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ENGROSSED SUBSTITUTE HOUSE BILL 2514

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State of Washington

55th Legislature

1998 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Chandler, Linville, Mastin, Parlette, Koster, Anderson, Regala and Cooper)

Read first time 02/07/98. Referred to Committee on .

1 AN ACT Relating to watershed management; amending RCW 90.82.005,  
2 90.82.010, 90.82.020, 90.82.040, and 90.03.345; adding new sections to  
3 chapter 90.82 RCW; adding a new section to chapter 34.05 RCW; creating  
4 new sections; and declaring an emergency.

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

6 **Sec. 1.** RCW 90.82.005 and 1997 c 442 s 101 are each amended to  
7 read as follows:

8 The purpose of this chapter is to develop a ~~((more))~~ thorough and  
9 cooperative method ~~((of))~~ that provides local citizens the maximum  
10 possible input for: Determining what the current water resource  
11 situation is in each water resource inventory area of the state and  
12 ~~((to provide local citizens with the maximum possible input concerning~~  
13 ~~their))~~ establishing goals and objectives for water resource management  
14 and development; reviewing water quality problems and recommending  
15 strategies for achieving compliance with water quality standards; and  
16 coordinating with any plans for the protection and enhancement of fish  
17 habitat.

18 It is necessary for the legislature to establish processes and  
19 policies that will result in providing state agencies with more

1 specific guidance to manage the water resources of the state consistent  
2 with current law and direction provided by local entities and citizens  
3 through the process established in accordance with this chapter.

4 It is the intent of this chapter to provide locally based groups  
5 with the opportunity to: Assess local water supplies and needs and  
6 develop strategies to provide adequate water for economic prosperity  
7 and environmental protection while protecting existing water rights;  
8 ensure that adequate water supplies are available for population and  
9 economic growth under the requirements of the state's growth management  
10 act, chapter 36.70A RCW; review water quality problems and develop a  
11 strategy for achieving compliance with water quality standards; and  
12 coordinate plans for protection and enhancement of fish habitat.

13 Chapter . . . , Laws of 1998 (this act) is enacted to: Improve the  
14 ability of local governments and citizens to be involved in the design  
15 and implementation of solutions to water quantity, water quality, and  
16 habitat needs for fish species and provide an opportunity for people in  
17 all watersheds to be involved in watershed planning if they so desire;  
18 provide a flexible mechanism for conducting locally initiated watershed  
19 planning on either a single watershed basis or, if more appropriate, on  
20 a multiple watershed basis; and allow local people to determine the  
21 scope of the watershed planning process while encouraging them to  
22 consider comprehensive watershed planning that includes addressing  
23 water quantity, water quality, and habitat for fish species in concert  
24 with one another.

25 Thus it is the intent of the legislature for integrated watershed  
26 management to help produce: Adequate water quantity for the future,  
27 adequate water quality to protect and promote beneficial uses, and  
28 sufficient protection and enhancement of habitat so that fish resources  
29 thrive to be used and enjoyed by citizens of the state.

30 It is also the intent of the legislature to encourage collaboration  
31 and cooperation between the wide range of interests, and local, state,  
32 federal, and tribal governments to develop solutions to watershed  
33 problems. The state of Washington wishes to recognize and maintain  
34 formal government-to-government relationships, and it also endeavors to  
35 work cooperatively with all governmental entities and representatives  
36 of citizen groups to foster effective and practical solutions that have  
37 broad-based support. It is the intent of the legislature that all of  
38 the citizens of the state of Washington work cooperatively to ensure  
39 that the management of the state's economic destiny and environmental

1 heritage remains in the hands of Washington's citizens as much as  
2 possible.

3 Nothing in this chapter may be construed as affecting or impairing  
4 existing water or property rights.

5 **Sec. 2.** RCW 90.82.010 and 1997 c 442 s 102 are each amended to  
6 read as follows:

7 The legislature finds that the state's vital interests are served  
8 by the wise management of the state's water resources, by protecting  
9 existing water rights and dependent economies, by protecting and  
10 enhancing instream flows and habitat for fish, and by providing for the  
11 public health and economic well-being of the state's citizenry and  
12 communities. The legislature finds that many regions of the state are  
13 facing challenges relating to water quantity, water quality, and  
14 habitat for fish species. There are a number of bodies of water in the  
15 state that do not meet federal and state water quality standards. In  
16 several areas of the state, there has been a significant decrease in  
17 the number of fish returning to state waters and there is a growing  
18 sense of urgency to protect and enhance existing fishery resources.  
19 The pressures of a growing population and expanding economy have led  
20 some local communities to seek additional water supplies for present  
21 and future needs and to seek certainty that the supplies will be  
22 available for those needs.

23 The legislature finds that the local development of watershed plans  
24 for managing water resources ((and)), for protecting existing water  
25 rights and dependent economies, and for protecting and enhancing  
26 habitat for fish is vital to both state and local interests. The local  
27 development of these plans serves vital local interests by placing it  
28 in the hands of people: Who have the greatest knowledge of both the  
29 resources and the aspirations of those who live and work in the  
30 watershed; and who have the greatest stake in the proper, long-term  
31 management of the resources. The development of such plans serves the  
32 state's vital interests by ensuring that the state's water resources  
33 are used wisely, by protecting existing water rights and dependent  
34 economies, by protecting instream flows for fish, by protecting or  
35 enhancing fish habitat, and by providing for the economic well-being of  
36 the state's citizenry and communities. Therefore, the legislature  
37 believes it necessary for units of local government throughout the  
38 state to engage in the orderly development of these watershed plans.

1       The legislature finds that water resource and fish habitat  
2 challenges vary from region to region. The legislature also finds  
3 that, in many cases, addressing one water resource or fishery habitat  
4 issue can cause concerns and have effects in other areas; as a result,  
5 integrated watershed management may be needed to address the variety of  
6 these challenges simultaneously.

7       The legislature further recognizes that considerable effort for  
8 addressing many of the challenges is represented by the work, planning,  
9 projects, and activities that have already been completed by local  
10 interests regarding watershed management or have been initiated and are  
11 in various stages of completion. The legislature finds that, if new,  
12 integrated watershed management is to be initiated, it must begin with  
13 a thorough review of these completed or ongoing efforts and should  
14 incorporate their products as appropriate so as not to duplicate the  
15 work already performed or underway.

16       Although these challenges may require approaches that are  
17 integrated and comprehensive, the legislature finds that considerable  
18 authority currently exists to address these issues but that such  
19 authority is spread across an array of federal, state, tribal, and  
20 local governments. Integration and coordination of such authorities in  
21 ways that have support of state, local, and tribal interests will be  
22 needed to develop and implement multi-interest and comprehensive  
23 solutions. The legislature further finds that new state and federal  
24 regulatory regimes are by and large not necessary to develop good  
25 watershed management and that local authorities in particular provide  
26 a broad array of implementation tools to support good watershed  
27 management. However, the legislature finds that the key to meeting  
28 existing regulatory objectives is the involvement and support of local  
29 citizens and local governments working cooperatively with state,  
30 federal, and tribal governments. The legislature recognizes that it is  
31 unable to provide all the funding necessary for integrated watershed  
32 management to be developed throughout the entire state at once, and  
33 that as a result, watershed management will be phased in across the  
34 state over time, and that the state has an ongoing responsibility to  
35 provide funding for the watershed management described in this chapter.

36       **Sec. 3.** RCW 90.82.020 and 1997 c 442 s 103 are each amended to  
37 read as follows:

1 Unless the context clearly requires otherwise, the definitions in  
2 this section apply throughout this chapter.

3 (1) "City" means an incorporated city, code city, or town.

