
SENATE BILL 5108

State of Washington

58th Legislature

2003 Regular Session

By Senators Mulliken, Stevens, Morton, Honeyford, Swecker, McCaslin and Parlette

Read first time 01/15/2003. Referred to Committee on Land Use & Planning.

1 AN ACT Relating to criminal trespass; amending RCW 9A.52.010,
2 15.09.070, 15.13.265, 16.52.085, 17.04.280, 17.10.160, 17.21.320,
3 17.24.021, 22.16.020, 35.43.045, 35.67.310, 35.80.030, 35.80A.040,
4 35.81.070, 36.70.500, 36.88.390, 38.32.030, 43.92.080, 43.190.080,
5 47.01.170, 47.41.070, 47.42.080, 57.08.005, 59.18.115, 59.20.130,
6 70.105D.030, 70.119A.150, 76.01.060, 76.04.035, 76.06.060, 76.09.150,
7 76.09.160, 77.12.154, 77.12.315, 78.04.015, 78.04.040, 79.01.649,
8 79.01.650, 79.01.676, 79.01.680, 80.32.070, 80.36.020, 80.36.030,
9 81.36.020, 81.64.050, 86.09.226, 87.03.140, 89.30.211, 90.16.040, and
10 90.48.090; and creating a new section.

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

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

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

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

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

19 The following definitions apply in this chapter:

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

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

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

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

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

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

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

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

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

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

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

34 **Sec. 3.** RCW 15.09.070 and 1969 c 113 s 7 are each amended to read
35 as follows:

36 Any authorized agent or employee of the county horticultural pest
37 and disease board may, subject to RCW 9A.52.070 and 9A.52.080, enter

1 upon any property for the purpose of administering this chapter and any
2 power exercisable pursuant thereto, including the taking of specimens,
3 general inspection, and the performance of such acts as are necessary
4 for controlling and preventing the spreading of horticultural pests and
5 diseases. (~~Such entry may be without the consent of the owner, and no~~
6 ~~action for trespass or damages shall lie so long as such entry and any~~
7 ~~activities connected therewith are undertaken and prosecuted with~~
8 ~~reasonable care.))~~

9 Should any such employee or authorized agent of the county
10 horticultural pest and disease board be denied access to such property
11 where such access was sought to carry out the purpose and provisions of
12 this chapter, the said board may apply to any court of competent
13 jurisdiction for a search warrant authorizing access to such property
14 for said purpose. The court may upon such application issue the search
15 warrant for the purpose requested.

16 **Sec. 4.** RCW 15.13.265 and 2000 c 144 s 4 are each amended to read
17 as follows:

18 (1) The director may, subject to RCW 9A.52.070 and 9A.52.080, enter
19 and inspect the horticultural facilities of a nursery dealer at
20 reasonable times for the purpose of carrying out the provisions of this
21 chapter.

22 (2) If the director is denied access, the director may apply to a
23 court of competent jurisdiction for a search warrant authorizing access
24 to the premises. The court may upon such application issue the search
25 warrant for the purposes requested. The warrant shall be issued on
26 probable cause. It is sufficient probable cause to show (a) the
27 inspection is pursuant to a general administrative practice to
28 determine compliance with this chapter or (b) the director has reason
29 to believe that a violation of this chapter has occurred, is occurring,
30 or may occur.

31 (~~(3) Denial of access to the director to perform inspections may~~
32 ~~subject a nursery dealer to revocation of the nursery license.))~~

33 **Sec. 5.** RCW 16.52.085 and 1994 c 261 s 6 are each amended to read
34 as follows:

35 (1) If a law enforcement officer or animal control officer has
36 probable cause to believe that an owner of a domestic animal has

1 violated this chapter and no responsible person can be found to assume
2 the animal's care, the officer may authorize, with a warrant, the
3 removal of the animal to a suitable place for feeding and care, or may
4 place the animal under the custody of an animal care and control
5 agency. In determining what is a suitable place, the officer shall
6 consider the animal's needs, including its size and behavioral
7 characteristics. An officer may remove an animal under this subsection
8 without a warrant only if the animal is in an immediate life-
9 threatening condition and the removal does not violate RCW 9A.52.070 or
10 9A.52.080.

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

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

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

1 alternative disposition. If a court order prevents the agency from
2 assuming ownership and the agency continues to care for the animal, the
3 court shall order the owner to renew a bond or security for the
4 agency's continuing costs for the animal's care.

5 (5) If no criminal case is filed within fourteen business days of
6 the animal's removal, the owner may petition the district court of the
7 county where the animal was removed for the animal's return. The
8 petition shall be filed with the court, with copies served to the law
9 enforcement or animal care and control agency responsible for removing
10 the animal and to the prosecuting attorney. If the court grants the
11 petition, the agency which seized the animal must deliver the animal to
12 the owner at no cost to the owner. If a criminal action is filed after
13 the petition is filed but before the animal is returned, the petition
14 shall be joined with the criminal matter.

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

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

22 **Sec. 6.** RCW 17.04.280 and 1961 c 250 s 10 are each amended to read
23 as follows:

24 All weed district directors, all weed inspectors, and all official
25 agents of all weed districts, in the performance of their official
26 duties, (~~have the right to~~) may, subject to RCW 9A.52.070 and
27 9A.52.080, enter and go upon any of the lands within their weed
28 district at any reasonable time for any reason necessary to effectuate
29 the purposes of the weed district. (~~Any person who prevents or~~
30 ~~threatens to prevent any lawful agent of the weed district, after said~~
31 ~~agent identifies himself and the purpose for which he is going upon the~~
32 ~~land, from entering or going upon the land within said weed district at~~
33 ~~a reasonable time and for a lawful purpose of the weed district, is~~
34 ~~guilty of a misdemeanor.))~~

35 **Sec. 7.** RCW 17.10.160 and 1997 c 353 s 20 are each amended to read
36 as follows:

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

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

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

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

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

32 **Sec. 8.** RCW 17.21.320 and 1989 c 380 s 62 are each amended to read
33 as follows:

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

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

4 (b) To inspect lands actually or reported to be exposed to
5 pesticides;

6 (c) To inspect storage or disposal areas;

7 (d) To inspect or investigate complaints of injury to humans or
8 land; or

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

10 (2) Should the director be denied access to any land where such
11 access was sought for the purposes set forth in this chapter, the
12 director may apply to any court of competent jurisdiction for a search
13 warrant authorizing access to such land for said purposes. The court
14 may upon such application, issue the search warrant for the purposes
15 requested.

