
31 the applicant so notified. If the holder of a preliminary permit
32 shall, before its expiration, file with the department a verified
33 report of expenditures made and work done under the preliminary permit,
34 which, in the opinion of the department, establishes the good faith,
35 intent and ability of the applicant to carry on the proposed
36 development, the preliminary permit may, with the approval of the
37 governor, be extended, but not to exceed a maximum period of five years
38 from the date of the issuance of the preliminary permit. The

1 department shall make and file as part of the record in the matter,
2 written findings of fact concerning all things investigated, and if it
3 shall find that there is water available for appropriation for a
4 beneficial use, and the appropriation thereof as proposed in the
5 application will not impair existing rights or be detrimental to the
6 public welfare, it shall issue a permit stating the amount of water to
7 which the applicant shall be entitled and the beneficial use or uses to
8 which it may be applied: PROVIDED, That where the water applied for is
9 to be used for irrigation purposes, it shall become appurtenant only to
10 such land as may be reclaimed thereby to the full extent of the soil
11 for agricultural purposes. But where there is no unappropriated water
12 in the proposed source of supply, or where the proposed use conflicts
13 with existing rights, or threatens to prove detrimental to the public
14 interest, having due regard to the highest feasible development of the
15 use of the waters belonging to the public, it shall be duty of the
16 department to reject such application and to refuse to issue the permit
17 asked for. If the permit is refused because of conflict with existing
18 rights and such applicant shall acquire same by purchase or
19 condemnation under RCW 90.03.040, the department may thereupon grant
20 such permit. Any application may be approved for a less amount of
21 water than that applied for, if there exists substantial reason
22 therefor, and in any event shall not be approved for more water than
23 can be applied to beneficial use for the purposes named in the
24 application. In determining whether or not a permit shall issue upon
25 any application, it shall be the duty of the department to investigate
26 all facts relevant and material to the application. After the
27 department approves said application in whole or in part and before any
28 permit shall be issued thereon to the applicant, such applicant shall
29 pay the fee provided in RCW 90.03.470: PROVIDED FURTHER, That in the
30 event a permit is issued by the department upon any application, it
31 shall be its duty to notify (~~both the director of fisheries and~~) the
32 director of fish and wildlife of such issuance.

33 **Sec. 85.** RCW 90.03.360 and 1993 sp.s. c 4 s 12 are each amended to
34 read as follows:

35 (1) The owner or owners of any water diversion shall maintain, to
36 the satisfaction of the department of ecology, substantial controlling
37 works and a measuring device constructed and maintained to permit
38 accurate measurement and practical regulation of the flow of water

1 diverted. Every owner or manager of a reservoir for the storage of
2 water shall construct and maintain, when required by the department,
3 any measuring device necessary to ascertain the natural flow into and
4 out of said reservoir.

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

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

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

29 **Sec. 86.** RCW 90.22.010 and 1988 c 47 s 6 are each amended to read
30 as follows:

31 The department of ecology may establish minimum water flows or
32 levels for streams, lakes or other public waters for the purposes of
33 protecting fish, game, birds or other wildlife resources, or
34 recreational or aesthetic values of said public waters whenever it
35 appears to be in the public interest to establish the same. In
36 addition, the department of ecology shall, when requested by the
37 (~~((department of fisheries or the))~~) department of fish and wildlife to
38 protect fish, game or other wildlife resources under the jurisdiction

1 of the requesting state agency, or if the department of ecology finds
2 it necessary to preserve water quality, establish such minimum flows or
3 levels as are required to protect the resource or preserve the water
4 quality described in the request or determination. Any request
5 submitted by the (~~department of fisheries or~~) department of fish and
6 wildlife shall include a statement setting forth the need for
7 establishing a minimum flow or level. When the department acts to
8 preserve water quality, it shall include a similar statement with the
9 proposed rule filed with the code reviser. This section shall not
10 apply to waters artificially stored in reservoirs, provided that in the
11 granting of storage permits by the department of ecology in the future,
12 full recognition shall be given to downstream minimum flows, if any
13 there may be, which have theretofore been established hereunder.