4 (2) "Department" means the department of ecology.

5 ~~((2))~~ (3) "Implementing rules" for ~~((a WRIA plan))~~ integrated  
6 watershed management developed by a planning unit are the rules needed  
7 to give force and effect to the parts of the ~~((plan))~~ integrated  
8 watershed management that create rights or obligations for ~~((any party~~  
9 ~~including))~~ a state agency ~~((or that establish water management~~  
10 ~~policy))~~.

11 ~~((3))~~ (4) "Indian tribe" means any Indian tribe, band, or nation  
12 that: (a) is recognized as eligible, by the secretary of the interior,  
13 for the special programs and services provided by the United States to  
14 Indians because of their status as Indians; and (b) is recognized as  
15 possessing powers of self-government.

16 (5) "Lead agency" means the entity identified under section 9 of  
17 this act that makes provision for administrative staff support for and  
18 receives grants for a planning unit developing integrated watershed  
19 management under this chapter.

20 (6) "Management area" means the WRIA or the multiple WRIA area for  
21 which integrated watershed management is developed by a planning unit  
22 under this chapter.

23 (7) "Minimum instream flows" means ~~((a minimum))~~ flows that meet  
24 the requirements of minimum flows under chapter 90.03 or 90.22 RCW ~~((or~~  
25 a)) and base flows under chapter 90.54 RCW as adopted by rule.

26 ~~((4))~~ (8) "Planning unit" means a planning unit established under  
27 section 10 of this act.

28 (9) "WRIA" means a water resource inventory area established in  
29 chapter 173-500 WAC as it existed on January 1, 1997.

30 ~~((5))~~ (10) "Water supply utility" means a ~~((water, combined))~~  
31 water-sewer district, irrigation district, reclamation district, or  
32 public utility district that provides water to persons or other water  
33 users within the district or a division or unit responsible for  
34 administering a publicly governed water supply system on behalf of a  
35 county.

36 ~~((6) "WRIA plan" or "plan"))~~ (11) "Integrated watershed management"  
37 means the product of the planning unit ~~((including))~~ and includes the  
38 plan of the planning unit approved under section 11 of this act, any

1 rules adopted in conjunction with the ((product)) plan of the planning  
2 unit, and strategies of the planning unit for implementing its plan.

3 NEW SECTION. **Sec. 4.** ELEMENTS OF MANAGEMENT--PRIORITY PROJECTS.

4 (1) Counties, cities, and water supply utilities may, at their option,  
5 provide for the development of integrated watershed management for  
6 watersheds under this chapter. If initiated, such management shall be  
7 developed for water quantity components of water resource management  
8 under section 5 of this act, water quality components of water resource  
9 management under section 7 of this act, and the coordination of  
10 protection or enhancement of fish habitat under section 8 of this act.  
11 If integrated watershed management is initiated under this chapter,  
12 minimum instream flows shall be established for streams in the  
13 management area as provided in section 6 of this act. It is  
14 anticipated that a planning unit will not await the development of  
15 proposals for minimum instream flows under section 6 of this act to  
16 begin developing other components of its integrated watershed  
17 management for a management area; rather, work on these developments  
18 will be undertaken concurrently.

19 (2) Under this chapter, integrated watershed management may be  
20 developed by a planning unit for one or more WRIAs, but may not be  
21 developed by a planning unit for less than one WRIA except for those  
22 watersheds planned as pilot projects in the Methow and  
23 Dungeness/Quilcene areas before the effective date of this section.  
24 This chapter may not be construed to prevent or delay any planning,  
25 projects, or activities that are commenced or authorized under other  
26 laws.

27 (3) Integrated watershed management developed and approved under  
28 this chapter shall not contain provisions that (a) are in conflict with  
29 state statutes, federal laws, or tribal treaty rights, existing on the  
30 effective date of this section; (b) impair or diminish in any manner an  
31 existing water right evidenced by a claim filed in the water rights  
32 claims registry or a water right certificate or permit; (c) require a  
33 modification in the basic operations of a federal reclamation project  
34 with a water right the priority date of which is before the effective  
35 date of this section or alter in any manner whatsoever the quantity of  
36 water available under the water right for the reclamation project,  
37 whether the project has or has not been completed before the effective  
38 date of this section; (d) affect or interfere with an ongoing general

1 adjudication of water rights; (e) modify or require the modification of  
2 any waste discharge permit issued under chapter 90.48 RCW; or (f)  
3 modify or require the modification of activities or actions taken to  
4 protect or enhance fish habitat if the activities or actions are: (i)  
5 Part of an approved habitat conservation plan and an incidental take  
6 permit, an incidental take statement, a management or recovery plan, or  
7 other cooperative or conservation agreement entered into with a federal  
8 or state fish and wildlife protection agency under its statutory  
9 authority for fish and wildlife protection that addresses the affected  
10 habitat; or (ii) part of an agreement regulating forest practices,  
11 which is adopted by rule by the forest practices board under the forest  
12 practices act, chapter 76.09 RCW, for the affected habitat. This  
13 subsection (3)(f) applies as long as the activities or actions continue  
14 to be taken in accordance with the plan, agreement, permit, statement,  
15 or rules. Any assessment conducted under section 5, 7, or 8 of this  
16 act shall take into consideration such activities and actions.

17 (4) Integrated watershed management developed and approved under  
18 this chapter shall not change existing local ordinances or existing  
19 state rules, but it may contain recommendations for changing such  
20 ordinances or rules.

21 (5) Once a planning unit has begun developing integrated watershed  
22 management under this chapter, the unit shall, as a matter of high  
23 priority:

24 (a) Review the historical geographic characteristics of the  
25 management area, and also review the planning, projects, and activities  
26 that have already been completed regarding natural resource management  
27 or enhancement in the management area and the products or status of  
28 those that have been initiated but not completed for such management in  
29 the management area, and incorporate their products as appropriate so  
30 as not to duplicate the work already performed or underway; and

31 (b) Identify projects and activities in the management area that  
32 the unit believes will likely serve short-term or long-term management  
33 goals and that warrant immediate financial assistance from state,  
34 federal, or local government. The planning unit shall prioritize these  
35 projects and activities in a manner that reflects the degree to which  
36 they serve the unit's goals and the costs and the benefits of  
37 undertaking them. The unit shall submit its prioritized list to the  
38 local governments with jurisdiction and, through the lead state

1 representative on the planning unit designated under section 10(5)(j)  
2 of this act, to the legislature and the appropriate state agencies.

3 (6) Integrated watershed management planning conducted under  
4 sections 5, 7, and 8 of this act shall identify within the management  
5 area the actions and activities that are necessary to: Implement the  
6 provisions of the integrated watershed management, monitor the  
7 effectiveness of the implementation, and provide any needed  
8 modifications. It shall also identify the entities responsible for  
9 conducting these actions and activities. It shall also identify any  
10 entity responsible for the coordinated oversight of these  
11 responsibilities.

