
HOUSE BILL 2687

State of Washington

55th Legislature

1998 Regular Session

By Representatives Sump, McMorris, Mielke, Dunn, Sherstad, Sterk, Smith, Boldt, Koster, Mulliken, Carrell, Thompson and Bush

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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 those governmental purposes
14 specified in this act relating to fire or medical emergencies, warrants
15 and other court orders, and certain felony crime situations.

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

18 The following definitions apply in this chapter:

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

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

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

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

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

36 (c) When there is probable cause to believe a felony has been or is
37 being committed and exigent circumstances justify a warrantless entry.

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

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

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

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

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

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

28 (1) Inspect all horticultural premises, fruits, vegetables, nursery
29 stock, horticultural supplies, and other properties which are subject
30 to infection by pests or diseases; require the owners or persons in
31 charge of any infected property to disinfect the same; disinfect the
32 same in case the owner or person in charge fails, after notice, to do
33 so; condemn and destroy properties which cannot be successfully
34 disinfected; (~~have free access to any such premises or properties at~~
35 ~~any time;~~)

36 (2) Require all such products held for shipment which are partially
37 infected, to be sorted and repacked, and if the owner or person in
38 charge after notice fails to do so, they may condemn and destroy them:

1 PROVIDED, That no inspector shall destroy more than ten percent of any
2 variety of nursery stock in any lot or shipment of fifty or more trees,
3 vines, or shrubs without five days' notice to the shipper, during which
4 time the owner or shipper may appeal to the supervisor;

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

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

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

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

16 Any authorized agent or employee of the county horticultural pest
17 and disease board may, subject to RCW 9A.52.070 and 9A.52.080, enter
18 upon any property for the purpose of administering this chapter and any
19 power exercisable pursuant thereto, including the taking of specimens,
20 general inspection, and the performance of such acts as are necessary
21 for controlling and preventing the spreading of horticultural pests and
22 diseases. (~~Such entry may be without the consent of the owner, and no
23 action for trespass or damages shall lie so long as such entry and any
24 activities connected therewith are undertaken and prosecuted with
25 reasonable care.~~)

26 Should any such employee or authorized agent of the county
27 horticultural pest and disease board be denied access to such property
28 where such access was sought to carry out the purpose and provisions of
29 this chapter, the said board may apply to any court of competent
30 jurisdiction for a search warrant authorizing access to such property
31 for said purpose. The court may upon such application issue the search
32 warrant for the purpose requested.

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

35 The director may, subject to RCW 9A.52.070 and 9A.52.080, enter
36 upon the premises of a nursery dealer at reasonable times for the
37 purpose of carrying out the provisions of this chapter. If the

1 director is denied access, the director may apply to a court of
2 competent jurisdiction for a search warrant authorizing access to the
3 premises. The court may upon such application issue the search warrant
4 for the purposes requested. (~~Denial of access to the director to~~
5 ~~perform inspections may subject a nursery dealer to revocation of the~~
6 ~~nursery license as provided in RCW 15.13.350.~~)

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

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

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

18 (1) If a law enforcement officer or animal control officer has
19 probable cause to believe that an owner of a domestic animal has
20 violated this chapter and no responsible person can be found to assume
21 the animal's care, the officer may authorize, with a warrant, the
22 removal of the animal to a suitable place for feeding and care, or may
23 place the animal under the custody of an animal care and control
24 agency. In determining what is a suitable place, the officer shall
25 consider the animal's needs, including its size and behavioral
26 characteristics. An officer may remove an animal under this subsection
27 without a warrant only if the animal is in an immediate life-
28 threatening condition and the removal does not violate RCW 9A.52.070 or
29 9A.52.080.

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

1 (3) Any owner whose domestic animal is removed pursuant to this
2 chapter shall be given written notice of the circumstances of the
3 removal and notice of legal remedies available to the owner. The
4 notice shall be given by posting at the place of seizure, by delivery
5 to a person residing at the place of seizure, or by registered mail if
6 the owner is known. In making the decision to remove an animal
7 pursuant to this chapter, the officer shall make a good faith effort to
8 contact the animal's owner before removal.

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

25 (5) If no criminal case is filed within fourteen business days of
26 the animal's removal, the owner may petition the district court of the
27 county where the animal was removed for the animal's return. The
28 petition shall be filed with the court, with copies served to the law
29 enforcement or animal care and control agency responsible for removing
30 the animal and to the prosecuting attorney. If the court grants the
31 petition, the agency which seized the animal must deliver the animal to
32 the owner at no cost to the owner. If a criminal action is filed after
33 the petition is filed but before the animal is returned, the petition
34 shall be joined with the criminal matter.

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

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

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

6 All weed district directors, all weed inspectors, and all official
7 agents of all weed districts, in the performance of their official
8 duties, ~~((have the right to))~~ may, subject to RCW 9A.52.070 and
9 9A.52.080, enter and go upon any of the lands within their weed
10 district at any reasonable time for any reason necessary to effectuate
11 the purposes of the weed district. ~~((Any person who prevents or~~
12 ~~threatens to prevent any lawful agent of the weed district, after said~~
13 ~~agent identifies himself and the purpose for which he is going upon the~~
14 ~~land, from entering or going upon the land within said weed district at~~
15 ~~a reasonable time and for a lawful purpose of the weed district, is~~
16 ~~guilty of a misdemeanor.))~~

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

19 Any authorized agent or employee of the county noxious weed control
20 board or of the state noxious weed control board or of the department
21 of agriculture where not otherwise proscribed by law may, subject to
22 RCW 9A.52.070 and 9A.52.080, enter upon any property for the purpose of
23 administering this chapter and any power exercisable pursuant thereto,
24 including the taking of specimens of weeds, general inspection, and the
25 performance of eradication or control work. Prior to carrying out the
26 purpose for which the entry is made, the official making such entry or
27 someone in his or her behalf, shall make a reasonable attempt to notify
28 the owner of the property as to the purpose and need for the entry.

29 (1) When there is probable cause to believe that there is property
30 within this state not otherwise exempt from process or execution upon
31 which noxious weeds are standing or growing and the owner refuses
32 permission to inspect the property, a judge of the superior court or
33 district court in the county in which the property is located may, upon
34 the request of the county noxious weed control board or its agent,
35 issue a warrant directed to the board or agent authorizing the taking
36 of specimens of weeds or other materials, general inspection, and the
37 performance of eradication or control work.

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

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

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

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

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

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

21 (b) To inspect lands actually or reported to be exposed to
22 pesticides;

23 (c) To inspect storage or disposal areas;

24 (d) To inspect or investigate complaints of injury to humans or
25 land; or

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

27 (2) Should the director be denied access to any land where such
28 access was sought for the purposes set forth in this chapter, the
29 director may apply to any court of competent jurisdiction for a search
30 warrant authorizing access to such land for said purposes. The court
31 may upon such application, issue the search warrant for the purposes
32 requested.

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

37 (4) The director may bring an action to enjoin the violation or
38 threatened violation of any provision of this chapter or any rule made

1 pursuant to this chapter in the superior court of the county in which
2 such violation occurs or is about to occur.

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

5 (1) The director may intercept and hold or order held for
6 inspection, or cause to be inspected while in transit or after arrival
7 at their destination, all plants, plant products, bees, or other
8 articles likely to carry plant pests, bee pests, or noxious weeds being
9 moved into this state from another state, territory, or a foreign
10 country or within or through this state for plant and bee pests and
11 disease.

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

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

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

23 (1) The director shall cause an inspector to inspect all wiring,
24 appliances, devices, and equipment to which this chapter applies. Any
25 such inspection is subject to RCW 9A.52.070 and 9A.52.080. Nothing
26 contained in this chapter may be construed as providing any authority
27 for any subdivision of government to adopt by ordinance any provisions
28 contained or provided for in this chapter except those pertaining to
29 cities and towns pursuant to RCW 19.28.010(3).

30 (2) Upon request, electrical inspections will be made by the
31 department within forty-eight hours, excluding holidays, Saturdays, and
32 Sundays. If, upon written request, the electrical inspector fails to
33 make an electrical inspection within twenty-four hours, the serving
34 utility may immediately connect electrical power to the installation if
35 the necessary electrical work permit is displayed: PROVIDED, That if
36 the request is for an electrical inspection that relates to a mobile
37 home installation, the applicant shall provide proof of a current

1 building permit issued by the local government agency authorized to
2 issue such permits as a prerequisite for inspection approval or
3 connection of electrical power to the mobile home.

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

22 (4) Subject to RCW 9A.52.070 and 9A.52.080, the director, through
23 the electrical inspector, (~~((has the right))~~) may during reasonable hours
24 (~~((to))~~) enter into and upon any building or premises in the discharge of
25 his or her official duties for the purpose of making any inspection or
26 test of the installation of new construction or altered electrical
27 wiring, electrical devices, equipment, or material contained in or on
28 the buildings or premises. No electrical wiring or equipment subject
29 to this chapter may be concealed until it has been approved by the
30 inspector making the inspection. At the time of the inspection,
31 electrical wiring or equipment subject to this chapter must be
32 sufficiently accessible to permit the inspector to employ any testing
33 methods that will verify conformance with the national electrical code
34 and any other requirements of this chapter.

