

---

**SUBSTITUTE HOUSE BILL 2514**

---

**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 90.82.020 and  
2 90.82.040; adding new sections to chapter 90.82 RCW; adding a new  
3 section to chapter 90.03 RCW; creating new sections; and declaring an  
4 emergency.

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

6 NEW SECTION. **Sec. 1.** FINDINGS. The legislature finds that the  
7 state's vital interests are served by the wise management of the  
8 state's water resources, by protecting existing water rights and  
9 dependent economies, by protecting and enhancing flows and habitat for  
10 water-related wildlife and fish, and by providing for the public health  
11 and economic well-being of the state's citizenry and communities. The  
12 legislature finds that many regions of the state are facing challenges  
13 relating to water quantity, water quality, and habitat for water-  
14 related wildlife and fish species. There are a number of bodies of  
15 water in the state that do not meet federal and state water quality  
16 standards. In several areas of the state, there has been a significant  
17 decrease in the number of fish returning to state waters and there is  
18 a growing sense of urgency to protect and enhance existing fishery  
19 resources. The pressures of a growing population and expanding economy

1 have led some local communities to seek additional water supplies for  
2 present and future needs and to seek certainty that the supplies will  
3 be available for those needs.

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

10 The legislature finds that addressing these challenges efficiently  
11 and effectively requires the support and involvement of the local  
12 citizenry. The local development of these plans serves vital local  
13 interests by placing it in the hands of the people who have the  
14 greatest knowledge of both the resources and the aspirations of those  
15 who live and work in the watershed; and who have the greatest stake in  
16 the proper, long-term management of the resources. The development of  
17 such plans serves the state's vital interests by ensuring that the  
18 state's water resources are used wisely, by protecting existing water  
19 rights, by protecting instream flows for fish, by protecting or  
20 enhancing water-related habitat and thus providing for the economic  
21 well-being of the state's citizenry and communities.

22 The legislature further recognizes that considerable effort for  
23 addressing many of the challenges is represented by the work, planning,  
24 projects, and activities that have already been completed regarding  
25 watershed management or have been initiated and are in various stages  
26 of completion. The legislature finds that, if new, coordinated  
27 watershed planning is to be initiated, it must begin with a thorough  
28 review of these completed or ongoing efforts and should incorporate  
29 their products as appropriate so as not to duplicate the work already  
30 performed or underway.

31 Although these challenges may require approaches that are  
32 integrated and comprehensive, the legislature finds that considerable  
33 authority currently exists to address these issues but that such  
34 authority is spread across an array of federal, state, and local  
35 governments. Integration and coordination of such authorities in ways  
36 that have support of state and local interests will be needed to  
37 develop and implement multi-interest and comprehensive solutions. The  
38 legislature further finds that new state and federal regulatory regimes  
39 are by-and-large not necessary to develop good watershed management and

1 that local authorities in particular provide a broad array of  
2 implementation tools to support good watershed management. However, it  
3 finds that the key to meeting existing regulatory objectives is the  
4 involvement and support of local citizens and local governments working  
5 cooperatively with state, federal, and tribal governments.

6 NEW SECTION. **Sec. 2.** PURPOSE AND INTENT. It is the intent of  
7 this act to provide locally based groups with the opportunity to:  
8 Assess local water supplies and needs and develop strategies to provide  
9 adequate water for economic prosperity and environmental protection  
10 while protecting existing water rights; review water quality problems  
11 and develop a strategy for achieving compliance with water quality  
12 standards; formulate plans for protection and enhancement of water-  
13 related wildlife and fish habitat.

14 Chapter . . . , Laws of 1998 (this act) is enacted to: Protect  
15 existing water rights; improve the ability of local governments and  
16 citizens to be involved in the design and implementation of solutions  
17 to water quantity, water quality, and habitat needs for water-related  
18 wildlife and fish species; give high priority to addressing watersheds  
19 with multiple problems, but provide an opportunity for people in all  
20 watersheds to be involved in watershed planning if they so desire;  
21 provide a flexible mechanism for conducting locally initiated watershed  
22 planning on either a single watershed basis or, if more appropriate, on  
23 a multiple watershed basis; provide for the thorough review and  
24 inclusion, as appropriate, of work done by existing planning groups and  
25 agencies related to the scope of activities to be addressed by the  
26 planning unit; retain prerogatives of state and local governments who  
27 are directly accountable to local citizens to identify problems and  
28 formulate acceptable solutions to state and local issues; and allow  
29 local people to determine the scope of the watershed planning process  
30 while encouraging them to consider comprehensive watershed planning  
31 that includes addressing water quantity, water quality, and habitat for  
32 water-related wildlife and fish species in concert with one another.

33 Thus it is the intent of the legislature for watershed management  
34 to help produce: Adequate water quantity for the future, adequate  
35 water quality to protect and promote beneficial uses, sufficient  
36 protection and enhancement of habitat so that water-related wildlife  
37 and fish resources thrive to be used and enjoyed by citizens of the  
38 state.

1 It is also the intent of the legislature to encourage collaboration  
2 and cooperation between the wide range of interests, and local, state,  
3 federal, and tribal governments to develop solutions to watershed  
4 problems. The state of Washington wishes to recognize and maintain  
5 formal government-to-government relationships, but it also endeavors to  
6 work cooperatively with all governmental entities and representatives  
7 of citizen groups to foster effective and practical solutions that have  
8 broad-based support. It is the intent of the legislature that all of  
9 the citizens of the state of Washington work cooperatively to ensure  
10 that the management of the state's economic destiny and environmental  
11 heritage remains in the hands of Washington's citizens as much as  
12 possible.