12 NEW SECTION. **Sec. 5. WATER QUANTITY.** Integrated watershed  
13 management established for water quantity in the management area shall  
14 include an assessment of water supply and use in the management area,  
15 including:

16 (1) An estimate of the surface and ground water present in the  
17 management area;

18 (2) An estimate of the surface and ground water available in the  
19 management area, taking into account seasonal and other variations;

20 (3) An estimate of the water in the management area represented by  
21 claims in the water rights claims registry, water use permits,  
22 certificated rights, existing minimum instream flow rules, federally  
23 reserved rights, and any other rights to water;

24 (4) An estimate of the surface and ground water actually being used  
25 in the management area;

26 (5) An estimate of the water needed in the future for use in the  
27 management area;

28 (6) An identification of the location of areas where aquifers are  
29 known to recharge surface bodies of water and areas known to provide  
30 for the recharge of aquifers from the surface;

31 (7) An estimate of the surface and ground water available for  
32 further appropriation, taking into account the minimum instream flows  
33 adopted by rule or to be adopted by rule for streams in the management  
34 area; and

35 (8) Strategies for increasing water supplies in the management  
36 area, which may include, but are not limited to, increasing water  
37 supplies through water conservation, water reuse, the use of reclaimed  
38 water, voluntary water transfers, aquifer recharge and recovery,



1 additional water allocations, or water storage enhancements. The  
2 objective of these strategies is to supply water in sufficient  
3 quantities to satisfy the minimum instream flows and to provide water  
4 for future out-of-stream uses for water identified in subsection (5) of  
5 this section and to ensure that adequate water supplies are available  
6 for population and economic growth under the requirements of the  
7 state's growth management act, chapter 36.70A RCW. These strategies  
8 shall not be construed to be an allocation of water. If integrated  
9 watershed management is established by a planning unit under this  
10 section for water quantity components of water resource management in  
11 a management area and that management is approved by the counties under  
12 section 11 of this act but does not contain the strategies required  
13 under this subsection, all components of integrated watershed  
14 management established by the planning unit under this chapter are  
15 void.

16 NEW SECTION. **Sec. 6.** INSTREAM FLOWS. (1)(a) Except as provided  
17 in subsection (5) of this section, minimum instream flows shall be  
18 established by rule for the principal stream or streams in the WRIA or  
19 multiple WRIA area for which integrated watershed management is  
20 developed by a planning unit under this chapter. At the time a  
21 planning unit is chosen or created under section 10 of this act or  
22 initial appointments are made by cities and counties under section 10  
23 of this act, the cities and counties in a management area may decide,  
24 as described in section 9(9) of this act, that the planning unit will  
25 not participate in identifying such flows in the management area, in  
26 which case they shall request the department to adopt rules  
27 establishing the minimum instream flows for the principle stream or  
28 streams in the management area.

29 (b) In all other management areas after considering in detail the  
30 assessment provided in section 5 of this act, identifying the flow  
31 regimes that make up the minimum instream flows shall be a  
32 collaborative effort between the department and the members of the  
33 planning unit developing the integrated watershed management. As these  
34 flows are developed, it shall be the duty of the department to attempt  
35 to achieve consensus among all of the members of the planning unit  
36 regarding the minimum flows to be adopted by rule by the department.  
37 Approval is achieved if:

1 (i) The members of the planning unit present for a recorded vote on  
2 the proposed minimum instream flows who have been appointed to  
3 represent the state through the shared ballot process described in  
4 section 10 (6) and (9) of this act, each appointed to represent tribal  
5 governments with federal Indian reservations or federally recognized  
6 ceded lands located in whole or in part within the management area or  
7 fishing rights recognized under federal case law on lands within the  
8 management area, each appointed to represent directly counties, each  
9 appointed to represent directly cities, each appointed to represent  
10 directly conservation districts, and each appointed to represent  
11 directly water supply utilities records his or her support for the  
12 proposed minimum instream flows as part of the recorded vote or  
13 abstains from voting on the proposal; and

14 (ii) A majority of the members of the planning unit, other than  
15 those who have been appointed to represent the entities identified in  
16 (b)(i) of this subsection, who are present for a recorded vote on  
17 proposed minimum instream flows, records support for the proposed  
18 minimum instream flows as part of the recorded vote on the proposal.

19 That such a recorded vote will be taken on proposed minimum  
20 instream flows shall be announced at the official meeting of the  
21 planning unit immediately preceding the official meeting of the unit at  
22 which the vote is recorded and a notice regarding voting on proposed  
23 minimum instream flows shall be sent to each member appointed to the  
24 planning unit as soon as possible following the meeting at which such  
25 an announcement is made.

26 (2) If approval of the planning unit is achieved on minimum  
27 instream flows proposed for a management area under subsection (1) of  
28 this section, the department shall establish those flows by rule as  
29 described in RCW 90.82.040(8).

30 (3) If approval is not achieved under subsection (1) of this  
31 section within four years of the date the planning unit first receives  
32 funding from the department under RCW 90.82.040, the department may  
33 promptly initiate rule making under chapter 34.05 RCW to establish  
34 minimum instream flows for these streams. The department shall have  
35 two years to establish the instream flows for these streams by rule if  
36 approval is not achieved within the four-year period provided under  
37 this subsection (3). If the planning unit did not achieve approval on  
38 establishing minimum instream flows, the planning unit may submit the  
39 vote on instream flows to the department for its consideration.

1 Minimum flows established under this section, including minimum  
2 instream flows established by the department under this subsection when  
3 approval is not achieved, shall have a priority date of two years after  
4 the planning unit first received funding from the department under RCW  
5 90.82.040.

6 (4) If minimum instream flows have been adopted by rule for a  
7 stream in the management area and the cities and counties do not, under  
8 section 9 of this act, request the planning unit or the department to  
9 modify those flows, minimum instream flows for the stream shall not be  
10 modified for the stream under this chapter. If the cities and counties  
11 request, under section 9 of this act, that the planning unit modify the  
12 minimum instream flows for the stream but approval is not achieved  
13 under this section for modifying those flows, minimum instream flows  
14 shall not be modified for the stream under this chapter.

15 (5) Nothing in this chapter either: (a) Affects the department's  
16 authority to establish flow requirements or other conditions under RCW  
17 90.48.260 or the federal clean water act (33 U.S.C. Sec. 1251 et seq.)  
18 for the licensing or relicensing of a hydroelectric power project under  
19 the federal power act (16 U.S.C. Sec. 791 et seq.); or (b) affects or  
20 impairs existing instream flow requirements and other conditions in a  
21 current license for a hydroelectric power project licensed under the  
22 federal power act.

23 (6) Minimum instream flows shall not be proposed or adopted for the  
24 main stem of the Columbia river or the main stem of the Snake river  
25 under this chapter.

26 (7) A planning unit may consider identifying how minimum instream  
27 flows could be modified in response to the successful implementation of  
28 other elements of the integrated watershed management.

29 (8) As used in this section, the "principal stream or streams" are,  
30 in a management area for which the department is requested by cities  
31 and counties to adopt minimum instream flows under subsection (1)(a) of  
32 this section, the streams determined by the department to be the  
33 principal stream or streams. In any other management area, the  
34 "principal stream or streams" are the main stem of the stream with the  
35 largest annual average flow in each WRIA in the management area; and  
36 the major tributaries to such a main stem and any other streams in the  
37 management area that are determined to be principal streams by the  
38 planning unit by a majority vote of the planning unit. "Principal

1 stream or streams" does not include streambeds that are used as  
2 laterals for irrigation and are nonfish-bearing.

3 (9) Nothing in this chapter may be construed as affecting or  
4 impairing in any manner whatsoever water rights existing before the  
5 effective date of this section.