35 (5) Persons, firms, partnerships, corporations, or other entities
36 making electrical installations shall obtain inspection and approval
37 from an authorized representative of the department as required by this
38 chapter before requesting the electric utility to connect to the
39 installations. Electric utilities may connect to the installations if

1 approval is clearly indicated by certification of the electrical work
2 permit required to be affixed to each installation or by equivalent
3 means, except that increased or relocated services may be reconnected
4 immediately at the discretion of the utility before approval if an
5 electrical work permit is displayed. The permits shall be furnished
6 upon payment of the fee to the department.

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

14 (7) Nothing in this chapter shall authorize the inspection of any
15 wiring, appliance, device, or equipment, or installations thereof, by
16 any utility or by any person, firm, partnership, corporation, or other
17 entity employed by a utility in connection with the installation,
18 repair, or maintenance of lines, wires, apparatus, or equipment owned
19 by or under the control of the utility. All work covered by the
20 national electric code not exempted by the 1981 edition of the national
21 electric code 90-2(B)(5) shall be inspected by the department.

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

24 Every corporation incorporated or that may hereafter be
25 incorporated under the laws of this state or of any other state or
26 territory, and qualified to transact business in this state for the
27 purpose of acquiring, owning or operating public warehouses or
28 elevators for storing and handling grain, produce and other
29 agricultural commodities which may desire to erect and operate any such
30 public warehouse or elevator, or to erect and operate tramways or cable
31 tramways for the purpose of carrying, conveying or transporting such
32 grain, produce or commodities to or from such warehouse or elevator or
33 to acquire rights of way for roadways to and from such warehouse or
34 elevator or to acquire boat landing or wharving facilities in
35 connection with such warehouse or elevator (~~shall have the right to~~)
36 may, subject to RCW 9A.52.070 and 9A.52.080, enter upon any lands
37 proposed to be used for any such purpose for the purpose of examining,

1 locating and surveying the lines and boundaries thereof, doing no
2 unnecessary damage thereby.

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

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

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

22 Every city or town may permit connections with any of its sewers,
23 either directly or indirectly, from property beyond its limits, upon
24 such terms, conditions and payments as may be prescribed by ordinance,
25 which may be required by the city or town to be evidenced by a written
26 agreement between the city or town and the owner of the property to be
27 served by the connecting sewer.

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

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

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

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

8 (a) That an "improvement board" or officer be designated or
9 appointed to exercise the powers assigned to such board or officer by
10 the ordinance as specified herein. Said board or officer may be an
11 existing municipal board or officer in the municipality, or may be a
12 separate board or officer appointed solely for the purpose of
13 exercising the powers assigned by said ordinance.

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

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

22 (c) That if, after a preliminary investigation of any dwelling,
23 building, structure, or premises, the board or officer finds that it is
24 unfit for human habitation or other use, he shall cause to be served
25 either personally or by certified mail, with return receipt requested,
26 upon all persons having any interest therein, as shown upon the records
27 of the auditor's office of the county in which such property is
28 located, and shall post in a conspicuous place on such property, a
29 complaint stating in what respects such dwelling, building, structure,
30 or premises is unfit for human habitation or other use. If the
31 whereabouts of any of such persons is unknown and the same cannot be
32 ascertained by the board or officer in the exercise of reasonable
33 diligence, and the board or officer makes an affidavit to that effect,
34 then the serving of such complaint or order upon such persons may be
35 made either by personal service or by mailing a copy of the complaint
36 and order by certified mail, postage prepaid, return receipt requested,
37 to each such person at the address of the building involved in the
38 proceedings, and mailing a copy of the complaint and order by first
39 class mail to any address of each such person in the records of the

1 county assessor or the county auditor for the county where the property
2 is located. Such complaint shall contain a notice that a hearing will
3 be held before the board or officer, at a place therein fixed, not less
4 than ten days nor more than thirty days after the serving of said
5 complaint; and that all parties in interest shall be given the right to
6 file an answer to the complaint, to appear in person, or otherwise, and
7 to give testimony at the time and place in the complaint. The rules of
8 evidence prevailing in courts of law or equity shall not be controlling
9 in hearings before the board or officer. A copy of such complaint
10 shall also be filed with the auditor of the county in which the
11 dwelling, building, structure, or ((~~premise~~ {~~premises~~})) premises is
12 located, and such filing of the complaint or order shall have the same
13 force and effect as other lis pendens notices provided by law.

14 (d) That the board or officer may determine that a dwelling,
15 building, structure, or premises is unfit for human habitation or other
16 use if it finds that conditions exist in such dwelling, building,
17 structure, or premises which are dangerous or injurious to the health
18 or safety of the occupants of such dwelling, building, structure, or
19 premises, the occupants of neighboring dwellings, or other residents of
20 such municipality. Such conditions may include the following, without
21 limitations: Defects therein increasing the hazards of fire or
22 accident; inadequate ventilation, light, or sanitary facilities,
23 dilapidation, disrepair, structural defects, uncleanliness,
24 overcrowding, or inadequate drainage. The ordinance shall state
25 reasonable and minimum standards covering such conditions, including
26 those contained in ordinances adopted in accordance with subdivision
27 (7)(a) herein, to guide the board or the public officer and the agents
28 and employees of either, in determining the fitness of a dwelling for
29 human habitation, or building, structure, or premises for other use.

30 (e) That the determination of whether a dwelling, building,
31 structure, or premises should be repaired or demolished, shall be based
32 on specific stated standards on (i) the degree of structural
33 deterioration of the dwelling, building, structure, or premises, or
34 (ii) the relationship that the estimated cost of repair bears to the
35 value of the dwelling, building, structure, or premises, with the
36 method of determining this value to be specified in the ordinance.

37 (f) That if, after the required hearing, the board or officer
38 determines that the dwelling is unfit for human habitation, or building
39 or structure or premises is unfit for other use, it shall state in

1 writing its findings of fact in support of such determination, and
2 shall issue and cause to be served upon the owner or party in interest
3 thereof, as is provided in subdivision (1)(c), and shall post in a
4 conspicuous place on said property, an order which (i) requires the
5 owner or party in interest, within the time specified in the order, to
6 repair, alter, or improve such dwelling, building, structure, or
7 premises to render it fit for human habitation, or for other use, or to
8 vacate and close the dwelling, building, structure, or premises, if
9 such course of action is deemed proper on the basis of the standards
10 set forth as required in subdivision (1)(e); or (ii) requires the owner
11 or party in interest, within the time specified in the order, to remove
12 or demolish such dwelling, building, structure, or premises, if this
13 course of action is deemed proper on the basis of said standards. If
14 no appeal is filed, a copy of such order shall be filed with the
15 auditor of the county in which the dwelling, building, structure, or
16 premises is located.

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

21 The local governing body of the municipality shall designate or
22 establish a municipal agency to serve as the appeals commission. The
23 local governing body shall also establish rules of procedure adequate
24 to assure a prompt and thorough review of matters submitted to the
25 appeals commission, and such rules of procedure shall include the
26 following, without being limited thereto: (i) All matters submitted to
27 the appeals commission must be resolved by the commission within sixty
28 days from the date of filing therewith and (ii) a transcript of the
29 findings of fact of the appeals commission shall be made available to
30 the owner or other party in interest upon demand.

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

35 If the owner or party in interest, following exhaustion of his
36 rights to appeal, fails to comply with the final order to repair,
37 alter, improve, vacate, close, remove, or demolish the dwelling,
38 building, structure, or premises, the board or officer may, subject to
39 RCW 9A.52.070 and 9A.52.080, direct or cause such dwelling, building,

1 structure, or premises to be repaired, altered, improved, vacated, and
2 closed, removed, or demolished.

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

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

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

34 (3) An ordinance adopted by the local governing body of the
35 municipality may authorize the board or officer to exercise such powers
36 as may be necessary or convenient to carry out and effectuate the
37 purposes and provisions of this section. These powers shall include
38 the following in addition to others herein granted: (a)(i) To
39 determine which dwellings within the municipality are unfit for human

1 habitation; (ii) to determine which buildings, structures, or premises
2 are unfit for other use; (b) to administer oaths and affirmations,
3 examine witnesses and receive evidence; and (c) to investigate the
4 dwelling and other property conditions in the municipality or county
5 and, subject to RCW 9A.52.070 and 9A.52.080, to enter upon premises for
6 the purpose of making examinations when the board or officer has
7 reasonable ground for believing they are unfit for human habitation, or
8 for other use: PROVIDED, That such entries shall be made in such
9 manner as to cause the least possible inconvenience to the persons in
10 possession, and to obtain an order for this purpose after submitting
11 evidence in support of an application which is adequate to justify such
12 an order from a court of competent jurisdiction in the event entry is
13 denied or resisted.

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

17 (5) Nothing in this section shall be construed to abrogate or
18 impair the powers of the courts or of any department of any
19 municipality to enforce any provisions of its charter or its ordinances
20 or regulations, nor to prevent or punish violations thereof; and the
21 powers conferred by this section shall be in addition and supplemental
22 to the powers conferred by any other law.

