
SENATE BILL 5507

State of Washington

56th Legislature

1999 Regular Session

By Senators Rasmussen and Swecker

Read first time 01/25/1999. Referred to Committee on Environmental Quality & Water Resources.

1 AN ACT Relating to the processing of water rights; amending RCW
2 90.03.340, 90.03.270, 90.03.280, 90.03.290, 90.03.320, 90.03.380,
3 90.03.390, 90.03.260, 90.44.060, 90.03.250, 90.03.470, 89.30.001, and
4 90.40.090; adding new sections to chapter 43.21B RCW; adding new
5 sections to chapter 90.03 RCW; creating a new section; repealing RCW
6 90.03.471; and providing an expiration date.

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

8 **Sec. 1.** RCW 90.03.340 and 1987 c 109 s 90 are each amended to read
9 as follows:

10 After January 1, 2000, the priority date of the right acquired by
11 appropriation ((shall relate back to)) is the date ((of filing of)) the
12 ((original)) completed application form for the right is filed with the
13 department. For the purposes of this section and RCW 90.03.270, a
14 completed application form is one that contains all of the information
15 requested on the form and is accompanied by the application fee.

16 **Sec. 2.** RCW 90.03.270 and 1987 c 109 s 85 are each amended to read
17 as follows:

1 Upon receipt of ((an)) a completed water right application form, it
2 shall be the duty of the department to ~~((make an endorsement thereon of~~
3 ~~the))~~ date ((of its receipt,)) stamp and ((to)) keep a record of
4 ~~((same)) it.~~ If ((upon examination,)) an application form is filed
5 with the department but the information requested on the application
6 form is ((found to be defective,)) not complete or the form is not
7 accompanied by the proper application fee, the form and any application
8 fee filed with it shall be returned to the applicant ((for correction
9 or completion,)) and the date and the reasons for the return thereof
10 shall be ~~((endorsed thereon and made a record in his office. No~~
11 ~~application shall lose its priority of filing on account of such~~
12 ~~defects, provided acceptable maps, drawings and such data as is~~
13 ~~required by the department shall be filed with the department within~~
14 ~~such reasonable time as it shall require))~~ noted in the department's
15 records and in a letter returning the form. The department may not
16 require an applicant to provide information in support of an
17 application for a water right permit that is not directly necessary for
18 the department's investigations, determinations, or findings regarding
19 that particular application.

20 **Sec. 3.** RCW 90.03.280 and 1994 c 264 s 83 are each amended to read
21 as follows:

22 ~~((Upon receipt of a proper application,))~~ The department shall
23 instruct the applicant to publish notice ((thereof)) in a form and
24 within a time prescribed by the department in a newspaper of general
25 circulation published in the county or counties in which the storage,
26 diversion or withdrawal, and use is to be made, and in such other
27 newspapers as the department may direct, once a week for two
28 consecutive weeks. The notice must include information pertinent to
29 the proposed appropriation, including the location, the source, the
30 purpose or purposes of use, and the quantity proposed to be diverted or
31 withdrawn. The notice must state that persons wishing to protest the
32 proposed application must do so in writing to the department within
33 thirty days of the last date of publication of the notice. In order to
34 be considered by the department, a protest must be received by the
35 department within thirty days of the last date of publication of the
36 notice. Upon receipt by the department of an application it shall send
37 notice thereof containing pertinent information to the director of fish
38 and wildlife.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.21B RCW
2 to read as follows:

3 In a proceeding before the pollution control hearings board
4 challenging a decision of the department related to the issuance,
5 conditioning, transfer, amendment, or denial of a water right permit
6 under Title 90 RCW, the burden of proof is on the person filing the
7 appeal.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.21B RCW
9 to read as follows:

10 Only a person with standing as defined in RCW 34.05.530 may appeal
11 to the pollution control hearings board a decision of the department to
12 issue, condition, transfer, amend, or deny a water right under Title 90
13 RCW.

14 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.21B RCW
15 to read as follows:

16 If the department proposes to issue a water right permit or
17 transfer or change authorization under Title 90 RCW and:

18 (1) The decision of the department is appealed to the pollution
19 control hearings board within thirty days of the date of filing;

20 (2) The hearings board upholds the department's decision; and

21 (3) An appeal for judicial review of the hearings board decision is
22 filed under chapter 34.05 RCW,

23 the applicant for the water right may request, within ten days of the
24 filing of the appeal with the court, a hearing before the court to
25 determine whether construction and operation may begin under the water
26 right permit or authorization. If at the conclusion of the hearing the
27 court finds that construction and operation under the permit or
28 authorization would not involve a significant damaging of the
29 environment or impair existing water rights, the court may allow the
30 permittee to begin construction and operation under the permit or
31 authorization as the court deems appropriate. The court may require
32 the permittee to post bonds, in the name of the department, sufficient
33 to remove the construction or to restore the environment if the permit
34 or authorization is ultimately disapproved by the courts, or to alter
35 the construction or operation if the alteration is ultimately ordered
36 by the courts. In the hearing before the court, the burden of proving
37 whether the construction or operation might involve significant damage

1 to the environment or impair existing water rights and demonstrating
2 whether the construction would or would not be appropriate is on the
3 appellant.

4 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.21B RCW
5 to read as follows:

6 One member of the pollution control hearings board may hear and
7 render a decision on an appeal from a water right applicant regarding
8 the nature and extent of the information needed to make determinations
9 regarding the application for or the processing of a water right
10 permit.

11 NEW SECTION. **Sec. 8.** A water right applicant may appeal to the
12 pollution control hearings board a determination by the department
13 regarding the nature and extent of the information needed to make
14 determinations regarding the application for or the processing of a
15 water right permit.

