
SUBSTITUTE HOUSE BILL 2687

State of Washington

55th Legislature

1998 Regular Session

By House Committee on Law & Justice (originally sponsored by Representatives Sump, McMorris, Mielke, Dunn, Sherstad, Sterk, Smith, Boldt, Koster, Mulliken, Carrell, Thompson and Bush)

Read first time 02/05/98. Referred to Committee on .

1 AN ACT Relating to criminal trespass; amending RCW 9A.52.010,
2 15.04.030, 15.09.070, 15.13.265, 16.48.280, 16.52.085, 17.04.280,
3 17.10.160, 17.21.320, 17.24.021, 19.28.210, 22.16.020, 35.43.045,
4 35.67.310, 35.80.030, 35.80A.040, 35.81.070, 36.70.500, 36.88.390,
5 38.32.030, 43.92.080, 43.190.080, 47.01.170, 47.41.070, 47.42.080,
6 57.08.005, 59.18.115, 59.20.130, 70.105D.030, 70.119A.150, 75.08.160,
7 75.10.020, 76.01.060, 76.04.035, 76.06.060, 76.09.150, 76.09.160,
8 77.12.090, 77.12.095, 77.12.250, 77.12.315, 78.04.015, 78.04.040,
9 79.01.649, 79.01.650, 79.01.676, 79.01.680, 80.32.070, 80.36.020,
10 80.36.030, 81.36.020, 81.64.050, 86.09.226, 87.03.140, 89.30.211,
11 90.16.040, and 90.48.090; and creating a new section.

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

13 NEW SECTION. **Sec. 1.** (1) The legislature declares that the people
14 of this state have a right to a reasonable expectation of privacy on
15 their private property. The legislature finds, however, that over time
16 statutory authority for entry onto private property has expanded to the
17 point where the people no longer feel secure from the unreasonable
18 intrusion of government officials and others who have been granted
19 special immunity from prosecution for trespass. The legislature

1 further finds that this unnecessary erosion of the right of privacy
2 creates dangerous tension between the people of the state and their
3 government and jeopardizes the orderly resolution of issues.

4 (2) The legislature intends, with certain limited and necessary
5 exceptions, that all persons, whether government employees or private
6 persons, be made subject to the same restrictions with regard to
7 entering upon the property of another. It is the intent of the
8 legislature to eliminate special immunities from prosecution for
9 trespass, whether those immunities have been legislatively granted to
10 government or to private persons or entities. It is not the intent of
11 the legislature to change the elements of the crime of trespass, but
12 only to make all persons subject to the same law with exceptions from
13 uniform application of that law only for the kinds of entries onto
14 property by law enforcement officers that are lawful as of the
15 effective date of this act and those entries onto property by
16 government personnel that are specified in this act.

17 **Sec. 2.** RCW 9A.52.010 and 1985 c 289 s 1 are each amended to read
18 as follows:

19 The following definitions apply in this chapter:

20 (1) "Premises" includes any building, dwelling, structure used for
21 commercial aquaculture, or any real property;

22 (2) "Enter". The word "enter" when constituting an element or part
23 of a crime, shall include the entrance of the person, or the insertion
24 of any part of his body, or any instrument or weapon held in his hand
25 and used or intended to be used to threaten or intimidate a person or
26 to detach or remove property;

27 (3) "Enters or remains unlawfully". A person "enters or remains
28 unlawfully" in or upon premises when he is not then licensed, invited,
29 or otherwise privileged to so enter or remain. A public official or
30 employee "enters or remains unlawfully" under the same circumstances as
31 any other person, except that it is not unlawful for such an official
32 or employee to enter or remain in or upon premises:

33 (a) When necessary to do so in response to a fire or a medical
34 emergency;

35 (b) When acting under authority of a warrant or other court order;

36 or

1 (c) When the official or employee is a law enforcement officer
2 entering or remaining in or upon premises in a manner and under
3 circumstances that are lawful as of the effective date of this act.

4 A license or privilege to enter or remain in a building which is
5 only partly open to the public is not a license or privilege to enter
6 or remain in that part of a building which is not open to the public.
7 A person who enters or remains upon unimproved and apparently unused
8 land, which is neither fenced nor otherwise enclosed in a manner
9 designed to exclude intruders, does so with license and privilege
10 unless notice against trespass is personally communicated to him by the
11 owner of the land or some other authorized person, or unless notice is
12 given by posting in a conspicuous manner. Land that is used for
13 commercial aquaculture or for growing an agricultural crop or crops,
14 other than timber, is not unimproved and apparently unused land if a
15 crop or any other sign of cultivation is clearly visible or if notice
16 is given by posting in a conspicuous manner. Similarly, a field fenced
17 in any manner is not unimproved and apparently unused land.

18 If a property owner has requested and obtained a service, permit,
19 certificate, or license that requires the provider of the service,
20 permit, certificate, or license to have access to the owner's property
21 for the purpose of insuring that the requirements of the service,
22 permit, certificate, or license are met, the provider is licensed to
23 enter or remain upon that portion of the property to which the service,
24 permit, certificate, or license pertains for that purpose;

25 (4) "Data" means a representation of information, knowledge, facts,
26 concepts, or instructions that are being prepared or have been prepared
27 in a formalized manner and are intended for use in a computer;

28 (5) "Computer program" means an ordered set of data representing
29 coded instructions or statements that when executed by a computer cause
30 the computer to process data;

31 (6) "Access" means to approach, instruct, communicate with, store
32 data in, retrieve data from, or otherwise make use of any resources of
33 a computer, directly or by electronic means.

34 **Sec. 3.** RCW 15.04.030 and 1981 c 296 s 2 are each amended to read
35 as follows:

36 The director, supervisor and horticultural inspectors may, subject
37 to RCW 9A.52.070 and 9A.52.080:

1 (1) Inspect all horticultural premises, fruits, vegetables, nursery
2 stock, horticultural supplies, and other properties which are subject
3 to infection by pests or diseases; require the owners or persons in
4 charge of any infected property to disinfect the same; disinfect the
5 same in case the owner or person in charge fails, after notice, to do
6 so; condemn and destroy properties which cannot be successfully
7 disinfected; (~~have free access to any such premises or properties at~~
8 ~~any time;~~)

9 (2) Require all such products held for shipment which are partially
10 infected, to be sorted and repacked, and if the owner or person in
11 charge after notice fails to do so, they may condemn and destroy them:
12 PROVIDED, That no inspector shall destroy more than ten percent of any
13 variety of nursery stock in any lot or shipment of fifty or more trees,
14 vines, or shrubs without five days' notice to the shipper, during which
15 time the owner or shipper may appeal to the supervisor;

16 (3) At the request of the owner, inspect his fruit, vegetables, and
17 nursery stock and all other horticultural plants and products and
18 premises where growing or grown, for diseases and pests, and report to
19 him the result of such investigation and prescribe proper remedies;

20 (4) Issue certificates of inspection to licensed nurserymen and
21 dealers in nursery stock, on stock inspected and approved; and

22 (5) Inspect or audit, during business hours, the records of any
23 grower or dealer in nursery stock, to determine the kind of license
24 required by him.

25 **Sec. 4.** RCW 15.09.070 and 1969 c 113 s 7 are each amended to read
26 as follows:

27 Any authorized agent or employee of the county horticultural pest
28 and disease board may, subject to RCW 9A.52.070 and 9A.52.080, enter
29 upon any property for the purpose of administering this chapter and any
30 power exercisable pursuant thereto, including the taking of specimens,
31 general inspection, and the performance of such acts as are necessary
32 for controlling and preventing the spreading of horticultural pests and
33 diseases. (~~Such entry may be without the consent of the owner, and no~~
34 ~~action for trespass or damages shall lie so long as such entry and any~~
35 ~~activities connected therewith are undertaken and prosecuted with~~
36 ~~reasonable care.))~~

37 Should any such employee or authorized agent of the county
38 horticultural pest and disease board be denied access to such property

1 where such access was sought to carry out the purpose and provisions of
2 this chapter, the said board may apply to any court of competent
3 jurisdiction for a search warrant authorizing access to such property
4 for said purpose. The court may upon such application issue the search
5 warrant for the purpose requested.

6 **Sec. 5.** RCW 15.13.265 and 1993 c 120 s 7 are each amended to read
7 as follows:

8 The director may, subject to RCW 9A.52.070 and 9A.52.080, enter
9 upon the premises of a nursery dealer at reasonable times for the
10 purpose of carrying out the provisions of this chapter. If the
11 director is denied access, the director may apply to a court of
12 competent jurisdiction for a search warrant authorizing access to the
13 premises. The court may upon such application issue the search warrant
14 for the purposes requested. ~~((Denial of access to the director to
15 perform inspections may subject a nursery dealer to revocation of the
16 nursery license as provided in RCW 15.13.350.))~~

17 **Sec. 6.** RCW 16.48.280 and 1949 c 98 s 13 are each amended to read
18 as follows:

19 Subject to RCW 9A.52.070 and 9A.52.080, inspectors or agents
20 employed by the director ~~((shall have the right to))~~ may enter, during
21 business hours, any meat shop, restaurant or refrigerated locker plant,
22 or any other place where meat is commercially stored or sold to make
23 inspections of carcasses and to examine the books and records required
24 by law to be kept therein and to compare the carcasses with such
25 records.

26 **Sec. 7.** RCW 16.52.085 and 1994 c 261 s 6 are each amended to read
27 as follows:

28 (1) If a law enforcement officer or animal control officer has
29 probable cause to believe that an owner of a domestic animal has
30 violated this chapter and no responsible person can be found to assume
31 the animal's care, the officer may authorize, with a warrant, the
32 removal of the animal to a suitable place for feeding and care, or may
33 place the animal under the custody of an animal care and control
34 agency. In determining what is a suitable place, the officer shall
35 consider the animal's needs, including its size and behavioral
36 characteristics. An officer may remove an animal under this subsection

1 without a warrant only if the animal is in an immediate life-
2 threatening condition and the removal does not violate RCW 9A.52.070 or
3 9A.52.080.

4 (2) If a law enforcement officer or an animal control officer has
5 probable cause to believe a violation of this chapter has occurred, the
6 officer may, subject to RCW 9A.52.070 and 9A.52.080, authorize an
7 examination of a domestic animal allegedly neglected or abused in
8 violation of this chapter by a veterinarian to determine whether the
9 level of neglect or abuse in violation of this chapter is sufficient to
10 require removal of the animal. This section does not condone illegal
11 entry onto private property.

12 (3) Any owner whose domestic animal is removed pursuant to this
13 chapter shall be given written notice of the circumstances of the
14 removal and notice of legal remedies available to the owner. The
15 notice shall be given by posting at the place of seizure, by delivery
16 to a person residing at the place of seizure, or by registered mail if
17 the owner is known. In making the decision to remove an animal
18 pursuant to this chapter, the officer shall make a good faith effort to
19 contact the animal's owner before removal.

20 (4) The agency having custody of the animal may euthanize the
21 animal or may find a responsible person to adopt the animal not less
22 than fifteen business days after the animal is taken into custody. A
23 custodial agency may euthanize severely injured, diseased, or suffering
24 animals at any time. An owner may prevent the animal's destruction or
25 adoption by: (a) Petitioning the district court of the county where
26 the animal was seized for the animal's immediate return subject to
27 court-imposed conditions, or (b) posting a bond or security in an
28 amount sufficient to provide for the animal's care for a minimum of
29 thirty days from the seizure date. If the custodial agency still has
30 custody of the animal when the bond or security expires, the animal
31 shall become the agency's property unless the court orders an
32 alternative disposition. If a court order prevents the agency from
33 assuming ownership and the agency continues to care for the animal, the
34 court shall order the owner to renew a bond or security for the
35 agency's continuing costs for the animal's care.

36 (5) If no criminal case is filed within fourteen business days of
37 the animal's removal, the owner may petition the district court of the
38 county where the animal was removed for the animal's return. The
39 petition shall be filed with the court, with copies served to the law

1 enforcement or animal care and control agency responsible for removing
2 the animal and to the prosecuting attorney. If the court grants the
3 petition, the agency which seized the animal must deliver the animal to
4 the owner at no cost to the owner. If a criminal action is filed after
5 the petition is filed but before the animal is returned, the petition
6 shall be joined with the criminal matter.

7 (6) In a motion or petition for the animal's return before a trial,
8 the burden is on the owner to prove by a preponderance of the evidence
9 that the animal will not suffer future neglect or abuse and is not in
10 need of being restored to health.

11 (7) Any authorized person treating or attempting to restore an
12 animal to health under this chapter shall not be civilly or criminally
13 liable for such action.