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

15 Unless the context clearly requires otherwise, the definitions in  
16 this section apply throughout this chapter.

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

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

19 ~~((+2))~~ (3) "Implementing rules" for ~~((a WRIA plan))~~ integrated  
20 watershed management developed by a planning unit are the rules needed  
21 to give force and effect to the parts of the ~~((plan))~~ integrated  
22 watershed management that create rights or obligations for any party  
23 including a state agency or that establish water management policy.

24 ~~((+3))~~ (4) "Lead agency" means the entity identified under section  
25 9 of this act that provides administrative staff support for and  
26 receives grants for a planning unit developing integrated watershed  
27 management under this chapter.

28 (5) "Management area" means the WRIA or the multiple WRIA area for  
29 which integrated watershed management is developed by a planning unit  
30 under this chapter.

31 (6) "Minimum instream flows" means ~~((a minimum))~~ flows that meet  
32 the requirements of minimum flows under chapter 90.03 or 90.22 RCW ~~((or~~  
33 a)) and base flows under chapter 90.54 RCW.

34 ~~((+4))~~ (7) "WRIA" means a water resource inventory area  
35 established in chapter 173-500 WAC as it existed on January 1, 1997.

36 ~~((+5))~~ (8) "Water supply utility" means a water, combined water-  
37 sewer, irrigation, reclamation, or public utility district that  
38 provides water to persons or other water users within the district or

1 a division or unit responsible for administering a publicly governed  
2 water supply system on behalf of a county.

3 ((+6)) (9) "((WRIA plan" or "plan)) Integrated watershed  
4 management" means the product of the planning unit including any rules  
5 and local ordinances adopted in conjunction with the product of the  
6 planning unit.

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

8 (1) Local governments may, at their option, provide for the development  
9 of integrated watershed management for watersheds under this chapter.  
10 Such management may be developed for any one or any combination of the  
11 following: For water quantity aspects of water resource management  
12 under section 5 of this act, for water quality aspects of water  
13 resource management under section 7 of this act, and for the protection  
14 or enhancement of water-related wildlife and fish habitat under section  
15 8 of this act. However, if any of these three elements of integrated  
16 watershed management are initiated under this chapter, minimum instream  
17 flows shall be established for streams in the management area as  
18 provided in section 6 of this act. It is anticipated that a planning  
19 unit will not await the development of proposals for minimum instream  
20 flows under section 6 of this act to begin developing other aspects of  
21 its integrated watershed management for a management area; rather, work  
22 on these developments will be undertaken concurrently.

23 (2) Under this chapter, integrated watershed management may be  
24 developed by a planning unit for one or more WRIAs, but may not be  
25 developed for less than one WRIA except for those watersheds planned as  
26 pilot projects in the Methow and Dungeness/Quilcene areas before the  
27 effective date of this section.

28 (3) Integrated watershed management developed and approved under  
29 this chapter shall not contain provisions that (a) are in conflict with  
30 state statute, federal law, or tribal treaty rights; (b) impair or  
31 diminish in any manner a water right existing before the approval of  
32 the management under section 11 of this act, taking into consideration  
33 that rights to the use of water from a body of water issued after the  
34 establishment of a minimum instream flow for the water body may be  
35 junior or subordinate to such a flow; or (c) require a modification in  
36 the basic operations of a federal reclamation project with a water  
37 right the priority date of which is before the effective date of this  
38 section or alter in any manner whatsoever the quantity of water

1 available under the water right for the reclamation project, whether  
2 the project has or has not been completed before the effective date of  
3 this section.

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

7 (a) Review the planning, projects, and activities that have already  
8 been completed regarding watershed management in the management area  
9 and the products or status of those that have been initiated but not  
10 completed for such management in the management area; and

11 (b) Identify projects and activities in the management area that  
12 the unit believes will likely serve short-term or long-term management  
13 goals and that warrant immediate financial assistance from state,  
14 federal, or local government. The planning unit shall prioritize these  
15 projects and activities in a manner that reflects the degree to which  
16 they serve the unit's goals and the costs and the benefits of  
17 undertaking them. The unit shall submit its prioritized list to the  
18 local governments with jurisdiction and, through the lead state  
19 representative on the planning unit designated under section 10(5)(i)  
20 of this act, to the legislature and the appropriate state agencies.

21 NEW SECTION. **Sec. 5. WATER QUANTITY.** (1) Integrated watershed  
22 management established for water quantity aspects of water resource  
23 management in the management area shall include an assessment of water  
24 supply and use in the management area, including:

25 (a) An estimation of the amount of surface and ground water present  
26 in the management area;

27 (b) An estimation of the amount of surface and ground water  
28 available in the management area, taking into account seasonal and  
29 other variations;

30 (c) An estimation of the amount of water in the management area  
31 represented by claims in the water rights claims registry, water use  
32 permits, certificated rights, existing minimum instream flow rules, and  
33 any other quantified rights to water;

34 (d) An estimation of the amount of surface and ground water  
35 actually being used in the management area;

36 (e) A quantitative description of water estimated to be needed in  
37 the future for use in the management area;

1 (f) An identification of areas where aquifers are known to recharge  
2 surface bodies of water and areas known to provide for the recharge of  
3 aquifers from the surface;

4 (g) A quantitative description of the surface and ground water  
5 available for further appropriation, if applicable, taking into account  
6 the minimum instream flows to be adopted for streams in the management  
7 area; and

8 (h) Strategies for increasing water supplies in the management  
9 area, including but not limited to increasing water supplies through  
10 water conservation, water reuse, the use of reclaimed water, voluntary  
11 water transfers, and water storage enhancements. The objective of  
12 these strategies is to supply water in sufficient quantities to satisfy  
13 the minimum instream flows and to provide water for further  
14 appropriation to satisfy other future needs for water identified in (e)  
15 of this subsection.