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

27 (7) Any municipality may (by ordinance adopted by its governing
28 body) (a) prescribe minimum standards for the use and occupancy of
29 dwellings throughout the municipality, or county, (b) prescribe minimum
30 standards for the use or occupancy of any building, structure, or
31 premises used for any other purpose, (c) prevent the use or occupancy
32 of any dwelling, building, structure, or premises, which is injurious
33 to the public health, safety, morals, or welfare, and (d) prescribe
34 punishment for the violation of any provision of such ordinance.

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

37 Every county, city, or town may, in addition to any other authority
38 granted by this chapter: (1) Subject to RCW 9A.52.070 and 9A.52.080,

1 enter upon any building or property found to constitute a blight on the
2 surrounding neighborhood in order to make surveys and appraisals, and
3 to obtain an order for this purpose from a court of competent
4 jurisdiction in the event entry is denied or resisted; and (2) borrow
5 money, apply for, and accept, advances, loans, grants, contributions,
6 and any other form of financial assistance from the federal government,
7 the state, a county, or other public body, or from any sources, public
8 or private, for the purposes of this chapter, and enter into and carry
9 out contracts in connection herewith.

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

12 Every municipality shall have all the powers necessary or
13 convenient to carry out and effectuate the purposes and provisions of
14 this chapter, including the following powers in addition to others
15 herein granted:

16 (1) To undertake and carry out urban renewal projects within the
17 municipality, to make and execute contracts and other instruments
18 necessary or convenient to the exercise of its powers under this
19 chapter, and to disseminate blight clearance and urban renewal
20 information.

21 (2) To provide or to arrange or contract for the furnishing or
22 repair by any person or agency, public or private, of services,
23 privileges, works, streets, roads, public utilities or other facilities
24 for, or in connection with, an urban renewal project; to install,
25 construct, and reconstruct streets, utilities, parks, playgrounds, and
26 other public improvements; and to agree to any conditions that it may
27 deem reasonable and appropriate attached to federal financial
28 assistance and imposed pursuant to federal law relating to the
29 determination of prevailing salaries or wages or compliance with labor
30 standards, in the undertaking or carrying out of an urban renewal
31 project, and to include in any contract let in connection with such a
32 project, provisions to fulfill such of said conditions as it may deem
33 reasonable and appropriate.

34 (3) Within the municipality and subject to RCW 9A.52.070 and
35 9A.52.080, to enter upon any building or property in any urban renewal
36 area, in order to make surveys and appraisals, provided that such
37 entries shall be made in such a manner as to cause the least possible
38 inconvenience to the persons in possession, and to obtain an order for

1 this purpose from a court of competent jurisdiction in the event entry
2 is denied or resisted; to acquire by purchase, lease, option, gift,
3 grant, bequest, devise, eminent domain, or otherwise, any real property
4 and such personal property as may be necessary for the administration
5 of the provisions herein contained, together with any improvements
6 thereon; to hold, improve, clear, or prepare for redevelopment any such
7 property; to dispose of any real property; to insure or provide for the
8 insurance of any real or personal property or operations of the
9 municipality against any risks or hazards, including the power to pay
10 premiums on any such insurance: PROVIDED, That no statutory provision
11 with respect to the acquisition, clearance, or disposition of property
12 by public bodies shall restrict a municipality in the exercise of such
13 functions with respect to an urban renewal project.

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

21 (5) To borrow money and to apply for, and accept, advances, loans,
22 grants, contributions and any other form of financial assistance from
23 the federal government, the state, county, or other public body, or
24 from any sources, public or private, for the purposes of this chapter,
25 and to enter into and carry out contracts in connection therewith. A
26 municipality may include in any application or contract for financial
27 assistance with the federal government for an urban renewal project
28 such conditions imposed pursuant to federal laws as the municipality
29 may deem reasonable and appropriate and which are not inconsistent with
30 the purposes of this chapter.

31 (6) Within the municipality, to make or have made all plans
32 necessary to the carrying out of the purposes of this chapter and to
33 contract with any person, public or private, in making and carrying out
34 such plans and to adopt or approve, modify, and amend such plans. Such
35 plans may include, without limitation: (a) A comprehensive plan or
36 parts thereof for the locality as a whole, (b) urban renewal plans, (c)
37 plans for carrying out a program of voluntary or compulsory repair and
38 rehabilitation of buildings and improvements, (d) plans for the
39 enforcement of state and local laws, codes, and regulations relating to

1 the use of land and the use and occupancy of buildings and improvements
2 and to the compulsory repair, rehabilitation, demolition, or removal of
3 buildings and improvements, and (e) appraisals, title searches,
4 surveys, studies, and other preliminary plans and work necessary to
5 prepare for the undertaking of urban renewal projects. The
6 municipality is authorized to develop, test, and report methods and
7 techniques, and carry out demonstrations and other activities, for the
8 prevention and the elimination of urban blight and to apply for,
9 accept, and utilize grants of, funds from the federal government for
10 such purposes.

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

16 (8) To appropriate such funds and make such expenditures as may be
17 necessary to carry out the purposes of this chapter, and in accordance
18 with state law: (a) Levy taxes and assessments for such purposes; (b)
19 acquire land by negotiation and/or eminent domain; (c) close, vacate,
20 plan, or replan streets, roads, sidewalks, ways, or other places; (d)
21 plan or replan, zone or rezone any part of the municipality; (e) adopt
22 annual budgets for the operation of an urban renewal agency,
23 department, or offices vested with urban renewal project powers under
24 RCW 35.81.150; (f) enter into agreements with such agencies or
25 departments (which agreements may extend over any period) respecting
26 action to be taken by such municipality pursuant to any of the powers
27 granted by this chapter.

28 (9) Within the municipality, to organize, coordinate, and direct
29 the administration of the provisions of this chapter as they apply to
30 such municipality in order that the objective of remedying blighted
31 areas and preventing the causes thereof within such municipality may be
32 most effectively promoted and achieved, and to establish such new
33 office or offices of the municipality or to reorganize existing offices
34 in order to carry out such purpose most effectively.

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

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

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

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

9 Every county (~~shall have the right of entry~~) may, subject to RCW
10 9A.52.070 and 9A.52.080, enter upon every irrigation, drainage, or
11 flood control canal or ditch right of way within its boundaries for all
12 purposes necessary to safeguard the public from the hazards of open
13 canals or ditches, including the right to clean such canals or ditches
14 to prevent their flooding adjacent lands, and the right to cause to be
15 constructed and maintained on such rights of way or adjacent thereto
16 safeguards as authorized by RCW 36.88.015: PROVIDED, That such
17 safeguards must not unreasonably interfere with maintenance of the
18 canal or ditch or with the operation thereof.

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

21 No person belonging to the military forces of this state shall be
22 arrested on any warrant, except for treason or felony, while going to,
23 remaining at, or returning from any place at which he may be required
24 to attend military duty. Any members of the organized militia
25 parading, or performing any duty according to the law shall have the
26 right of way in any street or highway through which they may pass and
27 while on field duty (~~shall have the right to~~) may, subject to RCW
28 9A.52.070 and 9A.52.080, enter upon, cross or occupy any uninclosed
29 lands, or any inclosed lands where no damage will be caused thereby:
30 PROVIDED, That the carriage of the United States mail and legitimate
31 functions of the police and fire departments shall not be interfered
32 with thereby.

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

35 In order to carry out the purposes of this chapter all persons
36 employed hereunder (~~are authorized to~~) may, subject to RCW 9A.52.070

1 and 9A.52.080, enter and cross all land within the state doing thereby
2 no damage to private property.

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

5 (1) The office of the state long-term care ombudsman shall develop
6 procedures, subject to RCW 9A.52.070 and 9A.52.080, governing the right
7 of entry of all long-term care ombudsmen to long-term care facilities
8 and, subject to RCW 9A.52.070 and 9A.52.080, shall have access to
9 residents with provisions made for privacy for the purpose of hearing,
10 investigating, and resolving complaints of, and rendering advice to,
11 individuals who are patients or residents of the facilities at any time
12 deemed necessary and reasonable by the state ombudsman to effectively
13 carry out the provisions of this chapter.

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

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

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

23 The department or its duly authorized and acting assistants,
24 agents, or appointees (~~((have the right to))~~) may, subject to RCW
25 9A.52.070 and 9A.52.080, enter upon any land, real estate, or premises
26 in this state, whether public or private, for purposes of making
27 examinations, locations, surveys, and appraisals for highway purposes.
28 (~~((The making of any such entry for those purposes does not constitute~~
29 ~~any trespass by the department or by its duly authorized and acting~~
30 ~~assistants, agents, or appointees.))~~)

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

33 If the owner of the land upon which any such junkyard is located,
34 or the operator thereof, as the case may be, fails to comply with the
35 notice or remove any such junk within the time provided in this chapter
36 after being so notified, he is guilty of a misdemeanor. In addition to

1 the penalties imposed by law upon conviction, an order may be entered
2 compelling compliance with this chapter. Each day the junkyard is
3 maintained in a manner so as not to comply with this chapter
4 constitutes a separate offense.