6 NEW SECTION. **Sec. 7.** WATER QUALITY. Integrated watershed  
7 management established for water quality in the management area shall  
8 include the following components:

9 (1) An examination based on existing studies conducted by federal,  
10 state, and local agencies of the degree to which legally established  
11 water quality standards are being met in the management area;

12 (2) An examination based on existing studies conducted by federal,  
13 state, and local agencies of the causes of water quality violations in  
14 the management area, including an examination of information regarding  
15 pollutants, point and nonpoint sources of pollution, and pollution-  
16 carrying capacities of water bodies in the management area. The  
17 analysis shall take into account seasonal stream flow or level  
18 variations, natural events, and pollution from natural sources that  
19 occurs independent of human activities;

20 (3) An examination of the uses of each of the nonmarine bodies of  
21 water in the management area and an identification of the beneficial  
22 uses of each for water quality classification purposes;

23 (4) An identification of the class of use for nonmarine bodies of  
24 water and for basin-specific water quality standards that may be  
25 adopted by rule by the department and recommendations for the water  
26 quality standards to be adopted for those bodies of water;

27 (5) A recommended strategy for achieving compliance with water  
28 quality standards for the nonmarine bodies of water in the management  
29 area; and

30 (6) Recommended means of monitoring by appropriate government  
31 agencies whether actions taken to implement the strategy bring about  
32 improvements in water quality that are sufficient to achieve compliance  
33 with water quality standards.

34 This chapter does not obligate the state to undertake analysis or  
35 to develop strategies required under the federal clean water act (33  
36 U.S.C. Sec. 1251 et seq.).

1        NEW SECTION.    **Sec. 8.**    HABITAT.    Integrated watershed management  
2 shall be coordinated, or as needed, developed to protect or enhance  
3 fish habitat in the management area by relying on existing laws and  
4 rules adopted under habitat planning processes such as the habitat work  
5 plans prepared under chapter . . . , Laws of 1998 (Substitute House Bill  
6 No. 2496) and other existing plans created for the purpose of  
7 protecting, restoring, or enhancing fish habitat, the shoreline  
8 management act, chapter 90.58 RCW, the growth management act, chapter  
9 36.70A RCW, and the forest practices act, chapter 76.09 RCW.  
10 Management established under this section shall be integrated with  
11 strategies developed under other processes to respond to potential and  
12 actual listings of salmon and other fish species as being threatened or  
13 endangered under the federal endangered species act, 16 U.S.C. Sec.  
14 1531 et seq.    Integrated watershed management developed for such  
15 purposes shall include the following components:

16        (1) An analysis of the potential for protecting or enhancing fish  
17 habitat in the management area;

18        (2) An identification of fish habitat protection or enhancement  
19 activities and projects and voluntary transactions, including but not  
20 limited to those providing for the purchase of fish habitat or fish  
21 habitat easements, that would provide the greatest benefit to such  
22 habitat in the management area.    Where habitat work plans developed  
23 under chapter . . . , Laws of 1998 (Substitute House Bill No. 2496) are  
24 available or are intended to be developed, the planning shall rely on  
25 those plans;

26        (3) Recommended means of ensuring that the activities, projects,  
27 and transactions identified under subsection (2) of this section will  
28 be undertaken.    Where habitat work plans developed under chapter . . . ,  
29 Laws of 1998 (Substitute House Bill No. 2496) are available or are  
30 intended to be developed, the planning shall rely on those plans; and

31        (4) Recommended means of monitoring the effect of undertaking the  
32 activities, projects, and transactions identified under subsection (2)  
33 of this section on protecting or enhancing fish habitat in the  
34 management area.

35        NEW SECTION.    **Sec. 9.**    INITIATING INTEGRATED WATERSHED MANAGEMENT.  
36 The following is the procedure by which the development of integrated  
37 watershed management may be initiated under this chapter.

1 (1) The following entities may decide that integrated watershed  
2 management should be considered: (a) The county with the largest area  
3 within the boundaries of a single WRIA or multi-WRIA proposed  
4 management area; (b) the county with the largest area bordering on the  
5 main stem of the stream with the largest annual flow, not including the  
6 Columbia or Snake rivers, within the boundaries of a single or multi-  
7 WRIA; (c) the city, if there is one, within the proposed management  
8 area using the largest amount of water from within the proposed  
9 management area; (d) the city, if there is one, cumulatively diverting  
10 the largest amount of water from within the proposed management area;  
11 and (e) the water supply utility, if there is one, that provides the  
12 largest quantity of water in the proposed management area.

13 (2) If entities in subsection (1) of this section decide jointly  
14 and unanimously to proceed, they shall invite the Indian tribe, if  
15 there is one, with the largest reservation within the proposed  
16 management area to participate in integrated watershed management.

17 (3) The entities in subsection (1) of this section, including the  
18 tribe if it affirmatively accepts the invitation, constitute the  
19 initiating governments for the purposes of this section.

20 (4) On behalf of the initiating governments, the county with the  
21 largest area within the boundaries of the proposed management area  
22 shall convene a public meeting in the affected area to discuss the  
23 appointment of a planning unit for developing integrated watershed  
24 management under this chapter. Notices of the meeting shall be sent  
25 to:

26 (a) County governments with territory in the proposed management  
27 area;

28 (b) The cities of each county located in and cities that receive  
29 water from the proposed management area;

30 (c) Tribal governments of federal Indian reservations or federally  
31 recognized ceded lands located in whole or in part within the  
32 boundaries of the proposed management area;

33 (d) Water supply utilities located in and water supply utilities  
34 that receive water from the proposed management area;

35 (e) Conservation districts with territory in the proposed  
36 management area;

37 (f) Groups and entities that have been or are currently engaged in  
38 public planning processes within the proposed management area that  
39 involve water quantity, water quality, or habitat restoration

1 activities. In providing this notice, the county shall make a  
2 reasonable attempt to identify and notify groups and entities that  
3 within the last five years have been or are currently engaged in such  
4 planning; and

5 (g) The department, which shall notify other appropriate state  
6 agencies, appropriate Indian tribes, and appropriate federal agencies.

7 The notice shall contain the purpose, time, and location of the  
8 meeting. The notice shall also be published at least once a week for  
9 two consecutive weeks in a newspaper of general circulation in the  
10 proposed management area. The notice that is published in the  
11 newspaper shall invite members of the general public to participate.

12 (5) The purpose of the public meeting is to obtain comments  
13 regarding initiating the development of integrated watershed management  
14 under this chapter, the coordination of that process with ongoing  
15 planning processes and activities in the watershed, and the creation of  
16 a planning unit to prepare the integrated watershed management.

17 (6) For developing integrated watershed management under this  
18 chapter, the county with the largest area within the boundaries of the  
19 proposed management area is the lead agency for the development of the  
20 integrated watershed management, unless the initiating governments as  
21 defined in subsection (3) of this section approve the designation of  
22 another governmental agency as the lead agency. Such a governmental  
23 agency shall act as the lead agency for this purpose if it agrees in  
24 writing to accept the designation.

25 (7) At or following the public meeting, the county that convened  
26 the meeting shall call for a vote of the initiating governments as  
27 defined in subsection (3) of this section as to whether to proceed with  
28 the development of integrated watershed management under this chapter  
29 in the proposed management area. If initiating governments approve  
30 proceeding with the development of such management, the lead agency  
31 shall make application to the department for funding to develop  
32 integrated watershed management under this chapter.

33 (8) The initiating governments as defined in subsection (3) of this  
34 section may choose the type of planning unit to be used for developing  
35 integrated watershed management under this chapter in the proposed  
36 management area under section 10 of this act.