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

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

24 **Sec. 9.** RCW 17.24.021 and 1991 c 257 s 6 are each amended to read
25 as follows:

26 (1) The director may intercept and hold or order held for
27 inspection, or cause to be inspected while in transit or after arrival
28 at their destination, all plants, plant products, bees, or other
29 articles likely to carry plant pests, bee pests, or noxious weeds being
30 moved into this state from another state, territory, or a foreign
31 country or within or through this state for plant and bee pests and
32 disease.

33 (2) The director may, subject to RCW 9A.52.070 and 9A.52.080, enter
34 upon public and private premises at reasonable times for the purpose of
35 carrying out this chapter. If the director be denied access, the
36 director may apply to any court of competent jurisdiction for a search

1 warrant authorizing access to such premises. The court may upon such
2 application issue the search warrant for the purposes requested.

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

6 **Sec. 10.** RCW 22.16.020 and 1919 c 98 s 2 are each amended to read
7 as follows:

8 Every corporation incorporated or that may hereafter be
9 incorporated under the laws of this state or of any other state or
10 territory, and qualified to transact business in this state for the
11 purpose of acquiring, owning or operating public warehouses or
12 elevators for storing and handling grain, produce and other
13 agricultural commodities which may desire to erect and operate any such
14 public warehouse or elevator, or to erect and operate tramways or cable
15 tramways for the purpose of carrying, conveying or transporting such
16 grain, produce or commodities to or from such warehouse or elevator or
17 to acquire rights of way for roadways to and from such warehouse or
18 elevator or to acquire boat landing or wharving facilities in
19 connection with such warehouse or elevator (~~shall have the right to~~)
20 may, subject to RCW 9A.52.070 and 9A.52.080, enter upon any lands
21 proposed to be used for any such purpose for the purpose of examining,
22 locating and surveying the lines and boundaries thereof, doing no
23 unnecessary damage thereby.

24 **Sec. 11.** RCW 35.43.045 and 1965 c 7 s 35.43.045 are each amended
25 to read as follows:

26 Every city or town (~~shall have the right of entry~~) may, subject
27 to RCW 9A.52.070 and 9A.52.080, enter upon all irrigation, drainage, or
28 flood control canal or ditch rights of way within its limits for all
29 purposes necessary to safeguard the public from the hazards of such
30 open canals or ditches, and the right to cause to be constructed,
31 installed, and maintained upon or adjacent to such rights of way
32 safeguards as provided in RCW 35.43.040: PROVIDED, That such
33 safeguards must not unreasonably interfere with maintenance of the
34 canal or ditch or with the operation thereof. The city or town, at its
35 option, notwithstanding any laws to the contrary, may require the
36 irrigation, drainage, flood control, or other district, agency, person,

1 corporation, or association maintaining the canal or ditch to supervise
2 the installation and construction of such safeguards, or to maintain
3 the same. If such option is exercised reimbursement must be made by
4 the city or town for all actual costs thereof.

5 **Sec. 12.** RCW 35.67.310 and 1965 c 7 s 35.67.310 are each amended
6 to read as follows:

7 Every city or town may permit connections with any of its sewers,
8 either directly or indirectly, from property beyond its limits, upon
9 such terms, conditions and payments as may be prescribed by ordinance,
10 which may be required by the city or town to be evidenced by a written
11 agreement between the city or town and the owner of the property to be
12 served by the connecting sewer.

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

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

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

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

30 (a) That an "improvement board" or officer be designated or
31 appointed to exercise the powers assigned to such board or officer by
32 the ordinance as specified herein. Said board or officer may be an
33 existing municipal board or officer in the municipality, or may be a
34 separate board or officer appointed solely for the purpose of
35 exercising the powers assigned by said ordinance.

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

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

9 (c) That if, after a preliminary investigation of any dwelling,
10 building, structure, or premises, the board or officer finds that it is
11 unfit for human habitation or other use, he shall cause to be served
12 either personally or by certified mail, with return receipt requested,
13 upon all persons having any interest therein, as shown upon the records
14 of the auditor's office of the county in which such property is
15 located, and shall post in a conspicuous place on such property, a
16 complaint stating in what respects such dwelling, building, structure,
17 or premises is unfit for human habitation or other use. If the
18 whereabouts of any of such persons is unknown and the same cannot be
19 ascertained by the board or officer in the exercise of reasonable
20 diligence, and the board or officer makes an affidavit to that effect,
21 then the serving of such complaint or order upon such persons may be
22 made either by personal service or by mailing a copy of the complaint
23 and order by certified mail, postage prepaid, return receipt requested,
24 to each such person at the address of the building involved in the
25 proceedings, and mailing a copy of the complaint and order by first
26 class mail to any address of each such person in the records of the
27 county assessor or the county auditor for the county where the property
28 is located. Such complaint shall contain a notice that a hearing will
29 be held before the board or officer, at a place therein fixed, not less
30 than ten days nor more than thirty days after the serving of said
31 complaint; and that all parties in interest shall be given the right to
32 file an answer to the complaint, to appear in person, or otherwise, and
33 to give testimony at the time and place in the complaint. The rules of
34 evidence prevailing in courts of law or equity shall not be controlling
35 in hearings before the board or officer. A copy of such complaint
36 shall also be filed with the auditor of the county in which the
37 dwelling, building, structure, or (~~premise~~ ~~[premises]~~) premises is

1 located, and such filing of the complaint or order shall have the same
2 force and effect as other lis pendens notices provided by law.

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

19 (e) That the determination of whether a dwelling, building,
20 structure, or premises should be repaired or demolished, shall be based
21 on specific stated standards on (i) the degree of structural
22 deterioration of the dwelling, building, structure, or premises, or
23 (ii) the relationship that the estimated cost of repair bears to the
24 value of the dwelling, building, structure, or premises, with the
25 method of determining this value to be specified in the ordinance.

26 (f) That if, after the required hearing, the board or officer
27 determines that the dwelling is unfit for human habitation, or building
28 or structure or premises is unfit for other use, it shall state in
29 writing its findings of fact in support of such determination, and
30 shall issue and cause to be served upon the owner or party in interest
31 thereof, as is provided in subdivision (1)(c), and shall post in a
32 conspicuous place on said property, an order which (i) requires the
33 owner or party in interest, within the time specified in the order, to
34 repair, alter, or improve such dwelling, building, structure, or
35 premises to render it fit for human habitation, or for other use, or to
36 vacate and close the dwelling, building, structure, or premises, if
37 such course of action is deemed proper on the basis of the standards
38 set forth as required in subdivision (1)(e); or (ii) requires the owner

1 or party in interest, within the time specified in the order, to remove
2 or demolish such dwelling, building, structure, or premises, if this
3 course of action is deemed proper on the basis of said standards. If
4 no appeal is filed, a copy of such order shall be filed with the
5 auditor of the county in which the dwelling, building, structure, or
6 premises is located.