14 **Sec. 8.** RCW 17.04.280 and 1961 c 250 s 10 are each amended to read
15 as follows:

16 All weed district directors, all weed inspectors, and all official
17 agents of all weed districts, in the performance of their official
18 duties, (~~have the right to~~) may, subject to RCW 9A.52.070 and
19 9A.52.080, enter and go upon any of the lands within their weed
20 district at any reasonable time for any reason necessary to effectuate
21 the purposes of the weed district. (~~Any person who prevents or~~
22 ~~threatens to prevent any lawful agent of the weed district, after said~~
23 ~~agent identifies himself and the purpose for which he is going upon the~~
24 ~~land, from entering or going upon the land within said weed district at~~
25 ~~a reasonable time and for a lawful purpose of the weed district, is~~
26 ~~guilty of a misdemeanor.~~))

27 **Sec. 9.** RCW 17.10.160 and 1997 c 353 s 20 are each amended to read
28 as follows:

29 Any authorized agent or employee of the county noxious weed control
30 board or of the state noxious weed control board or of the department
31 of agriculture where not otherwise proscribed by law may, subject to
32 RCW 9A.52.070 and 9A.52.080, enter upon any property for the purpose of
33 administering this chapter and any power exercisable pursuant thereto,
34 including the taking of specimens of weeds, general inspection, and the
35 performance of eradication or control work. Prior to carrying out the
36 purpose for which the entry is made, the official making such entry or

1 someone in his or her behalf, shall make a reasonable attempt to notify
2 the owner of the property as to the purpose and need for the entry.

3 (1) When there is probable cause to believe that there is property
4 within this state not otherwise exempt from process or execution upon
5 which noxious weeds are standing or growing and the owner refuses
6 permission to inspect the property, a judge of the superior court or
7 district court in the county in which the property is located may, upon
8 the request of the county noxious weed control board or its agent,
9 issue a warrant directed to the board or agent authorizing the taking
10 of specimens of weeds or other materials, general inspection, and the
11 performance of eradication or control work.

12 (2) Application for issuance and execution and return of the
13 warrant authorized by this section shall be in accordance with the
14 applicable rules of the superior court or the district courts.

15 (3) Nothing in this section requires the application for and
16 issuance of any warrant not otherwise required by law: PROVIDED, That
17 civil liability for negligence shall lie in any case in which entry and
18 any of the activities connected therewith are not undertaken with
19 reasonable care.

20 (4) Any person who improperly prevents or threatens to prevent
21 entry upon land as authorized in this section or any person who
22 interferes with the carrying out of this chapter shall be upon
23 conviction guilty of a misdemeanor.

24 **Sec. 10.** RCW 17.21.320 and 1989 c 380 s 62 are each amended to
25 read as follows:

26 (1) For purpose of carrying out the provisions of this chapter the
27 director may, subject to RCW 9A.52.070 and 9A.52.080, enter upon any
28 public or private premises at reasonable times, in order:

29 (a) To have access for the purpose of inspecting any equipment
30 subject to this chapter and such premises on which such equipment is
31 kept or stored;

32 (b) To inspect lands actually or reported to be exposed to
33 pesticides;

34 (c) To inspect storage or disposal areas;

35 (d) To inspect or investigate complaints of injury to humans or
36 land; or

37 (e) To sample pesticides being applied or to be applied.

1 (2) Should the director be denied access to any land where such
2 access was sought for the purposes set forth in this chapter, the
3 director may apply to any court of competent jurisdiction for a search
4 warrant authorizing access to such land for said purposes. The court
5 may upon such application, issue the search warrant for the purposes
6 requested.

7 (3) It shall be the duty of each prosecuting attorney to whom any
8 violation of this chapter is reported, to cause appropriate proceedings
9 to be instituted and prosecuted in a court of competent jurisdiction
10 without delay.

11 (4) The director may bring an action to enjoin the violation or
12 threatened violation of any provision of this chapter or any rule made
13 pursuant to this chapter in the superior court of the county in which
14 such violation occurs or is about to occur.

15 **Sec. 11.** RCW 17.24.021 and 1991 c 257 s 6 are each amended to read
16 as follows:

17 (1) The director may intercept and hold or order held for
18 inspection, or cause to be inspected while in transit or after arrival
19 at their destination, all plants, plant products, bees, or other
20 articles likely to carry plant pests, bee pests, or noxious weeds being
21 moved into this state from another state, territory, or a foreign
22 country or within or through this state for plant and bee pests and
23 disease.

24 (2) The director may, subject to RCW 9A.52.070 and 9A.52.080, enter
25 upon public and private premises at reasonable times for the purpose of
26 carrying out this chapter. If the director be denied access, the
27 director may apply to any court of competent jurisdiction for a search
28 warrant authorizing access to such premises. The court may upon such
29 application issue the search warrant for the purposes requested.

30 (3) The director may adopt rules in accordance with chapter 34.05
31 RCW as may be necessary to carry out the purposes and provisions of
32 this chapter.

33 **Sec. 12.** RCW 19.28.210 and 1996 c 241 s 4 are each amended to read
34 as follows:

35 (1) The director shall cause an inspector to inspect all wiring,
36 appliances, devices, and equipment to which this chapter applies. Any
37 such inspection is subject to RCW 9A.52.070 and 9A.52.080. Nothing

1 contained in this chapter may be construed as providing any authority
2 for any subdivision of government to adopt by ordinance any provisions
3 contained or provided for in this chapter except those pertaining to
4 cities and towns pursuant to RCW 19.28.010(3).

5 (2) Upon request, electrical inspections will be made by the
6 department within forty-eight hours, excluding holidays, Saturdays, and
7 Sundays. If, upon written request, the electrical inspector fails to
8 make an electrical inspection within twenty-four hours, the serving
9 utility may immediately connect electrical power to the installation if
10 the necessary electrical work permit is displayed: PROVIDED, That if
11 the request is for an electrical inspection that relates to a mobile
12 home installation, the applicant shall provide proof of a current
13 building permit issued by the local government agency authorized to
14 issue such permits as a prerequisite for inspection approval or
15 connection of electrical power to the mobile home.

16 (3) Whenever the installation of any wiring, device, appliance, or
17 equipment is not in accordance with this chapter, or is in such a
18 condition as to be dangerous to life or property, the person, firm,
19 partnership, corporation, or other entity owning, using, or operating
20 it shall be notified by the department and shall within fifteen days,
21 or such further reasonable time as may upon request be granted, make
22 such repairs and changes as are required to remove the danger to life
23 or property and to make it conform to this chapter. The director,
24 through the inspector, is hereby empowered to disconnect or order the
25 discontinuance of electrical service to conductors or equipment that
26 are found to be in a dangerous or unsafe condition and not in
27 accordance with this chapter. Upon making a disconnection the
28 inspector shall attach a notice stating that the conductors have been
29 found dangerous to life or property and are not in accordance with this
30 chapter. It is unlawful for any person to reconnect such defective
31 conductors or equipment without the approval of the department, and
32 until the conductors and equipment have been placed in a safe and
33 secure condition, and in a condition that complies with this chapter.

34 (4) Subject to RCW 9A.52.070 and 9A.52.080, the director, through
35 the electrical inspector, (~~((has the right))~~) may during reasonable hours
36 (~~((to))~~) enter into and upon any building or premises in the discharge of
37 his or her official duties for the purpose of making any inspection or
38 test of the installation of new construction or altered electrical
39 wiring, electrical devices, equipment, or material contained in or on

1 the buildings or premises. No electrical wiring or equipment subject
2 to this chapter may be concealed until it has been approved by the
3 inspector making the inspection. At the time of the inspection,
4 electrical wiring or equipment subject to this chapter must be
5 sufficiently accessible to permit the inspector to employ any testing
6 methods that will verify conformance with the national electrical code
7 and any other requirements of this chapter.

8 (5) Persons, firms, partnerships, corporations, or other entities
9 making electrical installations shall obtain inspection and approval
10 from an authorized representative of the department as required by this
11 chapter before requesting the electric utility to connect to the
12 installations. Electric utilities may connect to the installations if
13 approval is clearly indicated by certification of the electrical work
14 permit required to be affixed to each installation or by equivalent
15 means, except that increased or relocated services may be reconnected
16 immediately at the discretion of the utility before approval if an
17 electrical work permit is displayed. The permits shall be furnished
18 upon payment of the fee to the department.

19 (6) The director, subject to the recommendations and approval of
20 the board, shall set by rule a schedule of license and electrical work
21 permit fees that will cover the costs of administration and enforcement
22 of this chapter. The rules shall be adopted in accordance with the
23 administrative procedure act, chapter 34.05 RCW. No fee may be charged
24 for plug-in mobile homes, recreational vehicles, or portable
25 appliances.

26 (7) Nothing in this chapter shall authorize the inspection of any
27 wiring, appliance, device, or equipment, or installations thereof, by
28 any utility or by any person, firm, partnership, corporation, or other
29 entity employed by a utility in connection with the installation,
30 repair, or maintenance of lines, wires, apparatus, or equipment owned
31 by or under the control of the utility. All work covered by the
32 national electric code not exempted by the 1981 edition of the national
33 electric code 90-2(B)(5) shall be inspected by the department.

34 **Sec. 13.** RCW 22.16.020 and 1919 c 98 s 2 are each amended to read
35 as follows:

36 Every corporation incorporated or that may hereafter be
37 incorporated under the laws of this state or of any other state or
38 territory, and qualified to transact business in this state for the

1 purpose of acquiring, owning or operating public warehouses or
2 elevators for storing and handling grain, produce and other
3 agricultural commodities which may desire to erect and operate any such
4 public warehouse or elevator, or to erect and operate tramways or cable
5 tramways for the purpose of carrying, conveying or transporting such
6 grain, produce or commodities to or from such warehouse or elevator or
7 to acquire rights of way for roadways to and from such warehouse or
8 elevator or to acquire boat landing or wharving facilities in
9 connection with such warehouse or elevator (~~shall have the right to~~)
10 may, subject to RCW 9A.52.070 and 9A.52.080, enter upon any lands
11 proposed to be used for any such purpose for the purpose of examining,
12 locating and surveying the lines and boundaries thereof, doing no
13 unnecessary damage thereby.

14 **Sec. 14.** RCW 35.43.045 and 1965 c 7 s 35.43.045 are each amended
15 to read as follows:

16 Every city or town (~~shall have the right of entry~~) may, subject
17 to RCW 9A.52.070 and 9A.52.080, enter upon all irrigation, drainage, or
18 flood control canal or ditch rights of way within its limits for all
19 purposes necessary to safeguard the public from the hazards of such
20 open canals or ditches, and the right to cause to be constructed,
21 installed, and maintained upon or adjacent to such rights of way
22 safeguards as provided in RCW 35.43.040: PROVIDED, That such
23 safeguards must not unreasonably interfere with maintenance of the
24 canal or ditch or with the operation thereof. The city or town, at its
25 option, notwithstanding any laws to the contrary, may require the
26 irrigation, drainage, flood control, or other district, agency, person,
27 corporation, or association maintaining the canal or ditch to supervise
28 the installation and construction of such safeguards, or to maintain
29 the same. If such option is exercised reimbursement must be made by
30 the city or town for all actual costs thereof.

31 **Sec. 15.** RCW 35.67.310 and 1965 c 7 s 35.67.310 are each amended
32 to read as follows:

33 Every city or town may permit connections with any of its sewers,
34 either directly or indirectly, from property beyond its limits, upon
35 such terms, conditions and payments as may be prescribed by ordinance,
36 which may be required by the city or town to be evidenced by a written

1 agreement between the city or town and the owner of the property to be
2 served by the connecting sewer.

3 If any such agreement is made and filed with the county auditor of
4 the county in which said property is located, it shall constitute a
5 covenant running with the land and the agreements and covenants therein
6 shall be binding on the owner and all persons subsequently acquiring
7 any right, title or interest in or to said property.

8 If the terms and conditions of the ordinance or of the agreement
9 are not kept and performed, or the payments made, as required, the city
10 or town may disconnect the sewer and for that purpose may at any time
11 enter upon any public street or road or upon said property. Any such
12 entry is subject to RCW 9A.52.070 and 9A.52.080.

13 **Sec. 16.** RCW 35.80.030 and 1989 c 133 s 3 are each amended to read
14 as follows:

15 (1) Whenever the local governing body of a municipality finds that
16 one or more conditions of the character described in RCW 35.80.010
17 exist within its territorial limits, said governing body may adopt
18 ordinances relating to such dwellings, buildings, structures, or
19 premises. Such ordinances may provide for the following:

20 (a) That an "improvement board" or officer be designated or
21 appointed to exercise the powers assigned to such board or officer by
22 the ordinance as specified herein. Said board or officer may be an
23 existing municipal board or officer in the municipality, or may be a
24 separate board or officer appointed solely for the purpose of
25 exercising the powers assigned by said ordinance.

26 If a board is created, the ordinance shall specify the terms,
27 method of appointment, and type of membership of said board, which may
28 be limited, if the local governing body chooses, to public officers as
29 herein defined.

30 (b) If a board is created, a public officer, other than a member of
31 the improvement board, may be designated to work with the board and
32 carry out the duties and exercise the powers assigned to said public
33 officer by the ordinance.