37 (9) At the time a planning unit is chosen or created under section  
38 10 of this act or initial appointments are made by cities and counties  
39 under section 10 of this act, the cities and counties in a management

1 area may: (a) Decide that the planning unit will not participate in  
2 identifying such flows in the management area, in which case they shall  
3 request the department to adopt rules establishing the minimum instream  
4 flows for the principal stream or streams in the management area; or  
5 (b) if minimum instream flows have been adopted by rule for a stream in  
6 the management area, request either the planning unit or the department  
7 to modify those flows. To approve an action for these purposes, the  
8 cities must approve the action by majority vote, with each city having  
9 one vote, and the counties must approve the action by unanimous vote,  
10 with each county having one vote. The vote of each city and each  
11 county shall be the vote assigned directly, in person or in writing, by  
12 the elected officials of the city and directly, in person or in  
13 writing, by the members of the legislative authority of the county.  
14 For this purpose, the "elected officials" of a city are the members of  
15 the city's legislative authority and, if applicable, its elected mayor.

16 NEW SECTION. **Sec. 10.** PLANNING UNIT--APPOINTMENT--OPTIONS. (1)  
17 If the initiating governments approve proceeding with the development  
18 of integrated watershed management for a management area as described  
19 in section 9(7) of this act, the development of such management will be  
20 conducted under this chapter in the single WRIA or multiple WRIA  
21 management area by one planning unit. As provided in subsections (2)  
22 and (3) of this section, the cities, counties, and tribe may choose an  
23 existing planning group as the basis for local representation on the  
24 planning unit or they may identify the composition of a new group as  
25 the basis for local representation on the planning unit. Such a choice  
26 shall be made as described in section 9(9) of this act. If the cities,  
27 counties, and tribe do not choose such an existing or new group in this  
28 manner, the planning unit to be used for developing the integrated  
29 watershed management for the management area is the planning unit  
30 specified in subsections (5) through (10) (12), and (13) of this  
31 section.

32 (2) If the cities, counties, and tribe choose an existing planning  
33 group as the basis for local representation on a planning unit, the  
34 planning group shall have been in existence for at least one year  
35 before being so chosen. To be considered, the representation of  
36 governmental entities and interest groups on such a planning group must  
37 be generally similar to the representation identified in subsections  
38 (5)(a) through (g) and (12) of this section, or the planning group



1 shall have a statutorily specified membership. If the cities,  
2 counties, and tribe find that the existing group has the required  
3 composition and find that the scope of the group's work is or has been  
4 appropriate considering the tasks to be given the planning unit under  
5 this chapter, the cities, counties, and tribe may designate the group  
6 as the basis for local participation on the planning unit. The  
7 existing group chosen in this manner plus the membership specified in  
8 subsection (5)(j) of this section and any membership provided under  
9 subsection (5)(i) of this section, which provide for representation by  
10 state and tribal governments, constitute the planning unit for  
11 developing integrated watershed management under this chapter in the  
12 management area.

13 (3) The cities, counties, and tribe may choose as the basis for  
14 local participation on the planning unit under this chapter a new  
15 planning group tailored to the specific geographic area for which  
16 integrated watershed management will be developed. The cities,  
17 counties, and tribe shall ensure that the members of the planning unit  
18 represent diverse interests, and shall include the interests  
19 represented by a planning unit that would be appointed under  
20 subsections (5)(a) through (g) and (12) of this section. If the  
21 cities, counties, and tribe designate a new planning group as the basis  
22 for local participation on the planning unit, the new group plus the  
23 membership specified in subsection (5)(j) of this section and any  
24 membership provided under subsection (5)(i) of this section, which  
25 provide for representation by state and tribal governments, constitute  
26 the planning unit for developing integrated watershed management under  
27 this chapter in the management area.

28 (4) If an existing or new group is designated under subsection (2)  
29 or (3) of this section as the basis for local participation on the  
30 planning unit, the group and therefore the planning unit it is a part  
31 of: Shall have membership positions that directly represent cities in  
32 whole or in part in the management area and these positions shall be  
33 clearly identified as such; and shall have membership positions that  
34 directly represent counties with territory in the WRIAs that make up  
35 the management area and these positions shall be clearly identified as  
36 such. The cities, counties, and tribe designating a new group as the  
37 basis for local participation on the planning unit may identify a  
38 subcommittee structure for the planning unit, but the authorities  
39 granted to a planning unit by this chapter may only be exercised by the

1 full planning unit. Any of the cities or counties that are entitled to  
2 have a membership position on the planning unit may choose not to  
3 participate in the planning unit.

4 (5) Unless a planning unit is created as provided in subsection (2)  
5 or (3) of this section, the planning unit that develops integrated  
6 watershed management in a single WRIA management area under this  
7 chapter shall be composed of the following:

8 (a) One member representing each county with territory in the WRIA  
9 appointed by the county;

10 (b) One member representing cities for each county with territory  
11 in the WRIA appointed by the cities within that county;

12 (c) One member representing water supply utilities for each county  
13 with territory within the WRIA, appointed jointly by the three largest  
14 water supply utilities in the county;

15 (d) One member representing all conservation districts with  
16 territory within the WRIA appointed jointly by those districts;

17 (e) Three members representing major interests in the WRIA  
18 appointed jointly by the cities with territory within the WRIA; three  
19 members representing major interests in the WRIA appointed jointly by  
20 the counties with territory within the WRIA; and three members  
21 representing major interests in the WRIA, appointed jointly by the  
22 cities and counties with territory within the WRIA;

23 (f) One member representing the general citizenry appointed jointly  
24 by the cities with territory within the WRIA;

25 (g) One member representing the general citizenry appointed jointly  
26 by the counties with territory in the WRIA;

27 (h) Two members representing the general citizenry appointed  
28 jointly by the cities and counties, one of whom shall be a holder of a  
29 water right certificate and one of whom shall be a holder of a water  
30 right for which a statement of claim was in the state's water rights  
31 claims registry before January 1, 1997;

32 (i) If one or more federal Indian reservations, including the  
33 initiating tribe, if there is one, are located in whole or in part  
34 within the boundaries of the management area, or if one or more Indian  
35 tribes located in this state have federally recognized ceded land  
36 within the management area or fishing rights recognized under federal  
37 case law on lands within the management area, the planning unit shall  
38 promptly extend an invitation to the tribal government of each such  
39 reservation to appoint one member representing that tribal government

1 and to the tribal government of each such Indian tribe to appoint one  
2 member representing that tribe; and

3 (j) One member representing each of the following state agencies:  
4 The department of transportation, the department of fish and wildlife,  
5 the department of ecology, and the department of natural resources.

6 (6) The four members representing state agencies under subsection  
7 (5)(j) of this section shall have a total of two votes in any voting  
8 done by the planning unit. One of these votes shall be shared by the  
9 department of natural resources and the department of fish and  
10 wildlife; the other vote shall be shared by the department of ecology  
11 and the department of transportation. Of these members, the governor  
12 shall appoint one lead state representative whose duty it is to ensure  
13 that state government ultimately speaks with one voice in developing  
14 integrated watershed management under this chapter, to coordinate the  
15 state's participation on the planning unit, and to secure and  
16 coordinate under section 15 of this act the technical assistance  
17 provided by the state to the planning unit.

18 (7) In addition, for a WRIA located within Pierce, King, Snohomish,  
19 or Spokane county, one representative of the water purveyor using the  
20 largest amount of water from the WRIA shall be a voting member of the  
21 planning unit whether the principal offices of the purveyor are or are  
22 not located within the WRIA.