14 The current guidelines, standards, or criteria governing the
15 instream flow programs established pursuant to this chapter shall not
16 be altered or amended after March 15, 1988, in accordance with RCW
17 90.54.022(5).

18 **Sec. 87.** RCW 90.22.020 and 1987 c 506 s 97 are each amended to
19 read as follows:

20 Flows or levels authorized for establishment under RCW 90.22.010,
21 or subsequent modification thereof by the department shall be provided
22 for through the adoption of rules. Before the establishment or
23 modification of a water flow or level for any stream or lake or other
24 public water, the department shall hold a public hearing in the county
25 in which the stream, lake, or other public water is located. If it is
26 located in more than one county the department shall determine the
27 location or locations therein and the number of hearings to be
28 conducted. Notice of the hearings shall be given by publication in a
29 newspaper of general circulation in the county or counties in which the
30 stream, lake, or other public waters is located, once a week for two
31 consecutive weeks before the hearing. The notice shall include the
32 following:

33 (1) The name of each stream, lake, or other water source under
34 consideration;

35 (2) The place and time of the hearing;

36 (3) A statement that any person, including any private citizen or
37 public official, may present his or her views either orally or in
38 writing.

1 Notice of the hearing shall also be served upon the administrators
2 of the departments of (~~(fisheries,)~~) social and health services,
3 natural resources, fish and wildlife, and transportation.

4 **Sec. 88.** RCW 90.24.030 and 1988 c 36 s 67 are each amended to read
5 as follows:

6 The petition shall be entitled "In the matter of fixing the level
7 of Lake in county, Washington", and shall be
8 filed with the clerk of the court and a copy thereof, together with a
9 copy of the order fixing the time for hearing the petition, shall be
10 served on each owner of property abutting on the lake, not less than
11 ten days before the hearing. Like copies shall also be served upon the
12 director of (~~(fisheries)~~) fish and (~~(of)~~) wildlife and the director of
13 ecology. The copy of the petition and of the order fixing time for
14 hearing shall be served in the manner provided by law for the service
15 of summons in civil actions, or in such other manner as may be
16 prescribed by order of the court. For the benefit of every riparian
17 owner abutting on a stream or river flowing from such lake, a copy of
18 the notice of hearing shall be published at least once a week for two
19 consecutive weeks before the time set for hearing in a newspaper in
20 each county or counties wherein located, said notice to contain a brief
21 statement of the reasons and necessity for such application.

22 **Sec. 89.** RCW 90.24.060 and 1988 c 36 s 68 are each amended to read
23 as follows:

24 Such improvement or device in said lake for the protection of the
25 fish and game fish therein shall be installed by and under the
26 direction of the board of county commissioners of said county with the
27 approval of the respective directors of the (~~(department of fisheries,~~
28 ~~the)~~) department of fish and wildlife and the department of ecology of
29 the state of Washington and paid for out of the special fund provided
30 for in RCW 90.24.050.

31 **Sec. 90.** RCW 90.38.040 and 1989 c 429 s 5 are each amended to read
32 as follows:

33 (1) All trust water rights acquired by the department shall be
34 placed in the Yakima river basin trust water rights program to be
35 managed by the department. The department shall issue a water right

1 certificate in the name of the state of Washington for each trust water
2 right it acquires.

3 (2) Trust water rights shall retain the same priority date as the
4 water right from which they originated. Trust water rights may be
5 modified as to purpose or place of use or point of diversion, including
6 modification from a diversionary use to a nondiversionary instream use.

7 (3) Trust water rights may be held by the department for instream
8 flows and/or irrigation use.

9 (4) A schedule of the amount of net water saved as a result of
10 water conservation projects carried out in accordance with this
11 chapter, shall be developed annually to reflect the predicted
12 hydrologic and water supply conditions, as well as anticipated water
13 demands, for the upcoming irrigation season. This schedule shall serve
14 as the basis for the distribution and management of trust water rights
15 each year.