16 **Sec. 9.** RCW 90.03.290 and 1994 c 264 s 84 are each amended to read
17 as follows:

18 (1) When ~~((an))~~ a completed application complying with the
19 provisions of this chapter and with the rules ~~((and regulations))~~ of
20 the department has been filed, the ~~((same))~~ application shall be placed
21 on record with the department, and it shall be ~~((its))~~ the department's
22 duty to ~~((investigate the application, and))~~ determine what water, if
23 any, is available for appropriation, and find and determine to what
24 beneficial use or uses it can be applied.

25 The department shall investigate the application. It is the duty
26 of the applicant to provide a completed application form. In addition
27 to providing the information requested on the form, however, the
28 applicant shall also provide such information as may be required for
29 the department's investigation, determinations, and findings regarding
30 the application and may provide additional information. The
31 information provided by the applicant must satisfy the protocols, that
32 is, study plans and criteria, established by the department for
33 obtaining and providing the information. If an applicant provides the
34 information and the protocols set by the department for obtaining and
35 providing it have been satisfied, the department shall review the
36 information and may take actions to verify that the information is

1 accurate, but it may not, except to replace inaccurate information,
2 take actions that would constitute obtaining major portions of the
3 information anew.

4 (2) With regard to an application:

5 (a) If it is proposed to appropriate water for irrigation purposes,
6 the department shall investigate, determine and find what lands are
7 capable of irrigation by means of water found available for
8 appropriation.

9 (b) If it is proposed to appropriate water for the purpose of power
10 development, the department shall investigate, determine and find
11 whether the proposed development is likely to prove detrimental to the
12 public interest, having in mind the highest feasible use of the waters
13 belonging to the public.

14 (3) If the application does not contain, and the applicant does not
15 promptly furnish sufficient information on which to base such findings,
16 the department may issue a preliminary permit, for a period of not to
17 exceed three years, requiring the applicant to make such surveys,
18 investigations, studies, and progress reports, as in the opinion of the
19 department may be necessary. If the applicant fails to comply with the
20 conditions of the preliminary permit, it and the application or
21 applications on which it is based shall be automatically canceled and
22 the applicant so notified. If the holder of a preliminary permit
23 shall, before its expiration, file with the department a verified
24 report of expenditures made and work done under the preliminary permit,
25 which, in the opinion of the department, establishes the good faith,
26 intent and ability of the applicant to carry on the proposed
27 development, the preliminary permit may, with the approval of the
28 governor, be extended, but not to exceed a maximum period of five years
29 from the date of the issuance of the preliminary permit.

30 (4) The department shall make and file as part of the record in the
31 matter, written findings of fact concerning all things investigated,
32 and if it shall find that there is water available for appropriation
33 for a beneficial use, and the appropriation thereof as proposed in the
34 application will not impair existing rights or be detrimental to the
35 public welfare, it shall issue a permit stating the amount of water to
36 which the applicant shall be entitled and the beneficial use or uses to
37 which it may be applied: PROVIDED, That where the water applied for is
38 to be used for irrigation purposes, it shall become appurtenant only to
39 such land as may be reclaimed thereby to the full extent of the soil

1 for agricultural purposes. But where there is no unappropriated water
2 in the proposed source of supply, or where the proposed use conflicts
3 with existing rights, or threatens to prove detrimental to the public
4 interest, having due regard to the highest feasible development of the
5 use of the waters belonging to the public, it shall be duty of the
6 department to reject such application and to refuse to issue the permit
7 asked for. If the permit is refused because of conflict with existing
8 rights and such applicant shall acquire same by purchase or
9 condemnation under RCW 90.03.040, the department may thereupon grant
10 such permit. Any application may be approved for a less amount of
11 water than that applied for, if there exists substantial reason
12 therefor, and in any event shall not be approved for more water than
13 can be applied to beneficial use for the purposes named in the
14 application. In determining whether or not a permit shall issue upon
15 any application, it shall be the duty of the department to investigate
16 all facts relevant and material to the application. After the
17 department approves said application in whole or in part and before any
18 permit shall be issued thereon to the applicant, such applicant shall
19 pay the fee provided in RCW 90.03.470 or section 20 of this act:
20 PROVIDED FURTHER, That in the event a permit is issued by the
21 department upon any application, it shall be its duty to notify the
22 director of fish and wildlife and affected federally recognized Indian
23 tribes of such issuance.

24 **Sec. 10.** RCW 90.03.320 and 1997 c 445 s 3 are each amended to read
25 as follows:

26 (1) Actual construction work shall be commenced on any project for
27 which permit has been granted within such reasonable time as shall be
28 prescribed by the department, and shall thereafter be prosecuted with
29 diligence and completed within the time prescribed by the department.
30 The department, in fixing the time for the commencement of the work, or
31 for the completion thereof and the application of the water to the
32 beneficial use prescribed in the permit, shall take into consideration
33 the cost and magnitude of the project and the engineering and physical
34 features to be encountered, and shall allow such time as shall be
35 reasonable and just under the conditions then existing, having due
36 regard for the public welfare and public interests affected: and, for
37 good cause shown, it shall extend the time or times fixed as aforesaid,
38 and shall grant such further period or periods as may be reasonably

1 necessary, having due regard to the good faith of the applicant and the
2 public interests affected. In fixing construction schedules and the
3 time, or extension of time, for application of water to beneficial use
4 for municipal water supply purposes, the department shall also take
5 into consideration the term and amount of financing required to
6 complete the project, delays that may result from planned and existing
7 conservation and water use efficiency measures implemented by the
8 public water system, and the supply needs of the public water system's
9 service area, consistent with an approved comprehensive plan under
10 chapter 36.70A RCW, or in the absence of such a plan, a county-approved
11 comprehensive plan under chapter 36.70 RCW or a plan approved under
12 chapter 35.63 RCW, and related water demand projections prepared by
13 public water systems in accordance with state law. An existing
14 comprehensive plan under chapter 36.70A or 36.70 RCW, plan under
15 chapter 35.63 RCW, or demand projection may be used. If the terms of
16 the permit or extension thereof, are not complied with the department
17 shall give notice by registered mail that such permit will be canceled
18 unless the holders thereof shall show cause within sixty days why the
19 same should not be so canceled. If cause is not shown, the permit
20 shall be canceled.

