
HOUSE BILL 3133

State of Washington 55th Legislature 1998 Regular Session

By Representatives Chandler and Linville

Read first time 03/02/98. Referred to Committee on .

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 have a membership position on the planning unit may choose not to
2 participate in the planning unit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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