34 (c) That if, after a preliminary investigation of any dwelling,
35 building, structure, or premises, the board or officer finds that it is
36 unfit for human habitation or other use, he shall cause to be served
37 either personally or by certified mail, with return receipt requested,
38 upon all persons having any interest therein, as shown upon the records

1 of the auditor's office of the county in which such property is
2 located, and shall post in a conspicuous place on such property, a
3 complaint stating in what respects such dwelling, building, structure,
4 or premises is unfit for human habitation or other use. If the
5 whereabouts of any of such persons is unknown and the same cannot be
6 ascertained by the board or officer in the exercise of reasonable
7 diligence, and the board or officer makes an affidavit to that effect,
8 then the serving of such complaint or order upon such persons may be
9 made either by personal service or by mailing a copy of the complaint
10 and order by certified mail, postage prepaid, return receipt requested,
11 to each such person at the address of the building involved in the
12 proceedings, and mailing a copy of the complaint and order by first
13 class mail to any address of each such person in the records of the
14 county assessor or the county auditor for the county where the property
15 is located. Such complaint shall contain a notice that a hearing will
16 be held before the board or officer, at a place therein fixed, not less
17 than ten days nor more than thirty days after the serving of said
18 complaint; and that all parties in interest shall be given the right to
19 file an answer to the complaint, to appear in person, or otherwise, and
20 to give testimony at the time and place in the complaint. The rules of
21 evidence prevailing in courts of law or equity shall not be controlling
22 in hearings before the board or officer. A copy of such complaint
23 shall also be filed with the auditor of the county in which the
24 dwelling, building, structure, or ((~~premise~~ {~~premises~~}) premises) is
25 located, and such filing of the complaint or order shall have the same
26 force and effect as other lis pendens notices provided by law.

27 (d) That the board or officer may determine that a dwelling,
28 building, structure, or premises is unfit for human habitation or other
29 use if it finds that conditions exist in such dwelling, building,
30 structure, or premises which are dangerous or injurious to the health
31 or safety of the occupants of such dwelling, building, structure, or
32 premises, the occupants of neighboring dwellings, or other residents of
33 such municipality. Such conditions may include the following, without
34 limitations: Defects therein increasing the hazards of fire or
35 accident; inadequate ventilation, light, or sanitary facilities,
36 dilapidation, disrepair, structural defects, uncleanliness,
37 overcrowding, or inadequate drainage. The ordinance shall state
38 reasonable and minimum standards covering such conditions, including
39 those contained in ordinances adopted in accordance with subdivision

1 (7)(a) herein, to guide the board or the public officer and the agents
2 and employees of either, in determining the fitness of a dwelling for
3 human habitation, or building, structure, or premises for other use.

4 (e) That the determination of whether a dwelling, building,
5 structure, or premises should be repaired or demolished, shall be based
6 on specific stated standards on (i) the degree of structural
7 deterioration of the dwelling, building, structure, or premises, or
8 (ii) the relationship that the estimated cost of repair bears to the
9 value of the dwelling, building, structure, or premises, with the
10 method of determining this value to be specified in the ordinance.

11 (f) That if, after the required hearing, the board or officer
12 determines that the dwelling is unfit for human habitation, or building
13 or structure or premises is unfit for other use, it shall state in
14 writing its findings of fact in support of such determination, and
15 shall issue and cause to be served upon the owner or party in interest
16 thereof, as is provided in subdivision (1)(c), and shall post in a
17 conspicuous place on said property, an order which (i) requires the
18 owner or party in interest, within the time specified in the order, to
19 repair, alter, or improve such dwelling, building, structure, or
20 premises to render it fit for human habitation, or for other use, or to
21 vacate and close the dwelling, building, structure, or premises, if
22 such course of action is deemed proper on the basis of the standards
23 set forth as required in subdivision (1)(e); or (ii) requires the owner
24 or party in interest, within the time specified in the order, to remove
25 or demolish such dwelling, building, structure, or premises, if this
26 course of action is deemed proper on the basis of said standards. If
27 no appeal is filed, a copy of such order shall be filed with the
28 auditor of the county in which the dwelling, building, structure, or
29 premises is located.

30 (g) The owner or any party in interest, within thirty days from the
31 date of service upon the owner and posting of an order issued by the
32 board under the provisions of subdivision (c) of this subsection, may
33 file an appeal with the appeals commission.

34 The local governing body of the municipality shall designate or
35 establish a municipal agency to serve as the appeals commission. The
36 local governing body shall also establish rules of procedure adequate
37 to assure a prompt and thorough review of matters submitted to the
38 appeals commission, and such rules of procedure shall include the
39 following, without being limited thereto: (i) All matters submitted to

1 the appeals commission must be resolved by the commission within sixty
2 days from the date of filing therewith and (ii) a transcript of the
3 findings of fact of the appeals commission shall be made available to
4 the owner or other party in interest upon demand.

5 The findings and orders of the appeals commission shall be reported
6 in the same manner and shall bear the same legal consequences as if
7 issued by the board, and shall be subject to review only in the manner
8 and to the extent provided in subdivision (2) of this section.

9 If the owner or party in interest, following exhaustion of his
10 rights to appeal, fails to comply with the final order to repair,
11 alter, improve, vacate, close, remove, or demolish the dwelling,
12 building, structure, or premises, the board or officer may, subject to
13 RCW 9A.52.070 and 9A.52.080, direct or cause such dwelling, building,
14 structure, or premises to be repaired, altered, improved, vacated, and
15 closed, removed, or demolished.

16 (h) That the amount of the cost of such repairs, alterations or
17 improvements; or vacating and closing; or removal or demolition by the
18 board or officer, shall be assessed against the real property upon
19 which such cost was incurred unless such amount is previously paid.
20 Upon certification to him by the treasurer of the municipality in cases
21 arising out of the city or town or by the county improvement board or
22 officer, in cases arising out of the county, of the assessment amount
23 being due and owing, the county treasurer shall enter the amount of
24 such assessment upon the tax rolls against the property for the current
25 year and the same shall become a part of the general taxes for that
26 year to be collected at the same time and with interest at such rates
27 and in such manner as provided for in RCW 84.56.020, as now or
28 hereafter amended, for delinquent taxes, and when collected to be
29 deposited to the credit of the general fund of the municipality. If
30 the dwelling, building, structure, or premises is removed or demolished
31 by the board or officer, the board or officer shall, if possible, sell
32 the materials of such dwelling, building, structure, (~~{or}~~) or
33 premises in accordance with procedures set forth in said ordinance, and
34 shall credit the proceeds of such sale against the cost of the removal
35 or demolition and if there be any balance remaining, it shall be paid
36 to the parties entitled thereto, as determined by the board or officer,
37 after deducting the costs incident thereto.

38 The assessment shall constitute a lien against the property which
39 shall be of equal rank with state, county and municipal taxes.

1 (2) Any person affected by an order issued by the appeals
2 commission pursuant to subdivision (1)(f) hereof may, within thirty
3 days after the posting and service of the order, petition to the
4 superior court for an injunction restraining the public officer or
5 members of the board from carrying out the provisions of the order. In
6 all such proceedings the court is authorized to affirm, reverse, or
7 modify the order and such trial shall be heard de novo.

8 (3) An ordinance adopted by the local governing body of the
9 municipality may authorize the board or officer to exercise such powers
10 as may be necessary or convenient to carry out and effectuate the
11 purposes and provisions of this section. These powers shall include
12 the following in addition to others herein granted: (a)(i) To
13 determine which dwellings within the municipality are unfit for human
14 habitation; (ii) to determine which buildings, structures, or premises
15 are unfit for other use; (b) to administer oaths and affirmations,
16 examine witnesses and receive evidence; and (c) to investigate the
17 dwelling and other property conditions in the municipality or county
18 and, subject to RCW 9A.52.070 and 9A.52.080, to enter upon premises for
19 the purpose of making examinations when the board or officer has
20 reasonable ground for believing they are unfit for human habitation, or
21 for other use: PROVIDED, That such entries shall be made in such
22 manner as to cause the least possible inconvenience to the persons in
23 possession, and to obtain an order for this purpose after submitting
24 evidence in support of an application which is adequate to justify such
25 an order from a court of competent jurisdiction in the event entry is
26 denied or resisted.

27 (4) The local governing body of any municipality adopting an
28 ordinance pursuant to this chapter may appropriate the necessary funds
29 to administer such ordinance.

30 (5) Nothing in this section shall be construed to abrogate or
31 impair the powers of the courts or of any department of any
32 municipality to enforce any provisions of its charter or its ordinances
33 or regulations, nor to prevent or punish violations thereof; and the
34 powers conferred by this section shall be in addition and supplemental
35 to the powers conferred by any other law.

36 (6) Nothing in this section shall be construed to impair or limit
37 in any way the power of the municipality to define and declare
38 nuisances and to cause their removal or abatement, by summary
39 proceedings or otherwise.

1 (7) Any municipality may (by ordinance adopted by its governing
2 body) (a) prescribe minimum standards for the use and occupancy of
3 dwellings throughout the municipality, or county, (b) prescribe minimum
4 standards for the use or occupancy of any building, structure, or
5 premises used for any other purpose, (c) prevent the use or occupancy
6 of any dwelling, building, structure, or premises, which is injurious
7 to the public health, safety, morals, or welfare, and (d) prescribe
8 punishment for the violation of any provision of such ordinance.

9 **Sec. 17.** RCW 35.80A.040 and 1989 c 271 s 242 are each amended to
10 read as follows:

11 Every county, city, or town may, in addition to any other authority
12 granted by this chapter: (1) Subject to RCW 9A.52.070 and 9A.52.080,
13 enter upon any building or property found to constitute a blight on the
14 surrounding neighborhood in order to make surveys and appraisals, and
15 to obtain an order for this purpose from a court of competent
16 jurisdiction in the event entry is denied or resisted; and (2) borrow
17 money, apply for, and accept, advances, loans, grants, contributions,
18 and any other form of financial assistance from the federal government,
19 the state, a county, or other public body, or from any sources, public
20 or private, for the purposes of this chapter, and enter into and carry
21 out contracts in connection herewith.

22 **Sec. 18.** RCW 35.81.070 and 1965 c 7 s 35.81.070 are each amended
23 to read as follows:

24 Every municipality shall have all the powers necessary or
25 convenient to carry out and effectuate the purposes and provisions of
26 this chapter, including the following powers in addition to others
27 herein granted:

28 (1) To undertake and carry out urban renewal projects within the
29 municipality, to make and execute contracts and other instruments
30 necessary or convenient to the exercise of its powers under this
31 chapter, and to disseminate blight clearance and urban renewal
32 information.

33 (2) To provide or to arrange or contract for the furnishing or
34 repair by any person or agency, public or private, of services,
35 privileges, works, streets, roads, public utilities or other facilities
36 for, or in connection with, an urban renewal project; to install,
37 construct, and reconstruct streets, utilities, parks, playgrounds, and

1 other public improvements; and to agree to any conditions that it may
2 deem reasonable and appropriate attached to federal financial
3 assistance and imposed pursuant to federal law relating to the
4 determination of prevailing salaries or wages or compliance with labor
5 standards, in the undertaking or carrying out of an urban renewal
6 project, and to include in any contract let in connection with such a
7 project, provisions to fulfill such of said conditions as it may deem
8 reasonable and appropriate.

9 (3) Within the municipality and subject to RCW 9A.52.070 and
10 9A.52.080, to enter upon any building or property in any urban renewal
11 area, in order to make surveys and appraisals, provided that such
12 entries shall be made in such a manner as to cause the least possible
13 inconvenience to the persons in possession, and to obtain an order for
14 this purpose from a court of competent jurisdiction in the event entry
15 is denied or resisted; to acquire by purchase, lease, option, gift,
16 grant, bequest, devise, eminent domain, or otherwise, any real property
17 and such personal property as may be necessary for the administration
18 of the provisions herein contained, together with any improvements
19 thereon; to hold, improve, clear, or prepare for redevelopment any such
20 property; to dispose of any real property; to insure or provide for the
21 insurance of any real or personal property or operations of the
22 municipality against any risks or hazards, including the power to pay
23 premiums on any such insurance: PROVIDED, That no statutory provision
24 with respect to the acquisition, clearance, or disposition of property
25 by public bodies shall restrict a municipality in the exercise of such
26 functions with respect to an urban renewal project.

27 (4) To invest any urban renewal project funds held in reserves or
28 sinking funds or any such funds which are not required for immediate
29 disbursement, in property or securities in which mutual savings banks
30 may legally invest funds subject to their control; to redeem such bonds
31 as have been issued pursuant to RCW 35.81.100 at the redemption price
32 established therein or to purchase such bonds at less than redemption
33 price, all such bonds so redeemed or purchased to be canceled.

34 (5) To borrow money and to apply for, and accept, advances, loans,
35 grants, contributions and any other form of financial assistance from
36 the federal government, the state, county, or other public body, or
37 from any sources, public or private, for the purposes of this chapter,
38 and to enter into and carry out contracts in connection therewith. A
39 municipality may include in any application or contract for financial

1 assistance with the federal government for an urban renewal project
2 such conditions imposed pursuant to federal laws as the municipality
3 may deem reasonable and appropriate and which are not inconsistent with
4 the purposes of this chapter.

5 (6) Within the municipality, to make or have made all plans
6 necessary to the carrying out of the purposes of this chapter and to
7 contract with any person, public or private, in making and carrying out
8 such plans and to adopt or approve, modify, and amend such plans. Such
9 plans may include, without limitation: (a) A comprehensive plan or
10 parts thereof for the locality as a whole, (b) urban renewal plans, (c)
11 plans for carrying out a program of voluntary or compulsory repair and
12 rehabilitation of buildings and improvements, (d) plans for the
13 enforcement of state and local laws, codes, and regulations relating to
14 the use of land and the use and occupancy of buildings and improvements
15 and to the compulsory repair, rehabilitation, demolition, or removal of
16 buildings and improvements, and (e) appraisals, title searches,
17 surveys, studies, and other preliminary plans and work necessary to
18 prepare for the undertaking of urban renewal projects. The
19 municipality is authorized to develop, test, and report methods and
20 techniques, and carry out demonstrations and other activities, for the
21 prevention and the elimination of urban blight and to apply for,
22 accept, and utilize grants of, funds from the federal government for
23 such purposes.