16 (5) No exercise of a trust water right may be authorized unless the
17 department first determines that no existing water rights, junior or
18 senior in priority, will be impaired as to their exercise or injured in
19 any manner whatever by such authorization. Before any trust water
20 right is exercised, the department shall publish notice thereof in a
21 newspaper of general circulation published in the county or counties in
22 which the storage, diversion, and use are to be made, and in such other
23 newspapers as the department determines are necessary, once a week for
24 two consecutive weeks. At the same time the department may also send
25 notice thereof containing pertinent information to the (~~director of~~
26 ~~fisheries and the~~) director of fish and wildlife.

27 (6) RCW 90.03.380 and 90.14.140 through 90.14.910 shall have no
28 applicability to trust water rights held by the department under this
29 chapter or exercised under this section.

30 **Sec. 91.** RCW 90.48.170 and 1988 c 36 s 70 are each amended to read
31 as follows:

32 Applications for permits shall be made on forms prescribed by the
33 department and shall contain the name and address of the applicant, a
34 description of (~~his~~) the applicant's operations, the quantity and
35 type of waste material sought to be disposed of, the proposed method of
36 disposal, and any other relevant information deemed necessary by the
37 department. Application for permits shall be made at least sixty days
38 prior to commencement of any proposed discharge or permit expiration

1 date, whichever is applicable. Upon receipt of a proper application
2 relating to a new operation, or an operation previously under permit
3 for which an increase in volume of wastes or change in character of
4 effluent is requested over that previously authorized, the department
5 shall instruct the applicant to publish notices thereof by such means
6 and within such time as the department shall prescribe. The department
7 shall require that the notice so prescribed shall be published twice in
8 a newspaper of general circulation within the county in which the
9 disposal of waste material is proposed to be made and in such other
10 appropriate information media as the department may direct. Said
11 notice shall include a statement that any person desiring to present
12 his or her views to the department with regard to said application may
13 do so in writing to the department, or any person interested in the
14 department's action on an application for a permit, may submit his or
15 her views or notify the department of his or her interest within thirty
16 days of the last date of publication of notice. Such notification or
17 submission of views to the department shall entitle said persons to a
18 copy of the action taken on the application. Upon receipt by the
19 department of an application, it shall immediately send notice thereof
20 containing pertinent information to the ((~~directors of fisheries~~))
21 director of fish and wildlife and to the secretary of social and health
22 services. When an application complying with the provisions of this
23 chapter and the rules and regulations of the department has been filed
24 with the department, it shall be its duty to investigate the
25 application, and determine whether the use of public waters for waste
26 disposal as proposed will pollute the same in violation of the public
27 policy of the state.

28 **Sec. 92.** RCW 90.48.368 and 1992 c 73 s 29 are each amended to read
29 as follows:

30 (1) The department shall adopt rules establishing a formal process
31 for preassessment screening of damages resulting from spills to the
32 waters of the state causing the death of, or injury to, fish, animals,
33 vegetation, or other resources of the state. The rules shall specify
34 the conditions under which the department shall convene a preassessment
35 screening committee. The preassessment screening process shall occur
36 concurrently with reconnaissance activities. The committee shall use
37 information obtained from reconnaissance activities as well as any
38 other relevant resource and resource use information. For each

1 incident, the committee shall determine whether a damage assessment
2 investigation should be conducted, or, whether the compensation
3 schedule authorized under RCW 90.48.366 and 90.48.367 should be used to
4 assess damages. The committee may accept restoration or enhancement
5 projects or studies proposed by the liable parties in lieu of some or
6 all of: (a) The compensation schedule authorized under RCW 90.48.366
7 and 90.48.367; or (b) the claims from damage assessment studies
8 authorized under RCW 90.48.142.

9 (2) A preassessment screening committee may consist of
10 representatives of the departments of ecology, (~~(fisheries)~~) fish and
11 wildlife, natural resources, social and health services, and emergency
12 management, the parks and recreation commission, the office of
13 archaeology and historic preservation, as well as other federal, state,
14 and local agencies, and tribal and local governments whose presence
15 would enhance the reconnaissance or damage assessment aspects of spill
16 response. The department shall chair the committee and determine which
17 representatives will be needed on a spill-by-spill basis.