16 (2) As part of the integrated watershed management, the planning  
17 unit may establish a water allocation strategy for water available for  
18 further appropriation once existing rights and minimum instream flows  
19 have been satisfied.

20 NEW SECTION. **Sec. 6.** INSTREAM FLOWS. (1)(a) Except as provided  
21 in subsections (4) and (5) of this section, minimum instream flows  
22 shall be established by rule for the principal stream or streams in the  
23 WRIA or multiple WRIA area for which integrated watershed management is  
24 developed by a planning unit under this chapter. At the time a  
25 planning unit is chosen or created under section 10 of this act or  
26 initial appointments are made by cities and counties under section 10  
27 of this act, the cities and counties in a management area may decide,  
28 as described in section 9(5) of this act, that the planning unit will  
29 not participate in identifying such flows in the management area, in  
30 which case they shall request the department to adopt rules  
31 establishing the minimum instream flows for the principal stream or  
32 streams in the management area.

33 (b) In all other management areas, identifying the flow regimes  
34 that make up the minimum instream flows shall be a collaborative effort  
35 between the department and the members of the planning unit developing  
36 the integrated watershed management. As these minimum flows are  
37 developed, it shall be the duty of the department to attempt to achieve  
38 consensus among all of the members of the planning unit regarding the

1 minimum flows to be adopted by rule by the department. If consensus on  
2 the minimum instream flows to be adopted is achieved among the members  
3 of the planning unit, the department shall promptly adopt these minimum  
4 instream flows by rule under subsection (2) of this section. Such  
5 consensus is achieved if:

6 (i) Each of the members of the planning unit present for a recorded  
7 vote on the proposed minimum instream flows who has been appointed to  
8 represent the state, to represent tribal government, to represent  
9 directly counties, or to represent directly cities records his or her  
10 support for the proposed minimum instream flows as part of the recorded  
11 vote or abstains from voting on the proposal; and

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

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

24 (2) If consensus among the members of the planning unit is achieved  
25 on minimum instream flows proposed for a management area under  
26 subsection (1) of this section, the department shall establish those  
27 flows by rule and the consensus process used under subsection (1) of  
28 this section constitutes negotiated rule making for the rules under  
29 chapter 34.05 RCW.

30 (3) If consensus is not achieved under subsection (1) of this  
31 section within two years of the date the planning unit first receives  
32 funding from the department under RCW 90.82.040 or, if such funding has  
33 been received by the planning unit before the effective date of this  
34 section, within two years of the effective date of this section, the  
35 department shall promptly initiate rule making under chapter 34.05 RCW  
36 to establish minimum instream flows for these streams as soon as  
37 possible.



1 (4) With regard to a management area in which minimum instream  
2 flows have been established by rule for streams in the management area  
3 before the establishment of the planning unit:

4 (a) If the planning unit determines that establishing new minimum  
5 instream flows for one or more of the streams is not one of its  
6 objectives or by consensus under subsection (1) of this section chooses  
7 not to change those flows, the department need not initiate additional  
8 rule making for setting instream flows for those streams under  
9 subsection (2) or (3) of this section; or

10 (b) If, within two years of the date the planning unit first  
11 receives funding from the department under RCW 90.82.040, consensus is  
12 not achieved under subsection (1) of this section among the members of  
13 the planning unit appointed to represent units of general government  
14 and the department, after considering in detail the assessment provided  
15 under subsection (1) of this section, decides that the minimum instream  
16 flows for one or more of the streams do not need to be altered, the  
17 department need not initiate additional rule making for setting minimum  
18 instream flows for those streams under subsection (3) of this section.

19 (5) Minimum instream flows shall not be proposed or adopted for the  
20 main stem of the Columbia river or the main stem of the Snake river  
21 under this chapter.

22 (6) A planning unit may consider adopting flows that are greater  
23 than the minimum necessary for the protection of fish. It may also  
24 consider identifying how minimum instream flows could be modified in  
25 response to the successful implementation of other elements of the  
26 integrated watershed management.

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

1        NEW SECTION.     **Sec. 7.**     WATER QUALITY.     Integrated watershed  
2 management established for water quality aspects of water resource  
3 management in the management area shall include the following elements:

4        (1) An examination of the degree to which water quality standards  
5 are being met in the management area;

6        (2) An analysis of the causes of water quality violations in the  
7 management area, including an examination of information regarding  
8 pollutants, point and nonpoint sources of pollution, and pollution-  
9 carrying capacities of water bodies in the management area. The  
10 analysis shall take into account seasonal stream flow or level  
11 variations, natural events, and pollution from natural sources that  
12 occurs independent of human activities;

13        (3) An examination of the uses of each of the bodies of water in  
14 the management area and an identification of the beneficial uses of  
15 each for water quality classification purposes;

16        (4) An identification of bodies of water for which basin-specific  
17 water quality standards may be adopted by rule by the department and  
18 recommendations for the water quality standards to be adopted for those  
19 bodies of water;

20        (5) A detailed strategy for achieving compliance with water quality  
21 standards for the bodies of water in the management area; and

22        (6) Means of monitoring whether actions taken to implement the  
23 strategy bring about improvements in water quality that are sufficient  
24 to achieve compliance with water quality standards.