5 If the operator of the junkyard or the owner of the property upon
6 which it is located, as the case may be, is not found or refuses
7 receipt of the notice, the department, the chief of the Washington
8 state patrol, the county sheriff, or the chief of police of any city or
9 town shall post the property upon which it is located with a notice
10 that the junkyard constitutes a public nuisance and that the junk
11 thereon must be removed as provided in this chapter. If the notice is
12 not complied with, the department, the chief of the Washington state
13 patrol, the county sheriff, or the chief of police of any city or town
14 shall abate the nuisance and remove the junk, and for that purpose may,
15 subject to RCW 9A.52.070 and 9A.52.080, enter upon private property
16 without incurring liability for doing so.

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

19 (1) Any sign erected or maintained contrary to the provisions of
20 this chapter or rules adopted hereunder that is designed to be viewed
21 from the interstate system, the primary system, or the scenic system is
22 a public nuisance, and the department, the chief of the Washington
23 state patrol, the county sheriff, or the chief of police of any city or
24 town shall notify the permittee or, if there is no permittee, the owner
25 of the property on which the sign is located, by certified mail at his
26 last known address, that it constitutes a public nuisance and must
27 comply with the chapter or be removed.

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

34 (3) If the permittee or the owner of the property upon which it is
35 located, as the case may be, is not found or refuses receipt of the
36 notice, the department, the chief of the Washington state patrol, the
37 county sheriff, or the chief of police of any city or town shall post
38 the sign and property upon which it is located with a notice that the

1 sign constitutes a public nuisance and must be removed. If the sign is
2 not removed within fifteen days after such posting, the department, the
3 chief of the Washington state patrol, the county sheriff, or the chief
4 of police of any city or town shall abate the nuisance and destroy the
5 sign, and for that purpose may, subject to RCW 9A.52.070 and 9A.52.080,
6 enter upon private property without incurring liability for doing so.

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

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

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

16 A district shall have the following powers:

17 (1) To acquire by purchase or condemnation, or both, all lands,
18 property and property rights, and all water and water rights, both
19 within and without the district, necessary for its purposes. The right
20 of eminent domain shall be exercised in the same manner and by the same
21 procedure as provided for cities and towns, insofar as consistent with
22 this title, except that all assessment or reassessment rolls to be
23 prepared and filed by eminent domain commissioners or commissioners
24 appointed by the court shall be prepared and filed by the district, and
25 the duties devolving upon the city treasurer are imposed upon the
26 county treasurer;

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

30 (3) To construct, condemn and purchase, add to, maintain, and
31 supply waterworks to furnish the district and inhabitants thereof and
32 any other persons, both within and without the district, with an ample
33 supply of water for all uses and purposes public and private with full
34 authority to regulate and control the use, content, distribution, and
35 price thereof in such a manner as is not in conflict with general law
36 and may construct, acquire, or own buildings and other necessary
37 district facilities. Where a customer connected to the district's
38 system uses the water on an intermittent or transient basis, a district

1 may charge for providing water service to such a customer, regardless
2 of the amount of water, if any, used by the customer. District
3 waterworks may include facilities which result in combined water supply
4 and electric generation, if the electricity generated thereby is a
5 byproduct of the water supply system. That electricity may be used by
6 the district or sold to any entity authorized by law to use or
7 distribute electricity. Electricity is deemed a byproduct when the
8 electrical generation is subordinate to the primary purpose of water
9 supply. For such purposes, a district may take, condemn and purchase,
10 acquire, and retain water from any public or navigable lake, river or
11 watercourse, or any underflowing water, and by means of aqueducts or
12 pipeline conduct the same throughout the district and any city or town
13 therein and carry it along and upon public highways, roads, and
14 streets, within and without such district. For the purpose of
15 constructing or laying aqueducts or pipelines, dams, or waterworks or
16 other necessary structures in storing and retaining water or for any
17 other lawful purpose such district may, subject to RCW 9A.52.070 and
18 9A.52.080, occupy the beds and shores up to the high water mark of any
19 such lake, river, or other watercourse, and may acquire by purchase or
20 condemnation such property or property rights or privileges as may be
21 necessary to protect its water supply from pollution. For the purposes
22 of waterworks which include facilities for the generation of
23 electricity as a byproduct, nothing in this section may be construed to
24 authorize a district to condemn electric generating, transmission, or
25 distribution rights or facilities of entities authorized by law to
26 distribute electricity, or to acquire such rights or facilities without
27 the consent of the owner;

28 (4) To purchase and take water from any municipal corporation,
29 private person, or entity. A district contiguous to Canada may
30 contract with a Canadian corporation for the purchase of water and for
31 the construction, purchase, maintenance, and supply of waterworks to
32 furnish the district and inhabitants thereof and residents of Canada
33 with an ample supply of water under the terms approved by the board of
34 commissioners;

35 (5) To construct, condemn and purchase, add to, maintain, and
36 operate systems of sewers for the purpose of furnishing the district,
37 the inhabitants thereof, and persons outside the district with an
38 adequate system of sewers for all uses and purposes, public and
39 private, including but not limited to on-site sewage disposal

1 facilities, approved septic tanks or approved septic tank systems, on-
2 site sanitary sewerage systems, inspection services and maintenance
3 services for private and public on-site systems, point and nonpoint
4 water pollution monitoring programs that are directly related to the
5 sewerage facilities and programs operated by a district, other
6 facilities, programs, and systems for the collection, interception,
7 treatment, and disposal of wastewater, and for the control of pollution
8 from wastewater and for the protection, preservation, and
9 rehabilitation of surface and underground waters, facilities for the
10 drainage and treatment of storm or surface waters, public highways,
11 streets, and roads with full authority to regulate the use and
12 operation thereof and the service rates to be charged. Under this
13 chapter, after July 1, 1998, any requirements for pumping the septic
14 tank of an on-site sewage system should be based, among other things,
15 on actual measurement of accumulation of sludge and scum by a trained
16 inspector, trained owner's agent, or trained owner. Training must
17 occur in a program approved by the state board of health or by a local
18 health officer. Sewage facilities may include facilities which result
19 in combined sewage disposal, treatment, or drainage and electric
20 generation, except that the electricity generated thereby is a
21 byproduct of the system of sewers. Such electricity may be used by the
22 district or sold to any entity authorized by law to distribute
23 electricity. Electricity is deemed a byproduct when the electrical
24 generation is subordinate to the primary purpose of sewage disposal,
25 treatment, or drainage. For such purposes a district may conduct
26 sewage throughout the district and throughout other political
27 subdivisions within the district, and construct and lay sewer pipe
28 along and upon public highways, roads, and streets, within and without
29 the district, and condemn and purchase or acquire land and rights of
30 way necessary for such sewer pipe. A district may erect sewage
31 treatment plants within or without the district, and may acquire, by
32 purchase or condemnation, properties or privileges necessary to be had
33 to protect any lakes, rivers, or watercourses and also other areas of
34 land from pollution from its sewers or its sewage treatment plant. For
35 the purposes of sewage facilities which include facilities that result
36 in combined sewage disposal, treatment, or drainage and electric
37 generation where the electric generation is a byproduct, nothing in
38 this section may be construed to authorize a district to condemn
39 electric generating, transmission, or distribution rights or facilities

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

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

5 (7) To compel all property owners within the district located
6 within an area served by the district's system of sewers to connect
7 their private drain and sewer systems with the district's system under
8 such penalty as the commissioners shall prescribe by resolution. The
9 district may for such purpose, and subject to RCW 9A.52.070 and
10 9A.52.080, enter upon private property and connect the private drains
11 or sewers with the district system and the cost thereof shall be
12 charged against the property owner and shall be a lien upon property
13 served;

14 (8) Where a district contains within its borders, abuts, or is
15 located adjacent to any lake, stream, ground water as defined by RCW
16 90.44.035, or other waterway within the state of Washington, to provide
17 for the reduction, minimization, or elimination of pollutants from
18 those waters in accordance with the district's comprehensive plan, and
19 to issue general obligation bonds, revenue bonds, local improvement
20 district bonds, or utility local improvement bonds for the purpose of
21 paying all or any part of the cost of reducing, minimizing, or
22 eliminating the pollutants from these waters;

23 (9) To fix rates and charges for water, sewer, and drain service
24 supplied and to charge property owners seeking to connect to the
25 district's systems, as a condition to granting the right to so connect,
26 in addition to the cost of the connection, such reasonable connection
27 charge as the board of commissioners shall determine to be proper in
28 order that those property owners shall bear their equitable share of
29 the cost of the system. For the purposes of calculating a connection
30 charge, the board of commissioners shall determine the pro rata share
31 of the cost of existing facilities and facilities planned for
32 construction within the next ten years and contained in an adopted
33 comprehensive plan and other costs borne by the district which are
34 directly attributable to the improvements required by property owners
35 seeking to connect to the system. The cost of existing facilities
36 shall not include those portions of the system which have been donated
37 or which have been paid for by grants. The connection charge may
38 include interest charges applied from the date of construction of the
39 system until the connection, or for a period not to exceed ten years,

1 whichever is shorter, at a rate commensurate with the rate of interest
2 applicable to the district at the time of construction or major
3 rehabilitation of the system, or at the time of installation of the
4 lines to which the property owner is seeking to connect. A district
5 may permit payment of the cost of connection and the reasonable
6 connection charge to be paid with interest in installments over a
7 period not exceeding fifteen years. The county treasurer may charge
8 and collect a fee of three dollars for each year for the treasurer's
9 services. Those fees shall be a charge to be included as part of each
10 annual installment, and shall be credited to the county current expense
11 fund by the county treasurer. Revenues from connection charges
12 excluding permit fees are to be considered payments in aid of
13 construction as defined by department of revenue rule. Rates or
14 charges for on-site inspection and maintenance services may not be
15 imposed under this chapter on the development, construction, or
16 reconstruction of property.