21 (2) For the purposes of this section, "good cause" includes but is
22 not limited to the following circumstances:

23 (a) Active service in the armed forces of the United States during
24 a military crisis;

25 (b) Nonvoluntary service in the armed forces of the United States;

26 (c) The operation of legal proceedings;

27 (d) Delays in securing other permits necessary to proceed with the
28 development;

29 (e) Implementation of water efficiency measures, including water
30 conservation and reclaimed use;

31 (f) A single transfer in ownership of the property;

32 (g) Encountering unanticipated physical impediments to
33 construction; and

34 (h) Encountering generally depressed economic conditions.

35 **Sec. 11.** RCW 90.03.380 and 1997 c 442 s 801 are each amended to
36 read as follows:

37 (1) The right to the use of water which has been applied to a
38 beneficial use in the state shall be and remain appurtenant to the land

1 or place upon which the same is used(~~(: PROVIDED, HOWEVER, That the)~~).
2 However, all or a portion of a water right may be transferred to
3 another (~~(or to others)) person or persons~~ and become appurtenant to
4 any other land or place of use without loss of priority of right
5 (~~(theretofore established)~~) if (~~(such change)~~) the transfer can be made
6 without detriment or injury to existing rights.

7 (2) The point of diversion or withdrawal of water for beneficial
8 use or the purpose of use under an existing water right or permit may
9 be changed(~~(7)~~) if (~~(such)~~) the change or changes can be made without
10 detriment or injury to existing water rights.

11 (3) The season of use under an existing water right or permit may
12 be changed if the change involves the same general category of water
13 use and the change can be made without detriment or injury to existing
14 water rights. An example of a general category of water use for the
15 purposes of this subsection, but not a limit to the categories, is an
16 agricultural use of water.

17 (4) The source of water for an existing water right or permit may
18 be changed from a surface water diversion to a ground water withdrawal
19 or vice versa if the two sources are in direct hydraulic continuity and
20 if the change can be made without detriment or injury to existing water
21 rights.

22 (5) A change in the place of use, point of diversion, and/or
23 purpose of use of a water right to enable irrigation of additional
24 acreage or the addition of new uses may be permitted if such change
25 results in no increase in the annual consumptive quantity of water used
26 under the water right. For purposes of this section, "annual
27 consumptive quantity" means the estimated or actual annual amount of
28 water diverted pursuant to the water right, reduced by the estimated
29 annual amount of return flows, averaged over the most recent five-year
30 period of continuous beneficial use of the water right.

31 (6) Except as provided in subsection (9) of this section, before
32 any transfer of such right to use water or change of the point of
33 diversion of water or change of purpose of use can be made, any person
34 having an interest in the transfer or change(~~(7)~~) shall file a written
35 application therefor with the department(~~(7 and the application)~~).
36 Authorization for the requested transfer or change shall not be granted
37 until notice of the application is published as provided in RCW
38 90.03.280. If it (~~(shall)~~) appears that (~~(such)~~) the transfer or
39 (~~(such)~~) change may be made without injury or detriment to existing

1 rights, the department shall issue to the applicant (~~a certificate in~~
2 ~~duplicate granting the right for such transfer or for such change of~~
3 ~~point of diversion or of use~~) an authorization to proceed with the
4 transfer or change. The department may include in its authorization
5 necessary conditions or limitations under which the transfer or change
6 may be made, including a reasonable time for completion. The time may
7 be extended upon request and a showing of good cause in accordance with
8 RCW 90.03.320 and 90.03.470. If the person authorized to make a
9 transfer or change of right fails to do so within the time allowed,
10 including extensions granted for good cause, the department shall
11 cancel the authorization and the water right or permit reverts to its
12 original form and substance.

13 (7) If the department determines that the proposed transfer or
14 change may periodically operate to impair an existing right, the
15 department's authorization may be made contingent on the proponent's
16 willingness to subordinate the use to the potentially impaired right or
17 rights and the authorization must be so conditioned.

18 (8) The person authorized to make the transfer or change shall
19 notify the department upon completion of the transfer or change. After
20 verifying that the transfer or change has been completed in accordance
21 with the authorization, the department shall issue to those persons
22 having an interest in the resulting water right or rights a
23 certificate, certificate of change, or superseding certificate, as
24 appropriate, in duplicate that reflects the nature of the water right
25 or rights transferred or changed. The certificate or certificates so
26 issued shall be filed and be made a record with the department and the
27 duplicate certificate issued to the applicant (~~may~~) must be filed
28 with the county auditor in like manner and with the same effect as
29 provided in the original certificate or permit to divert water.