25        NEW SECTION.     **Sec. 8.**     HABITAT.     Integrated watershed management  
26 may be developed to protect or enhance water-related wildlife and fish  
27 habitat in the management area.     Integrated watershed management  
28 developed for such purposes shall include:

29        (1) An analysis of the potential for protecting or enhancing water-  
30 related wildlife and fish habitat in the management area;

31        (2) An identification of water-related habitat protection or  
32 enhancement activities and projects and voluntary transactions  
33 providing for the purchase of water-related habitat or water-related  
34 habitat easements that would provide the greatest benefit to such  
35 habitat in the management area, and a prioritization of the activities,  
36 projects, and transactions based on their potential for providing such  
37 benefits;

1 (3) Means of ensuring that the activities, projects, and  
2 transactions identified under subsection (2) of this section will be  
3 undertaken; and

4 (4) Means of monitoring the effect of undertaking the activities,  
5 projects, and transactions identified under subsection (2) of this  
6 section on protecting or enhancing water-related wildlife and fish  
7 habitat in the management area.

8 NEW SECTION. **Sec. 9.** INITIATING INTEGRATED WATERSHED MANAGEMENT.

9 The following is the procedure by which the development of integrated  
10 watershed management may be initiated under this chapter. For the  
11 purposes of this section, the "initiating governments" are the county  
12 with the largest area within the boundaries of a single WRIA or  
13 multiple WRIA proposed management area, the city within the proposed  
14 management area using the largest amount of water from the proposed  
15 management area, the city cumulatively diverting and withdrawing the  
16 largest amount of water from within the proposed management area, and  
17 the water supply utility that provides the largest quantity of water in  
18 the management area.

19 (1) The initiating governments in a single or multiple WRIA  
20 management area may initiate the development of integrated watershed  
21 management under this chapter for the area by jointly and unanimously  
22 choosing to do so. If they choose to initiate the development of  
23 integrated watershed management, the county with the largest area  
24 within the boundaries of the proposed management area shall convene a  
25 public meeting in the affected area to discuss the appointment of a  
26 planning unit for developing integrated watershed management under this  
27 chapter. Notices of the meeting shall be sent to:

28 (a) County governments with territory in the proposed management  
29 area;

30 (b) Cities located in and cities that receive water from the  
31 proposed management area;

32 (c) Tribal governments of federal Indian reservations located in  
33 whole or in part within the boundaries of the proposed management area;

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

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

1 (f) Groups and entities that have been or are currently engaged in  
2 public planning processes within the proposed management area that  
3 involve water quantity, water quality, or fishery restoration  
4 activities. In providing this notice, the county shall make a  
5 reasonable attempt to identify and notify groups and entities that  
6 within the last five years have been or are currently engaged in such  
7 planning; and

8 (g) The department, which shall notify other appropriate state  
9 agencies and appropriate federal agencies.

10 The notice shall contain the purpose, time, and location of the  
11 meeting. The notice shall also be published at least once a week for  
12 two consecutive weeks in a newspaper of general circulation in the  
13 proposed management area.

14 (2) The purpose of the public meeting is to obtain comments  
15 regarding initiating the development of integrated watershed management  
16 under this chapter, the coordination of that process with ongoing  
17 planning processes and activities in the watershed, and the selection  
18 of the elements of resource management to be included in the integrated  
19 watershed management developed under the process.

20 (3) For developing integrated watershed management under this  
21 chapter, the county with the largest area within the boundaries of the  
22 proposed management area is the lead agency for the development of the  
23 integrated watershed management, unless the cities and counties  
24 described in subsection (5) of this section approve the designation of  
25 another governmental agency as the lead agency. Such a governmental  
26 agency shall act as the lead agency for this purpose if it agrees in  
27 writing to accept the designation.

28 (4) At or following the public meeting, the county that convened  
29 the meeting shall call for a vote of the cities and counties described  
30 in subsection (5) of this section as to whether to proceed with the  
31 development of integrated watershed management under this chapter in  
32 the proposed management area. If these cities and counties approve  
33 proceeding with the development of such management, the lead agency may  
34 make application to the department for funding to develop integrated  
35 watershed management under this chapter.

36 (5) The cities and counties that may make decisions under  
37 subsections (3) and (4) of this section may choose the type of planning  
38 unit to be used for developing integrated watershed management under  
39 this chapter in the proposed management area under section 10(2) or (3)

1 of this act, may expand the membership of a planning unit under section  
2 10(8) of this act, and may request the department to set minimum  
3 instream flows for a management area under section 6(1) of this act are  
4 the counties with territory in the proposed management area, and the  
5 cities located in whole or in part within the proposed management area  
6 and cities receiving water delivered from the proposed management area.  
7 To approve an action for these purposes, the cities must approve the  
8 action by majority vote, with each city having one vote, and the  
9 counties must approve the action by unanimous vote, with each county  
10 having one vote. The vote of each city and each county shall be the  
11 vote assigned directly, in person or in writing, by the elected  
12 officials of the city and directly, in person or in writing, by the  
13 members of the legislative authority of the county. For this purpose,  
14 the "elected officials" of a city are the members of the city's  
15 legislative authority and, if applicable, its elected mayor.

16 NEW SECTION. **Sec. 10.** OPTIONS FOR APPOINTING A PLANNING UNIT.

17 (1) If the cities and counties approve proceeding with the development  
18 of integrated watershed management for a management area as described  
19 in section 9(4) 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 and counties may choose an existing  
23 planning group as the basis for local representation on the planning  
24 unit or they may identify the composition of a new group as the basis  
25 for local representation on the planning unit. Such a choice shall be  
26 made as described in section 9(5) of this act. If the cities and  
27 counties do not choose such an existing or new group in this manner,  
28 the planning unit to be used for developing the integrated watershed  
29 management for the management area is the planning unit specified in  
30 subsection (5) of this section.