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

11 The local governing body of the municipality shall designate or
12 establish a municipal agency to serve as the appeals commission. The
13 local governing body shall also establish rules of procedure adequate
14 to assure a prompt and thorough review of matters submitted to the
15 appeals commission, and such rules of procedure shall include the
16 following, without being limited thereto: (i) All matters submitted to
17 the appeals commission must be resolved by the commission within sixty
18 days from the date of filing therewith and (ii) a transcript of the
19 findings of fact of the appeals commission shall be made available to
20 the owner or other party in interest upon demand.

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

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

32 (h) That the amount of the cost of such repairs, alterations or
33 improvements; or vacating and closing; or removal or demolition by the
34 board or officer, shall be assessed against the real property upon
35 which such cost was incurred unless such amount is previously paid.
36 Upon certification to him by the treasurer of the municipality in cases
37 arising out of the city or town or by the county improvement board or
38 officer, in cases arising out of the county, of the assessment amount

1 being due and owing, the county treasurer shall enter the amount of
2 such assessment upon the tax rolls against the property for the current
3 year and the same shall become a part of the general taxes for that
4 year to be collected at the same time and with interest at such rates
5 and in such manner as provided for in RCW 84.56.020, as now or
6 hereafter amended, for delinquent taxes, and when collected to be
7 deposited to the credit of the general fund of the municipality. If
8 the dwelling, building, structure, or premises is removed or demolished
9 by the board or officer, the board or officer shall, if possible, sell
10 the materials of such dwelling, building, structure, (~~{or}~~) or
11 premises in accordance with procedures set forth in said ordinance, and
12 shall credit the proceeds of such sale against the cost of the removal
13 or demolition and if there be any balance remaining, it shall be paid
14 to the parties entitled thereto, as determined by the board or officer,
15 after deducting the costs incident thereto.

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

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

25 (3) An ordinance adopted by the local governing body of the
26 municipality may authorize the board or officer to exercise such powers
27 as may be necessary or convenient to carry out and effectuate the
28 purposes and provisions of this section. These powers shall include
29 the following in addition to others herein granted: (a)(i) To
30 determine which dwellings within the municipality are unfit for human
31 habitation; (ii) to determine which buildings, structures, or premises
32 are unfit for other use; (b) to administer oaths and affirmations,
33 examine witnesses and receive evidence; and (c) to investigate the
34 dwelling and other property conditions in the municipality or county
35 and, subject to RCW 9A.52.070 and 9A.52.080, to enter upon premises for
36 the purpose of making examinations when the board or officer has
37 reasonable ground for believing they are unfit for human habitation, or
38 for other use: PROVIDED, That such entries shall be made in such

1 manner as to cause the least possible inconvenience to the persons in
2 possession, and to obtain an order for this purpose after submitting
3 evidence in support of an application which is adequate to justify such
4 an order from a court of competent jurisdiction in the event entry is
5 denied or resisted.

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

9 (5) Nothing in this section shall be construed to abrogate or
10 impair the powers of the courts or of any department of any
11 municipality to enforce any provisions of its charter or its ordinances
12 or regulations, nor to prevent or punish violations thereof; and the
13 powers conferred by this section shall be in addition and supplemental
14 to the powers conferred by any other law.

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

19 (7) Any municipality may (by ordinance adopted by its governing
20 body) (a) prescribe minimum standards for the use and occupancy of
21 dwellings throughout the municipality, or county, (b) prescribe minimum
22 standards for the use or occupancy of any building, structure, or
23 premises used for any other purpose, (c) prevent the use or occupancy
24 of any dwelling, building, structure, or premises, which is injurious
25 to the public health, safety, morals, or welfare, and (d) prescribe
26 punishment for the violation of any provision of such ordinance.

27 **Sec. 14.** RCW 35.80A.040 and 1989 c 271 s 242 are each amended to
28 read as follows:

29 Every county, city, or town may, in addition to any other authority
30 granted by this chapter: (1) Subject to RCW 9A.52.070 and 9A.52.080,
31 enter upon any building or property found to constitute a blight on the
32 surrounding neighborhood in order to make surveys and appraisals, and
33 to obtain an order for this purpose from a court of competent
34 jurisdiction in the event entry is denied or resisted; and (2) borrow
35 money, apply for, and accept, advances, loans, grants, contributions,
36 and any other form of financial assistance from the federal government,

1 the state, a county, or other public body, or from any sources, public
2 or private, for the purposes of this chapter, and enter into and carry
3 out contracts in connection herewith.

4 **Sec. 15.** RCW 35.81.070 and 2002 c 218 s 7 are each amended to read
5 as follows:

6 Every municipality shall have all the powers necessary or
7 convenient to carry out and effectuate the purposes and provisions of
8 this chapter, including the following powers in addition to others
9 granted under this chapter:

10 (1) To undertake and carry out community renewal projects within
11 the municipality, to make and execute contracts and other instruments
12 necessary or convenient to the exercise of its powers under this
13 chapter, and to disseminate blight clearance and community renewal
14 information.

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

28 (3) To provide financial or technical assistance, using available
29 public or private funds, to a person or public body for the purpose of
30 creating or retaining jobs, a substantial portion of which, as
31 determined by the municipality, shall be for persons of low income.

32 (4) To make payments, loans, or grants to, provide assistance to,
33 and contract with existing or new owners and tenants of property in the
34 community renewal areas as compensation for any adverse impacts, such
35 as relocation or interruption of business, that may be caused by the
36 implementation of a community renewal project, and/or consideration for
37 commitments to develop, expand, or retain land uses that contribute to

1 the success of the project or plan, including without limitation
2 businesses that will create or retain jobs, a substantial portion of
3 which, as determined by the municipality, shall be for persons of low
4 income.

5 (5) To contract with a person or public body to provide financial
6 assistance, authorized under this section, to property owners and
7 tenants impacted by the implementation of the community renewal plan
8 and to provide incentives to property owners and tenants to encourage
9 them to locate in the community renewal area after adoption of the
10 community renewal plan.

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

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

37 (8) To borrow money and to apply for, and accept, advances, loans,
38 grants, contributions and any other form of financial assistance from

1 the federal government, the state, county, or other public body, or
2 from any sources, public or private, for the purposes of this chapter,
3 and to enter into and carry out contracts in connection therewith. A
4 municipality may include in any application or contract for financial
5 assistance with the federal government for a community renewal project
6 such conditions imposed pursuant to federal laws as the municipality
7 may deem reasonable and appropriate and which are not inconsistent with
8 the purposes of this chapter.