17 Before adopting on-site inspection and maintenance utility
18 services, or incorporating residences into an on-site inspection and
19 maintenance or sewer utility under this chapter, notification must be
20 provided, prior to the applicable public hearing, to all residences
21 within the proposed service area that have on-site systems permitted by
22 the local health officer. The notice must clearly state that the
23 residence is within the proposed service area and must provide
24 information on estimated rates or charges that may be imposed for the
25 service.

26 A water-sewer district shall not provide on-site sewage system
27 inspection, pumping services, or other maintenance or repair services
28 under this section using water-sewer district employees unless the on-
29 site system is connected by a publicly owned collection system to the
30 water-sewer district's sewerage system, and the on-site system
31 represents the first step in the sewage disposal process.

32 Except as otherwise provided in RCW 90.03.525, any public entity
33 and public property, including the state of Washington and state
34 property, shall be subject to rates and charges for sewer, water, storm
35 water control, drainage, and street lighting facilities to the same
36 extent private persons and private property are subject to those rates
37 and charges that are imposed by districts. In setting those rates and
38 charges, consideration may be made of in-kind services, such as stream
39 improvements or donation of property;

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

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

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

9 (13) To sue and be sued;

10 (14) To loan and borrow funds and to issue bonds and instruments
11 evidencing indebtedness under chapter 57.20 RCW and other applicable
12 laws;

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

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

17 (17) To provide for making local improvements and to levy and
18 collect special assessments on property benefitted thereby, and for
19 paying for the same or any portion thereof in accordance with chapter
20 57.16 RCW;

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

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

24 (20) To exercise any of the powers granted to cities and counties
25 with respect to the acquisition, construction, maintenance, operation
26 of, and fixing rates and charges for waterworks and systems of sewerage
27 and drainage.

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

30 (1) The legislature finds that some tenants live in residences that
31 are substandard and dangerous to their health and safety and that the
32 repair and deduct remedies of RCW 59.18.100 may not be adequate to
33 remedy substandard and dangerous conditions. Therefore, an
34 extraordinary remedy is necessary if the conditions substantially
35 endanger or impair the health and safety of the tenant.

36 (2)(a) If a landlord fails to fulfill any substantial obligation
37 imposed by RCW 59.18.060 that substantially endangers or impairs the
38 health or safety of a tenant, including (i) structural members that are

1 of insufficient size or strength to carry imposed loads with safety,
2 (ii) exposure of the occupants to the weather, (iii) plumbing and
3 sanitation defects that directly expose the occupants to the risk of
4 illness or injury, (iv) lack of water, including hot water, (v) heating
5 or ventilation systems that are not functional or are hazardous, (vi)
6 defective, hazardous, or missing electrical wiring or electrical
7 service, (vii) defective or inadequate exits that increase the risk of
8 injury to occupants, and (viii) conditions that increase the risk of
9 fire, the tenant shall give notice in writing to the landlord,
10 specifying the conditions, acts, omissions, or violations. Such notice
11 shall be sent to the landlord or to the person or place where rent is
12 normally paid.

13 (b) If after receipt of the notice described in (a) of this
14 subsection the landlord fails to remedy the condition or conditions
15 within a reasonable amount of time under RCW 59.18.070, the tenant may
16 request that the local government provide for an inspection of the
17 premises with regard to the specific condition or conditions that exist
18 as provided in (a) of this subsection. The local government shall have
19 the appropriate government official, or may designate a public or
20 disinterested private person or company capable of conducting the
21 inspection and making the certification, conduct an inspection of the
22 specific condition or conditions listed by the tenant, and shall not
23 inspect nor be liable for any other condition or conditions of the
24 premises. The purpose of this inspection is to verify, to the best of
25 the inspector's ability, whether the tenant's listed condition or
26 conditions exist and substantially endanger the tenant's health or
27 safety under (a) of this subsection; the inspection is for the purposes
28 of this private civil remedy, and therefore shall not be related to any
29 other governmental function such as enforcement of any code, ordinance,
30 or state law.

31 (c) The local government or its designee, after receiving the
32 request from the tenant to conduct an inspection under this section,
33 shall conduct the inspection and make any certification within a
34 reasonable amount of time not more than five days from the date of
35 receipt of the request. The local government or its designee may,
36 subject to RCW 9A.52.070 and 9A.52.080, enter the premises at any
37 reasonable time to do the inspection, provided that he or she first
38 shall display proper credentials and request entry. The local
39 government or its designee shall whenever practicable, taking into

1 consideration the imminence of any threat to the tenant's health or
2 safety, give the landlord at least twenty-four hours notice of the date
3 and time of inspection and provide the landlord with an opportunity to
4 be present at the time of the inspection. The landlord shall have no
5 power or authority to prohibit entry for the inspection.

6 (d) The local government or its designee shall certify whether the
7 condition or the conditions specified by the tenant do exist and do
8 make the premises substantially unfit for human habitation or can be a
9 substantial risk to the health and safety of the tenant as described in
10 (a) of this subsection. The certification shall be provided to the
11 tenant, and a copy shall be included by the tenant with the notice sent
12 to the landlord under subsection (3) of this section. The
13 certification may be appealed to the local board of appeals, but the
14 appeal shall not delay or preclude the tenant from proceeding with the
15 escrow under this section.

16 (e) The tenant shall not be entitled to deposit rent in escrow
17 pursuant to this section unless the tenant first makes a good faith
18 determination that he or she is unable to repair the conditions
19 described in the certification issued pursuant to subsection (2)(d) of
20 this section through use of the repair remedies authorized by RCW
21 59.18.100.

22 (f) If the local government or its designee certifies that the
23 condition or conditions specified by the tenant exist, the tenant shall
24 then either pay the periodic rent due to the landlord or deposit all
25 periodic rent then called for in the rental agreement and all rent
26 thereafter called for in the rental agreement into an escrow account
27 maintained by a person authorized by law to set up and maintain escrow
28 accounts, including escrow companies under chapter 18.44 RCW, financial
29 institutions, or attorneys, or with the clerk of the court of the
30 district or superior court where the property is located. These
31 depositories are hereinafter referred to as "escrow." The tenant shall
32 notify the landlord in writing of the deposit by mailing the notice
33 postage prepaid by first class mail or by delivering the notice to the
34 landlord promptly but not more than twenty-four hours after the
35 deposit.

36 (g) This section, when elected as a remedy by the tenant by sending
37 the notice under subsection (3) of this section, shall be the exclusive
38 remedy available to the tenant regarding defects described in the
39 certification under subsection (2)(d) of this section: PROVIDED, That

1 the tenant may simultaneously commence or pursue an action in an
2 appropriate court, or at arbitration if so agreed, to determine past,
3 present, or future diminution in rental value of the premises due to
4 any defective conditions.

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

8 NOTICE TO LANDLORD OF RENT ESCROW

9 Name of tenant:

10 Name of landlord:

11 Name and address of escrow:

12 Date of deposit of rent into escrow:

13 Amount of rent deposited into escrow:

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

17 That written notice of the conditions needing repair was
18 provided to the landlord on . . . , and . . . days have elapsed
19 and the repairs have not been made.

20

21 (Sworn Signature)

22 (4) The escrow shall place all rent deposited in a separate rent
23 escrow account in the name of the escrow in a bank or savings and loan
24 association domiciled in this state. The escrow shall keep in a
25 separate docket an account of each deposit, with the name and address
26 of the tenant, and the name and address of the landlord and of the
27 agent, if any.

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

31 (i) Apply to the escrow for release of the funds after the local
32 government certifies that the repairs to the conditions listed in the
33 notice under subsection (3) of this section have been properly
34 repaired. The escrow shall release the funds to the landlord less any
35 escrow costs for which the tenant is entitled to reimbursement pursuant
36 to this section, immediately upon written receipt of the local
37 government certification that the repairs to the conditions listed in

1 the notice under subsection (3) of this section have been properly
2 completed.

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

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

13 (iv) This action may be filed in any court having jurisdiction,
14 including small claims court. If the tenant has vacated the premises
15 or if the landlord has failed to commence an action with the court for
16 release of the funds within sixty days after rent is deposited in
17 escrow, the tenant may file an action to determine how and when any
18 rent deposited in escrow shall be released or disbursed. The landlord
19 shall not commence an unlawful detainer action for nonpayment of rent
20 by serving or filing a summons and complaint if the tenant initially
21 pays the rent called for in the rental agreement that is due into
22 escrow as provided for under this section on or before the date rent is
23 due or on or before the expiration of a three-day notice to pay rent or
24 vacate and continues to pay the rent into escrow as the rent becomes
25 due or prior to the expiration of a three-day notice to pay rent or
26 vacate; provided that the landlord shall not be barred from commencing
27 an unlawful detainer action for nonpayment of rent if the amount of
28 rent that is paid into escrow is less than the amount of rent agreed
29 upon in the rental agreement between the parties.