31 (2) If the cities and counties choose an existing planning group as  
32 the basis for local representation on a planning unit, the planning  
33 group shall have been in existence for at least one year before being  
34 so chosen. To be considered, the representation of governmental  
35 entities and interest groups on such a planning group must be generally  
36 similar to the representation identified in subsections (5)(a) through  
37 (g) and (6) of this section, or the planning group shall have a  
38 statutorily specified membership. If the cities and counties find that

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

11 (3) The cities and counties may choose as the basis for local  
12 participation on the planning unit under this chapter a new planning  
13 group tailored to the specific geographic area for which integrated  
14 watershed management will be developed. The cities and counties shall  
15 take care to ensure that the members of the planning unit represent  
16 diverse interests, and shall include the interests represented by a  
17 planning unit that would be appointed under subsections (5)(a) through  
18 (g) and (6) of this section. If the cities and counties designate a  
19 new planning group as the basis for local participation on the planning  
20 unit, the new group plus the membership specified in subsection (5)(i)  
21 of this section and any membership provided under subsection (5)(h) of  
22 this section, which provide for representation by state and tribal  
23 governments, constitute the planning unit for developing integrated  
24 watershed management under this chapter in the management area.

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

38 (5) Unless a planning unit is created as provided in subsection (2)  
39 or (3) of this section, the planning unit that develops integrated

1 watershed management in a single WRIA or a multiple WRIA management  
2 area under this chapter shall be composed of the following:

3 (a) One member representing each county with territory in the  
4 management area appointed by the county;

5 (b) One member representing cities for each county with territory  
6 in the management area appointed by the cities within that county;

7 (c) One member representing water supply utilities for each county  
8 with territory within the management area, appointed jointly by the  
9 three water supply utilities providing the largest quantity of water in  
10 the county;

11 (d) One member representing all conservation districts with  
12 territory within a single WRIA management area appointed jointly by  
13 those districts or, for a multiple WRIA management area, up to two  
14 members, as that number is determined by the districts, representing  
15 all conservation districts with territory within the multiple WRIA  
16 management area and appointed jointly by those districts;

17 (e) Three members representing various major interests in the  
18 management area appointed jointly by the cities with territory within  
19 the management area; and six members representing various major  
20 interests in the management area appointed jointly by the counties with  
21 territory within the management area;

22 (f) One member representing the general citizenry appointed jointly  
23 by the cities with territory within the management area;

24 (g) Three members representing the general citizenry appointed  
25 jointly by the counties with territory in the management area, of which  
26 at least one shall be a holder of a water right certificate and at  
27 least one shall be a holder of a water right for which a statement of  
28 claim was in the state's water rights claims registry before January 1,  
29 1997;

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

1 (i) Up to three members representing state agencies as that  
2 representation is determined by the governor. Of these, the governor  
3 shall appoint one lead state representative whose duty it is to ensure  
4 that state government ultimately speaks with one voice in developing  
5 integrated watershed management under this chapter, to coordinate the  
6 state's participation on the planning unit, and to secure and  
7 coordinate under section 14 of this act the technical assistance  
8 provided by the state to the planning unit.

9 (6) In appointing persons to a planning unit representing major  
10 interests in the management area, the cities and counties shall ensure  
11 that economic interests in the management area are represented and  
12 shall take care to provide a reasonably balanced representation of in-  
13 stream and out-of-stream interests in water. In doing so, the cities  
14 and counties shall consult with each other regarding the representation  
15 each is providing and may consider industrial water users, general  
16 businesses, hydroelectric and thermal power producers, and irrigated  
17 agriculture, nonirrigated agriculture, forestry, recreation,  
18 environmental, and recreational and commercial fisheries interest  
19 groups, and other groups with interests in the management area.

20 (7) All appointments of members of the planning unit as the  
21 planning unit is initially constituted, except those provided under  
22 subsection (5)(h) of this section, shall be made within sixty days of  
23 the date the cities and counties choose the basis of local  
24 participation on a planning unit under subsection (2) or (3) of this  
25 section or, if such a choice is not made and the membership provided in  
26 subsection (5) of this section is to be used, within sixty days of the  
27 date the cities and counties choose under section 9 of this act to  
28 proceed with the development of integrated watershed management for the  
29 management area. If an appointment is not made in a timely manner, the  
30 appointment shall be made by the counties with territory in the  
31 management area in the same manner the counties make other  
32 appointments. Each original appointment to be made under subsection  
33 (5)(h) of this section shall be made within sixty days of the date the  
34 invitation to make the appointment is extended to the tribal government  
35 by the planning unit. If an appointment is not made under subsection  
36 (5)(h) of this section in a timely manner, the position on the planning  
37 unit shall not be filled by the counties; it shall remain vacant.

38 (8) Within thirty days of the convening of the planning unit, the  
39 counties and cities designated in section 9(5) of this act may



1 increase the number of members of the planning unit appointed under  
2 subsection (5)(e), (f), and (g) of this section by up to five members.  
3 The counties and cities may do so as described in section 9(5) of this  
4 act. Appointment of additional members to the planning unit shall be  
5 made within thirty days from the date application is first made to the  
6 department for funding for the planning unit.

7 (9) 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 members of the planning  
14 unit for voting purposes; that is, they shall not have voting  
15 authority.

16 NEW SECTION. **Sec. 11.** DECISIONS--HEARINGS--APPROVAL. (1) The  
17 planning unit shall attempt to achieve consensus among the members of  
18 the planning unit in developing the components of its proposed  
19 integrated watershed management under section 5, 7, or 8 of this act.  
20 At a minimum, the planning unit shall not add a component to its  
21 integrated watershed management that creates an obligation for state  
22 government unless the members of the planning unit appointed to  
23 represent state government agree to adding the component; it shall not  
24 add a component that creates an obligation for a tribal government  
25 unless the member or members of the planning unit appointed to  
26 represent that tribal government agree to adding the component; it  
27 shall not add a component creating obligations for counties unless the  
28 member or members of the planning unit appointed to represent directly  
29 the counties agree to adding the component; and it shall not add a  
30 component that creates an obligation for cities unless the member or  
31 members of the planning unit appointed to represent directly the cities  
32 agree to adding the component. A member's agreeing to add a component  
33 shall be evidenced by a recorded vote of all members of the planning  
34 unit in which the member records support for adding the component.