30 (~~(+2)~~) (9) A person proposing to relocate a point of diversion of
31 surface water is not required to file an application if the diversion
32 point is moved no more than one-quarter mile from its original
33 location, no diversions exist between the original point of diversion
34 and the new point of diversion, and no other water rights will be
35 impaired. At least fifteen days before construction of a replacement
36 diversion point, the water right holder shall inform the department in
37 writing of the intention to move the diversion point and shall submit
38 documentation that the change is in compliance with RCW 75.20.100 or
39 75.20.103.

1 (10) If an application for change proposes to transfer water rights
2 from one irrigation district to another, the department shall, before
3 publication of notice, receive concurrence from each of the irrigation
4 districts that such transfer or change will not adversely affect the
5 ability to deliver water to other landowners or impair the financial
6 integrity of either of the districts.

7 (~~(3)~~) (11) A change in place of use by an individual water user
8 or users of water provided by an irrigation district need only receive
9 approval for the change from the board of directors of the district if
10 the use of water continues within the irrigation district, and when
11 water is provided by an irrigation entity that is a member of a board
12 of joint control created under chapter 87.80 RCW, approval need only be
13 received from the board of joint control if the use of water continues
14 within the area of jurisdiction of the joint board and the change can
15 be made without detriment or injury to existing rights.

16 (~~(4)~~) (12) This section shall not apply to trust water rights
17 acquired by the state through the funding of water conservation
18 projects under chapter 90.38 RCW or RCW 90.42.010 through 90.42.070.

19 **Sec. 12.** RCW 90.03.390 and 1991 c 350 s 3 are each amended to read
20 as follows:

21 (~~(RCW 90.03.380 shall not be construed to prevent)~~) (1) A water
22 (~~(users from making)~~) right holder may make a seasonal or temporary
23 change of (~~(point of diversion or place of use of water)~~) a water right
24 when (~~(such)~~) the change can be made without detriment to existing
25 rights, but in no case shall such change be made without the permission
26 of (~~(the water master of the district in which such proposed change is~~
27 ~~located, or of)~~) the department. Nor shall RCW 90.03.380 be construed
28 to prevent construction of emergency interties between public water
29 systems to permit exchange of water during short-term emergency
30 situations, or rotation in the use of water for bringing about a more
31 economical use of the available supply, provided however, that the
32 department of health in consultation with the department of ecology
33 shall adopt rules or develop written guidelines setting forth standards
34 for determining when a short-term emergency exists and the
35 circumstances in which emergency interties are permitted. The rules or
36 guidelines shall be consistent with the procedures established in RCW
37 43.83B.400 through 43.83B.420. Water users owning lands to which water
38 rights are attached may rotate in the use of water to which they are

1 collectively entitled, or an individual water user having lands to
2 which are attached water rights of a different priority, may in like
3 manner rotate in use when (~~(such)~~) rotation can be made without
4 detriment to other existing water rights, and has the approval of the
5 (~~(water master or)~~) department.

6 (2) A person or persons wishing to make a seasonal or temporary
7 change or to rotate use in the manner provided in this section must
8 file an application with the department on a form adopted and provided
9 by the department. The department shall waive the notice provisions of
10 RCW 90.03.280 unless it has reason to believe that fish habitat or the
11 water rights of other persons are likely to be affected by the proposed
12 change. The department shall respond to the request by letter setting
13 forth its approval or denial, including the reason for denial. The
14 department shall retain a record of its decision as part of the records
15 of the water right or rights being changed. To the extent practicable,
16 the department shall expedite its consideration of requests under this
17 section.

18 **Sec. 13.** RCW 90.03.260 and 1987 c 109 s 84 are each amended to
19 read as follows:

20 (~~(Each application for permit to appropriate water shall set forth~~
21 ~~the name and post office address of the applicant, the source of water~~
22 ~~supply, the nature and amount of the proposed use, the time during~~
23 ~~which water will be required each year, the location and description of~~
24 ~~the proposed ditch, canal, or other work, the time within which the~~
25 ~~completion of the construction and the time for the complete~~
26 ~~application of the water to the proposed use. If for agricultural~~
27 ~~purposes, it shall give the legal subdivision of the land and the~~
28 ~~acreage to be irrigated, as near as may be, and the amount of water~~
29 ~~expressed in acre feet to be supplied per season. If for power~~
30 ~~purposes, it shall give the nature of the works by means of which the~~
31 ~~power is to be developed, the head and amount of water to be utilized,~~
32 ~~and the uses to which the power is to be applied. If for construction~~
33 ~~of a reservoir, it shall give the height of the dam, the capacity of~~
34 ~~the reservoir, and the uses to be made of the impounded waters. If for~~
35 ~~municipal water supply, it shall give the present population to be~~
36 ~~served, and, as near as may be, the future requirement of the~~
37 ~~municipality. If for mining purposes, it shall give the nature of the~~
38 ~~mines to be served and the method of supplying and utilizing the water;~~

1 also their location by legal subdivisions. All applications shall be
2 accompanied by such maps and drawings, in duplicate, and such other
3 data, as may be required by the department, and such accompanying data
4 shall be considered as a part of the application.)) The department
5 shall adopt rules in accordance with chapter 34.05 RCW by January 1,
6 2000, that specify the contents of completed water right application
7 forms. The rules must include specific timelines for the department to
8 follow in making a determination as to whether an application is
9 complete and notifying the applicant of its determination. The rules
10 must also identify the kinds of inaccuracies that render an application
11 incomplete.