30 (b) The tenant shall be named as a party to any action filed by the
31 landlord under this section, and shall have the right to file an answer
32 and counterclaim, although any counterclaim shall be dismissed without
33 prejudice if the court or arbitrator determines that the tenant failed
34 to follow the notice requirements contained in this section. Any
35 counterclaim can only claim diminished rental value related to
36 conditions specified by the tenant in the notice required under
37 subsection (3) of this section. This limitation on the tenant's right
38 to counterclaim shall not affect the tenant's right to bring his or her

1 own separate action. A trial shall be held within sixty days of the
2 date of filing of the landlord's or tenant's complaint.

3 (c) The tenant shall be entitled to reimbursement for any escrow
4 costs or fees incurred for setting up or maintaining an escrow account
5 pursuant to this section, unless the tenant did not comply with the
6 notice requirements of subsection (2) or (3) of this section. Any
7 escrow fees that are incurred for which the tenant is entitled to
8 reimbursement shall be deducted from the rent deposited in escrow and
9 remitted to the tenant at such time as any rent is released to the
10 landlord. The prevailing party in any court action or arbitration
11 brought under this section may also be awarded its costs and reasonable
12 attorneys' fees.

13 (d) If a court determines a diminished rental value of the
14 premises, the tenant may pay the rent due based on the diminished value
15 of the premises into escrow until the landlord makes the necessary
16 repairs.

17 (6)(a) If a landlord brings an action for the release of rent
18 deposited, the court may, upon application of the landlord, release
19 part of the rent on deposit for payment of the debt service on the
20 premises, the insurance premiums for the premises, utility services,
21 and repairs to the rental unit.

22 (b) In determining whether to release rent for the payments
23 described in (a) of this subsection, the court shall consider the
24 amount of rent the landlord receives from other rental units in the
25 buildings of which the residential premises are a part, the cost of
26 operating those units, and the costs which may be required to remedy
27 the condition contained in the notice. The court shall also consider
28 whether the expenses are due or have already been paid, whether the
29 landlord has other financial resources, or whether the landlord or
30 tenant will suffer irreparable damage. The court may request the
31 landlord to provide additional security, such as a bond, prior to
32 authorizing release of any of the funds in escrow.

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

35 It shall be the duty of the landlord to:

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

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

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

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

10 (5) Exterminate or make a reasonable effort to exterminate rodents,
11 vermin, or other pests dangerous to the health and safety of the tenant
12 whenever infestation exists on the common premises or whenever
13 infestation occurs in the interior of a mobile home as a result of
14 infestation existing on the common premises;

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

19 (7) Respect the privacy of the tenants and shall have no right of
20 entry to a mobile home without the prior written consent of the
21 occupant(~~(, except in case of emergency or when the occupant has~~
22 ~~abandoned the mobile home)~~). Such consent may be revoked in writing by
23 the occupant at any time. The ownership or management (~~(shall have a~~
24 ~~right of entry)~~) may, subject to RCW 9A.52.070 and 9A.52.080, enter
25 upon the land upon which a mobile home is situated for maintenance of
26 utilities, to insure compliance with applicable codes, statutes,
27 ordinances, administrative rules, and the rental agreement and the
28 rules of the park, and protection of the mobile home park at any
29 reasonable time or in an emergency, but not in a manner or at a time
30 which would interfere with the occupant's quiet enjoyment;

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

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

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

1 A landlord shall not have a duty to repair a defective condition
2 under this section, nor shall any defense or remedy be available to the
3 tenant under this chapter, if the defective condition complained of was
4 caused by the conduct of the tenant, the tenant's family, invitee, or
5 other person acting under the tenant's control, or if a tenant
6 unreasonably fails to allow the landlord access to the property for
7 purposes of repair.

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

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

12 (a) Investigate, provide for investigating, or require potentially
13 liable persons to investigate any releases or threatened releases of
14 hazardous substances, including but not limited to inspecting,
15 sampling, or testing to determine the nature or extent of any release
16 or threatened release. If there is a reasonable basis to believe that
17 a release or threatened release of a hazardous substance may exist, the
18 department's authorized employees, agents, or contractors may, subject
19 to RCW 9A.52.070 and 9A.52.080, enter upon any property and conduct
20 investigations. The department shall not violate RCW 9A.52.070 or
21 9A.52.080 and shall give reasonable notice before entering property
22 unless an emergency prevents such notice. The department may by
23 subpoena require the attendance or testimony of witnesses and the
24 production of documents or other information that the department deems
25 necessary;

26 (b) Conduct, provide for conducting, or require potentially liable
27 persons to conduct remedial actions (including investigations under (a)
28 of this subsection) to remedy releases or threatened releases of
29 hazardous substances. In carrying out such powers, the department's
30 authorized employees, agents, or contractors may, subject to RCW
31 9A.52.070 and 9A.52.080, enter upon property. The department shall not
32 violate RCW 9A.52.070 or 9A.52.080 and shall give reasonable notice
33 before entering property unless an emergency prevents such notice. In
34 conducting, providing for, or requiring remedial action, the department
35 shall give preference to permanent solutions to the maximum extent
36 practicable and shall provide for or require adequate monitoring to
37 ensure the effectiveness of the remedial action;

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

4 (d) Carry out all state programs authorized under the federal
5 cleanup law and the federal resource, conservation, and recovery act,
6 42 U.S.C. Sec. 6901 et seq., as amended;

7 (e) Classify substances as hazardous substances for purposes of RCW
8 70.105D.020(7) and classify substances and products as hazardous
9 substances for purposes of RCW 82.21.020(1);

10 (f) Issue orders or enter into consent decrees or agreed orders
11 that include, or issue written opinions under (i) of this subsection
12 that may be conditioned upon, deed restrictions where necessary to
13 protect human health and the environment from a release or threatened
14 release of a hazardous substance from a facility. Prior to
15 establishing a deed restriction under this subsection, the department
16 shall notify and seek comment from a city or county department with
17 land use planning authority for real property subject to a deed
18 restriction;

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

22 (h) Require holders to conduct remedial actions necessary to abate
23 an imminent or substantial endangerment pursuant to RCW
24 70.105D.020(12)(b)(ii)(C);

25 (i) Provide informal advice and assistance to persons regarding the
26 administrative and technical requirements of this chapter. This may
27 include site-specific advice to persons who are conducting or otherwise
28 interested in independent remedial actions. Any such advice or
29 assistance shall be advisory only, and shall not be binding on the
30 department. As a part of providing this advice and assistance for
31 independent remedial actions, the department may prepare written
32 opinions regarding whether the independent remedial actions or
33 proposals for those actions meet the substantive requirements of this
34 chapter or whether the department believes further remedial action is
35 necessary at the facility. The department may collect, from persons
36 requesting advice and assistance, the costs incurred by the department
37 in providing such advice and assistance; however, the department shall,
38 where appropriate, waive collection of costs in order to provide an
39 appropriate level of technical assistance in support of public

1 participation. The state, the department, and officers and employees
2 of the state are immune from all liability, and no cause of action of
3 any nature may arise from any act or omission in providing, or failing
4 to provide, informal advice and assistance; and

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

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

12 (a) Provide for public participation, including at least (i) the
13 establishment of regional citizen's advisory committees, (ii) public
14 notice of the development of investigative plans or remedial plans for
15 releases or threatened releases, and (iii) concurrent public notice of
16 all compliance orders, agreed orders, enforcement orders, or notices of
17 violation;

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

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

25 (d) Establish reasonable deadlines not to exceed ninety days for
26 initiating an investigation of a hazardous waste site after the
27 department receives notice or otherwise receives information that the
28 site may pose a threat to human health or the environment and other
29 reasonable deadlines for remedying releases or threatened releases at
30 the site;

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

36 (f) Apply industrial clean-up standards at industrial properties.
37 Rules adopted under this subsection shall ensure that industrial
38 properties cleaned up to industrial standards cannot be converted to
39 nonindustrial uses without approval from the department. The

1 department may require that a property cleaned up to industrial
2 standards is cleaned up to a more stringent applicable standard as a
3 condition of conversion to a nonindustrial use. Industrial clean-up
4 standards may not be applied to industrial properties where hazardous
5 substances remaining at the property after remedial action pose a
6 threat to human health or the environment in adjacent nonindustrial
7 areas.

8 (3) Before November 1st of each even-numbered year, the department
9 shall develop, with public notice and hearing, and submit to the ways
10 and means and appropriate standing environmental committees of the
11 senate and house of representatives a ranked list of projects and
12 expenditures recommended for appropriation from both the state and
13 local toxics control accounts. The department shall also provide the
14 legislature and the public each year with an accounting of the
15 department's activities supported by appropriations from the state
16 toxics control account, including a list of known hazardous waste sites
17 and their hazard rankings, actions taken and planned at each site, how
18 the department is meeting its top two management priorities under RCW
19 70.105.150, and all funds expended under this chapter.