9 (9) Within the municipality, to make or have made all plans
10 necessary to the carrying out of the purposes of this chapter and to
11 contract with any person, public or private, in making and carrying out
12 such plans and to adopt or approve, modify, and amend such plans. Such
13 plans may include, without limitation: (a) A comprehensive plan or
14 parts thereof for the locality as a whole, (b) community renewal plans,
15 (c) plans for carrying out a program of voluntary or compulsory repair
16 and rehabilitation of buildings and improvements, (d) plans for the
17 enforcement of state and local laws, codes, and regulations relating to
18 the use of land and the use and occupancy of buildings and improvements
19 and to the compulsory repair, rehabilitation, demolition, or removal of
20 buildings and improvements, (e) appraisals, title searches, surveys,
21 studies, and other preliminary plans and work necessary to prepare for
22 the undertaking of community renewal projects, and (f) plans to provide
23 financial or technical assistance to a person or public body for the
24 purpose of creating or retaining jobs, a substantial portion of which,
25 as determined by the municipality, shall be for persons of low income.
26 The municipality is authorized to develop, test, and report methods and
27 techniques, and carry out demonstrations and other activities, for the
28 prevention and the elimination of blight, for job creation or retention
29 activities, and to apply for, accept, and utilize grants of, funds from
30 the federal government for such purposes.

31 (10) To prepare plans for the relocation of families displaced from
32 a community renewal area, and to coordinate public and private agencies
33 in such relocation, including requesting such assistance for this
34 purpose as is available from other private and governmental agencies,
35 both for the municipality and other parties.

36 (11) To appropriate such funds and make such expenditures as may be
37 necessary to carry out the purposes of this chapter, and in accordance
38 with state law: (a) Levy taxes and assessments for such purposes; (b)

1 acquire land either by negotiation or eminent domain, or both; (c)
2 close, vacate, plan, or replan streets, roads, sidewalks, ways, or
3 other places; (d) plan or replan, zone or rezone any part of the
4 municipality; (e) adopt annual budgets for the operation of a community
5 renewal agency, department, or offices vested with community renewal
6 project powers under RCW 35.81.150; and (f) enter into agreements with
7 such agencies or departments (which agreements may extend over any
8 period) respecting action to be taken by such municipality pursuant to
9 any of the powers granted by this chapter.

10 (12) Within the municipality, to organize, coordinate, and direct
11 the administration of the provisions of this chapter as they apply to
12 such municipality in order that the objective of remedying blighted
13 areas and preventing the causes thereof within such municipality may be
14 most effectively promoted and achieved, and to establish such new
15 office or offices of the municipality or to reorganize existing offices
16 in order to carry out such purpose most effectively.

17 (13) To contract with a person or public body to assist in carrying
18 out the purposes of this chapter.

19 (14) To exercise all or any part or combination of powers herein
20 granted.

21 **Sec. 16.** RCW 36.70.500 and 1963 c 4 s 36.70.500 are each amended
22 to read as follows:

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

29 **Sec. 17.** RCW 36.88.390 and 1963 c 4 s 36.88.390 are each amended
30 to read as follows:

31 Every county (~~shall have the right of entry~~) may, subject to RCW
32 9A.52.070 and 9A.52.080, enter upon every irrigation, drainage, or
33 flood control canal or ditch right of way within its boundaries for all
34 purposes necessary to safeguard the public from the hazards of open
35 canals or ditches, including the right to clean such canals or ditches
36 to prevent their flooding adjacent lands, and the right to cause to be

1 constructed and maintained on such rights of way or adjacent thereto
2 safeguards as authorized by RCW 36.88.015: PROVIDED, That such
3 safeguards must not unreasonably interfere with maintenance of the
4 canal or ditch or with the operation thereof.

5 **Sec. 18.** RCW 38.32.030 and 1943 c 130 s 45 are each amended to
6 read as follows:

7 No person belonging to the military forces of this state shall be
8 arrested on any warrant, except for treason or felony, while going to,
9 remaining at, or returning from any place at which he may be required
10 to attend military duty. Any members of the organized militia
11 parading, or performing any duty according to the law shall have the
12 right of way in any street or highway through which they may pass and
13 while on field duty (~~(shall have the right to)~~) may, subject to RCW
14 9A.52.070 and 9A.52.080, enter upon, cross or occupy any uninclosed
15 lands, or any inclosed lands where no damage will be caused thereby:
16 PROVIDED, That the carriage of the United States mail and legitimate
17 functions of the police and fire departments shall not be interfered
18 with thereby.

19 **Sec. 19.** RCW 43.92.080 and 1965 c 8 s 43.92.080 are each amended
20 to read as follows:

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

25 **Sec. 20.** RCW 43.190.080 and 1983 c 290 s 8 are each amended to
26 read as follows:

27 (1) The office of the state long-term care ombudsman shall develop
28 procedures, subject to RCW 9A.52.070 and 9A.52.080, governing the right
29 of entry of all long-term care ombudsmen to long-term care facilities
30 and, subject to RCW 9A.52.070 and 9A.52.080, shall have access to
31 residents with provisions made for privacy for the purpose of hearing,
32 investigating, and resolving complaints of, and rendering advice to,
33 individuals who are patients or residents of the facilities at any time
34 deemed necessary and reasonable by the state ombudsman to effectively
35 carry out the provisions of this chapter.

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

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

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

10 The department or its duly authorized and acting assistants,
11 agents, or appointees (~~((have the right to))~~) may, subject to RCW
12 9A.52.070 and 9A.52.080, enter upon any land, real estate, or premises
13 in this state, whether public or private, for purposes of making
14 examinations, locations, surveys, and appraisals for highway purposes.
15 (~~((The making of any such entry for those purposes does not constitute~~
16 ~~any trespass by the department or by its duly authorized and acting~~
17 ~~assistants, agents, or appointees.))~~)

18 **Sec. 22.** RCW 47.41.070 and 1984 c 7 s 220 are each amended to read
19 as follows:

20 If the owner of the land upon which any such junkyard is located,
21 or the operator thereof, as the case may be, fails to comply with the
22 notice or remove any such junk within the time provided in this chapter
23 after being so notified, he is guilty of a misdemeanor. In addition to
24 the penalties imposed by law upon conviction, an order may be entered
25 compelling compliance with this chapter. Each day the junkyard is
26 maintained in a manner so as not to comply with this chapter
27 constitutes a separate offense.

28 If the operator of the junkyard or the owner of the property upon
29 which it is located, as the case may be, is not found or refuses
30 receipt of the notice, the department, the chief of the Washington
31 state patrol, the county sheriff, or the chief of police of any city or
32 town shall post the property upon which it is located with a notice
33 that the junkyard constitutes a public nuisance and that the junk
34 thereon must be removed as provided in this chapter. If the notice is
35 not complied with, the department, the chief of the Washington state
36 patrol, the county sheriff, or the chief of police of any city or town

1 shall abate the nuisance and remove the junk, and for that purpose may,
2 subject to RCW 9A.52.070 and 9A.52.080, enter upon private property
3 without incurring liability for doing so.