24 (7) To prepare plans for the relocation of families displaced from
25 an urban renewal area, and to coordinate public and private agencies in
26 such relocation, including requesting such assistance for this purpose
27 as is available from other private and governmental agencies, both for
28 the municipality and other parties.

29 (8) To appropriate such funds and make such expenditures as may be
30 necessary to carry out the purposes of this chapter, and in accordance
31 with state law: (a) Levy taxes and assessments for such purposes; (b)
32 acquire land by negotiation and/or eminent domain; (c) close, vacate,
33 plan, or replan streets, roads, sidewalks, ways, or other places; (d)
34 plan or replan, zone or rezone any part of the municipality; (e) adopt
35 annual budgets for the operation of an urban renewal agency,
36 department, or offices vested with urban renewal project powers under
37 RCW 35.81.150; (f) enter into agreements with such agencies or
38 departments (which agreements may extend over any period) respecting

1 action to be taken by such municipality pursuant to any of the powers
2 granted by this chapter.

3 (9) Within the municipality, to organize, coordinate, and direct
4 the administration of the provisions of this chapter as they apply to
5 such municipality in order that the objective of remedying blighted
6 areas and preventing the causes thereof within such municipality may be
7 most effectively promoted and achieved, and to establish such new
8 office or offices of the municipality or to reorganize existing offices
9 in order to carry out such purpose most effectively.

10 (10) To exercise all or any part or combination of powers herein
11 granted.

12 **Sec. 19.** RCW 36.70.500 and 1963 c 4 s 36.70.500 are each amended
13 to read as follows:

14 In the performance of their functions and duties, duly authorized
15 members of a commission or planning staff may, subject to RCW 9A.52.070
16 and 9A.52.080, enter upon any land and make examinations and surveys:
17 PROVIDED, That such entries, examinations and surveys do not damage or
18 interfere with the use of the land by those persons lawfully entitled
19 to the possession thereof.

20 **Sec. 20.** RCW 36.88.390 and 1963 c 4 s 36.88.390 are each amended
21 to read as follows:

22 Every county (~~shall have the right of entry~~) may, subject to RCW
23 9A.52.070 and 9A.52.080, enter upon every irrigation, drainage, or
24 flood control canal or ditch right of way within its boundaries for all
25 purposes necessary to safeguard the public from the hazards of open
26 canals or ditches, including the right to clean such canals or ditches
27 to prevent their flooding adjacent lands, and the right to cause to be
28 constructed and maintained on such rights of way or adjacent thereto
29 safeguards as authorized by RCW 36.88.015: PROVIDED, That such
30 safeguards must not unreasonably interfere with maintenance of the
31 canal or ditch or with the operation thereof.

32 **Sec. 21.** RCW 38.32.030 and 1943 c 130 s 45 are each amended to
33 read as follows:

34 No person belonging to the military forces of this state shall be
35 arrested on any warrant, except for treason or felony, while going to,
36 remaining at, or returning from any place at which he may be required

1 to attend military duty. Any members of the organized militia
2 parading, or performing any duty according to the law shall have the
3 right of way in any street or highway through which they may pass and
4 while on field duty (~~shall have the right to~~) may, subject to RCW
5 9A.52.070 and 9A.52.080, enter upon, cross or occupy any uninclosed
6 lands, or any inclosed lands where no damage will be caused thereby:
7 PROVIDED, That the carriage of the United States mail and legitimate
8 functions of the police and fire departments shall not be interfered
9 with thereby.

10 **Sec. 22.** RCW 43.92.080 and 1965 c 8 s 43.92.080 are each amended
11 to read as follows:

12 In order to carry out the purposes of this chapter all persons
13 employed hereunder (~~are authorized to~~) may, subject to RCW 9A.52.070
14 and 9A.52.080, enter and cross all land within the state doing thereby
15 no damage to private property.

16 **Sec. 23.** RCW 43.190.080 and 1983 c 290 s 8 are each amended to
17 read as follows:

18 (1) The office of the state long-term care ombudsman shall develop
19 procedures, subject to RCW 9A.52.070 and 9A.52.080, governing the right
20 of entry of all long-term care ombudsmen to long-term care facilities
21 and, subject to RCW 9A.52.070 and 9A.52.080, shall have access to
22 residents with provisions made for privacy for the purpose of hearing,
23 investigating, and resolving complaints of, and rendering advice to,
24 individuals who are patients or residents of the facilities at any time
25 deemed necessary and reasonable by the state ombudsman to effectively
26 carry out the provisions of this chapter.

27 (2) Nothing in this chapter restricts, limits, or increases any
28 existing right of any organizations or individuals not described in
29 subsection (1) of this section to enter or provide assistance to
30 patients or residents of long-term care facilities.

31 (3) Nothing in this chapter restricts any right or privilege of any
32 patient or resident of a long-term care facility to receive visitors of
33 his or her choice.

34 **Sec. 24.** RCW 47.01.170 and 1984 c 7 s 77 are each amended to read
35 as follows:

1 The department or its duly authorized and acting assistants,
2 agents, or appointees (~~((have the right to))~~) may, subject to RCW
3 9A.52.070 and 9A.52.080, enter upon any land, real estate, or premises
4 in this state, whether public or private, for purposes of making
5 examinations, locations, surveys, and appraisals for highway purposes.
6 (~~((The making of any such entry for those purposes does not constitute~~
7 ~~any trespass by the department or by its duly authorized and acting~~
8 ~~assistants, agents, or appointees.))~~)

9 **Sec. 25.** RCW 47.41.070 and 1984 c 7 s 220 are each amended to read
10 as follows:

11 If the owner of the land upon which any such junkyard is located,
12 or the operator thereof, as the case may be, fails to comply with the
13 notice or remove any such junk within the time provided in this chapter
14 after being so notified, he is guilty of a misdemeanor. In addition to
15 the penalties imposed by law upon conviction, an order may be entered
16 compelling compliance with this chapter. Each day the junkyard is
17 maintained in a manner so as not to comply with this chapter
18 constitutes a separate offense.

19 If the operator of the junkyard or the owner of the property upon
20 which it is located, as the case may be, is not found or refuses
21 receipt of the notice, the department, the chief of the Washington
22 state patrol, the county sheriff, or the chief of police of any city or
23 town shall post the property upon which it is located with a notice
24 that the junkyard constitutes a public nuisance and that the junk
25 thereon must be removed as provided in this chapter. If the notice is
26 not complied with, the department, the chief of the Washington state
27 patrol, the county sheriff, or the chief of police of any city or town
28 shall abate the nuisance and remove the junk, and for that purpose may,
29 subject to RCW 9A.52.070 and 9A.52.080, enter upon private property
30 without incurring liability for doing so.

31 **Sec. 26.** RCW 47.42.080 and 1985 c 376 s 6 are each amended to read
32 as follows:

33 (1) Any sign erected or maintained contrary to the provisions of
34 this chapter or rules adopted hereunder that is designed to be viewed
35 from the interstate system, the primary system, or the scenic system is
36 a public nuisance, and the department, the chief of the Washington
37 state patrol, the county sheriff, or the chief of police of any city or

1 town shall notify the permittee or, if there is no permittee, the owner
2 of the property on which the sign is located, by certified mail at his
3 last known address, that it constitutes a public nuisance and must
4 comply with the chapter or be removed.

5 (2) If the permittee or owner, as the case may be, fails to comply
6 with the chapter or remove any such sign within fifteen days after
7 being notified to remove the sign he is guilty of a misdemeanor. In
8 addition to the penalties imposed by law upon conviction, an order may
9 be entered compelling removal of the sign. Each day the sign is
10 maintained constitutes a separate offense.

11 (3) If the permittee or the owner of the property upon which it is
12 located, as the case may be, is not found or refuses receipt of the
13 notice, the department, the chief of the Washington state patrol, the
14 county sheriff, or the chief of police of any city or town shall post
15 the sign and property upon which it is located with a notice that the
16 sign constitutes a public nuisance and must be removed. If the sign is
17 not removed within fifteen days after such posting, the department, the
18 chief of the Washington state patrol, the county sheriff, or the chief
19 of police of any city or town shall abate the nuisance and destroy the
20 sign, and for that purpose may, subject to RCW 9A.52.070 and 9A.52.080,
21 enter upon private property without incurring liability for doing so.

22 (4) Nothing in this section may be construed to affect the
23 provisions contained in RCW 47.42.102 requiring the payment of
24 compensation upon the removal of any signs compensable under state law.

25 (5) Any sign erected or maintained on state highway right of way
26 contrary to this chapter or rules adopted under it is a public
27 nuisance, and the department is authorized to remove any such sign
28 without notice.

29 **Sec. 27.** RCW 57.08.005 and 1997 c 447 s 16 are each amended to
30 read as follows:

31 A district shall have the following powers:

32 (1) To acquire by purchase or condemnation, or both, all lands,
33 property and property rights, and all water and water rights, both
34 within and without the district, necessary for its purposes. The right
35 of eminent domain shall be exercised in the same manner and by the same
36 procedure as provided for cities and towns, insofar as consistent with
37 this title, except that all assessment or reassessment rolls to be
38 prepared and filed by eminent domain commissioners or commissioners

1 appointed by the court shall be prepared and filed by the district, and
2 the duties devolving upon the city treasurer are imposed upon the
3 county treasurer;

4 (2) To lease real or personal property necessary for its purposes
5 for a term of years for which that leased property may reasonably be
6 needed;

7 (3) To construct, condemn and purchase, add to, maintain, and
8 supply waterworks to furnish the district and inhabitants thereof and
9 any other persons, both within and without the district, with an ample
10 supply of water for all uses and purposes public and private with full
11 authority to regulate and control the use, content, distribution, and
12 price thereof in such a manner as is not in conflict with general law
13 and may construct, acquire, or own buildings and other necessary
14 district facilities. Where a customer connected to the district's
15 system uses the water on an intermittent or transient basis, a district
16 may charge for providing water service to such a customer, regardless
17 of the amount of water, if any, used by the customer. District
18 waterworks may include facilities which result in combined water supply
19 and electric generation, if the electricity generated thereby is a
20 byproduct of the water supply system. That electricity may be used by
21 the district or sold to any entity authorized by law to use or
22 distribute electricity. Electricity is deemed a byproduct when the
23 electrical generation is subordinate to the primary purpose of water
24 supply. For such purposes, a district may take, condemn and purchase,
25 acquire, and retain water from any public or navigable lake, river or
26 watercourse, or any underflowing water, and by means of aqueducts or
27 pipeline conduct the same throughout the district and any city or town
28 therein and carry it along and upon public highways, roads, and
29 streets, within and without such district. For the purpose of
30 constructing or laying aqueducts or pipelines, dams, or waterworks or
31 other necessary structures in storing and retaining water or for any
32 other lawful purpose such district may, subject to RCW 9A.52.070 and
33 9A.52.080, occupy the beds and shores up to the high water mark of any
34 such lake, river, or other watercourse, and may acquire by purchase or
35 condemnation such property or property rights or privileges as may be
36 necessary to protect its water supply from pollution. For the purposes
37 of waterworks which include facilities for the generation of
38 electricity as a byproduct, nothing in this section may be construed to
39 authorize a district to condemn electric generating, transmission, or

1 distribution rights or facilities of entities authorized by law to
2 distribute electricity, or to acquire such rights or facilities without
3 the consent of the owner;

4 (4) To purchase and take water from any municipal corporation,
5 private person, or entity. A district contiguous to Canada may
6 contract with a Canadian corporation for the purchase of water and for
7 the construction, purchase, maintenance, and supply of waterworks to
8 furnish the district and inhabitants thereof and residents of Canada
9 with an ample supply of water under the terms approved by the board of
10 commissioners;

11 (5) To construct, condemn and purchase, add to, maintain, and
12 operate systems of sewers for the purpose of furnishing the district,
13 the inhabitants thereof, and persons outside the district with an
14 adequate system of sewers for all uses and purposes, public and
15 private, including but not limited to on-site sewage disposal
16 facilities, approved septic tanks or approved septic tank systems, on-
17 site sanitary sewerage systems, inspection services and maintenance
18 services for private and public on-site systems, point and nonpoint
19 water pollution monitoring programs that are directly related to the
20 sewerage facilities and programs operated by a district, other
21 facilities, programs, and systems for the collection, interception,
22 treatment, and disposal of wastewater, and for the control of pollution
23 from wastewater and for the protection, preservation, and
24 rehabilitation of surface and underground waters, facilities for the
25 drainage and treatment of storm or surface waters, public highways,
26 streets, and roads with full authority to regulate the use and
27 operation thereof and the service rates to be charged. Under this
28 chapter, after July 1, 1998, any requirements for pumping the septic
29 tank of an on-site sewage system should be based, among other things,
30 on actual measurement of accumulation of sludge and scum by a trained
31 inspector, trained owner's agent, or trained owner. Training must
32 occur in a program approved by the state board of health or by a local
33 health officer. Sewage facilities may include facilities which result
34 in combined sewage disposal, treatment, or drainage and electric
35 generation, except that the electricity generated thereby is a
36 byproduct of the system of sewers. Such electricity may be used by the
37 district or sold to any entity authorized by law to distribute
38 electricity. Electricity is deemed a byproduct when the electrical
39 generation is subordinate to the primary purpose of sewage disposal,