18 (3) The committee shall consider the following factors when
19 determining whether a damage assessment study authorized under RCW
20 90.48.367 should be conducted: (a) Whether evidence from
21 reconnaissance investigations suggests that injury has occurred or is
22 likely to occur to publicly owned resources; (b) the potential loss in
23 services provided by resources injured or likely to be injured and the
24 expected value of the potential loss; (c) whether a restoration project
25 to return lost services is technically feasible; (d) the accuracy of
26 damage quantification methods that could be used and the anticipated
27 cost-effectiveness of applying each method; (e) the extent to which
28 likely injury to resources can be verified with available
29 quantification methods; and (f) whether the injury, once quantified,
30 can be translated into monetary values with sufficient precision or
31 accuracy.

32 (4) When a resource damage assessment is required for an oil spill
33 in the navigable waters of the state, as defined in RCW 90.56.010, the
34 state trustee agency responsible for the resource and habitat damaged
35 shall conduct the damage assessment and pursue all appropriate remedies
36 with the responsible party.

37 (5) Oil spill damage assessment studies authorized under RCW
38 90.48.367 may only be conducted if the committee, after considering the
39 factors enumerated in subsection (3) of this section, determines that

1 the damages to be investigated are quantifiable at a reasonable cost
2 and that proposed assessment studies are clearly linked to
3 quantification of the damages incurred.

4 (6) As new information becomes available, the committee may
5 reevaluate the scope of damage assessment using the factors listed in
6 subsection (3) of this section and may reduce or expand the scope of
7 damage assessment as appropriate.

8 (7) The preassessment screening process shall provide for the
9 ongoing involvement of persons who may be liable for damages resulting
10 from an oil spill. The department may negotiate with a potentially
11 liable party to perform restoration and enhancement projects or studies
12 which may substitute for all or part of the compensation authorized
13 under RCW 90.48.366 and 90.48.367 or the damage assessment studies
14 authorized under RCW 90.48.367.

15 (8) For the purposes of this section and RCW 90.48.367, the cost of
16 a damage assessment shall be considered "reasonable" when the
17 anticipated cost of the damage assessment is expected to be less than
18 the anticipated damage that may have occurred or may occur.

19 **Sec. 93.** RCW 90.48.400 and 1992 c 73 s 30 are each amended to read
20 as follows:

21 (1) Moneys in the coastal protection fund shall be disbursed for
22 the following purposes and no others:

23 (a) Environmental restoration and enhancement projects intended to
24 restore or enhance environmental, recreational, archaeological, or
25 aesthetic resources for the benefit of Washington's citizens;

26 (b) Investigations of the long-term effects of oil spills; and

27 (c) Development and implementation of an aquatic land geographic
28 information system.

29 (2) The director may allocate a portion of the fund to be devoted
30 to research and development in the causes, effects, and removal of
31 pollution caused by the discharge of oil or other hazardous substances.

32 (3) A steering committee consisting of representatives of the
33 departments of ecology, (~~(fisheries,)~~) fish and wildlife, and natural
34 resources, and the parks and recreation commission shall authorize the
35 expenditure of the moneys collected under RCW 90.48.366 through
36 90.48.368, after consulting impacted local agencies and local and
37 tribal governments.

1 (4) Agencies may not be reimbursed from the coastal protection fund
2 for the salaries and benefits of permanent employees for routine
3 operational support. Agencies may only be reimbursed under this
4 section if money for reconnaissance and damage assessment activities is
5 unavailable from other sources.

6 **Sec. 94.** RCW 90.56.100 and 1992 c 73 s 32 are each amended to read
7 as follows:

8 (1) The Washington wildlife rescue coalition shall be established
9 for the purpose of coordinating the rescue and rehabilitation of
10 wildlife injured or endangered by oil spills or the release of other
11 hazardous substances into the environment.