12 **Sec. 14.** RCW 90.44.060 and 1987 c 109 s 109 are each amended to
13 read as follows:

14 Applications for permits for appropriation of underground water
15 shall be made in the same form and manner provided in RCW 90.03.250
16 through 90.03.340, as amended, the provisions of which sections are
17 hereby extended to govern and to apply to ground water, or ground water
18 right certificates and to all permits that shall be issued pursuant to
19 such applications, and the rights to the withdrawal of ground water
20 acquired thereby shall be governed by RCW 90.03.250 through 90.03.340,
21 inclusive(~~(: PROVIDED, That each application to withdraw public ground~~
22 ~~water by means of a well or wells shall set forth the following~~
23 ~~additional information: (1) the name and post office address of the~~
24 ~~applicant; (2) the name and post office address of the owner of the~~
25 ~~land on which such well or wells or works will be located; (3) the~~
26 ~~location of the proposed well or wells or other works for the proposed~~
27 ~~withdrawal; (4) the ground water area, sub-area, or zone from which~~
28 ~~withdrawal is proposed, provided the department has designated such~~
29 ~~area, sub-area, or zone in accord with RCW 90.44.130; (5) the amount of~~
30 ~~water proposed to be withdrawn, in gallons a minute and in acre feet a~~
31 ~~year, or millions of gallons a year; (6) the depth and type of~~
32 ~~construction proposed for the well or wells or other works: AND~~
33 ~~PROVIDED FURTHER, That)).~~ The department shall adopt rules in
34 accordance with chapter 34.05 RCW by January 1, 2000, that specify the
35 contents of completed water right application forms. The rules must
36 include specific timelines for the department to follow in making a
37 determination as to whether an application is complete and notifying
38 the applicant of its determination. The rules must also identify the

1 kinds of inaccuracies that render an application incomplete. Any
2 permit issued pursuant to an application for constructing a well or
3 wells to withdraw public ground water may specify an approved type and
4 manner of construction for the purposes of preventing waste of said
5 public waters and of conserving their head.

6 **Sec. 15.** RCW 90.03.250 and 1987 c 109 s 83 are each amended to
7 read as follows:

8 Any person, municipal corporation, firm, irrigation district,
9 association, corporation or water users' association hereafter desiring
10 to appropriate water for a beneficial use shall make an application to
11 the department for a permit to make such appropriation, and shall not
12 use or divert such waters until he has received a permit from the
13 department as in this chapter provided. The construction of any ditch,
14 canal or works, or performing any work in connection with said
15 construction or appropriation, or the use of any waters, shall not be
16 an appropriation of such water nor an act for the purpose of
17 appropriating water unless a permit to make said appropriation has
18 first been granted by the department: PROVIDED, That a temporary
19 permit may be granted upon a proper showing made to the department to
20 be valid only during the pendency of such application for a permit
21 unless sooner revoked by the department: PROVIDED, FURTHER, That
22 nothing in this chapter contained shall be deemed to affect RCW
23 90.40.010 through 90.40.080 except that the notice and certificate
24 therein provided for in RCW 90.40.030 shall be addressed to the
25 department, and the department shall exercise the powers and perform
26 the duties prescribed by RCW 90.40.030.

27 The department shall encourage the filing of a consolidated
28 application for a complex project under a single ownership that
29 proposes to divert or withdraw water from more than one source,
30 including a combination of surface and ground water sources. The
31 filing of a consolidated application for transfer or change of one or
32 more water rights involving multiple sources must also be encouraged if
33 all of the affected diversions or withdrawals are intended to serve a
34 single project with a single ownership. The department shall adopt and
35 provide forms for consolidated applications.

36 NEW SECTION. **Sec. 16.** (1) Future de minimis appropriations of
37 surface water may be developed under streamlined procedures if the

1 department has adopted a reservation of water for such uses under RCW
2 90.54.050.

3 (2) For purposes of this chapter, "de minimis appropriation" means
4 diversion and use of surface water in an amount not exceeding four
5 hundred fifty gallons per day and not exceeding an instantaneous
6 diversion rate of two one-hundredths cubic feet per second.

7 (3) Applications for appropriating water under this section must be
8 made on a form adopted and provided by the department. Within sixty
9 days of the publication of a notice in accordance with RCW 90.03.280,
10 the department shall issue or deny a permit for the requested
11 appropriation. If the department denies the application, it shall
12 explain its determination in writing.

13 (4) The department shall waive the evaluation and report
14 requirements of RCW 90.03.290 if during the establishment of the
15 reservation it was conclusively determined that water is available and
16 that no impairment of existing water rights or the public interest will
17 occur.

18 (5) This section may not be utilized in areas that are within urban
19 growth areas as designated under RCW 36.70A.110 or within the service
20 areas of an existing public water system as defined in RCW 70.119A.020
21 that has an available water supply.

22 (6) The department shall develop, in cooperation with the
23 department of health, informational materials regarding the risks of
24 drinking untreated surface water. This informational material may be
25 provided to prospective applicants. The department shall attach the
26 informational materials to any permit that is approved under subsection
27 (3) of this section.

28 NEW SECTION. Sec. 17. (1) The department may authorize short-term
29 uses of water without publication of the notice required under RCW
30 90.03.280 and without the report required under RCW 90.03.290.
31 However, before approving a short-term use, the department shall
32 determine to its satisfaction that the substantive criteria in RCW
33 90.03.290 are met and that a stream affected by a short-term use will
34 be retained with sufficient flows to maintain instream uses and to
35 protect existing water rights. The department shall adopt and provide
36 application forms for persons applying for a short-term use and shall
37 expedite its consideration of short-term use requests to the extent
38 practicable.

1 (2) For the purposes of this chapter, "short-term use" means a use
2 of water that will not exceed one year in duration. Short-term uses
3 include but are not limited to use in construction, dust control,
4 dewatering, and short-term planned fire suppression activities.