1 treatment, or drainage. For such purposes a district may conduct
2 sewage throughout the district and throughout other political
3 subdivisions within the district, and construct and lay sewer pipe
4 along and upon public highways, roads, and streets, within and without
5 the district, and condemn and purchase or acquire land and rights of
6 way necessary for such sewer pipe. A district may erect sewage
7 treatment plants within or without the district, and may acquire, by
8 purchase or condemnation, properties or privileges necessary to be had
9 to protect any lakes, rivers, or watercourses and also other areas of
10 land from pollution from its sewers or its sewage treatment plant. For
11 the purposes of sewage facilities which include facilities that result
12 in combined sewage disposal, treatment, or drainage and electric
13 generation where the electric generation is a byproduct, nothing in
14 this section may be construed to authorize a district to condemn
15 electric generating, transmission, or distribution rights or facilities
16 of entities authorized by law to distribute electricity, or to acquire
17 such rights or facilities without the consent of the owners;

18 (6) To construct, condemn, acquire, and own buildings and other
19 necessary district facilities;

20 (7) To compel all property owners within the district located
21 within an area served by the district's system of sewers to connect
22 their private drain and sewer systems with the district's system under
23 such penalty as the commissioners shall prescribe by resolution. The
24 district may for such purpose, and subject to RCW 9A.52.070 and
25 9A.52.080, enter upon private property and connect the private drains
26 or sewers with the district system and the cost thereof shall be
27 charged against the property owner and shall be a lien upon property
28 served;

29 (8) Where a district contains within its borders, abuts, or is
30 located adjacent to any lake, stream, ground water as defined by RCW
31 90.44.035, or other waterway within the state of Washington, to provide
32 for the reduction, minimization, or elimination of pollutants from
33 those waters in accordance with the district's comprehensive plan, and
34 to issue general obligation bonds, revenue bonds, local improvement
35 district bonds, or utility local improvement bonds for the purpose of
36 paying all or any part of the cost of reducing, minimizing, or
37 eliminating the pollutants from these waters;

38 (9) To fix rates and charges for water, sewer, and drain service
39 supplied and to charge property owners seeking to connect to the

1 district's systems, as a condition to granting the right to so connect,
2 in addition to the cost of the connection, such reasonable connection
3 charge as the board of commissioners shall determine to be proper in
4 order that those property owners shall bear their equitable share of
5 the cost of the system. For the purposes of calculating a connection
6 charge, the board of commissioners shall determine the pro rata share
7 of the cost of existing facilities and facilities planned for
8 construction within the next ten years and contained in an adopted
9 comprehensive plan and other costs borne by the district which are
10 directly attributable to the improvements required by property owners
11 seeking to connect to the system. The cost of existing facilities
12 shall not include those portions of the system which have been donated
13 or which have been paid for by grants. The connection charge may
14 include interest charges applied from the date of construction of the
15 system until the connection, or for a period not to exceed ten years,
16 whichever is shorter, at a rate commensurate with the rate of interest
17 applicable to the district at the time of construction or major
18 rehabilitation of the system, or at the time of installation of the
19 lines to which the property owner is seeking to connect. A district
20 may permit payment of the cost of connection and the reasonable
21 connection charge to be paid with interest in installments over a
22 period not exceeding fifteen years. The county treasurer may charge
23 and collect a fee of three dollars for each year for the treasurer's
24 services. Those fees shall be a charge to be included as part of each
25 annual installment, and shall be credited to the county current expense
26 fund by the county treasurer. Revenues from connection charges
27 excluding permit fees are to be considered payments in aid of
28 construction as defined by department of revenue rule. Rates or
29 charges for on-site inspection and maintenance services may not be
30 imposed under this chapter on the development, construction, or
31 reconstruction of property.

32 Before adopting on-site inspection and maintenance utility
33 services, or incorporating residences into an on-site inspection and
34 maintenance or sewer utility under this chapter, notification must be
35 provided, prior to the applicable public hearing, to all residences
36 within the proposed service area that have on-site systems permitted by
37 the local health officer. The notice must clearly state that the
38 residence is within the proposed service area and must provide

1 information on estimated rates or charges that may be imposed for the
2 service.

3 A water-sewer district shall not provide on-site sewage system
4 inspection, pumping services, or other maintenance or repair services
5 under this section using water-sewer district employees unless the on-
6 site system is connected by a publicly owned collection system to the
7 water-sewer district's sewerage system, and the on-site system
8 represents the first step in the sewage disposal process.

9 Except as otherwise provided in RCW 90.03.525, any public entity
10 and public property, including the state of Washington and state
11 property, shall be subject to rates and charges for sewer, water, storm
12 water control, drainage, and street lighting facilities to the same
13 extent private persons and private property are subject to those rates
14 and charges that are imposed by districts. In setting those rates and
15 charges, consideration may be made of in-kind services, such as stream
16 improvements or donation of property;

17 (10) To contract with individuals, associations and corporations,
18 the state of Washington, and the United States;

19 (11) To employ such persons as are needed to carry out the
20 district's purposes and fix salaries and any bond requirements for
21 those employees;

22 (12) To contract for the provision of engineering, legal, and other
23 professional services as in the board of commissioner's discretion is
24 necessary in carrying out their duties;

25 (13) To sue and be sued;

26 (14) To loan and borrow funds and to issue bonds and instruments
27 evidencing indebtedness under chapter 57.20 RCW and other applicable
28 laws;

29 (15) To transfer funds, real or personal property, property
30 interests, or services subject to RCW 57.08.015;

31 (16) To levy taxes in accordance with this chapter and chapters
32 57.04 and 57.20 RCW;

33 (17) To provide for making local improvements and to levy and
34 collect special assessments on property benefitted thereby, and for
35 paying for the same or any portion thereof in accordance with chapter
36 57.16 RCW;

37 (18) To establish street lighting systems under RCW 57.08.060;

38 (19) To exercise such other powers as are granted to water-sewer
39 districts by this title or other applicable laws; and

1 (20) To exercise any of the powers granted to cities and counties
2 with respect to the acquisition, construction, maintenance, operation
3 of, and fixing rates and charges for waterworks and systems of sewerage
4 and drainage.

5 **Sec. 28.** RCW 59.18.115 and 1989 c 342 s 16 are each amended to
6 read as follows:

7 (1) The legislature finds that some tenants live in residences that
8 are substandard and dangerous to their health and safety and that the
9 repair and deduct remedies of RCW 59.18.100 may not be adequate to
10 remedy substandard and dangerous conditions. Therefore, an
11 extraordinary remedy is necessary if the conditions substantially
12 endanger or impair the health and safety of the tenant.

13 (2)(a) If a landlord fails to fulfill any substantial obligation
14 imposed by RCW 59.18.060 that substantially endangers or impairs the
15 health or safety of a tenant, including (i) structural members that are
16 of insufficient size or strength to carry imposed loads with safety,
17 (ii) exposure of the occupants to the weather, (iii) plumbing and
18 sanitation defects that directly expose the occupants to the risk of
19 illness or injury, (iv) lack of water, including hot water, (v) heating
20 or ventilation systems that are not functional or are hazardous, (vi)
21 defective, hazardous, or missing electrical wiring or electrical
22 service, (vii) defective or inadequate exits that increase the risk of
23 injury to occupants, and (viii) conditions that increase the risk of
24 fire, the tenant shall give notice in writing to the landlord,
25 specifying the conditions, acts, omissions, or violations. Such notice
26 shall be sent to the landlord or to the person or place where rent is
27 normally paid.

28 (b) If after receipt of the notice described in (a) of this
29 subsection the landlord fails to remedy the condition or conditions
30 within a reasonable amount of time under RCW 59.18.070, the tenant may
31 request that the local government provide for an inspection of the
32 premises with regard to the specific condition or conditions that exist
33 as provided in (a) of this subsection. The local government shall have
34 the appropriate government official, or may designate a public or
35 disinterested private person or company capable of conducting the
36 inspection and making the certification, conduct an inspection of the
37 specific condition or conditions listed by the tenant, and shall not
38 inspect nor be liable for any other condition or conditions of the

1 premises. The purpose of this inspection is to verify, to the best of
2 the inspector's ability, whether the tenant's listed condition or
3 conditions exist and substantially endanger the tenant's health or
4 safety under (a) of this subsection; the inspection is for the purposes
5 of this private civil remedy, and therefore shall not be related to any
6 other governmental function such as enforcement of any code, ordinance,
7 or state law.

8 (c) The local government or its designee, after receiving the
9 request from the tenant to conduct an inspection under this section,
10 shall conduct the inspection and make any certification within a
11 reasonable amount of time not more than five days from the date of
12 receipt of the request. The local government or its designee may,
13 subject to RCW 9A.52.070 and 9A.52.080, enter the premises at any
14 reasonable time to do the inspection, provided that he or she first
15 shall display proper credentials and request entry. The local
16 government or its designee shall whenever practicable, taking into
17 consideration the imminence of any threat to the tenant's health or
18 safety, give the landlord at least twenty-four hours notice of the date
19 and time of inspection and provide the landlord with an opportunity to
20 be present at the time of the inspection. The landlord shall have no
21 power or authority to prohibit entry for the inspection.

22 (d) The local government or its designee shall certify whether the
23 condition or the conditions specified by the tenant do exist and do
24 make the premises substantially unfit for human habitation or can be a
25 substantial risk to the health and safety of the tenant as described in
26 (a) of this subsection. The certification shall be provided to the
27 tenant, and a copy shall be included by the tenant with the notice sent
28 to the landlord under subsection (3) of this section. The
29 certification may be appealed to the local board of appeals, but the
30 appeal shall not delay or preclude the tenant from proceeding with the
31 escrow under this section.

32 (e) The tenant shall not be entitled to deposit rent in escrow
33 pursuant to this section unless the tenant first makes a good faith
34 determination that he or she is unable to repair the conditions
35 described in the certification issued pursuant to subsection (2)(d) of
36 this section through use of the repair remedies authorized by RCW
37 59.18.100.

38 (f) If the local government or its designee certifies that the
39 condition or conditions specified by the tenant exist, the tenant shall

1 then either pay the periodic rent due to the landlord or deposit all
2 periodic rent then called for in the rental agreement and all rent
3 thereafter called for in the rental agreement into an escrow account
4 maintained by a person authorized by law to set up and maintain escrow
5 accounts, including escrow companies under chapter 18.44 RCW, financial
6 institutions, or attorneys, or with the clerk of the court of the
7 district or superior court where the property is located. These
8 depositories are hereinafter referred to as "escrow." The tenant shall
9 notify the landlord in writing of the deposit by mailing the notice
10 postage prepaid by first class mail or by delivering the notice to the
11 landlord promptly but not more than twenty-four hours after the
12 deposit.

13 (g) This section, when elected as a remedy by the tenant by sending
14 the notice under subsection (3) of this section, shall be the exclusive
15 remedy available to the tenant regarding defects described in the
16 certification under subsection (2)(d) of this section: PROVIDED, That
17 the tenant may simultaneously commence or pursue an action in an
18 appropriate court, or at arbitration if so agreed, to determine past,
19 present, or future diminution in rental value of the premises due to
20 any defective conditions.

21 (3) The notice to the landlord of the rent escrow under this
22 section shall be a sworn statement by the tenant in substantially the
23 following form:

24 NOTICE TO LANDLORD OF RENT ESCROW

25 Name of tenant:

26 Name of landlord:

27 Name and address of escrow:

28 Date of deposit of rent into escrow:

29 Amount of rent deposited into escrow:

30 The following condition has been certified by a local building
31 official to substantially endanger, impair, or affect the
32 health or safety of a tenant:

33 That written notice of the conditions needing repair was
34 provided to the landlord on . . . , and . . . days have elapsed
35 and the repairs have not been made.

36

37 (Sworn Signature)

1 (4) The escrow shall place all rent deposited in a separate rent
2 escrow account in the name of the escrow in a bank or savings and loan
3 association domiciled in this state. The escrow shall keep in a
4 separate docket an account of each deposit, with the name and address
5 of the tenant, and the name and address of the landlord and of the
6 agent, if any.

7 (5)(a) A landlord who receives notice that the rent due has been
8 deposited with an escrow pursuant to subsection (2) of this section
9 may:

10 (i) Apply to the escrow for release of the funds after the local
11 government certifies that the repairs to the conditions listed in the
12 notice under subsection (3) of this section have been properly
13 repaired. The escrow shall release the funds to the landlord less any
14 escrow costs for which the tenant is entitled to reimbursement pursuant
15 to this section, immediately upon written receipt of the local
16 government certification that the repairs to the conditions listed in
17 the notice under subsection (3) of this section have been properly
18 completed.

19 (ii) File an action with the court and apply to the court for
20 release of the rent on the grounds that the tenant did not comply with
21 the notice requirement of subsection (2) or (3) of this section.
22 Proceedings under this subsection shall be governed by the time,
23 service, and filing requirements of RCW 59.18.370 regarding show cause
24 hearings.