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

1 watershed management for the management area may be determined by the  
2 planning unit, but adding or not adding the component does not affect  
3 the decisions made under section 6 of this act regarding minimum  
4 instream flows.

5 In addition to the aspects of integrated watershed management  
6 required for planning conducted under sections 5, 7, and 8 of this act,  
7 the planning unit shall identify within the management: The actions  
8 and activities that are necessary to implement the provisions of the  
9 integrated watershed management, to monitor the effectiveness of the  
10 implementation, and to provide any needed adaptive management; and the  
11 entities responsible for conducting these actions and activities. It  
12 shall also identify any entity responsible for the coordinated  
13 oversight of these responsibilities.

14 (3) As part of its integrated watershed management, the planning  
15 unit may choose to develop drafts of state administrative rules and  
16 local ordinances that would be needed to give force and effect to the  
17 parts of its integrated watershed management that would create rights  
18 or obligations for any party. If it so chooses, it may also request  
19 the appropriate state agencies, units of tribal government, and units  
20 of local government to assist it in drafting the rules and ordinances.  
21 If the planning unit requests a state agency to provide such  
22 assistance, the state agency shall provide the assistance. If such a  
23 draft is prepared, it may be approved as a component of the proposed  
24 integrated watershed management as provided in this section for similar  
25 components of the proposal.

26 (4)(a) Upon completing its proposed integrated watershed management  
27 for the management area, the planning unit shall publish notice of and  
28 conduct at least one public hearing in the management area on the  
29 proposal. As a minimum, the notice shall be published in one or more  
30 newspapers of general circulation in the management area. After  
31 considering the public comments and making any changes in its proposal,  
32 the planning unit may approve the proposal by consensus of all of the  
33 members of the planning unit or by consensus among the members of the  
34 planning unit appointed to represent units of general government and a  
35 majority vote of members of the planning unit representing major  
36 interests in the management area and general citizenry components of  
37 the planning unit.

38 (b) Consensus among the members of the planning unit appointed to  
39 represent units of general government is achieved if each of the

1 members of the planning unit present for a recorded vote on the  
2 proposal appointed to represent the state, to represent tribal  
3 government, to represent directly counties, and to represent directly  
4 cities records his or her support for the proposed integrated watershed  
5 management as part of a recorded vote on the proposal. However, if a  
6 representative of tribal government has not been appointed to the  
7 planning unit under this chapter or one or more of the members of the  
8 planning unit appointed to represent tribal government vote to oppose  
9 the proposed integrated watershed management as part of such a recorded  
10 vote, such general government consensus is achieved if each of the  
11 members of the planning unit present for a recorded vote on the  
12 proposal who has been appointed to represent the state, to represent  
13 directly counties, and to represent directly cities records his or her  
14 support for the proposed integrated watershed management as part of a  
15 recorded vote on the proposal. If a member of the planning unit  
16 appointed to represent tribal government votes to oppose the proposed  
17 integrated watershed management in such a recorded vote on the  
18 proposal, the state shall immediately initiate consultation with the  
19 represented tribal government regarding the portions of the integrated  
20 watershed management affecting the tribal government that are opposed  
21 by the tribal government.

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

29 (d) If the proposal is approved by the planning unit, the unit  
30 shall submit the proposal to the counties with territory within the  
31 management area. If the planning unit has received funding beyond the  
32 initial fifty thousand dollars under RCW 90.82.040, such a proposal  
33 approved by the planning unit shall be submitted to the counties within  
34 four years of the date the funding was first received by the planning  
35 unit or the state shall develop and adopt integrated watershed  
36 management for the management area for those aspects of activities  
37 under section 5, 7, or 8 of this act for which the planning unit  
38 received funding under RCW 90.82.040.

1 (5) If proposed integrated watershed management is approved by a  
2 planning unit as provided in subsection (4) of this section, copies of  
3 the proposal shall be made available to the public upon request. The  
4 members of the planning unit representing state government shall ensure  
5 that copies of the proposal are transmitted for their review to: The  
6 tribal governments of each federal Indian reservation located in whole  
7 or in part in the management area; the tribal government of each  
8 federally recognized tribe that has ceded lands within the management  
9 area; and appropriate units of government in any state or province that  
10 is adjacent to the management area and inform these governments  
11 regarding hearings held under subsection (6) of this section.

12 (6) The legislative authority of each of the counties with  
13 territory in the management area shall provide public notice of and  
14 conduct at least one public hearing on the proposed integrated  
15 watershed management submitted under subsection (3) of this section.  
16 At a minimum, the notice shall be published in one or more newspapers  
17 of general circulation in the management area. After the public  
18 hearings, the legislative authorities of these counties shall convene  
19 in joint session to consider the proposal. The counties may approve or  
20 reject the proposed integrated watershed management for the management  
21 area, but may not amend it. Approval of such a proposal, or of their  
22 recommendations for changing the proposal, shall be made by a majority  
23 vote of the members of the various legislative authorities of the  
24 counties with territory in the management area, as such voting is  
25 specified in section 12 of this act. It is appropriate for any entity,  
26 including but not limited to a tribal government or a unit of  
27 government in a state or province that is adjacent to the management  
28 area, to provide comments on the proposal at the hearing and, if it  
29 wishes, to endorse the proposal formally at the hearing.