4 **Sec. 23.** RCW 47.42.080 and 1985 c 376 s 6 are each amended to read
5 as follows:

6 (1) Any sign erected or maintained contrary to the provisions of
7 this chapter or rules adopted hereunder that is designed to be viewed
8 from the interstate system, the primary system, or the scenic system is
9 a public nuisance, and the department, the chief of the Washington
10 state patrol, the county sheriff, or the chief of police of any city or
11 town shall notify the permittee or, if there is no permittee, the owner
12 of the property on which the sign is located, by certified mail at his
13 last known address, that it constitutes a public nuisance and must
14 comply with the chapter or be removed.

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

21 (3) If the permittee or the owner of the property upon which it is
22 located, as the case may be, is not found or refuses receipt of the
23 notice, the department, the chief of the Washington state patrol, the
24 county sheriff, or the chief of police of any city or town shall post
25 the sign and property upon which it is located with a notice that the
26 sign constitutes a public nuisance and must be removed. If the sign is
27 not removed within fifteen days after such posting, the department, the
28 chief of the Washington state patrol, the county sheriff, or the chief
29 of police of any city or town shall abate the nuisance and destroy the
30 sign, and for that purpose may, subject to RCW 9A.52.070 and 9A.52.080,
31 enter upon private property without incurring liability for doing so.

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

35 (5) Any sign erected or maintained on state highway right of way
36 contrary to this chapter or rules adopted under it is a public

1 nuisance, and the department is authorized to remove any such sign
2 without notice.

3 **Sec. 24.** RCW 57.08.005 and 1999 c 153 s 2 are each amended to read
4 as follows:

5 A district shall have the following powers:

6 (1) To acquire by purchase or condemnation, or both, all lands,
7 property and property rights, and all water and water rights, both
8 within and without the district, necessary for its purposes. The right
9 of eminent domain shall be exercised in the same manner and by the same
10 procedure as provided for cities and towns, insofar as consistent with
11 this title, except that all assessment or reassessment rolls to be
12 prepared and filed by eminent domain commissioners or commissioners
13 appointed by the court shall be prepared and filed by the district, and
14 the duties devolving upon the city treasurer are imposed upon the
15 county treasurer;

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

19 (3) To construct, condemn and purchase, add to, maintain, and
20 supply waterworks to furnish the district and inhabitants thereof and
21 any other persons, both within and without the district, with an ample
22 supply of water for all uses and purposes public and private with full
23 authority to regulate and control the use, content, distribution, and
24 price thereof in such a manner as is not in conflict with general law
25 and may construct, acquire, or own buildings and other necessary
26 district facilities. Where a customer connected to the district's
27 system uses the water on an intermittent or transient basis, a district
28 may charge for providing water service to such a customer, regardless
29 of the amount of water, if any, used by the customer. District
30 waterworks may include facilities which result in combined water supply
31 and electric generation, if the electricity generated thereby is a
32 byproduct of the water supply system. That electricity may be used by
33 the district or sold to any entity authorized by law to use or
34 distribute electricity. Electricity is deemed a byproduct when the
35 electrical generation is subordinate to the primary purpose of water
36 supply. For such purposes, a district may take, condemn and purchase,
37 acquire, and retain water from any public or navigable lake, river or

1 watercourse, or any underflowing water, and by means of aqueducts or
2 pipeline conduct the same throughout the district and any city or town
3 therein and carry it along and upon public highways, roads, and
4 streets, within and without such district. For the purpose of
5 constructing or laying aqueducts or pipelines, dams, or waterworks or
6 other necessary structures in storing and retaining water or for any
7 other lawful purpose such district may, subject to RCW 9A.52.070 and
8 9A.52.080, occupy the beds and shores up to the high water mark of any
9 such lake, river, or other watercourse, and may acquire by purchase or
10 condemnation such property or property rights or privileges as may be
11 necessary to protect its water supply from pollution. For the purposes
12 of waterworks which include facilities for the generation of
13 electricity as a byproduct, nothing in this section may be construed to
14 authorize a district to condemn electric generating, transmission, or
15 distribution rights or facilities of entities authorized by law to
16 distribute electricity, or to acquire such rights or facilities without
17 the consent of the owner;

18 (4) To purchase and take water from any municipal corporation,
19 private person, or entity. A district contiguous to Canada may
20 contract with a Canadian corporation for the purchase of water and for
21 the construction, purchase, maintenance, and supply of waterworks to
22 furnish the district and inhabitants thereof and residents of Canada
23 with an ample supply of water under the terms approved by the board of
24 commissioners;

25 (5) To construct, condemn and purchase, add to, maintain, and
26 operate systems of sewers for the purpose of furnishing the district,
27 the inhabitants thereof, and persons outside the district with an
28 adequate system of sewers for all uses and purposes, public and
29 private, including but not limited to on-site sewage disposal
30 facilities, approved septic tanks or approved septic tank systems, on-
31 site sanitary sewerage systems, inspection services and maintenance
32 services for private and public on-site systems, point and nonpoint
33 water pollution monitoring programs that are directly related to the
34 sewerage facilities and programs operated by a district, other
35 facilities, programs, and systems for the collection, interception,
36 treatment, and disposal of wastewater, and for the control of pollution
37 from wastewater with full authority to regulate the use and operation
38 thereof and the service rates to be charged. Under this chapter, after

1 July 1, 1998, any requirements for pumping the septic tank of an on-
2 site sewage system should be based, among other things, on actual
3 measurement of accumulation of sludge and scum by a trained inspector,
4 trained owner's agent, or trained owner. Training must occur in a
5 program approved by the state board of health or by a local health
6 officer. Sewage facilities may include facilities which result in
7 combined sewage disposal or treatment and electric generation, except
8 that the electricity generated thereby is a byproduct of the system of
9 sewers. Such electricity may be used by the district or sold to any
10 entity authorized by law to distribute electricity. Electricity is
11 deemed a byproduct when the electrical generation is subordinate to the
12 primary purpose of sewage disposal or treatment. For such purposes a
13 district may conduct sewage throughout the district and throughout
14 other political subdivisions within the district, and construct and lay
15 sewer pipe along and upon public highways, roads, and streets, within
16 and without the district, and condemn and purchase or acquire land and
17 rights of way necessary for such sewer pipe. A district may erect
18 sewage treatment plants within or without the district, and may
19 acquire, by purchase or condemnation, properties or privileges
20 necessary to be had to protect any lakes, rivers, or watercourses and
21 also other areas of land from pollution from its sewers or its sewage
22 treatment plant. For the purposes of sewage facilities which include
23 facilities that result in combined sewage disposal or treatment and
24 electric generation where the electric generation is a byproduct,
25 nothing in this section may be construed to authorize a district to
26 condemn electric generating, transmission, or distribution rights or
27 facilities of entities authorized by law to distribute electricity, or
28 to acquire such rights or facilities without the consent of the owners;