5 NEW SECTION. **Sec. 18.** The department shall establish a register
6 that identifies, by water resource inventory area, applications for new
7 water rights and applications for water right transfers and changes.
8 The applications appearing in the register must be limited to those
9 requesting a new appropriation or change or transfer of more than three
10 cubic feet per second of water. The register must identify: The
11 location of the proposed use, change, or transfer; whether the
12 application is for surface or ground water; and, for surface water
13 applications, the water source. The department shall produce the
14 register once every two weeks and shall make the register available to
15 interested parties for a fee that is based on the cost of producing and
16 mailing the register. One year after the effective date of this
17 section, the department may cease production of the register if the
18 number of requests for the register are not adequate to cover the costs
19 of producing and mailing it.

20 **Sec. 19.** RCW 90.03.470 and 1993 c 495 s 2 are each amended to read
21 as follows:

22 (~~Except as otherwise provided in subsection (15) of this~~
23 ~~section,~~) The following fees shall be collected by the department (~~in~~
24 ~~advance~~):

25 (1) (~~For the examination of an application for permit to~~
26 ~~appropriate water or on application to change point of diversion,~~
27 ~~withdrawal, purpose or place of use, a minimum of ten dollars, to be~~
28 ~~paid with the application. For each second foot between one and five~~
29 ~~hundred second feet, two dollars per second foot; for each second foot~~
30 ~~between five hundred and two thousand second feet, fifty cents per~~
31 ~~second foot; and for each second foot in excess thereof, twenty cents~~
32 ~~per second foot. For each acre foot of storage up to and including one~~
33 ~~hundred thousand acre feet, one cent per acre foot, and for each acre~~
34 ~~foot in excess thereof, one fifth cent per acre foot. The ten dollar~~
35 ~~fee payable with the application shall be a credit to that amount~~
36 ~~whenever the fee for direct diversion or storage totals more than ten~~

1 dollars under the above schedule and in such case the further fee due
2 shall be the total computed amount less ten dollars.

3 Within five days from receipt of an application the department
4 shall notify the applicant by registered mail of any additional fees
5 due under the above schedule and any additional fees shall be paid to
6 and received by the department within thirty days from the date of
7 filing the application, or the application shall be rejected.

8 (2) For filing and recording a permit to appropriate water for
9 irrigation purposes, forty cents per acre for each acre to be irrigated
10 up to and including one hundred acres, and twenty cents per acre for
11 each acre in excess of one hundred acres up to and including one
12 thousand acres, and ten cents for each acre in excess of one thousand
13 acres; and also twenty cents for each theoretical horsepower up to and
14 including one thousand horsepower, and four cents for each theoretical
15 horsepower in excess of one thousand horsepower, but in no instance
16 shall the minimum fee for filing and recording a permit to appropriate
17 water be less than five dollars. For all other beneficial purposes the
18 fee shall be twice the amount of the examination fee except that for
19 individual household and domestic use, which may include water for
20 irrigation of a family garden, the fee shall be five dollars.

21 (3) For filing and recording any other water right instrument, four
22 dollars for the first hundred words and forty cents for each additional
23 hundred words or fraction thereof.

24 (4) For making a copy of any document recorded or filed in his
25 office, forty cents for each hundred words or fraction thereof, but
26 when the amount exceeds twenty dollars, only the actual cost in excess
27 of that amount shall be charged.

28 (5) For certifying to copies, documents, records or maps, two
29 dollars for each certification.

30 (6) For blueprint copies of a map or drawing, or, for such other
31 work of a similar nature as may be required of the department, at
32 actual cost of the work.

33 (7)) For granting each extension of time for beginning
34 construction work under a permit to appropriate water((, an amount
35 equal to one half of the filing and recording fee, except that the
36 minimum fee shall be not less than five dollars for each year that an
37 extension is granted,)) and for granting an extension of time for
38 completion of construction work or for completing application of water

1 to a beneficial use, ~~((five))~~ one hundred dollars ~~((for each year that~~
2 ~~an extension is granted))~~.

3 ~~((+8))~~ (2) For the inspection of any hydraulic works to insure
4 safety to life and property, the actual cost of the inspection,
5 including the expense incident thereto.

6 ~~((+9))~~ (3) For the examination of plans and specifications as to
7 safety of controlling works for storage of ten acre feet or more of
8 water, a minimum fee of ~~((ten))~~ fifty dollars, or the actual cost.

9 ~~((+10))~~ (4) For recording an assignment either of a permit to
10 appropriate water or of an application for such a permit, a fee of
11 ~~((five))~~ one hundred dollars.

12 ~~((+11) For preparing and issuing all water right certificates, five~~
13 ~~dollars.~~

14 ~~(+12))~~ (5) For filing and recording a protest against granting any
15 application, ~~((two))~~ fifty dollars.

16 ~~((+13) The department shall provide timely notification by~~
17 ~~certified mail with return receipt requested to applicants that fees~~
18 ~~are due. No action may be taken until the fee is paid in full.~~
19 ~~Failure to remit fees within sixty days of the department's~~
20 ~~notification shall be grounds for rejecting the application or~~
21 ~~canceling the permit. Cash shall not be accepted. Fees must be paid~~
22 ~~by check or money order and are nonrefundable.~~

23 ~~(+14))~~ (6) For filing an application for and authorizing a seasonal
24 change or rotation, one hundred dollars.

25 (7) For filing an application for and authorizing a temporary or
26 short-term water use, one hundred dollars.