12 (2) The Washington wildlife rescue coalition shall be composed of:

13 (a) A representative of the department of fish and wildlife
14 designated by the director of fish and wildlife. The department of
15 fish and wildlife shall be designated as lead agency in the operations
16 of the coalition. The coalition shall be chaired by the representative
17 from the department of fish and wildlife;

18 (b) A representative of the department of ecology designated by the
19 director;

20 (c) A representative of the department of community, trade, and
21 economic development emergency management program designated by the
22 director of community, trade, and economic development;

23 (d) A licensed veterinarian, with experience and training in
24 wildlife rehabilitation, appointed by the veterinary board of
25 governors;

26 (e) The director of the Washington conservation corps;

27 (f) A lay person, with training and experience in the rescue and
28 rehabilitation of wildlife appointed by the department; and

29 (g) A person designated by the legislative authority of the county
30 where oil spills or spills of other hazardous substances may occur.
31 This member of the coalition shall serve on the coalition until
32 wildlife rescue and rehabilitation is completed in that county. The
33 completion of any rescue or rehabilitation project shall be determined
34 by the director of fish and wildlife.

35 (3) The duties of the Washington wildlife rescue coalition shall be
36 to:

37 (a) Develop an emergency mobilization plan to rescue and
38 rehabilitate waterfowl and other wildlife that are injured or

1 endangered by an oil spill or the release of other hazardous substances
2 into the environment;

3 (b) Develop and maintain a resource directory of persons,
4 governmental agencies, and private organizations that may provide
5 assistance in an emergency rescue effort;

6 (c) Provide advance training and instruction to volunteers in
7 rescuing and rehabilitating waterfowl and wildlife injured or
8 endangered by oil spills or the release of other hazardous substances
9 into the environment. The training may be provided through grants to
10 community colleges or to groups that conduct programs for training
11 volunteers. The coalition representatives from the agencies described
12 in subsection (2) of this section shall coordinate training efforts
13 with the director of the Washington conservation corps and work to
14 provide training opportunities for young citizens;

15 (d) Obtain and maintain equipment and supplies used in emergency
16 rescue efforts;

17 (e) Report to the appropriate standing committees of the
18 legislature on the progress of the coalition's efforts and detail
19 future funding options necessary for the implementation of this section
20 and RCW 90.56.110. The coalition shall report by January 30, 1991.

21 (4)(a) Expenses for the coalition may be provided by the coastal
22 protection fund administered according to RCW 90.48.400.

23 (b) The coalition is encouraged to seek grants, gifts, or donations
24 from private sources in order to carry out the provisions of this
25 section and RCW 90.56.110. Any private funds donated to the commission
26 shall be deposited into the wildlife rescue account hereby created
27 within the wildlife fund as authorized under Title 77 RCW.

28 **Sec. 95.** RCW 90.56.110 and 1990 c 116 s 13 are each amended to
29 read as follows:

30 The department of fish and wildlife may adopt rules including, but
31 not limited to, the following:

32 (1) Procedures and methods of handling and caring for waterfowl or
33 other wildlife affected by spills of oil and other hazardous materials;

34 (2) The certification of persons trained in the removal of
35 pollutants from waterfowl or other wildlife;

36 (3) Development of procedures with respect to removal of oil and
37 other hazardous substances from waterfowl or other wildlife;

1 (4) The establishment of training exercises, courses, and other
2 training procedures as necessary;

3 (5) Such other rules as may be reasonably necessary to carry out
4 the intent of RCW 90.56.100.

5 **Sec. 96.** RCW 90.62.020 and 1988 c 36 s 71 are each amended to read
6 as follows:

7 For purposes of this chapter the following words mean, unless the
8 context clearly dictates otherwise:

9 (1) "Board" means the pollution control hearings board.

10 (2) "Department" means the department of ecology.

11 (3) "Local government" means a county, city or town.

12 (4) "Permit" means any license, permit, certificate, certification,
13 approval, compliance schedule, or other similar document pertaining to
14 any regulatory or management program related to the protection,
15 conservation, or use of, or interference with, the natural resources of
16 land, air or water in the state, which is required to be obtained from
17 a state agency prior to constructing or operating a project in the
18 state of Washington. Permit shall also mean a substantial development
19 permit under RCW 90.58.140 and any permit, required by a local
20 government for a project, that the local government has chosen to
21 process pursuant to RCW 90.62.100(2) as now or hereafter amended.
22 Nothing in this chapter shall relate to a permit issued by the
23 department of labor and industries or by the utilities and
24 transportation commission; nor to the granting of proprietary interests
25 in publicly owned property such as sales, leases, easements, use
26 permits and licenses.