29 (6) To construct, condemn and purchase, add to, maintain, and
30 operate systems of drainage for the benefit and use of the district,
31 the inhabitants thereof, and persons outside the district with an
32 adequate system of drainage, including but not limited to facilities
33 and systems for the collection, interception, treatment, and disposal
34 of storm or surface waters, and for the protection, preservation, and
35 rehabilitation of surface and underground waters, and drainage
36 facilities for public highways, streets, and roads, with full authority
37 to regulate the use and operation thereof and the service rates to be
38 charged. Drainage facilities may include natural systems. Drainage

1 facilities may include facilities which result in combined drainage
2 facilities and electric generation, except that the electricity
3 generated thereby is a byproduct of the drainage system. Such
4 electricity may be used by the district or sold to any entity
5 authorized by law to distribute electricity. Electricity is deemed a
6 byproduct when the electrical generation is subordinate to the primary
7 purpose of drainage collection, disposal, and treatment. For such
8 purposes, a district may conduct storm or surface water throughout the
9 district and throughout other political subdivisions within the
10 district, construct and lay drainage pipe and culverts along and upon
11 public highways, roads, and streets, within and without the district,
12 and condemn and purchase or acquire land and rights of way necessary
13 for such drainage systems. A district may provide or erect facilities
14 and improvements for the treatment and disposal of storm or surface
15 water within or without the district, and may acquire, by purchase or
16 condemnation, properties or privileges necessary to be had to protect
17 any lakes, rivers, or watercourses and also other areas of land from
18 pollution from storm or surface waters. For the purposes of drainage
19 facilities which include facilities that also generate electricity as
20 a byproduct, nothing in this section may be construed to authorize a
21 district to condemn electric generating, transmission, or distribution
22 rights or facilities of entities authorized by law to distribute
23 electricity, or to acquire such rights or facilities without the
24 consent of the owners;

25 (7) To construct, condemn, acquire, and own buildings and other
26 necessary district facilities;

27 (8) To compel all property owners within the district located
28 within an area served by the district's system of sewers to connect
29 their private drain and sewer systems with the district's system under
30 such penalty as the commissioners shall prescribe by resolution. The
31 district may for such purpose, and subject to RCW 9A.52.070 and
32 9A.52.080, enter upon private property and connect the private drains
33 or sewers with the district system and the cost thereof shall be
34 charged against the property owner and shall be a lien upon property
35 served;

36 (9) Where a district contains within its borders, abuts, or is
37 located adjacent to any lake, stream, ground water as defined by RCW
38 90.44.035, or other waterway within the state of Washington, to provide

1 for the reduction, minimization, or elimination of pollutants from
2 those waters in accordance with the district's comprehensive plan, and
3 to issue general obligation bonds, revenue bonds, local improvement
4 district bonds, or utility local improvement bonds for the purpose of
5 paying all or any part of the cost of reducing, minimizing, or
6 eliminating the pollutants from these waters;

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

1 imposed under this chapter on the development, construction, or
2 reconstruction of property.

3 Before adopting on-site inspection and maintenance utility
4 services, or incorporating residences into an on-site inspection and
5 maintenance or sewer utility under this chapter, notification must be
6 provided, prior to the applicable public hearing, to all residences
7 within the proposed service area that have on-site systems permitted by
8 the local health officer. The notice must clearly state that the
9 residence is within the proposed service area and must provide
10 information on estimated rates or charges that may be imposed for the
11 service.

12 A water-sewer district shall not provide on-site sewage system
13 inspection, pumping services, or other maintenance or repair services
14 under this section using water-sewer district employees unless the on-
15 site system is connected by a publicly owned collection system to the
16 water-sewer district's sewerage system, and the on-site system
17 represents the first step in the sewage disposal process.

18 Except as otherwise provided in RCW 90.03.525, any public entity
19 and public property, including the state of Washington and state
20 property, shall be subject to rates and charges for sewer, water, storm
21 water control, drainage, and street lighting facilities to the same
22 extent private persons and private property are subject to those rates
23 and charges that are imposed by districts. In setting those rates and
24 charges, consideration may be made of in-kind services, such as stream
25 improvements or donation of property;

26 (11) To contract with individuals, associations and corporations,
27 the state of Washington, and the United States;

28 (12) To employ such persons as are needed to carry out the
29 district's purposes and fix salaries and any bond requirements for
30 those employees;

31 (13) To contract for the provision of engineering, legal, and other
32 professional services as in the board of commissioner's discretion is
33 necessary in carrying out their duties;

34 (14) To sue and be sued;

35 (15) To loan and borrow funds and to issue bonds and instruments
36 evidencing indebtedness under chapter 57.20 RCW and other applicable
37 laws;

1 (16) To transfer funds, real or personal property, property
2 interests, or services subject to RCW 57.08.015;

3 (17) To levy taxes in accordance with this chapter and chapters
4 57.04 and 57.20 RCW;

5 (18) To provide for making local improvements and to levy and
6 collect special assessments on property benefitted thereby, and for
7 paying for the same or any portion thereof in accordance with chapter
8 57.16 RCW;

9 (19) To establish street lighting systems under RCW 57.08.060;

10 (20) To exercise such other powers as are granted to water-sewer
11 districts by this title or other applicable laws; and

12 (21) To exercise any of the powers granted to cities and counties
13 with respect to the acquisition, construction, maintenance, operation
14 of, and fixing rates and charges for waterworks and systems of sewerage
15 and drainage.

16 **Sec. 25.** RCW 59.18.115 and 1989 c 342 s 16 are each amended to
17 read as follows:

18 (1) The legislature finds that some tenants live in residences that
19 are substandard and dangerous to their health and safety and that the
20 repair and deduct remedies of RCW 59.18.100 may not be adequate to
21 remedy substandard and dangerous conditions. Therefore, an
22 extraordinary remedy is necessary if the conditions substantially
23 endanger or impair the health and safety of the tenant.