27 (8) For a consolidated application covering multiple sources or
28 changes:

29 (a) The filing fee must be based upon either the total amount of
30 water or the total number of changes requested, or both;

31 (b) The examination fee is the total of the examination fees
32 calculated for the individual applications and changes; and

33 (c) The certificate fee is as is appropriate for the individual
34 certificates, since separate permits would issue and, therefore,
35 separate certificates would result.

36 For purposes of calculating fees for ground water filings, one
37 cubic foot per second shall be regarded as equivalent to four hundred
38 fifty gallons per minute.

1 (~~((15) For the period beginning July 1, 1993, and ending June 30,~~
2 ~~1994, there is imposed and the department shall collect a one hundred~~
3 ~~dollar surcharge on all water rights applications or changes filed~~
4 ~~under this section, and upon all water rights applications or changes~~
5 ~~pending as of July 1, 1993. This charge shall be in addition to any~~
6 ~~other fees imposed under this section.))~~)

7 NEW SECTION. **Sec. 20.** (1) The department shall collect the
8 following fees in advance of each of the three stages of the permitting
9 process:

- 10 (a) Application filing fees for the following:
- 11 (i) Surface water and ground water applications:
- 12 (A) Greater than 0.0 and less than or equal
13 to 0.02 cubic feet per second \$ 100
- 14 (B) Greater than 0.02 and less than or equal to
15 0.1 cubic feet per second \$ 150
- 16 (C) Greater than 0.1 and less than or equal to
17 0.2 cubic feet per second \$ 200
- 18 (D) Greater than 0.2 and less than or equal to
19 0.5 cubic feet per second \$ 250
- 20 (E) Greater than 0.5 and less than or equal to 1
21 cubic feet per second \$ 300
- 22 (F) Greater than 1 and less than or equal to 3
23 cubic feet per second \$ 900
- 24 (G) Greater than 3 and less than or equal to 5
25 cubic feet per second \$ 1500
- 26 (H) Greater than 5 and less than or equal to 20
27 cubic feet per second \$ 1700
- 28 (I) Greater than 20 and less than or equal to 100
29 cubic feet per second \$ 2,000
- 30 (J) Greater than 100 cubic feet per second \$ 2,200
- 31 (ii) Reservoir applications:
- 32 (A) Greater than 0.0 and less than or equal to
33 10 acre-feet \$ 100
- 34 (B) Greater than 10 and less than or equal to
35 100 acre-feet \$ 200
- 36 (C) Greater than 100 and less than or equal to
37 1,000 acre-feet \$ 600
- 38 (D) Greater than 1,000 acre-feet \$ 1,500

1	(iii) Change applications:	
2	(A) Changing a single element	\$ 150
3	(B) Changing multiple elements	\$ 250
4	(b) Examination fees for the following:	
5	(i) Surface water applications:	
6	(A) Greater than 0.0 and less than or equal to	
7	0.02 cubic feet per second	\$ 100
8	(B) Greater than 0.02 and less than or equal to	
9	0.1 cubic feet per second	\$ 200
10	(C) Greater than 0.01 and less than or equal to	
11	0.2 cubic feet per second	\$ 250
12	(D) Greater than 0.2 and less than or equal to	
13	0.5 cubic feet per second	\$ 300
14	(E) Greater than 0.5 and less than or equal to	
15	1 cubic feet per second	\$ 400
16	(F) Greater than 1 and less than or equal to 3	
17	cubic feet per second	\$ 1,300
18	(G) Greater than 3 and less than or equal to 5	
19	cubic feet per second	\$ 2,200
20	(H) Greater than 5 and less than or equal to 20	
21	cubic feet per second	\$ 2,500
22	(I) Greater than 20 and less than or equal to 100	
23	cubic feet per second	\$ 2,800
24	(J) Greater than 100 cubic feet per second	\$ 3,200
25	(ii) Ground water applications:	
26	(A) Greater than 0.0 and less than or equal to	
27	0.02 cubic feet per second	\$ 100
28	(B) Greater than 0.02 and less than or equal to	
29	0.1 cubic feet per second	\$ 250
30	(C) Greater than 0.1 and less than or equal to	
31	0.2 cubic feet per second	\$ 300
32	(D) Greater than 0.2 and less than or equal to	
33	0.5 cubic feet per second	\$ 400
34	(E) Greater than 0.5 and less than or equal to 1	
35	cubic feet per second	\$ 500
36	(F) Greater than 1 or less than or equal to 3	
37	cubic feet per second	\$ 1,500
38	(G) Greater than 3 and less than or equal to 5	
39	cubic feet per second	\$ 2,600

1	(H) Greater than 5 and less than or equal to 20	
2	cubic feet per second	\$ 3,000
3	(I) Greater than 20 and less than or equal to 100	
4	cubic feet per second	\$ 3,400
5	(J) Greater than 100 cubic feet per second	\$ 3,800
6	(iii) Reservoir applications:	
7	(A) Greater than 0.0 and less than or equal to 10	
8	acre-feet	\$ 100
9	(B) Greater than 10 and less than or equal to 100	
10	acre-feet	\$ 250
11	(C) Greater than 100 and less than or equal to	
12	1,000 acre-feet	\$ 900
13	(D) Greater than 1,000 acre-feet	\$ 2,200
14	(iv) Changes to permits and certificates:	
15	(A) Changing a single element	\$ 200
16	(B) Changing multiple elements	\$ 300
17	(c) Certificate fees:	
18	(i) Surface water and ground water applications:	
19	(A) Greater than 0.0 and less than or equal to	
20	0.02 cubic feet per second	\$ 100
21	(B) Greater than 0.02 and less than or equal to	
22	0.1 cubic feet per second	\$ 150
23	(C) Greater than 0.1 and less than or equal to	
24	0.2 cubic feet per second	\$ 200
25	(D) Greater than 0.2 and less than or equal to	
26	0.5 cubic feet per second	\$ 250
27	(E) Greater than 0.5 and less than or equal to 1	
28	cubic feet per second	\$ 300
29	(F) Greater than 1 and less than or equal to 3	
30	cubic feet per second	\$ 900
31	(G) Greater than 3 and less than or equal to 5	
32	cubic feet per second	\$ 1,500
33	(H) Greater than 5 and less than or equal to 20	
34	cubic feet per second	\$ 1,700
35	(I) Greater than 20 and less than or equal to 100	
36	cubic feet per second	\$ 2,000
37	(J) Greater than 100 cubic feet per second	\$ 2,200
38	(ii) Reservoir applications:	
39	(A) Greater than 0.0 and less than or equal to 10	