30 If a proposed integrated watershed management is not approved, it  
31 shall be returned to the planning unit with recommendations for  
32 revisions. Approval of such a revised proposal shall be made in the  
33 same manner provided for the original integrated watershed management.

34 (7) If integrated watershed management is approved by the planning  
35 unit and the counties for a management area under this section and that  
36 management creates obligations for agencies of state government, the  
37 obligations are binding on the state agencies and the agencies shall  
38 adopt implementing rules and take other actions to fulfill their  
39 obligations as soon as possible. If integrated watershed management is

1 approved by the planning unit and the counties for a management area  
2 under this section and that management creates obligations for a unit  
3 of local government in the management area or with territory in the  
4 management area, the obligations are binding on the unit of local  
5 government and it shall adopt implementing ordinances and take other  
6 actions to fulfill the obligations as soon as possible.

7 NEW SECTION. **Sec. 12.** MEMBERSHIP--OTHER RULES. (1) Whenever  
8 voting is used by a planning unit for making decisions, each member  
9 appointed to the planning unit shall have one vote.

10 (2) A vacancy on a planning unit shall be filled by appointment in  
11 the same manner prescribed for appointing the position that has become  
12 vacant. The planning unit shall not interrupt its work to await  
13 additional original appointments or appointments to fill any vacancies  
14 that may occur in its membership.

15 (3) No person who is a member of a planning unit for a management  
16 area under this chapter may designate another to act on behalf of the  
17 person as a member or to attend as a member a meeting of the unit on  
18 behalf of the person. If a member of such a planning unit is absent  
19 from more than five meetings of the planning unit that constitute  
20 twenty percent or more of the meetings that have been conducted by the  
21 planning unit while the person is a member of the unit and these  
22 absences have not been excused as provided by this section, the  
23 member's position on the planning unit is to be considered vacant. A  
24 person's absence from a meeting may be excused: By the chair of the  
25 planning unit if a written request to do so is received by the chair  
26 before the meeting from which the member is to be absent; or by a  
27 majority vote of the members of the planning unit at the meeting during  
28 which the member is absent.

29 (4) For the purposes of this chapter, a county or conservation  
30 district is considered to have territory within a management area only  
31 if the territory of the county or district located in one of the WRIA's  
32 in the management area constitutes at least fifteen percent of the area  
33 of the WRIA.

34 (5) Integrated watershed management is approved under section 11 of  
35 this act if the legislative authority of each county with territory  
36 within the management area votes to approve the integrated watershed  
37 management. In voting to appoint members of a planning unit: Each  
38 city with territory within the WRIA shall have one vote and

1 appointments shall be made by majority vote of such cities; each water  
2 supply utility other than those of a city or town with territory within  
3 the WRIA shall have one vote and appointments shall be made by majority  
4 vote of such districts; and each conservation district with territory  
5 within the WRIA shall have one vote and appointments shall be made by  
6 majority vote of such districts.

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

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

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

33 (2) An initial organizing grant of up to fifty thousand dollars for  
34 each WRIA may be awarded to a lead agency that applies to the  
35 department and indicates that integrated watershed management is to be  
36 developed under this chapter. Organizing grants may be expended for  
37 any purpose authorized by the department, including but not limited to  
38 determining the scope of work to be addressed by the integrated

1 watershed management for the management area; collecting and reviewing  
2 relevant studies and plans that already exist for the watershed,  
3 including growth management related plans in which critical areas have  
4 been designated pursuant to chapter 36.70A RCW; determining how the  
5 integrated watershed management for a management area can be  
6 coordinated with existing studies and plans; and baseline monitoring of  
7 water within the watershed.

8 (3)(a) A watershed assessment and instream flow establishment grant  
9 of up to two hundred thousand dollars for each WRIA may be awarded to  
10 a planning unit that certifies to the department that it adequately  
11 represents a broad range of interests within the watershed, and that it  
12 is willing to undertake at least one or more of the following as part  
13 of its integrated watershed management for its management area:  
14 Integrated watershed management for the protection or enhancement of  
15 water-related wildlife and fish habitat, integrated watershed  
16 management for water quantity, integrated watershed management for  
17 water quality, or the establishment of minimum instream flows for the  
18 principal stream or streams in the area. The planning unit must submit  
19 a detailed proposed budget that demonstrates the need for the grant.

20 (b) Grants awarded pursuant to this subsection (3) shall be awarded  
21 for a two-year period. The two-year time period shall begin to run  
22 when the lead agency for the planning unit first received the initial  
23 organizing grant under subsection (2) of this section. For a planning  
24 unit that did not submit an application for an initial organizing  
25 grant, the two-year time period shall begin to run when the planning  
26 unit receives a grant under this subsection (3).

27 (4) A management development and implementation grant in an amount  
28 of up to two hundred fifty thousand dollars for each WRIA may be  
29 awarded to a planning unit that submits evidence that a minimum  
30 instream flow has been determined for the principal stream or streams  
31 within the area under this chapter; and an assessment of the watershed  
32 has been adequately prepared in sufficient detail for the purposes for  
33 which the watershed assessment and instream flow establishment grant  
34 was awarded; the integrated watershed management that will be developed  
35 for the management area will not be in conflict with federal laws,  
36 state statutes, or tribal treaty rights; and its development will be  
37 coordinated with adjacent jurisdictions for purposes of minimum  
38 instream flows and water quality, if water quality was addressed as  
39 part of the watershed assessment. The planning unit must submit a

1 detailed proposed budget that demonstrates the need for the grant. Any  
2 moneys made available for implementation in a management area under  
3 this section are available only for implementation that commences after  
4 integrated watershed management has been adopted for the area under  
5 section 11 of this act.