24 (2)(a) If a landlord fails to fulfill any substantial obligation
25 imposed by RCW 59.18.060 that substantially endangers or impairs the
26 health or safety of a tenant, including (i) structural members that are
27 of insufficient size or strength to carry imposed loads with safety,
28 (ii) exposure of the occupants to the weather, (iii) plumbing and
29 sanitation defects that directly expose the occupants to the risk of
30 illness or injury, (iv) lack of water, including hot water, (v) heating
31 or ventilation systems that are not functional or are hazardous, (vi)
32 defective, hazardous, or missing electrical wiring or electrical
33 service, (vii) defective or inadequate exits that increase the risk of
34 injury to occupants, and (viii) conditions that increase the risk of
35 fire, the tenant shall give notice in writing to the landlord,
36 specifying the conditions, acts, omissions, or violations. Such notice

1 shall be sent to the landlord or to the person or place where rent is
2 normally paid.

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

21 (c) The local government or its designee, after receiving the
22 request from the tenant to conduct an inspection under this section,
23 shall conduct the inspection and make any certification within a
24 reasonable amount of time not more than five days from the date of
25 receipt of the request. The local government or its designee may,
26 subject to RCW 9A.52.070 and 9A.52.080, enter the premises at any
27 reasonable time to do the inspection, provided that he or she first
28 shall display proper credentials and request entry. The local
29 government or its designee shall whenever practicable, taking into
30 consideration the imminence of any threat to the tenant's health or
31 safety, give the landlord at least twenty-four hours notice of the date
32 and time of inspection and provide the landlord with an opportunity to
33 be present at the time of the inspection. The landlord shall have no
34 power or authority to prohibit entry for the inspection.

35 (d) The local government or its designee shall certify whether the
36 condition or the conditions specified by the tenant do exist and do
37 make the premises substantially unfit for human habitation or can be a
38 substantial risk to the health and safety of the tenant as described in

1 (a) of this subsection. The certification shall be provided to the
2 tenant, and a copy shall be included by the tenant with the notice sent
3 to the landlord under subsection (3) of this section. The
4 certification may be appealed to the local board of appeals, but the
5 appeal shall not delay or preclude the tenant from proceeding with the
6 escrow under this section.

7 (e) The tenant shall not be entitled to deposit rent in escrow
8 pursuant to this section unless the tenant first makes a good faith
9 determination that he or she is unable to repair the conditions
10 described in the certification issued pursuant to subsection (2)(d) of
11 this section through use of the repair remedies authorized by RCW
12 59.18.100.

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

27 (g) This section, when elected as a remedy by the tenant by sending
28 the notice under subsection (3) of this section, shall be the exclusive
29 remedy available to the tenant regarding defects described in the
30 certification under subsection (2)(d) of this section: PROVIDED, That
31 the tenant may simultaneously commence or pursue an action in an
32 appropriate court, or at arbitration if so agreed, to determine past,
33 present, or future diminution in rental value of the premises due to
34 any defective conditions.

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

NOTICE TO LANDLORD OF RENT ESCROW

Name of tenant:

Name of landlord:

Name and address of escrow:

Date of deposit of rent into escrow:

Amount of rent deposited into escrow:

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

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

.

(Sworn Signature)

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

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

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

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

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

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

22 (b) The tenant shall be named as a party to any action filed by the
23 landlord under this section, and shall have the right to file an answer
24 and counterclaim, although any counterclaim shall be dismissed without
25 prejudice if the court or arbitrator determines that the tenant failed
26 to follow the notice requirements contained in this section. Any
27 counterclaim can only claim diminished rental value related to
28 conditions specified by the tenant in the notice required under
29 subsection (3) of this section. This limitation on the tenant's right
30 to counterclaim shall not affect the tenant's right to bring his or her
31 own separate action. A trial shall be held within sixty days of the
32 date of filing of the landlord's or tenant's complaint.

33 (c) The tenant shall be entitled to reimbursement for any escrow
34 costs or fees incurred for setting up or maintaining an escrow account
35 pursuant to this section, unless the tenant did not comply with the
36 notice requirements of subsection (2) or (3) of this section. Any
37 escrow fees that are incurred for which the tenant is entitled to
38 reimbursement shall be deducted from the rent deposited in escrow and

1 remitted to the tenant at such time as any rent is released to the
2 landlord. The prevailing party in any court action or arbitration
3 brought under this section may also be awarded its costs and reasonable
4 attorneys' fees.

5 (d) If a court determines a diminished rental value of the
6 premises, the tenant may pay the rent due based on the diminished value
7 of the premises into escrow until the landlord makes the necessary
8 repairs.

9 (6)(a) If a landlord brings an action for the release of rent
10 deposited, the court may, upon application of the landlord, release
11 part of the rent on deposit for payment of the debt service on the
12 premises, the insurance premiums for the premises, utility services,
13 and repairs to the rental unit.

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

25 **Sec. 26.** RCW 59.20.130 and 1999 c 359 s 11 are each amended to
26 read as follows:

27 It shall be the duty of the landlord to:

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

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

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

35 (4) Keep all common premises of the mobile home park, and vacant
36 mobile home lots, not in the possession of tenants, free of weeds or

1 plant growth noxious and detrimental to the health of the tenants and
2 free from potentially injurious or unsightly objects and condition;

3 (5) Exterminate or make a reasonable effort to exterminate rodents,
4 vermin, or other pests dangerous to the health and safety of the tenant
5 whenever infestation exists on the common premises or whenever
6 infestation occurs in the interior of a mobile home, manufactured home,
7 or park model as a result of infestation existing on the common
8 premises;

9 (6) Maintain and protect all utilities provided to the mobile home,
10 manufactured home, or park model in good working condition.
11 Maintenance responsibility shall be determined at that point where the
12 normal mobile home, manufactured home, or park model utilities "hook-
13 ups" connect to those provided by the landlord or utility company;

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

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

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

36 (10) Notify each tenant within five days after a petition has been
37 filed by the landlord for a change in the zoning of the land where the

1 mobile home park is located and make a description of the change
2 available to the tenant.

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

10 **Sec. 27.** RCW 70.105D.030 and 2002 c 288 s 3 are each amended to
11 read as follows:

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

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

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

1 shall give preference to permanent solutions to the maximum extent
2 practicable and shall provide for or require adequate monitoring to
3 ensure the effectiveness of the remedial action;

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

7 (d) Carry out all state programs authorized under the federal
8 cleanup law and the federal resource, conservation, and recovery act,
9 42 U.S.C. Sec. 6901 et seq., as amended;

10 (e) Classify substances as hazardous substances for purposes of RCW
11 70.105D.020(7) and classify substances and products as hazardous
12 substances for purposes of RCW 82.21.020(1);

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

22 (g) Enforce the application of permanent and effective
23 institutional controls that are necessary for a remedial action to be
24 protective of human health and the environment and the notification
25 requirements established in RCW 70.105D.110, and impose penalties for
26 violations of that section consistent with RCW 70.105D.050;

27 (h) Require holders to conduct remedial actions necessary to abate
28 an imminent or substantial endangerment pursuant to RCW
29 70.105D.020(12)(b)(ii)(C);