1	acre-feet	\$ 200
2	(B) Greater than 10 and less than or equal to 100	
3	acre-feet	\$ 300
4	(C) Greater than 100 and less than or equal to	
5	1,000 acre-feet	\$ 1,000
6	(D) Greater than 1,000 acre-feet	\$ 1,500
7	(iii) Changes to permits and certificates:	
8	(A) Changing a single element	\$ 150
9	(B) Changing multiple elements	\$ 250

10 For purposes of calculating fees for ground water filings, one
11 cubic foot per second shall be regarded as equivalent to four hundred
12 fifty gallons per minute.

13 A schedule of the water right fees shall be included with the water
14 right application.

15 (2) The application fee shall be paid at the time the application
16 is submitted to the department.

17 (3) By certified mail with return receipt requested, the department
18 shall include with an approved change application, reservoir permit, or
19 permit to appropriate water, notice of the amount of the examination
20 fee that is due and payable. The examination fee shall be due and
21 payable to the department within thirty days after the approved change
22 application, reservoir permit, or permit to appropriate water is
23 received by the applicant. A late fee of ten percent shall be assessed
24 on any delinquent payments of the examination fee. The approved change
25 application, reservoir permit, or permit to appropriate water shall be
26 deemed cancelled if there is a failure to remit fees within ninety days
27 of the department's notice.

28 (4) The certificate fee shall be collected before the issuance of
29 the water right certificate.

30 (5) The water right permit processing account is created in the
31 state treasury. All receipts collected under RCW 90.03.470 and this
32 section shall be deposited into the account. Moneys in the account may
33 be spent only after appropriation. Expenditures from the account may
34 be used only for functions of the department of ecology related to:
35 Filing, examination, and certification of water right permits, changes
36 to water right permits, and transfer of water rights; and a
37 proportionate share of indirect costs allocated to these functions
38 necessary to fund the general administrative functions of the
39 department. The goal is for the department to expend funds from the

1 water right permit processing account to supplement the funds
2 appropriated from the general fund for water right permit processing.

3 NEW SECTION. **Sec. 21.** (1) There is created a water rights
4 programs review task force. The task force shall be comprised of eight
5 members, who are appointed as follows:

6 (a) Four members of the house of representatives, two from each
7 major caucus, to be appointed by the speaker of the house of
8 representatives; and

9 (b) Four members of the senate, two from each major caucus, to be
10 appointed by the president of the senate.

11 (2) The task force may conduct a review, including but not limited
12 to the following matters:

13 (a) Periodically review the number of water right permit decisions
14 that have been made, the reasons for conditioning and denial of permit
15 applications, and the number of new applications that have been filed;

16 (b) Review and evaluate appeals that have been filed and decisions
17 that have been rendered regarding the issuance, conditioning, or denial
18 of water right permit applications;

19 (c) Conduct work sessions or public hearings on issues that relate
20 to the processing of water right permit applications; and

21 (d) Monitor the efficiency of the water right permit processing
22 program and recommend changes to the department and the legislature on
23 funding and the related water right permit process.

24 (3) The office of program research and senate committee services
25 shall jointly provide for the staff support of the task force.

26 (4) Task force members may adopt rules for conducting the business
27 of the task force.

28 (5) This section expires December 31, 2000.

29 **Sec. 22.** RCW 89.30.001 and 1933 c 149 s 1 are each amended to read
30 as follows:

31 Reclamation districts including an area of not less than one
32 million acres of land may be created and maintained in this state, as
33 herein provided, for the reclamation and improvement of arid and
34 semiarid lands situated in such districts, and for the generation
35 and/or sale of hydroelectric energy(~~(:—PROVIDED, That no~~
36 ~~appropriation, license, filing, recording, examination or other fee or~~
37 ~~fees, as provided in RCW 90.16.050 through 90.16.090 or in RCW~~

1 ~~90.03.470 shall be applicable to a district or districts created under~~
2 ~~this chapter)).~~

3 **Sec. 23.** RCW 90.40.090 and 1988 c 127 s 83 are each amended to
4 read as follows:

5 An application filed by the department of ecology or its assignee,
6 the United States Bureau of Reclamation, for a permit to appropriate
7 waters of the Columbia River under chapter 90.03 RCW, for the
8 development of the Grand Coulee project shall be perfected in the same
9 manner and to the same extent as though such appropriation had been
10 made by a private person, corporation or association(~~(, but no fees, as~~
11 ~~provided for in RCW 90.03.470, shall be required)).~~

12 NEW SECTION. **Sec. 24.** RCW 90.03.471 and 1987 c 109 s 99 & 1925
13 ex.s. c 161 s 3 are each repealed.

14 NEW SECTION. **Sec. 25.** Sections 8, 16 through 18, and 20 of this
15 act are each added to chapter 90.03 RCW.

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