20 (4) The department shall establish a scientific advisory board to
21 render advice to the department with respect to the hazard ranking
22 system, cleanup standards, remedial actions, deadlines for remedial
23 actions, monitoring, the classification of substances as hazardous
24 substances for purposes of RCW 70.105D.020(7) and the classification of
25 substances or products as hazardous substances for purposes of RCW
26 82.21.020(1). The board shall consist of five independent members to
27 serve staggered three-year terms. No members may be employees of the
28 department. Members shall be reimbursed for travel expenses as
29 provided in RCW 43.03.050 and 43.03.060.

30 (5) The department shall establish a program to identify potential
31 hazardous waste sites and to encourage persons to provide information
32 about hazardous waste sites.

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

35 (1)(a) Except as otherwise provided in (b) of this subsection, and
36 subject to RCW 9A.52.070 and 9A.52.080, the secretary or his or her
37 designee (~~((shall have the right to))~~) may enter a premises under the
38 control of a public water system at reasonable times with prior

1 notification in order to determine compliance with laws and rules
2 administered by the department of health to test, inspect, or sample
3 features of a public water system and inspect, copy, or photograph
4 monitoring equipment or other features of a public water system, or
5 records required to be kept under laws or rules regulating public water
6 systems. For the purposes of this section, "premises under the control
7 of a public water system" does not include the premises or private
8 property of a customer of a public water system past the point on the
9 system where the service connection is made.

10 (b) The secretary or his or her designee need not give prior
11 notification to enter a premises under (a) of this subsection if the
12 purpose of the entry is to ensure compliance by the public water system
13 with a prior order of the department or if the secretary or the
14 secretary's designee has reasonable cause to believe the public water
15 system is violating the law and poses a serious threat to public health
16 and safety.

17 (2) The secretary or his or her designee may apply for an
18 administrative search warrant to a court official authorized to issue
19 a criminal search warrant. An administrative search warrant may be
20 issued for the purposes of inspecting or examining property, buildings,
21 premises, place, books, records, or other physical evidence, or
22 conducting tests or taking samples. The warrant shall be issued upon
23 probable cause. It is sufficient probable cause to show any of the
24 following:

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

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

31 (3) The local health officer or the designee of a local health
32 officer of a local board of health that is enforcing rules regulating
33 public water systems under an agreement with the department allocating
34 state and local responsibility is authorized to conduct investigations
35 and to apply for, obtain, and execute administrative search warrants
36 necessary to perform the local board's agreed-to responsibilities under
37 the same limitations and requirements imposed on the department under
38 this section.

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

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

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

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

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

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

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

26 Any authorized assistants, employees, agents, appointees or
27 representatives of the department of natural resources may, subject to
28 RCW 9A.52.070 and 9A.52.080 and in the course of their inspection and
29 enforcement duties as provided for in chapters 76.04, 76.06, 76.09,
30 76.16, and 76.36 (~~and 76.40~~) RCW, enter upon any lands, real estate,
31 waters or premises except the dwelling house or appurtenant buildings
32 in this state whether public or private and remain thereon while
33 performing such duties. Similar entry by the department of natural
34 resources may be made for the purpose of making examinations,
35 locations, surveys and/or appraisals of all lands under the management
36 and jurisdiction of the department of natural resources; or for making
37 examinations, appraisals and, after five days' written notice to the

1 landowner, making surveys for the purpose of possible acquisition of
2 property to provide public access to public lands. In no event other
3 than an emergency such as fire fighting shall motor vehicles be used to
4 cross a field customarily cultivated, without prior consent of the
5 owner. (~~None of the entries herein provided for shall constitute~~
6 ~~trespass, but~~)) Nothing contained herein shall limit or diminish any
7 liability which would otherwise exist as a result of the acts or
8 omissions of said department or its representatives.

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

11 (1) The department may appoint any of its employees as wardens, at
12 the times and localities as it considers the public welfare demands,
13 within any area of the state where there is forest land requiring
14 protection. The duties and authority of wardens are subject to RCW
15 9A.52.070 and 9A.52.080.

16 (2) The duties of wardens shall be:

17 (a) To provide forest fire prevention and protection information to
18 the public;

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

21 (c) To patrol their areas as necessary;

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

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

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

32 (g) To extinguish wildfires;

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

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

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

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

1 (1) To perform all other duties as prescribed by law and as the
2 department directs.

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

7 (4) The department may suspend the authority of any warden who may
8 be incompetent or unwilling to discharge properly the duties of the
9 office.

10 (5) The department shall determine the placement of the wardens
11 and, upon its request to the county commissioners of any county, the
12 county commissioners shall designate and furnish the wardens with
13 suitably equipped office quarters in the county courthouse.

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

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

20 If the owner or agent so notified shall fail, refuse, neglect or is
21 unable to comply with the requirements of said notice, within a period
22 of thirty days after the date thereof, it shall be the duty of the
23 department or its agents, using such funds as have been, or hereafter
24 may be, made available to proceed with the control, eradication and
25 destruction of such forest pests or forest tree diseases with or
26 without the cooperation of the owner involved in a manner approved by
27 the department. Any such control, eradication, or destruction is
28 subject to RCW 9A.52.070 and 9A.52.080.

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

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

36 Any duly authorized representative of the department (~~shall have~~
37 ~~the right to~~) may, subject to RCW 9A.52.070 and 9A.52.080, enter upon

1 forest land at any reasonable time to enforce the provisions of this
2 chapter and the forest practices regulations.

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

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

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

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

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

19 Wildlife agents may, subject to RCW 9A.52.070 and 9A.52.080,
20 inspect without warrant at reasonable times and in a reasonable manner
21 the premises, wildlife, and records of any commercial enterprise
22 operating under the authority of a license or permit issued by the
23 department or any commercial business that sells, stores, transports,
24 or possesses wildlife.

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

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

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

33 If the director determines that a severe problem exists in an area
34 of the state because deer and elk are being pursued, harassed, attacked

1 or killed by dogs, the director may declare by emergency rule that an
2 emergency exists and specify the area where it is lawful, subject to
3 RCW 9A.52.070 and 9A.52.080, for wildlife agents to take into custody
4 or destroy the dogs if necessary. Wildlife agents who take into
5 custody or destroy a dog pursuant to this section and who are not in
6 violation of RCW 9A.52.070 or 9A.52.080 while doing so are immune from
7 civil or criminal liability arising from their actions.

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

10 Every corporation incorporated or that may hereafter be
11 incorporated under the laws of this state or any state or territory of
12 the United States, and doing business in this state, for the purpose of
13 acquiring, owning or operating mines, mills or reduction works, or
14 mining or milling gold and silver or other minerals, which may desire
15 to erect and operate surface tramways or elevated cable tramways for
16 the purpose of carrying, conveying or transporting the products of such
17 mines, mills or reduction works may, subject to RCW 9A.52.070 and
18 9A.52.080, (~~shall have the right to~~) enter upon any land between the
19 termini of the proposed lines for the purpose of examining, locating
20 and surveying such lines, doing no unnecessary damage thereby.

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

23 Any owner of stock to the amount of one thousand shares, in any
24 corporation doing business under the laws of the state of Washington
25 for the purposes of mining, (~~shall~~) may, at all hours of business or
26 labor on or about the premises or property of such corporation, (~~have~~
27 ~~the right to~~) and subject to RCW 9A.52.070 and 9A.52.080, enter upon
28 such property and examine the same, either on the surface or
29 underground. (~~And it is hereby made the duty of any and all officers,~~
30 ~~managers, agents, superintendents, or persons in charge, to allow any~~
31 ~~such stockholder to enter upon and examine any of the property of such~~
32 ~~corporation at any time during the hours of business or labor; and~~)
33 The presentation of certificates of stock in the corporation of the
34 amount of one thousand shares, to the officer or person in charge,
35 shall be prima facie evidence of ownership (~~and right to enter upon or~~
36 ~~into, and make examinations of the property of the corporation~~)).

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

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

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

15 The state shall have the right to sell or otherwise dispose of any
16 surface resource, timber, rock, gravel, sand, silt, coal, or
17 hydrocarbons, except minerals or materials specifically covered by a
18 mineral prospecting lease or mining contract, found upon the land
19 during the period covered by said lease or contract. The state (~~shall~~
20 ~~also have the right to~~) may, subject to RCW 9A.52.070 and 9A.52.080,
21 enter upon such land and remove same, and shall not be obliged to
22 withhold from any sale any timber for prospecting or mining purposes.
23 The lessee shall, upon payment to the department of natural resources,
24 have the right to cut and use timber found on the leased premises for
25 mining purposes as provided in rules adopted by the department.

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

28 The commissioner of public lands or any person designated by him
29 (~~shall have the right at any time to~~) or her may, subject to RCW
30 9A.52.070 and 9A.52.080, enter upon the lands and inspect and examine
31 the structures, works and mines situated thereon, and (~~shall also have~~
32 ~~the right to~~) may examine such books, records and accounts of the
33 lessee as are directly connected with the operation of the mine on the
34 property under lease from the state; but it shall be unlawful for the
35 commissioner or any person so appointed to disclose any information
36 thus obtained to any person other than the commissioner of public lands

1 and his employees, except the attorney general and prosecuting
2 attorneys of the state.