25 (iii) File an action with the court and apply to the court for
26 release of the rent on the grounds that there was no violation of any
27 obligation imposed upon the landlord or that the condition has been
28 remedied.

29 (iv) This action may be filed in any court having jurisdiction,
30 including small claims court. If the tenant has vacated the premises
31 or if the landlord has failed to commence an action with the court for
32 release of the funds within sixty days after rent is deposited in
33 escrow, the tenant may file an action to determine how and when any
34 rent deposited in escrow shall be released or disbursed. The landlord
35 shall not commence an unlawful detainer action for nonpayment of rent
36 by serving or filing a summons and complaint if the tenant initially
37 pays the rent called for in the rental agreement that is due into
38 escrow as provided for under this section on or before the date rent is
39 due or on or before the expiration of a three-day notice to pay rent or

1 vacate and continues to pay the rent into escrow as the rent becomes
2 due or prior to the expiration of a three-day notice to pay rent or
3 vacate; provided that the landlord shall not be barred from commencing
4 an unlawful detainer action for nonpayment of rent if the amount of
5 rent that is paid into escrow is less than the amount of rent agreed
6 upon in the rental agreement between the parties.

7 (b) The tenant shall be named as a party to any action filed by the
8 landlord under this section, and shall have the right to file an answer
9 and counterclaim, although any counterclaim shall be dismissed without
10 prejudice if the court or arbitrator determines that the tenant failed
11 to follow the notice requirements contained in this section. Any
12 counterclaim can only claim diminished rental value related to
13 conditions specified by the tenant in the notice required under
14 subsection (3) of this section. This limitation on the tenant's right
15 to counterclaim shall not affect the tenant's right to bring his or her
16 own separate action. A trial shall be held within sixty days of the
17 date of filing of the landlord's or tenant's complaint.

18 (c) The tenant shall be entitled to reimbursement for any escrow
19 costs or fees incurred for setting up or maintaining an escrow account
20 pursuant to this section, unless the tenant did not comply with the
21 notice requirements of subsection (2) or (3) of this section. Any
22 escrow fees that are incurred for which the tenant is entitled to
23 reimbursement shall be deducted from the rent deposited in escrow and
24 remitted to the tenant at such time as any rent is released to the
25 landlord. The prevailing party in any court action or arbitration
26 brought under this section may also be awarded its costs and reasonable
27 attorneys' fees.

28 (d) If a court determines a diminished rental value of the
29 premises, the tenant may pay the rent due based on the diminished value
30 of the premises into escrow until the landlord makes the necessary
31 repairs.

32 (6)(a) If a landlord brings an action for the release of rent
33 deposited, the court may, upon application of the landlord, release
34 part of the rent on deposit for payment of the debt service on the
35 premises, the insurance premiums for the premises, utility services,
36 and repairs to the rental unit.

37 (b) In determining whether to release rent for the payments
38 described in (a) of this subsection, the court shall consider the
39 amount of rent the landlord receives from other rental units in the

1 buildings of which the residential premises are a part, the cost of
2 operating those units, and the costs which may be required to remedy
3 the condition contained in the notice. The court shall also consider
4 whether the expenses are due or have already been paid, whether the
5 landlord has other financial resources, or whether the landlord or
6 tenant will suffer irreparable damage. The court may request the
7 landlord to provide additional security, such as a bond, prior to
8 authorizing release of any of the funds in escrow.

9 **Sec. 29.** RCW 59.20.130 and 1993 c 66 s 20 are each amended to read
10 as follows:

11 It shall be the duty of the landlord to:

12 (1) Comply with codes, statutes, ordinances, and administrative
13 rules applicable to the mobile home park;

14 (2) Maintain the common premises and prevent the accumulation of
15 stagnant water and to prevent the detrimental effects of moving water
16 when such condition is not the fault of the tenant;

17 (3) Keep any shared or common premises reasonably clean, sanitary,
18 and safe from defects to reduce the hazards of fire or accident;

19 (4) Keep all common premises of the mobile home park, not in the
20 possession of tenants, free of weeds or plant growth noxious and
21 detrimental to the health of the tenants and free from potentially
22 injurious or unsightly objects and condition;

23 (5) Exterminate or make a reasonable effort to exterminate rodents,
24 vermin, or other pests dangerous to the health and safety of the tenant
25 whenever infestation exists on the common premises or whenever
26 infestation occurs in the interior of a mobile home as a result of
27 infestation existing on the common premises;

28 (6) Maintain and protect all utilities provided to the mobile home
29 in good working condition. Maintenance responsibility shall be
30 determined at that point where the normal mobile home utilities "hook-
31 ups" connect to those provided by the landlord or utility company;

32 (7) Respect the privacy of the tenants and shall have no right of
33 entry to a mobile home without the prior written consent of the
34 occupant(~~(, except in case of emergency or when the occupant has~~
35 ~~abandoned the mobile home)~~). Such consent may be revoked in writing by
36 the occupant at any time. The ownership or management (~~(shall have a~~
37 ~~right of entry)~~) may, subject to RCW 9A.52.070 and 9A.52.080, enter
38 upon the land upon which a mobile home is situated for maintenance of

1 utilities, to insure compliance with applicable codes, statutes,
2 ordinances, administrative rules, and the rental agreement and the
3 rules of the park, and protection of the mobile home park at any
4 reasonable time or in an emergency, but not in a manner or at a time
5 which would interfere with the occupant's quiet enjoyment;

6 (8) Allow tenants freedom of choice in the purchase of goods and
7 services, and not unreasonably restrict access to the mobile home park
8 for such purposes;

9 (9) Maintain roads within the mobile home park in good condition;
10 and

11 (10) Notify each tenant within five days after a petition has been
12 filed by the landlord for a change in the zoning of the land where the
13 mobile home park is located and make a description of the change
14 available to the tenant.

15 A landlord shall not have a duty to repair a defective condition
16 under this section, nor shall any defense or remedy be available to the
17 tenant under this chapter, if the defective condition complained of was
18 caused by the conduct of the tenant, the tenant's family, invitee, or
19 other person acting under the tenant's control, or if a tenant
20 unreasonably fails to allow the landlord access to the property for
21 purposes of repair.

22 **Sec. 30.** RCW 70.105D.030 and 1997 c 406 s 3 are each amended to
23 read as follows:

24 (1) The department may exercise the following powers in addition to
25 any other powers granted by law:

26 (a) Investigate, provide for investigating, or require potentially
27 liable persons to investigate any releases or threatened releases of
28 hazardous substances, including but not limited to inspecting,
29 sampling, or testing to determine the nature or extent of any release
30 or threatened release. If there is a reasonable basis to believe that
31 a release or threatened release of a hazardous substance may exist, the
32 department's authorized employees, agents, or contractors may, subject
33 to RCW 9A.52.070 and 9A.52.080, enter upon any property and conduct
34 investigations. The department shall not violate RCW 9A.52.070 or
35 9A.52.080 and shall give reasonable notice before entering property
36 unless an emergency prevents such notice. The department may by
37 subpoena require the attendance or testimony of witnesses and the

1 production of documents or other information that the department deems
2 necessary;

3 (b) Conduct, provide for conducting, or require potentially liable
4 persons to conduct remedial actions (including investigations under (a)
5 of this subsection) to remedy releases or threatened releases of
6 hazardous substances. In carrying out such powers, the department's
7 authorized employees, agents, or contractors may, subject to RCW
8 9A.52.070 and 9A.52.080, enter upon property. The department shall not
9 violate RCW 9A.52.070 or 9A.52.080 and shall give reasonable notice
10 before entering property unless an emergency prevents such notice. In
11 conducting, providing for, or requiring remedial action, the department
12 shall give preference to permanent solutions to the maximum extent
13 practicable and shall provide for or require adequate monitoring to
14 ensure the effectiveness of the remedial action;

15 (c) Indemnify contractors retained by the department for carrying
16 out investigations and remedial actions, but not for any contractor's
17 reckless or wilful misconduct;

18 (d) Carry out all state programs authorized under the federal
19 cleanup law and the federal resource, conservation, and recovery act,
20 42 U.S.C. Sec. 6901 et seq., as amended;

21 (e) Classify substances as hazardous substances for purposes of RCW
22 70.105D.020(7) and classify substances and products as hazardous
23 substances for purposes of RCW 82.21.020(1);

24 (f) Issue orders or enter into consent decrees or agreed orders
25 that include, or issue written opinions under (i) of this subsection
26 that may be conditioned upon, deed restrictions where necessary to
27 protect human health and the environment from a release or threatened
28 release of a hazardous substance from a facility. Prior to
29 establishing a deed restriction under this subsection, the department
30 shall notify and seek comment from a city or county department with
31 land use planning authority for real property subject to a deed
32 restriction;

33 (g) Enforce the application of permanent and effective
34 institutional controls that are necessary for a remedial action to be
35 protective of human health and the environment;

36 (h) Require holders to conduct remedial actions necessary to abate
37 an imminent or substantial endangerment pursuant to RCW
38 70.105D.020(12)(b)(ii)(C);

1 (i) Provide informal advice and assistance to persons regarding the
2 administrative and technical requirements of this chapter. This may
3 include site-specific advice to persons who are conducting or otherwise
4 interested in independent remedial actions. Any such advice or
5 assistance shall be advisory only, and shall not be binding on the
6 department. As a part of providing this advice and assistance for
7 independent remedial actions, the department may prepare written
8 opinions regarding whether the independent remedial actions or
9 proposals for those actions meet the substantive requirements of this
10 chapter or whether the department believes further remedial action is
11 necessary at the facility. The department may collect, from persons
12 requesting advice and assistance, the costs incurred by the department
13 in providing such advice and assistance; however, the department shall,
14 where appropriate, waive collection of costs in order to provide an
15 appropriate level of technical assistance in support of public
16 participation. The state, the department, and officers and employees
17 of the state are immune from all liability, and no cause of action of
18 any nature may arise from any act or omission in providing, or failing
19 to provide, informal advice and assistance; and

20 (j) Take any other actions necessary to carry out the provisions of
21 this chapter, including the power to adopt rules under chapter 34.05
22 RCW.

23 (2) The department shall immediately implement all provisions of
24 this chapter to the maximum extent practicable, including investigative
25 and remedial actions where appropriate. The department shall adopt,
26 and thereafter enforce, rules under chapter 34.05 RCW to:

27 (a) Provide for public participation, including at least (i) the
28 establishment of regional citizen's advisory committees, (ii) public
29 notice of the development of investigative plans or remedial plans for
30 releases or threatened releases, and (iii) concurrent public notice of
31 all compliance orders, agreed orders, enforcement orders, or notices of
32 violation;

33 (b) Establish a hazard ranking system for hazardous waste sites;

34 (c) Provide for requiring the reporting by an owner or operator of
35 releases of hazardous substances to the environment that may be a
36 threat to human health or the environment within ninety days of
37 discovery, including such exemptions from reporting as the department
38 deems appropriate, however this requirement shall not modify any
39 existing requirements provided for under other laws;

1 (d) Establish reasonable deadlines not to exceed ninety days for
2 initiating an investigation of a hazardous waste site after the
3 department receives notice or otherwise receives information that the
4 site may pose a threat to human health or the environment and other
5 reasonable deadlines for remedying releases or threatened releases at
6 the site;

7 (e) Publish and periodically update minimum cleanup standards for
8 remedial actions at least as stringent as the cleanup standards under
9 section 121 of the federal cleanup law, 42 U.S.C. Sec. 9621, and at
10 least as stringent as all applicable state and federal laws, including
11 health-based standards under state and federal law; and

12 (f) Apply industrial clean-up standards at industrial properties.
13 Rules adopted under this subsection shall ensure that industrial
14 properties cleaned up to industrial standards cannot be converted to
15 nonindustrial uses without approval from the department. The
16 department may require that a property cleaned up to industrial
17 standards is cleaned up to a more stringent applicable standard as a
18 condition of conversion to a nonindustrial use. Industrial clean-up
19 standards may not be applied to industrial properties where hazardous
20 substances remaining at the property after remedial action pose a
21 threat to human health or the environment in adjacent nonindustrial
22 areas.

23 (3) Before November 1st of each even-numbered year, the department
24 shall develop, with public notice and hearing, and submit to the ways
25 and means and appropriate standing environmental committees of the
26 senate and house of representatives a ranked list of projects and
27 expenditures recommended for appropriation from both the state and
28 local toxics control accounts. The department shall also provide the
29 legislature and the public each year with an accounting of the
30 department's activities supported by appropriations from the state
31 toxics control account, including a list of known hazardous waste sites
32 and their hazard rankings, actions taken and planned at each site, how
33 the department is meeting its top two management priorities under RCW
34 70.105.150, and all funds expended under this chapter.

35 (4) The department shall establish a scientific advisory board to
36 render advice to the department with respect to the hazard ranking
37 system, cleanup standards, remedial actions, deadlines for remedial
38 actions, monitoring, the classification of substances as hazardous
39 substances for purposes of RCW 70.105D.020(7) and the classification of

1 substances or products as hazardous substances for purposes of RCW
2 82.21.020(1). The board shall consist of five independent members to
3 serve staggered three-year terms. No members may be employees of the
4 department. Members shall be reimbursed for travel expenses as
5 provided in RCW 43.03.050 and 43.03.060.