23 (8) Unless a planning unit is created as provided in subsection (2)  
24 or (3) of this section, the planning unit that develops integrated  
25 watershed management in a multi-WRIA management area under this chapter  
26 shall be composed of the following:

27 (a) One member representing each county with territory in the  
28 multi-WRIA area appointed by that county;

29 (b) One member representing cities for each county with territory  
30 in the multi-WRIA area appointed by the cities within that county;

31 (c) One member representing water supply utilities for each county  
32 with territory within the multi-WRIA area appointed jointly by the  
33 three largest water supply utilities in each county;

34 (d) Up to two members, as that number is determined by the  
35 districts, representing all conservation districts with territory  
36 within the multi-WRIA area and appointed jointly by those districts;

37 (e) Three members representing major interests in the management  
38 area appointed jointly by the cities with territory within the multi-  
39 WRIA area; three members representing major interests in the management

1 area appointed jointly by the counties with territory within the multi-  
2 WRIA area; and three members representing major interests in the  
3 management area appointed jointly by the cities and counties with  
4 territory within the multi-WRIA area;

5 (f) One member representing the general citizenry appointed jointly  
6 by the cities with territory within the multi-WRIA area;

7 (g) One member representing the general citizenry appointed jointly  
8 by the counties with territory in the multi-WRIA area;

9 (h) Two members representing the general citizenry appointed  
10 jointly by the cities and the counties, one of whom shall be a holder  
11 of a water right certificate and one of whom shall be a holder of a  
12 water right for which a statement of claim was in the state's water  
13 rights claims registry before January 1, 1997;

14 (i) If one or more federal Indian reservations, including the  
15 initiating tribe if there is one, are located in whole or in part  
16 within the boundaries of the management area, or if one or more Indian  
17 tribes located in this state have federally recognized ceded land  
18 within the management area or fishing rights recognized under federal  
19 case law on lands within the management area, the planning unit shall  
20 promptly extend an invitation to the tribal government of each such  
21 reservation to appoint one member representing that tribal government  
22 and to the tribal government of each such Indian tribe to appoint one  
23 member representing that tribe; and

24 (j) One member representing each of the following state agencies:  
25 The department of transportation, the department of fish and wildlife,  
26 the department of ecology, and the department of natural resources.

27 (9) The four members representing state agencies under subsection  
28 (8)(j) of this section shall have a total of two votes in any voting  
29 done by the planning unit. One of these votes shall be shared by the  
30 department of natural resources and the department of fish and  
31 wildlife; the other vote shall be shared by the department of ecology  
32 and the department of transportation. Of these members, the governor  
33 shall appoint one lead state representative whose duty it is to ensure  
34 that state government ultimately speaks with one voice in developing  
35 integrated watershed management under this chapter, to coordinate the  
36 state's participation on the planning unit, and to secure and  
37 coordinate under section 15 of this act the technical assistance  
38 provided by the state to the planning unit.

1 (10) In addition, for a multi-WRIA planning unit located within  
2 Pierce, King, Snohomish, or Spokane county, one representative of the  
3 water purveyor using the largest amount of water from the multi-WRIA  
4 area shall be a voting member of the planning unit whether the  
5 principal offices of the purveyor are or are not located within the  
6 multi-WRIA area.

7 (11) Each planning unit may invite representatives of federal  
8 agencies with jurisdiction over the subject matter for which integrated  
9 watershed management is being developed by the unit and the managers of  
10 major federal lands located within the management area to assist the  
11 planning unit by participating in the development of integrated  
12 watershed management by the unit under this chapter. Such  
13 representatives shall not be considered to be voting members of the  
14 planning unit.

15 (12) In appointing persons to a planning unit representing major  
16 interests in the management area, the cities and counties shall ensure  
17 that economic and environmental interests and instream and out-of-  
18 stream interests in water, in the management area are represented. In  
19 doing so, the cities and counties shall consult with each other  
20 regarding the representation each is providing and may consider  
21 industrial water users, general businesses, hydroelectric and thermal  
22 power producers, and irrigated agriculture, nonirrigated agriculture,  
23 forestry, recreation, environmental, and recreational and commercial  
24 fisheries interest groups, and other groups with interests in the  
25 management area.

26 (13) If a single WRIA or multi-WRIA management area does not  
27 contain a city within its boundaries, the county shall make all the  
28 appointments that a city would make under this section.

29 NEW SECTION. **Sec. 11.** DECISIONS--HEARINGS--APPROVAL. (1) The  
30 planning unit shall attempt to achieve consensus among the members of  
31 the planning unit in developing the components of its proposed  
32 integrated watershed management under section 5, 7, or 8 of this act.

33 (2) Decisions regarding setting minimum instream flows shall be  
34 made as described in section 6 of this act. Whether the minimum  
35 instream flows set for streams in the management area are or are not  
36 added as an express component of the planning unit's integrated  
37 watershed management for the management area may be determined by the  
38 planning unit, but adding or not adding the component does not affect

1 the decisions made under section 6 of this act regarding minimum  
2 instream flows.

3 (3) As part of its integrated watershed management, the planning  
4 unit may choose to develop drafts of state administrative rules and  
5 local ordinances that would be needed to give force and effect to the  
6 parts of its integrated watershed management that would create rights  
7 or obligations for any party. If it so chooses, it may also request  
8 the appropriate state agencies, units of tribal government, and units  
9 of local government to assist it in drafting the rules and ordinances.  
10 If the planning unit requests a state agency to provide such  
11 assistance, the state agency shall provide the assistance.

12 (4)(a) Upon completing its proposed integrated watershed management  
13 for the management area, the planning unit shall publish notice of and  
14 conduct at least one public hearing in each county in the management  
15 area on the proposal. The planning unit shall take care to provide  
16 notice of the hearing throughout the management area. As a minimum,  
17 the notice shall be published in one or more newspapers of general  
18 circulation in the management area. After considering the public  
19 comments and making any changes in its proposal, the planning unit may  
20 approve the proposal by the process provided for in (b) and (c) of this  
21 subsection.

22 (b)(i) The department and the tribal government with federal Indian  
23 reservation land located within the management area shall provide  
24 advice as to any specific subsections or sections of the watershed  
25 management that the department or tribe believes to be in conflict with  
26 state or federal law, and may provide other recommendations regarding  
27 the watershed management. The department or tribe shall transmit its  
28 advice and recommendations within forty-five days of receiving it for  
29 review. The planning unit shall consider each recommendation provided  
30 by the department under this subsection. The planning unit may adopt  
31 the recommendation or provide changes to respond to the advice of the  
32 department or tribe by achieving approval by a vote of the members of  
33 the planning unit.

34 (ii) If the planning unit fails to adopt the department's or tribal  
35 council's recommendations regarding provisions of the watershed  
36 management that conflict with state or federal law, the department and  
37 the planning unit shall submit the dispute to mediation. If mediation  
38 does not resolve the dispute within forty-five days, the department  
39 shall file a petition for declaratory judgment in the superior court of

1 the county with the largest area in the WRIA or multi-WRIA governed by  
2 the watershed management. The superior court shall review the dispute  
3 under the error of law standard. If the superior court finds that a  
4 component of the plan conflicts with state or federal law, that  
5 component of the plan is invalid. Decisions on such petitions are  
6 reviewable as in other civil cases. This subsection shall not be  
7 construed to establish state liability for any other element of the  
8 watershed management adopted as rules.

9 (c) Approval among the members of the planning unit is achieved if  
10 the members of the planning unit present for a recorded vote on the  
11 proposal appointed to represent the state through the shared ballot  
12 process described in section 10 (6) and (9) of this act, each appointed  
13 to represent tribal government with federal Indian reservation land  
14 located in the WRIA, each appointed to represent directly counties,  
15 each appointed to represent water supply utilities, each appointed to  
16 represent conservation districts, and each appointed to represent  
17 directly cities records his or her support for the proposed integrated  
18 watershed management as part of a recorded vote on the proposal.