27 (5) "Person" means any individual, municipal, public, or private
28 corporation, or other entity however denominated, including a state
29 agency and county.

30 (6) "Processing" and "processing of applications" mean the entire
31 process to be followed in relation to the making of decisions on an
32 application for a permit and review thereof as provided in RCW
33 90.62.040 through 90.62.080.

34 (7) "Project" means any new activity or any expansion of or
35 addition to an existing activity, fixed in location, for which permits
36 are required prior to construction or operation from (a) two or more
37 state agencies as defined in subsection (8) of this section, or (b) one
38 or more state agencies and a local government, if the local government

1 is processing permits or requests for variances or rezones pursuant to
2 the procedure established by the provisions of this chapter, as
3 provided by RCW 90.62.100(2) as now or hereafter amended. Such
4 construction or operation may include, but need not be limited to,
5 industrial and commercial operations and developments. For the purpose
6 of part (a) of this subsection, the submission of plans and
7 specifications for a hydraulic project or other work to the
8 department(~~(s of fisheries))~~ of fish and wildlife pursuant to RCW
9 75.20.100 shall be considered to be an application for a permit
10 required by one state agency.

11 (8) "State agency" means any state department, commission, board or
12 other agency of the state however titled. For the limited purposes of
13 this chapter only "state agency" shall also mean (a) any local or
14 regional air pollution control authority established under chapter
15 70.94 RCW and (b) any local government when said government is acting
16 in its capacity as a decision maker on an application for a permit
17 pursuant to RCW 90.58.140.

18 **Sec. 97.** RCW 90.70.045 and 1990 c 115 s 3 are each amended to read
19 as follows:

20 (1) The executive director shall hire staff for the authority. In
21 so doing, the executive director shall recognize the many continuing
22 planning and research activities concerning Puget Sound water quality
23 and shall seek to acquire competent and knowledgeable staff from state,
24 federal, and local government agencies and other agencies that are
25 currently involved in these activities.

26 (2) As deemed appropriate, the executive director may request the
27 state departments of ecology, community, trade, and economic
28 development, (~~(fisheries,))~~ fish and wildlife, agriculture, natural
29 resources, parks and recreation, and health to each assign at least one
30 employee to the authority. The executive director shall enter into an
31 interagency agreement with agencies assigning employees to the
32 authority. Such agreement shall provide for reimbursement, by the
33 authority to the assigning agency, of all work-related expenditures
34 associated with the assignment of the employees. During the term of
35 their assignment, the executive director has full authority and
36 responsibility for the activities of these employees.

37 (3) The executive director shall seek assignment of appropriate
38 federal and local government employees under available means.

1 **Sec. 98.** RCW 90.70.065 and 1990 c 115 s 9 are each amended to read
2 as follows:

3 (1) In addition to other powers and duties specified in this
4 chapter, the authority shall ensure implementation of the Puget Sound
5 ambient monitoring program established in the plan under RCW
6 90.70.060(12). The program shall:

7 (a) Develop a baseline and examine differences among areas of Puget
8 Sound, for environmental conditions, natural resources, and
9 contaminants in seafood, against which future changes can be measured;

10 (b) Take measurements relating to specific program elements
11 identified in the plan;

12 (c) Measure the progress of the ambient monitoring programs
13 implemented under the plan;

14 (d) Provide a permanent record of significant natural and human-
15 caused changes in key environmental indicators in Puget Sound; and

16 (e) Help support research on Puget Sound.

17 (2) To ensure proper coordination of the ambient monitoring
18 program, the authority may establish an interagency coordinating
19 committee consisting of representatives from the departments of
20 ecology, (~~(fisheries)~~) fish and wildlife, natural resources,
21 (~~(wildlife)~~) and health, and such federal, local, tribal, and other
22 organizations as are necessary to implement the program.

23 (3) Each state agency with responsibilities for implementing the
24 Puget Sound ambient monitoring program, as specified in the plan, shall
25 participate in the program.

26 NEW SECTION. **Sec. 99.** RCW 43.220.140 is decodified.

27 NEW SECTION. **Sec. 100.** This act shall take effect July 1, 1994.

--- END ---