6 (5) The department shall establish a program to identify potential
7 hazardous waste sites and to encourage persons to provide information
8 about hazardous waste sites.

9 **Sec. 31.** RCW 70.119A.150 and 1993 c 305 s 4 are each amended to
10 read as follows:

11 (1)(a) Except as otherwise provided in (b) of this subsection, and
12 subject to RCW 9A.52.070 and 9A.52.080, the secretary or his or her
13 designee (~~((shall have the right to))~~) may enter a premises under the
14 control of a public water system at reasonable times with prior
15 notification in order to determine compliance with laws and rules
16 administered by the department of health to test, inspect, or sample
17 features of a public water system and inspect, copy, or photograph
18 monitoring equipment or other features of a public water system, or
19 records required to be kept under laws or rules regulating public water
20 systems. For the purposes of this section, "premises under the control
21 of a public water system" does not include the premises or private
22 property of a customer of a public water system past the point on the
23 system where the service connection is made.

24 (b) The secretary or his or her designee need not give prior
25 notification to enter a premises under (a) of this subsection if the
26 purpose of the entry is to ensure compliance by the public water system
27 with a prior order of the department or if the secretary or the
28 secretary's designee has reasonable cause to believe the public water
29 system is violating the law and poses a serious threat to public health
30 and safety.

31 (2) The secretary or his or her designee may apply for an
32 administrative search warrant to a court official authorized to issue
33 a criminal search warrant. An administrative search warrant may be
34 issued for the purposes of inspecting or examining property, buildings,
35 premises, place, books, records, or other physical evidence, or
36 conducting tests or taking samples. The warrant shall be issued upon
37 probable cause. It is sufficient probable cause to show any of the
38 following:

1 (a) The inspection, examination, test, or sampling is pursuant to
2 a general administrative plan to determine compliance with laws or
3 rules administered by the department; or

4 (b) The secretary or his or her designee has reason to believe that
5 a violation of a law or rule administered by the department has
6 occurred, is occurring, or may occur.

7 (3) The local health officer or the designee of a local health
8 officer of a local board of health that is enforcing rules regulating
9 public water systems under an agreement with the department allocating
10 state and local responsibility is authorized to conduct investigations
11 and to apply for, obtain, and execute administrative search warrants
12 necessary to perform the local board's agreed-to responsibilities under
13 the same limitations and requirements imposed on the department under
14 this section.

15 **Sec. 32.** RCW 75.08.160 and 1983 1st ex.s. c 46 s 19 are each
16 amended to read as follows:

17 The director, fisheries patrol officers, ex officio fisheries
18 patrol officers, and department employees may, subject to RCW 9A.52.070
19 and 9A.52.080, enter upon any land or waters and remain there while
20 performing their duties without liability for trespass.

21 Subject to RCW 9A.52.070 and 9A.52.080, it is lawful for aircraft
22 operated by the department to land and take off from the beaches or
23 waters of the state. It is unlawful for a person to interfere with the
24 operation of these aircraft.

25 **Sec. 33.** RCW 75.10.020 and 1996 c 267 s 5 are each amended to read
26 as follows:

27 (1) Subject to RCW 9A.52.070 and 9A.52.080, fisheries patrol
28 officers may inspect and search without warrant a person, boat, fishing
29 equipment, vehicle, conveyance, container, or property used in
30 catching, processing, storing, or marketing food fish or shellfish
31 which they have reason to believe contain evidence of violations of
32 this title or rules of the department. This authority does not extend
33 to quarters in a boat, building, or other property used exclusively as
34 a private domicile.

35 (2) Fisheries patrol officers and ex officio fisheries patrol
36 officers may arrest without warrant a person they have reason to
37 believe is in violation of this title or rules of the department.

1 **Sec. 34.** RCW 76.01.060 and 1983 c 3 s 194 are each amended to read
2 as follows:

3 Any authorized assistants, employees, agents, appointees or
4 representatives of the department of natural resources may, subject to
5 RCW 9A.52.070 and 9A.52.080 and in the course of their inspection and
6 enforcement duties as provided for in chapters 76.04, 76.06, 76.09,
7 76.16, and 76.36 (~~and 76.40~~) RCW, enter upon any lands, real estate,
8 waters or premises except the dwelling house or appurtenant buildings
9 in this state whether public or private and remain thereon while
10 performing such duties. Similar entry by the department of natural
11 resources may be made for the purpose of making examinations,
12 locations, surveys and/or appraisals of all lands under the management
13 and jurisdiction of the department of natural resources; or for making
14 examinations, appraisals and, after five days' written notice to the
15 landowner, making surveys for the purpose of possible acquisition of
16 property to provide public access to public lands. In no event other
17 than an emergency such as fire fighting shall motor vehicles be used to
18 cross a field customarily cultivated, without prior consent of the
19 owner. (~~None of the entries herein provided for shall constitute~~
20 ~~trespass, but~~) Nothing contained herein shall limit or diminish any
21 liability which would otherwise exist as a result of the acts or
22 omissions of said department or its representatives.

23 **Sec. 35.** RCW 76.04.035 and 1986 c 100 s 4 are each amended to read
24 as follows:

25 (1) The department may appoint any of its employees as wardens, at
26 the times and localities as it considers the public welfare demands,
27 within any area of the state where there is forest land requiring
28 protection. The duties and authority of wardens are subject to RCW
29 9A.52.070 and 9A.52.080.

30 (2) The duties of wardens shall be:

31 (a) To provide forest fire prevention and protection information to
32 the public;

33 (b) To investigate discovered or reported fires on forest lands and
34 take appropriate action;

35 (c) To patrol their areas as necessary;

36 (d) To visit all parts of their area, and frequented places and
37 camps as far as possible, and warn campers or other users and visitors
38 of fire hazards;

1 (e) To see that all locomotives and all steam, internal combustion,
2 and other spark-emitting equipment are provided with spark arresters
3 and adequate devices for preventing the escape of fire or sparks in
4 accordance with the law;

5 (f) To see that operations or activities on forest land have all
6 required fire prevention and suppression equipment or devices as
7 required by law;

8 (g) To extinguish wildfires;

9 (h) To set back-fires to control fires;

10 (i) To summons, impress, and employ help in controlling wildfires;

11 (j) To see that all laws for the protection of forests are
12 enforced;

13 (k) To investigate, arrest, and initiate prosecution of all
14 offenders of this chapter or other chapters as allowed by law; and

15 (l) To perform all other duties as prescribed by law and as the
16 department directs.

17 (3) All wardens and rangers shall render reports to the department
18 on blanks or forms, or in the manner and at the times as may be
19 ordered, giving a summary of how employed, the area visited, expenses
20 incurred, and other information as required by the department.

21 (4) The department may suspend the authority of any warden who may
22 be incompetent or unwilling to discharge properly the duties of the
23 office.

24 (5) The department shall determine the placement of the wardens
25 and, upon its request to the county commissioners of any county, the
26 county commissioners shall designate and furnish the wardens with
27 suitably equipped office quarters in the county courthouse.

28 (6) The authority of the wardens regarding the prevention,
29 suppression, and control of forest fires, summoning, impressing, or
30 employing help, or making arrests for violations of this chapter may
31 extend to any part of the state.

32 **Sec. 36.** RCW 76.06.060 and 1988 c 128 s 18 are each amended to
33 read as follows:

34 If the owner or agent so notified shall fail, refuse, neglect or is
35 unable to comply with the requirements of said notice, within a period
36 of thirty days after the date thereof, it shall be the duty of the
37 department or its agents, using such funds as have been, or hereafter
38 may be, made available to proceed with the control, eradication and

1 destruction of such forest pests or forest tree diseases with or
2 without the cooperation of the owner involved in a manner approved by
3 the department. Any such control, eradication, or destruction is
4 subject to RCW 9A.52.070 and 9A.52.080.

5 **Sec. 37.** RCW 76.09.150 and 1974 ex.s. c 137 s 15 are each amended
6 to read as follows:

7 The department shall make inspections of forest lands, before,
8 during and after the conducting of forest practices as necessary for
9 the purpose of insuring compliance with this chapter and the forest
10 practice regulations and to insure that no material damage occurs to
11 the natural resources of this state as a result of such practices.

12 Any duly authorized representative of the department (~~shall have~~
13 ~~the right to~~) may, subject to RCW 9A.52.070 and 9A.52.080, enter upon
14 forest land at any reasonable time to enforce the provisions of this
15 chapter and the forest practices regulations.

16 **Sec. 38.** RCW 76.09.160 and 1974 ex.s. c 137 s 16 are each amended
17 to read as follows:

18 Any duly authorized representative of the department of ecology
19 (~~shall have the right to~~) may, subject to RCW 9A.52.070 and 9A.52.080,
20 enter upon forest land at any reasonable time to administer the
21 provisions of this chapter and RCW 90.48.420.

22 **Sec. 39.** RCW 77.12.090 and 1987 c 506 s 20 are each amended to
23 read as follows:

24 Wildlife agents (~~(7)~~) and ex officio wildlife agents may, subject to
25 RCW 9A.52.070 and 9A.52.080, make a reasonable search without warrant
26 of conveyances, vehicles, packages, game baskets, game coats, or other
27 receptacles for wildlife, or tents, camps, or similar places which they
28 have reason to believe contain evidence of a violation of law or rules
29 adopted pursuant to this title.

30 **Sec. 40.** RCW 77.12.095 and 1982 c 152 s 1 are each amended to read
31 as follows:

32 Wildlife agents may, subject to RCW 9A.52.070 and 9A.52.080,
33 inspect without warrant at reasonable times and in a reasonable manner
34 the premises, wildlife, and records of any commercial enterprise
35 operating under the authority of a license or permit issued by the

1 department or any commercial business that sells, stores, transports,
2 or possesses wildlife.

3 **Sec. 41.** RCW 77.12.250 and 1980 c 78 s 42 are each amended to read
4 as follows:

5 The director, wildlife agents, ex officio wildlife agents, and
6 department employees may, subject to RCW 9A.52.070 and 9A.52.080, enter
7 upon lands or waters and remain there while performing their duties
8 (~~without liability for trespass~~)).

9 **Sec. 42.** RCW 77.12.315 and 1987 c 506 s 40 are each amended to
10 read as follows:

11 If the director determines that a severe problem exists in an area
12 of the state because deer and elk are being pursued, harassed, attacked
13 or killed by dogs, the director may declare by emergency rule that an
14 emergency exists and specify the area where it is lawful, subject to
15 RCW 9A.52.070 and 9A.52.080, for wildlife agents to take into custody
16 or destroy the dogs if necessary. Wildlife agents who take into
17 custody or destroy a dog pursuant to this section and who are not in
18 violation of RCW 9A.52.070 or 9A.52.080 while doing so are immune from
19 civil or criminal liability arising from their actions.

20 **Sec. 43.** RCW 78.04.015 and 1897 c 60 s 2 are each amended to read
21 as follows:

22 Every corporation incorporated or that may hereafter be
23 incorporated under the laws of this state or any state or territory of
24 the United States, and doing business in this state, for the purpose of
25 acquiring, owning or operating mines, mills or reduction works, or
26 mining or milling gold and silver or other minerals, which may desire
27 to erect and operate surface tramways or elevated cable tramways for
28 the purpose of carrying, conveying or transporting the products of such
29 mines, mills or reduction works may, subject to RCW 9A.52.070 and
30 9A.52.080, (~~shall have the right to~~) enter upon any land between the
31 termini of the proposed lines for the purpose of examining, locating
32 and surveying such lines, doing no unnecessary damage thereby.

33 **Sec. 44.** RCW 78.04.040 and 1901 c 120 s 1 are each amended to read
34 as follows:

1 Any owner of stock to the amount of one thousand shares, in any
2 corporation doing business under the laws of the state of Washington
3 for the purposes of mining, (~~shall~~) may, at all hours of business or
4 labor on or about the premises or property of such corporation, (~~have~~
5 ~~the right to~~) and subject to RCW 9A.52.070 and 9A.52.080, enter upon
6 such property and examine the same, either on the surface or
7 underground. (~~And it is hereby made the duty of any and all officers,~~
8 ~~managers, agents, superintendents, or persons in charge, to allow any~~
9 ~~such stockholder to enter upon and examine any of the property of such~~
10 ~~corporation at any time during the hours of business or labor; and~~)
11 The presentation of certificates of stock in the corporation of the
12 amount of one thousand shares, to the officer or person in charge,
13 shall be prima facie evidence of ownership (~~and right to enter upon or~~
14 ~~into, and make examinations of the property of the corporation~~)).

15 **Sec. 45.** RCW 79.01.649 and 1965 c 56 s 14 are each amended to read
16 as follows:

17 Any person designated by the department of natural resources
18 (~~shall have the right at any time to~~) may, subject to RCW 9A.52.070
19 and 9A.52.080, enter upon the lands and inspect and examine the
20 structures, works, and mines situated thereon, and (~~shall also have~~
21 ~~the right to~~) may examine such books, records, and accounts of the
22 lessee as are directly connected with the determination of royalties on
23 the property under lease from the state but it shall be unlawful for
24 any person so appointed to disclose any information thus obtained to
25 any person other than the departmental officials and employees, except
26 the attorney general and prosecuting attorneys of the state.