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

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

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

13 (iii) The application and supporting information evidences a  
14 readiness to proceed.

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

19 (i) Applications that are comprehensive in the scope of integrated  
20 watershed management by proposing to address the following issues:

21 (A) Protection and enhancement of water-related fish and wildlife  
22 habitat;

23 (B) Water quality protection and enhancement; and

24 (C) Water supply to meet the needs of growing population and in  
25 watersheds where additional water supply is critical to continued  
26 economic health;

27 (ii) Applications that address a WRIA or multiple WRIs to enable  
28 a planning unit to develop integrated watershed management for an  
29 entire watershed, an entire tributary system to the Columbia or Snake  
30 rivers, or an entire evolutionarily significant unit under the federal  
31 endangered species act;

32 (iii) Applications that propose to address protection and  
33 enhancement of water-related fish and wildlife habitat in watersheds  
34 that have aquatic species listed as endangered or threatened under the  
35 federal endangered species act, 16 U.S.C. Sec. 1531 et seq.;

36 (iv) Applications that propose to address protection and  
37 enhancement of water quality in watersheds with impaired water quality;  
38 and



1 (v) Applications that address water supply needs in watersheds with  
2 growing populations and in watersheds where additional water supply is  
3 critical to continued economic health.

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

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

10 ~~(4))~~ (7) The department may retain up to one percent of funds  
11 allocated under this section to defray administrative costs.

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

27 **NEW SECTION. Sec. 14. TECHNICAL ASSISTANCE.** (1) The lead state  
28 representative on a planning unit designated under section 10(5)(i) of  
29 this act shall establish a program to provide technical assistance to  
30 planning units and local governments to encourage and facilitate the  
31 adoption and implementation of integrated watershed management for  
32 management areas developed under this chapter. The program shall not  
33 establish requirements or standards that must be satisfied by the  
34 integrated watershed management developed under this chapter and no  
35 part of the program may have the effect of a rule adopted under chapter  
36 34.05 RCW.

37 (2) The program shall use any staff assigned by the governor for  
38 this task, the staff of state agencies, and staff from institutions of

1 higher education to assist in the development of integrated watershed  
2 management under this chapter, including but not limited to assistance  
3 in determining and explaining how best available science will be  
4 incorporated into integrated watershed management for a management  
5 area, developing methods for effectively monitoring performance,  
6 providing the criteria that represents acceptable performance for key  
7 elements of the integrated watershed management for a management area,  
8 and the method of reporting performance to the public, local  
9 communities, and the state. In providing assistance under this  
10 section, the lead state representative shall recognize regional and  
11 local variations that exist in different parts of the state.

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

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

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

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

29 NEW SECTION. **Sec. 15. EXEMPTIONS.** Activities or actions taken to  
30 protect or enhance water-related wildlife and fish habitat cannot be  
31 required to be modified by any integrated watershed management adopted  
32 under this chapter or any state rules or local ordinances adopted to  
33 implement this chapter if the activities or actions are: (1) Part of  
34 a habitat conservation plan and permit, an incidental take statement,  
35 a management or recovery plan, or other cooperative or conservation  
36 agreement entered into with a federal or state fish and wildlife  
37 protection agency under its statutory authority for fish and wildlife  
38 protection that addresses the affected habitat; or (2) part of an

1 agreement regulating forest practices, which is approved by the  
2 department of natural resources and other appropriate state agencies  
3 under the forest practices act, chapter 76.09 RCW, for the affected  
4 habitat. The exemption from regulation provided by this section  
5 applies as long as the activities or actions continue to be taken in  
6 accordance with the plan, agreement, permit, or statement. Any  
7 assessment conducted under section 5, 7, or 8 of this act shall take  
8 into consideration such activities and actions.

9 NEW SECTION. **Sec. 16.** EXISTING WATER RIGHTS PROTECTED. Nothing  
10 in this chapter may be construed as affecting or impairing in any  
11 manner whatsoever water rights existing before the effective date of  
12 this section.

13 NEW SECTION. **Sec. 17.** A new section is added to chapter 90.03 RCW  
14 to read as follows:

15 LIMITATIONS ON NEW WITHDRAWALS. If the management area for which  
16 integrated watershed management is being developed under section 5, 7,  
17 or 8 of this act includes the evolutionary significant unit of an  
18 aquatic species listed or proposed for listing as endangered or  
19 threatened under the federal endangered species act, 16 U.S.C. Sec.  
20 1531 et seq., and minimum instream flows have not been established for  
21 each of the principal streams in the management area, the department  
22 shall consider limiting or restricting the issuance of permits  
23 withdrawing water from the bodies of water in the management area until  
24 minimum instream flows have been established for the principal streams  
25 in the management area. The limitation or restriction may take the  
26 form of withdrawing the area from further appropriation by rule,  
27 closing the area to further appropriation, or postponing decisions on  
28 applications for the permits until the minimum instream flows have been  
29 established.

30 NEW SECTION. **Sec. 18.** Captions used in this act are not part of  
31 the law.

32 NEW SECTION. **Sec. 19.** Sections 2, 4 through 12, and 14 through 16  
33 of this act are each added to chapter 90.82 RCW.

1        NEW SECTION.    **Sec. 20.**    This act is necessary for the immediate  
2 preservation of the public peace, health, or safety, or support of the  
3 state government and its existing public institutions, and takes effect  
4 immediately.

5        NEW SECTION.    **Sec. 21.**    If specific funding for the purposes of  
6 this act, referencing this act by bill or chapter number, is not  
7 provided by June 30, 1998, in the omnibus appropriations act, this act  
8 is null and void.

--- END ---