19 (d) Approval among the members of the planning unit appointed to  
20 represent major interests in the management area and general citizenry  
21 components of the planning unit is achieved if a majority of the  
22 members of the planning unit, other than those described in (b) of this  
23 subsection, present at the recorded vote on the proposal records  
24 support for the integrated watershed management as a part of the  
25 recorded vote.

26 (e) If the watershed management is approved by the planning unit,  
27 the unit shall submit the watershed management to the counties with  
28 territory within the management area.

29 (f) If the watershed management is not approved by the planning  
30 unit following a vote, then the planning unit shall submit the  
31 watershed management to mediation in an attempt to achieve agreement  
32 between the members of the planning unit. If the unit is unable to  
33 reach an agreement that will achieve approval within forty-five days  
34 after submitting the dispute to mediation, the planning unit may either  
35 submit the components of the watershed management in which agreement  
36 was achieved to the county for approval or terminate the process.

37 (5) The legislative authority of each of the counties with  
38 territory within the management area shall provide public notice for  
39 and conduct at least one public hearing in each county on the approved

1 watershed management submitted to the county under this section. The  
2 counties shall take care to provide notice of the hearings throughout  
3 the management area. As a minimum, the notice shall be published in  
4 one or more newspapers of general circulation in the management area.  
5 After the public hearings, the legislative authorities of these  
6 counties shall convene in joint session to consider the watershed  
7 management. The counties may approve or reject the watershed  
8 management, but may not amend it. Approval of a watershed management  
9 or of recommendations for a watershed management that are not approved  
10 shall be made by a majority vote of the members of the legislative  
11 authorities of each of the counties with territory in the management  
12 area.

13 (6) If the watershed management is not approved by the counties, it  
14 shall be returned to the planning unit with recommendations for  
15 revisions. If the revisions are approved by the planning unit, the  
16 watershed management shall be returned to the county for adoption.  
17 Approval of such a revised proposal shall be made in the same manner  
18 provided for the original integrated watershed management. If the  
19 revisions are not approved by the planning unit, the planning unit and  
20 the counties shall submit the revisions to mediation in an attempt to  
21 reach an agreement that will achieve approval by the planning unit and  
22 the counties. If approval of the planning unit is achieved after  
23 mediation, the watershed management shall be returned to the county for  
24 adoption. If the planning unit is unable to achieve agreement  
25 following mediation, it may either submit the components of the  
26 watershed management in which agreement was achieved to the county for  
27 approval or terminate the process. The department shall proceed with  
28 adopting the approved watershed management through a rules adoption  
29 process described in RCW 90.82.040(8).

30 (7) Before the adoption of the watershed management by the county  
31 legislative authority, the county shall transmit a copy of the  
32 watershed management to each city located in the WRIA. The cities  
33 shall hold a public hearing on the watershed management. The city  
34 shall publish notice of the hearing in a newspaper of general  
35 circulation in the city at least three days before the hearing. The  
36 city has forty-five days after receiving the watershed management from  
37 the county to consider passage of a resolution that expresses agreement  
38 with the watershed management or express any concerns with the  
39 watershed management with the county.



1 (8) At a minimum, the planning unit shall not add a component to  
2 its integrated watershed management that creates an obligation for  
3 state government unless the members of the planning unit appointed to  
4 represent state government agree to adding the component; it shall not  
5 add a component that creates an obligation for a tribal government  
6 unless the member or members of the planning unit appointed to  
7 represent that tribal government agree to adding the component; it  
8 shall not add a component that creates an obligation for a county,  
9 city, conservation district, or water supply utility unless the members  
10 of the planning unit appointed to represent the county, city,  
11 conservation district, or water supply utility agree to adding the  
12 component. A member's agreeing to add a component shall be evidenced  
13 by a recorded vote of all members of the planning unit in which the  
14 members record support for adding the component. If integrated  
15 watershed management is approved by the planning unit and the counties  
16 for a management area under this section and that management creates  
17 obligations for agencies of state government, the obligations are  
18 binding on the state agencies and the agencies shall adopt implementing  
19 rules and take other actions to fulfill their obligations as soon as  
20 possible.

21 NEW SECTION. **Sec. 12.** MEMBERSHIP--OTHER RULES. (1) A vacancy on  
22 a planning unit shall be filled by appointment in the same manner  
23 prescribed for appointing the position that has become vacant. The  
24 planning unit shall not interrupt its work to await additional original  
25 appointments or appointments to fill any vacancies that may occur in  
26 its membership.

27 (2) No person who is a member of a planning unit for a management  
28 area under this chapter may designate another to act on behalf of the  
29 person as a member or to attend as a member a meeting of the unit on  
30 behalf of the person. If a member of such a planning unit is absent  
31 from more than five meetings of the planning unit that constitute  
32 twenty percent or more of the meetings that have been conducted by the  
33 planning unit while the person is a member of the unit, the member's  
34 position on the planning unit is vacated.

35 (3) For the purposes of this chapter, a county or conservation  
36 district is considered to have territory within a management area only  
37 if the territory of the county or district located in one of the WRIA's

1 in the management area constitutes at least fifteen percent of the area  
2 of the WRIA.

3 **Sec. 13.** RCW 90.82.040 and 1997 c 442 s 105 are each amended to  
4 read as follows:

5 (1) ~~((Once a WRIA planning unit has been organized and designated  
6 a lead agency, it shall notify the department and may apply to the  
7 department for funding assistance for conducting the planning. Funds  
8 shall be provided from and to the extent of appropriations made by the  
9 legislature to the department expressly for this purpose.~~

10 (2) ~~Each planning unit that has complied with subsection (1) of  
11 this section is eligible to receive fifty thousand dollars for each  
12 WRIA to initiate the planning process. The department shall allocate  
13 additional funds to WRIA planning units based on need demonstrated by  
14 a detailed proposed budget submitted by the planning unit for carrying  
15 out the duties of the planning unit. Each WRIA planning unit may  
16 receive up to two hundred fifty thousand dollars for each WRIA during  
17 the first two year period of planning, with a maximum allocation of  
18 five hundred thousand dollars for each WRIA.)~~ The department shall  
19 develop and administer a grant program to provide direct financial  
20 assistance to planning units for the preparation of integrated  
21 watershed management under this chapter. Three separate grants may be  
22 awarded pursuant to this section. These grants are initial organizing  
23 grants, grants for watershed assessments and establishment of instream  
24 flows, and grants for the development of integrated watershed  
25 management and implementation. The total amount of the grants may not  
26 exceed five hundred thousand dollars for each WRIA. The department may  
27 not impose any local matching fund requirement as a condition for grant  
28 eligibility or as a preference for receiving a grant.

29 (2) An initial organizing grant of up to fifty thousand dollars may  
30 be awarded to a lead agency that applies to the department and  
31 indicates that integrated watershed management is to be developed under  
32 this chapter. Organizing grants may be expended for any purpose  
33 authorized by the department, including but not limited to determining  
34 the scope of work to be addressed by the integrated watershed  
35 management for the management area; collecting and reviewing relevant  
36 studies and plans that already exist for the watershed, including  
37 growth management related plans in which critical areas have been  
38 designated pursuant to chapter 36.70A RCW; determining how the

1 integrated watershed management for a management area can be  
2 coordinated with existing studies and plans; and baseline monitoring of  
3 water within the watershed.

4 (3)(a) A watershed assessment grant of up to two hundred thousand  
5 dollars for each WRIA may be awarded to a planning unit that certifies  
6 to the department that it adequately represents a broad range of  
7 interests within the watershed, and that it is willing to undertake the  
8 following as part of its integrated watershed management for its  
9 management area: Integrated watershed management for the protection or  
10 enhancement of habitat, integrated watershed management for water  
11 quantity, or integrated watershed management for water quality. The  
12 planning unit must submit a detailed proposed budget that demonstrates  
13 the need for the grant.