27 **Sec. 46.** RCW 79.01.650 and 1987 c 20 s 14 are each amended to read
28 as follows:

29 The state shall have the right to sell or otherwise dispose of any
30 surface resource, timber, rock, gravel, sand, silt, coal, or
31 hydrocarbons, except minerals or materials specifically covered by a
32 mineral prospecting lease or mining contract, found upon the land
33 during the period covered by said lease or contract. The state (~~shall~~
34 ~~also have the right to~~) may, subject to RCW 9A.52.070 and 9A.52.080,
35 enter upon such land and remove same, and shall not be obliged to
36 withhold from any sale any timber for prospecting or mining purposes.
37 The lessee shall, upon payment to the department of natural resources,

1 have the right to cut and use timber found on the leased premises for
2 mining purposes as provided in rules adopted by the department.

3 **Sec. 47.** RCW 79.01.676 and 1927 c 255 s 169 are each amended to
4 read as follows:

5 The commissioner of public lands or any person designated by him
6 (~~shall have the right at any time to~~) or her may, subject to RCW
7 9A.52.070 and 9A.52.080, enter upon the lands and inspect and examine
8 the structures, works and mines situated thereon, and (~~shall also have~~
9 ~~the right to~~) may examine such books, records and accounts of the
10 lessee as are directly connected with the operation of the mine on the
11 property under lease from the state; but it shall be unlawful for the
12 commissioner or any person so appointed to disclose any information
13 thus obtained to any person other than the commissioner of public lands
14 and his employees, except the attorney general and prosecuting
15 attorneys of the state.

16 **Sec. 48.** RCW 79.01.680 and 1927 c 255 s 170 are each amended to
17 read as follows:

18 The state shall have the right to sell or otherwise dispose of any
19 timber, stone or other valuable materials, except coal, found upon the
20 land during the period covered by any option contract, or lease issued
21 under the foregoing provisions, (~~with the right to~~) and may, subject
22 to RCW 9A.52.070 and 9A.52.080, enter upon such lands and cut and
23 remove the same, and shall not be obliged to withhold from sale any
24 timber for coal mining or prospecting purposes: PROVIDED, That the
25 lessee shall be permitted to use in his mining operations any timber
26 found upon the land, first paying therefor to the commissioner of
27 public lands the value thereof as fixed by said commissioner: AND
28 PROVIDED FURTHER, That any bill of sale for the removal of timber,
29 stone or other material given subsequent to the coal lease shall
30 contain provisions preventing any interference with the operations of
31 the coal lease.

32 **Sec. 49.** RCW 80.32.070 and 1961 c 14 s 80.32.070 are each amended
33 to read as follows:

34 Every such corporation (~~shall have the right to~~) may, subject to
35 RCW 9A.52.070 and 9A.52.080, enter upon any land between the termini of

1 the proposed lines for the purpose of examining, locating and surveying
2 such lines, doing no unnecessary damage thereby.

3 **Sec. 50.** RCW 80.36.020 and 1985 c 450 s 16 are each amended to
4 read as follows:

5 Every corporation incorporated under the laws of this state or any
6 state or territory of the United States for the purpose of
7 constructing, operating or maintaining any telecommunications line in
8 this state (~~((shall have the right to))~~) may, subject to RCW 9A.52.070
9 and 9A.52.080, enter upon any land between the termini of its proposed
10 telecommunications lines for the purpose of examining, locating and
11 surveying the telecommunications line, doing no unnecessary damage
12 thereby.

13 **Sec. 51.** RCW 80.36.030 and 1985 c 450 s 17 are each amended to
14 read as follows:

15 Such telecommunications company may appropriate so much land as may
16 be actually necessary for its telecommunications line, (~~((with the right~~
17 ~~to))~~) and may, subject to RCW 9A.52.070 and 9A.52.080, enter upon lands
18 immediately adjacent thereto, for the purpose of constructing,
19 maintaining and operating its line and making all necessary repair.
20 Such telecommunications company may also, for the purpose aforesaid and
21 subject to RCW 9A.52.070 and 9A.52.080, enter upon and appropriate such
22 portion of the right-of-way of any railroad company as may be necessary
23 for the construction, maintenance and operation of its
24 telecommunications line: PROVIDED, That such appropriation shall not
25 obstruct such railroad of the travel thereupon, nor interfere with the
26 operation of such railroad.

27 **Sec. 52.** RCW 81.36.020 and 1961 c 14 s 81.36.020 are each amended
28 to read as follows:

29 A corporation organized for the construction of any railway,
30 macadamized road, plank road, clay road, canal or bridge may, subject
31 to RCW 9A.52.070 and 9A.52.080, (~~((shall have a right to))~~) enter upon
32 any land, real estate or premises, or any of the lands granted to the
33 state of Washington for school, university or other purposes, between
34 the termini thereof, for the purpose of examining, locating and
35 surveying the line of such road or canal, or the site of such bridge,
36 doing no unnecessary damage thereby.

1 **Sec. 53.** RCW 81.64.050 and 1961 c 14 s 81.64.050 are each amended
2 to read as follows:

3 Every such corporation (~~shall have the right to~~) may, subject to
4 RCW 9A.52.070 and 9A.52.080, enter upon any land between the termini of
5 the proposed lines for the purpose of examining, locating and surveying
6 such lines, doing no unnecessary damage thereby.

7 **Sec. 54.** RCW 86.09.226 and 1937 c 72 s 76 are each amended to read
8 as follows:

9 The district board and its agents and employees (~~shall have the~~
10 ~~right to~~) may, subject to RCW 9A.52.070 and 9A.52.080, enter upon any
11 land, to make surveys and may locate the necessary flood control works
12 and the line for canal or canals, dike or dikes and other
13 instrumentalities and the necessary branches and parts for the same on
14 any lands which may be deemed necessary for such location.

15 **Sec. 55.** RCW 87.03.140 and 1921 c 129 s 6 are each amended to read
16 as follows:

17 The board, and its agents and employees, (~~shall have the right~~
18 ~~to~~) may, subject to RCW 9A.52.070 and 9A.52.080, enter upon any land
19 to make surveys, and may locate the necessary irrigation or drainage
20 works, power plants, power sites or power lines and the line for any
21 canal or canals, and the necessary branches of laterals for the same,
22 on any lands which may be deemed best for such location. Said board
23 shall also have the power to acquire, either by purchase or
24 condemnation, or other legal means, all lands, waters, water rights,
25 and other property necessary for the construction, use, supply,
26 maintenance, repair and improvements of said canal or canals and
27 irrigation and drainage works, including canals and works constructed
28 or being constructed by private owners, or any other person, lands for
29 reservoirs for the storage of needful waters and all necessary
30 appurtenances. The board may also construct the necessary dams,
31 reservoirs and works for the collection of water for the said district,
32 and may enter into contracts for a water supply to be delivered to the
33 canals and works of the district, and do any and every lawful act
34 necessary to be done in order to carry out the purposes of this act;
35 and in carrying out the aforesaid purposes the bonds of the district
36 may be used by the board, at not less than ninety percent of their par
37 value in payment. The board may enter into any obligation or contract

1 with the United States or with the state of Washington for the
2 supervision of the construction, for the construction, reconstruction,
3 betterment, extension, sale or purchase, or operation and maintenance
4 of the necessary works for the delivery and distribution of water
5 therefrom under the provisions of the state reclamation act, or under
6 the provisions of the federal reclamation act, and all amendments or
7 extensions thereof, and the rules and regulations established
8 thereunder, or it may contract with the United States for a water
9 supply or for reclamation purposes in general under any act of congress
10 which, for the purposes of this act, shall be deemed to include any act
11 of congress for reclamation purposes heretofore or hereafter enacted
12 providing for and permitting such contract, or for the collection of
13 money due or to become due to the United States, or for the assumption
14 of the control and management of the works; and in case contract has
15 been or may hereafter be made with the United States, as herein
16 provided, bonds of the district may be deposited with the United States
17 as payment or as security for future payment at not less than ninety
18 percent of their par value, the interest on said bonds to be provided
19 for by assessment and levy as in the case of other bonds of the
20 district, and regularly paid to the United States to be applied as
21 provided in such contract, and if bonds of the district are not so
22 deposited, it shall be the duty of the board of directors to include as
23 part of any levy or assessment provided in RCW 87.03.260 an amount
24 sufficient to meet each year all payments accruing under the terms of
25 any such contract. The board may accept on behalf of the district
26 appointment of the district as fiscal agent of the United States or the
27 state of Washington or other authorization of the district by the
28 United States or the state of Washington to make collections of money
29 for or on behalf of the United States or the state of Washington in
30 connection with any federal or other reclamation project, whereupon the
31 district, and the county treasurer for the district, shall be
32 authorized to so act and to assume the duties and liability incident to
33 such action, and the said board shall have full power to do any and all
34 things required by the federal statutes now or hereafter enacted in
35 connection therewith, and all things required by the rules and
36 regulations now or that may hereafter be established by any department
37 of the federal government in regard thereto.

38 The use of all water required for the irrigation of the lands
39 within any district, together with rights-of-way for canals, laterals,

1 ditches, sites for reservoirs, power plants, sites, and lines, and all
2 other property required in fully carrying out the purposes of the
3 organization of the district is hereby declared to be a public use; and
4 in condemnation proceedings to acquire any property or property rights
5 for the use of the district, the board of directors shall proceed in
6 the name of the district, in the manner provided in this state in cases
7 of appropriation of lands, real estate and other property by private
8 corporations: PROVIDED, That the irrigation district, at its option,
9 pursuant to resolution to that end duly passed by its board of
10 directors may unite in a single action proceedings for the acquisition
11 and condemnation of different tracts of land needed by it for rights-
12 of-way for canals, laterals, power plants, sites, and lines and other
13 irrigation works which are held by separate owners. And the court may,
14 on the motion of any party, consolidate into a single action separate
15 suits for the condemnation of rights-of-way for such irrigation works
16 whenever from motives of economy or the expediting of business it
17 appears desirable so to do: PROVIDED FURTHER, That there shall be a
18 separate finding of the court or jury as to each tract held in separate
19 ownership.

20 In any condemnation proceeding brought under the provisions of this
21 act to acquire canals, laterals and ditches and rights-of-way therefor,
22 sites, reservoirs, power plants and pumping plants and sites therefor,
23 power canals, transmission lines, electrical equipment and any other
24 property, and if the owner or owners thereof or their predecessors
25 shall have issued contracts or deeds agreeing to deliver to the holders
26 of said contracts or deeds water for irrigation purposes, or
27 authorizing the holders thereof to take or receive water for irrigation
28 purposes from any portion of said property or works, and if the
29 delivery of said water or the right to take or receive the same shall
30 in any manner constitute a charge upon, or a right in the property and
31 works sought to be acquired, or any portion thereof, the district shall
32 be authorized to institute and maintain said condemnation proceedings
33 for the purpose of acquiring said property and works, and the interest
34 of the owners therein subject to the rights of the holders of such
35 contracts or deeds, and the court or jury making the award shall
36 determine and award to such owner or owners the value of the interest
37 to be so appropriated in said condemnation proceedings.

1 **Sec. 56.** RCW 89.30.211 and 1933 c 149 s 11 are each amended to
2 read as follows:

3 The reclamation district board and its agents and employees (~~shall~~
4 ~~have the right to~~) may, subject to RCW 9A.52.070 and 9A.52.080, enter
5 upon any land, to make surveys and may locate the necessary irrigation
6 works and the line for canal or canals and the necessary branches for
7 the same or for necessary transmission power lines on any lands which
8 may be deemed necessary for such location.

9 **Sec. 57.** RCW 90.16.040 and 1901 c 143 s 2 are each amended to read
10 as follows:

11 Every corporation that is now or that may hereafter be incorporated
12 under the laws of this state, or of any other state or territory of the
13 United States and doing business in this state, for the purpose of
14 conveying water by ditches, flumes, pipe lines, tunnels or any other
15 means for the utilization of water power, (~~shall have the right to~~)
16 may, subject to RCW 9A.52.070 and 9A.52.080, enter upon any land
17 between the termini of the proposed ditches, flumes, pipe lines,
18 tunnels or any other means for the utilization of water power, for the
19 purpose of examining, locating and surveying such ditches, flumes, pipe
20 lines, tunnels or any other means for the utilization of water power,
21 doing no unnecessary damage thereby.

22 **Sec. 58.** RCW 90.48.090 and 1994 c 232 s 21 are each amended to
23 read as follows:

24 The department or its duly appointed agent (~~shall have the right~~
25 ~~to~~) may, subject to RCW 9A.52.070 and 9A.52.080, enter at all
26 reasonable times in or upon any property, public or private, for the
27 purpose of inspecting and investigating conditions relating to the
28 pollution of or the possible pollution of any of the waters of this
29 state.

30 The department shall have special inspection requirements for
31 metals mining and milling operations regulated under chapter 232, Laws
32 of 1994. The department shall inspect these mining and milling
33 operations at least quarterly in order to ensure compliance with the
34 intent and any permit issued pursuant to this chapter. The department
35 shall conduct additional inspections as needed during the construction

1 phase of these mining operations in order to ensure compliance with
2 this chapter.

--- END ---