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

5 The state shall have the right to sell or otherwise dispose of any
6 timber, stone or other valuable materials, except coal, found upon the
7 land during the period covered by any option contract, or lease issued
8 under the foregoing provisions, (~~with the right to~~) and may, subject
9 to RCW 9A.52.070 and 9A.52.080, enter upon such lands and cut and
10 remove the same, and shall not be obliged to withhold from sale any
11 timber for coal mining or prospecting purposes: PROVIDED, That the
12 lessee shall be permitted to use in his mining operations any timber
13 found upon the land, first paying therefor to the commissioner of
14 public lands the value thereof as fixed by said commissioner: AND
15 PROVIDED FURTHER, That any bill of sale for the removal of timber,
16 stone or other material given subsequent to the coal lease shall
17 contain provisions preventing any interference with the operations of
18 the coal lease.

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

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

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

27 Every corporation incorporated under the laws of this state or any
28 state or territory of the United States for the purpose of
29 constructing, operating or maintaining any telecommunications line in
30 this state (~~shall have the right to~~) may, subject to RCW 9A.52.070
31 and 9A.52.080, enter upon any land between the termini of its proposed
32 telecommunications lines for the purpose of examining, locating and
33 surveying the telecommunications line, doing no unnecessary damage
34 thereby.

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

3 Such telecommunications company may appropriate so much land as may
4 be actually necessary for its telecommunications line, (~~with the right~~
5 ~~to~~) and may, subject to RCW 9A.52.070 and 9A.52.080, enter upon lands
6 immediately adjacent thereto, for the purpose of constructing,
7 maintaining and operating its line and making all necessary repair.
8 Such telecommunications company may also, for the purpose aforesaid and
9 subject to RCW 9A.52.070 and 9A.52.080, enter upon and appropriate such
10 portion of the right-of-way of any railroad company as may be necessary
11 for the construction, maintenance and operation of its
12 telecommunications line: PROVIDED, That such appropriation shall not
13 obstruct such railroad of the travel thereupon, nor interfere with the
14 operation of such railroad.

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

17 A corporation organized for the construction of any railway,
18 macadamized road, plank road, clay road, canal or bridge may, subject
19 to RCW 9A.52.070 and 9A.52.080, (~~shall have a right to~~) enter upon
20 any land, real estate or premises, or any of the lands granted to the
21 state of Washington for school, university or other purposes, between
22 the termini thereof, for the purpose of examining, locating and
23 surveying the line of such road or canal, or the site of such bridge,
24 doing no unnecessary damage thereby.

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

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

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

33 The district board and its agents and employees (~~shall have the~~
34 ~~right to~~) may, subject to RCW 9A.52.070 and 9A.52.080, enter upon any
35 land, to make surveys and may locate the necessary flood control works
36 and the line for canal or canals, dike or dikes and other

1 instrumentalities and the necessary branches and parts for the same on
2 any lands which may be deemed necessary for such location.

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

5 The board, and its agents and employees, (~~shall have the right~~
6 ~~to~~) may, subject to RCW 9A.52.070 and 9A.52.080, enter upon any land
7 to make surveys, and may locate the necessary irrigation or drainage
8 works, power plants, power sites or power lines and the line for any
9 canal or canals, and the necessary branches of laterals for the same,
10 on any lands which may be deemed best for such location. Said board
11 shall also have the power to acquire, either by purchase or
12 condemnation, or other legal means, all lands, waters, water rights,
13 and other property necessary for the construction, use, supply,
14 maintenance, repair and improvements of said canal or canals and
15 irrigation and drainage works, including canals and works constructed
16 or being constructed by private owners, or any other person, lands for
17 reservoirs for the storage of needful waters and all necessary
18 appurtenances. The board may also construct the necessary dams,
19 reservoirs and works for the collection of water for the said district,
20 and may enter into contracts for a water supply to be delivered to the
21 canals and works of the district, and do any and every lawful act
22 necessary to be done in order to carry out the purposes of this act;
23 and in carrying out the aforesaid purposes the bonds of the district
24 may be used by the board, at not less than ninety percent of their par
25 value in payment. The board may enter into any obligation or contract
26 with the United States or with the state of Washington for the
27 supervision of the construction, for the construction, reconstruction,
28 betterment, extension, sale or purchase, or operation and maintenance
29 of the necessary works for the delivery and distribution of water
30 therefrom under the provisions of the state reclamation act, or under
31 the provisions of the federal reclamation act, and all amendments or
32 extensions thereof, and the rules and regulations established
33 thereunder, or it may contract with the United States for a water
34 supply or for reclamation purposes in general under any act of congress
35 which, for the purposes of this act, shall be deemed to include any act
36 of congress for reclamation purposes heretofore or hereafter enacted
37 providing for and permitting such contract, or for the collection of
38 money due or to become due to the United States, or for the assumption

1 of the control and management of the works; and in case contract has
2 been or may hereafter be made with the United States, as herein
3 provided, bonds of the district may be deposited with the United States
4 as payment or as security for future payment at not less than ninety
5 percent of their par value, the interest on said bonds to be provided
6 for by assessment and levy as in the case of other bonds of the
7 district, and regularly paid to the United States to be applied as
8 provided in such contract, and if bonds of the district are not so
9 deposited, it shall be the duty of the board of directors to include as
10 part of any levy or assessment provided in RCW 87.03.260 an amount
11 sufficient to meet each year all payments accruing under the terms of
12 any such contract. The board may accept on behalf of the district
13 appointment of the district as fiscal agent of the United States or the
14 state of Washington or other authorization of the district by the
15 United States or the state of Washington to make collections of money
16 for or on behalf of the United States or the state of Washington in
17 connection with any federal or other reclamation project, whereupon the
18 district, and the county treasurer for the district, shall be
19 authorized to so act and to assume the duties and liability incident to
20 such action, and the said board shall have full power to do any and all
21 things required by the federal statutes now or hereafter enacted in
22 connection therewith, and all things required by the rules and
23 regulations now or that may hereafter be established by any department
24 of the federal government in regard thereto.

25 The use of all water required for the irrigation of the lands
26 within any district, together with rights-of-way for canals, laterals,
27 ditches, sites for reservoirs, power plants, sites, and lines, and all
28 other property required in fully carrying out the purposes of the
29 organization of the district is hereby declared to be a public use; and
30 in condemnation proceedings to acquire any property or property rights
31 for the use of the district, the board of directors shall proceed in
32 the name of the district, in the manner provided in this state in cases
33 of appropriation of lands, real estate and other property by private
34 corporations: PROVIDED, That the irrigation district, at its option,
35 pursuant to resolution to that end duly passed by its board of
36 directors may unite in a single action proceedings for the acquisition
37 and condemnation of different tracts of land needed by it for rights-
38 of-way for canals, laterals, power plants, sites, and lines and other
39 irrigation works which are held by separate owners. And the court may,

1 on the motion of any party, consolidate into a single action separate
2 suits for the condemnation of rights-of-way for such irrigation works
3 whenever from motives of economy or the expediting of business it
4 appears desirable so to do: PROVIDED FURTHER, That there shall be a
5 separate finding of the court or jury as to each tract held in separate
6 ownership.

7 In any condemnation proceeding brought under the provisions of this
8 act to acquire canals, laterals and ditches and rights-of-way therefor,
9 sites, reservoirs, power plants and pumping plants and sites therefor,
10 power canals, transmission lines, electrical equipment and any other
11 property, and if the owner or owners thereof or their predecessors
12 shall have issued contracts or deeds agreeing to deliver to the holders
13 of said contracts or deeds water for irrigation purposes, or
14 authorizing the holders thereof to take or receive water for irrigation
15 purposes from any portion of said property or works, and if the
16 delivery of said water or the right to take or receive the same shall
17 in any manner constitute a charge upon, or a right in the property and
18 works sought to be acquired, or any portion thereof, the district shall
19 be authorized to institute and maintain said condemnation proceedings
20 for the purpose of acquiring said property and works, and the interest
21 of the owners therein subject to the rights of the holders of such
22 contracts or deeds, and the court or jury making the award shall
23 determine and award to such owner or owners the value of the interest
24 to be so appropriated in said condemnation proceedings.

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

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

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

35 Every corporation that is now or that may hereafter be incorporated
36 under the laws of this state, or of any other state or territory of the
37 United States and doing business in this state, for the purpose of

1 conveying water by ditches, flumes, pipe lines, tunnels or any other
2 means for the utilization of water power, (~~shall have the right to~~)
3 may, subject to RCW 9A.52.070 and 9A.52.080, enter upon any land
4 between the termini of the proposed ditches, flumes, pipe lines,
5 tunnels or any other means for the utilization of water power, for the
6 purpose of examining, locating and surveying such ditches, flumes, pipe
7 lines, tunnels or any other means for the utilization of water power,
8 doing no unnecessary damage thereby.

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

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

17 The department shall have special inspection requirements for
18 metals mining and milling operations regulated under chapter 232, Laws
19 of 1994. The department shall inspect these mining and milling
20 operations at least quarterly in order to ensure compliance with the
21 intent and any permit issued pursuant to this chapter. The department
22 shall conduct additional inspections as needed during the construction
23 phase of these mining operations in order to ensure compliance with
24 this chapter.

--- END ---