14 (b) Grants awarded pursuant to this subsection (3) shall be awarded  
15 for a four-year period. The four-year time period shall begin to run  
16 when the lead agency for the planning unit first received the initial  
17 organizing grant under subsection (2) of this section. For a planning  
18 unit that did not submit an application for an initial organizing  
19 grant, the four-year time period shall begin to run when the planning  
20 unit receives a grant under this subsection (3).

21 (4) A management development, instream flow, and implementation  
22 grant in an amount of up to two hundred fifty thousand dollars for each  
23 WRIA may be awarded to a planning unit that submits evidence that an  
24 assessment of the watershed has been adequately prepared in sufficient  
25 detail for the purposes for which the watershed assessment grant was  
26 awarded; the integrated watershed management that will be developed for  
27 the management area will not be in conflict with federal laws, state  
28 statutes, or tribal treaty rights; and its development will be  
29 coordinated with adjacent jurisdictions for purposes of minimum  
30 instream flows and water quality, if water quality was addressed as  
31 part of the watershed assessment. The planning unit must submit a  
32 detailed proposed budget that demonstrates the need for the grant. Any  
33 moneys awarded from the remaining grant balance for implementation in  
34 a management area under this section are available only for  
35 implementation that commences after integrated watershed management has  
36 been adopted for the area under section 11 of this act.

37 (5)(a) The department shall use the following eligibility criteria  
38 instead of rules when evaluating grant applications at each stage of  
39 the grants program:

1 (i) The application has documented that the planning unit meets all  
2 of the requirements of this chapter;

3 (ii) The application demonstrates a need for state planning funds  
4 to accomplish the objectives of the planning process; and

5 (iii) The application and supporting information evidences a  
6 readiness to proceed.

7 (b) In ranking grant applications submitted at each stage of the  
8 grants program except for the initial organizing grant under subsection  
9 (2) of this section, the department shall give preference to  
10 applications in the following order of priority:

11 (i) Applications from existing planning groups that have been in  
12 existence for at least one year;

13 (ii) Applications from multi-WRIAs that propose to address  
14 protection and enhancement of fish habitat in watersheds that have  
15 aquatic species listed as endangered or threatened under the federal  
16 endangered species act, 16 U.S.C. Sec. 1531 et seq. and for which there  
17 is evidence of an inability to supply adequate water for population and  
18 economic growth;

19 (iii) Applications from single WRIAs that propose to address  
20 protection and enhancement of fish habitat in watersheds that have  
21 aquatic species listed as endangered or threatened under the federal  
22 endangered species act, and for which there is evidence of an inability  
23 to supply adequate water for population and economic growth;

24 (iv) Applications from multi-WRIAs that propose to address  
25 protection and enhancement of fish habitat in watersheds that have  
26 aquatic species listed as endangered or threatened under the federal  
27 endangered species act; and

28 (v) Applications from single WRIAs that propose to address  
29 protection and enhancement of fish habitat in watersheds that have  
30 aquatic species listed under the federal endangered species act.

31 (6) Funding provided under this section shall be considered a  
32 contractual obligation against the moneys appropriated for this  
33 purpose.

34 ~~((3) Preference shall be given to planning units requesting~~  
35 ~~funding for conducting multi-WRIA planning under section 108 of this~~  
36 ~~act.~~

37 ~~(4))~~ (7) The department may retain up to one percent of funds  
38 allocated under this section to defray administrative costs.

1       (8) The department may adopt its implementing rules for an  
2 integrated watershed management that have been approved by counties as  
3 part of integrated watershed management and may adopt rules when  
4 necessary to implement this section or section 6(2) of this act either  
5 by the regular rules adoption process provided in chapter 34.05 RCW,  
6 the expedited rules adoption process as set forth in RCW 34.05.230, or  
7 through a rules adoption process that uses the public hearings and  
8 notice provided by the planning unit and the county legislative  
9 authority as a substitute for the rules adoption requirements of  
10 chapter 34.05 RCW. If the planning unit and county legislative  
11 authority hearings and notice are used as a substitute for the regular  
12 rules adoption process, the rules do not take effect until they are  
13 published in the Washington state register as provided in chapter 34.05  
14 RCW. Such rules do not constitute significant legislative rules as  
15 defined in RCW 34.05.328, and do not require the preparation of small  
16 business economic impact statements.

17       NEW SECTION. Sec. 14. A new section is added to chapter 34.05 RCW  
18 to read as follows:

19       Rules adopted by the department of ecology pursuant to RCW  
20 90.82.040(8) are exempt from the requirements of this chapter to the  
21 extent provided in RCW 90.82.040(8).

22       NEW SECTION. Sec. 15. TECHNICAL ASSISTANCE. (1) The lead state  
23 representative on a planning unit designated under section 10(5)(j) of  
24 this act shall establish a program to provide technical assistance to  
25 planning units and local governments to encourage and facilitate the  
26 adoption and implementation of integrated watershed management for  
27 management areas developed under this chapter. The program shall use  
28 existing requirements or standards that must be satisfied by the  
29 integrated watershed management developed under this chapter and no  
30 part of the program may have the effect of a rule adopted under chapter  
31 34.05 RCW.

32       (2) The program shall use any staff assigned by the governor for  
33 this task, the staff of state agencies, and staff from institutions of  
34 higher education to assist in the development of integrated watershed  
35 management under this chapter, including but not limited to assistance  
36 in determining and explaining how best available science will be  
37 incorporated into integrated watershed management for a management

1 area, developing methods for effectively monitoring performance,  
2 providing the criteria that represents acceptable performance for key  
3 elements of the integrated watershed management for a management area,  
4 and the method of reporting performance to the public, local  
5 communities, and the state. In providing assistance under this  
6 section, the lead state representative shall recognize regional and  
7 local variations that exist in different parts of the state.

8 (3) The lead state representative on a planning unit shall assist  
9 planning units in ensuring that integrated watershed management  
10 developed under this chapter is coordinated with, and consistent with,  
11 the integrated watershed management of other planning units that share  
12 common borders or major stream basins. The state shall provide  
13 mediation services to resolve disputes between planning units.

14 (4) The department may contract out technical assistance if the  
15 lead state representative finds that it is cost-effective and will  
16 assist in implementing the intent of this chapter.

17 (5) The department shall conduct an annual workshop for planning  
18 units to share successful approaches, as well as difficulties, in  
19 addressing specific problems within watersheds.

20 (6) All state agencies with rule-making authority for programs that  
21 affect the development and implementation of integrated watershed  
22 management developed under this chapter shall review those rules and  
23 programs for consistency with this chapter and make recommendations to  
24 the legislature for any necessary statutory changes.

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

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

1        (2) Minimum flows established under section 6 of this act shall  
2 have a priority date as specified in that section.

3        NEW SECTION.    **Sec. 17.**    Captions used in this act are not part of  
4 the law.

5        NEW SECTION.    **Sec. 18.**    Sections 4 through 12 and 15 of this act  
6 are each added to chapter 90.82 RCW.

7        NEW SECTION.    **Sec. 19.**    This act is necessary for the immediate  
8 preservation of the public peace, health, or safety, or support of the  
9 state government and its existing public institutions, and takes effect  
10 immediately.

11        NEW SECTION.    **Sec. 20.**    If specific funding for the purposes of  
12 this act, referencing this act by bill or chapter number, is not  
13 provided by June 30, 1998, in the omnibus appropriations act, this act  
14 is null and void.

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