30 (i) Provide informal advice and assistance to persons regarding the
31 administrative and technical requirements of this chapter. This may
32 include site-specific advice to persons who are conducting or otherwise
33 interested in independent remedial actions. Any such advice or
34 assistance shall be advisory only, and shall not be binding on the
35 department. As a part of providing this advice and assistance for
36 independent remedial actions, the department may prepare written
37 opinions regarding whether the independent remedial actions or
38 proposals for those actions meet the substantive requirements of this

1 chapter or whether the department believes further remedial action is
2 necessary at the facility. The department may collect, from persons
3 requesting advice and assistance, the costs incurred by the department
4 in providing such advice and assistance; however, the department shall,
5 where appropriate, waive collection of costs in order to provide an
6 appropriate level of technical assistance in support of public
7 participation. The state, the department, and officers and employees
8 of the state are immune from all liability, and no cause of action of
9 any nature may arise from any act or omission in providing, or failing
10 to provide, informal advice and assistance; and

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

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

18 (a) Provide for public participation, including at least (i) public
19 notice of the development of investigative plans or remedial plans for
20 releases or threatened releases and (ii) concurrent public notice of
21 all compliance orders, agreed orders, enforcement orders, or notices of
22 violation;

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

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

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

36 (e) Publish and periodically update minimum cleanup standards for
37 remedial actions at least as stringent as the cleanup standards under

1 section 121 of the federal cleanup law, 42 U.S.C. Sec. 9621, and at
2 least as stringent as all applicable state and federal laws, including
3 health-based standards under state and federal law; and

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

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

27 (4) The department shall establish a scientific advisory board to
28 render advice to the department with respect to the hazard ranking
29 system, cleanup standards, remedial actions, deadlines for remedial
30 actions, monitoring, the classification of substances as hazardous
31 substances for purposes of RCW 70.105D.020(7) and the classification of
32 substances or products as hazardous substances for purposes of RCW
33 82.21.020(1). The board shall consist of five independent members to
34 serve staggered three-year terms. No members may be employees of the
35 department. Members shall be reimbursed for travel expenses as
36 provided in RCW 43.03.050 and 43.03.060.

37 (5) The department shall establish a program to identify potential

1 hazardous waste sites and to encourage persons to provide information
2 about hazardous waste sites.

3 **Sec. 28.** RCW 70.119A.150 and 1993 c 305 s 4 are each amended to
4 read as follows:

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

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

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

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

36 (b) The secretary or his or her designee has reason to believe that

1 a violation of a law or rule administered by the department has
2 occurred, is occurring, or may occur.

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

11 **Sec. 29.** RCW 76.01.060 and 2000 c 11 s 1 are each amended to read
12 as follows:

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

33 **Sec. 30.** RCW 76.04.035 and 1986 c 100 s 4 are each amended to read
34 as follows:

35 (1) The department may appoint any of its employees as wardens, at
36 the times and localities as it considers the public welfare demands,

1 within any area of the state where there is forest land requiring
2 protection. The duties and authority of wardens are subject to RCW
3 9A.52.070 and 9A.52.080.

4 (2) The duties of wardens shall be:

5 (a) To provide forest fire prevention and protection information to
6 the public;

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

9 (c) To patrol their areas as necessary;

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

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

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

20 (g) To extinguish wildfires;

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

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

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

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

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

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

33 (4) The department may suspend the authority of any warden who may
34 be incompetent or unwilling to discharge properly the duties of the
35 office.

36 (5) The department shall determine the placement of the wardens
37 and, upon its request to the county commissioners of any county, the

1 county commissioners shall designate and furnish the wardens with
2 suitably equipped office quarters in the county courthouse.

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

7 **Sec. 31.** RCW 76.06.060 and 1988 c 128 s 18 are each amended to
8 read as follows:

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

18 **Sec. 32.** RCW 76.09.150 and 2000 c 11 s 7 are each amended to read
19 as follows:

20 (1) The department shall make inspections of forest lands, before,
21 during and after the conducting of forest practices as necessary for
22 the purpose of ensuring compliance with this chapter and the forest
23 practices rules and to ensure that no material damage occurs to the
24 natural resources of this state as a result of such practices.

25 (2) Any duly authorized representative of the department (~~shall~~
26 ~~have the right to~~) may, subject to RCW 9A.52.070 and 9A.52.080, enter
27 upon forest land at any reasonable time to enforce the provisions of
28 this chapter and the forest practices rules.

29 (3) The department or the department of ecology may apply for an
30 administrative inspection warrant to either Thurston county superior
31 court, or the superior court in the county in which the property is
32 located. An administrative inspection warrant may be issued where:

33 (a) The department has attempted an inspection of forest lands
34 under this chapter to ensure compliance with this chapter and the
35 forest practices rules or to ensure that no potential or actual

1 material damage occurs to the natural resources of this state, and
2 access to all or part of the forest lands has been actually or
3 constructively denied; or

4 (b) The department has reasonable cause to believe that a violation
5 of this chapter or of rules adopted under this chapter is occurring or
6 has occurred.

7 (4) In connection with any watershed analysis, any review of a
8 pending application by an identification team appointed by the
9 department, any compliance studies, any effectiveness monitoring, or
10 other research that has been agreed to by a landowner, the department
11 may invite representatives of other agencies, tribes, and interest
12 groups to accompany a department representative and, at the landowner's
13 election, the landowner, on any such inspections. Reasonable efforts
14 shall be made by the department to notify the landowner of the persons
15 being invited onto the property and the purposes for which they are
16 being invited.

17 **Sec. 33.** RCW 76.09.160 and 1974 ex.s. c 137 s 16 are each amended
18 to read as follows:

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

23 **Sec. 34.** RCW 77.12.154 and 1998 c 190 s 71 are each amended to
24 read as follows:

25 The director, fish and wildlife officers, ex officio fish and
26 wildlife officers, and department employees may, subject to RCW
27 9A.52.070 and 9A.52.080, enter upon any land or waters and remain there
28 while performing their duties without liability for trespass.

29 Subject to RCW 9A.52.070 and 9A.52.080, it is lawful for aircraft
30 operated by the department to land and take off from the beaches or
31 waters of the state.

32 **Sec. 35.** RCW 77.12.315 and 2000 c 107 s 221 are each amended to
33 read as follows:

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

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

9 **Sec. 36.** RCW 78.04.015 and 1897 c 60 s 2 are each amended to read
10 as follows:

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

22 **Sec. 37.** RCW 78.04.040 and 1901 c 120 s 1 are each amended to read
23 as follows:

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

1 shall be prima facie evidence of ownership (~~and right to enter upon or~~
2 ~~into, and make examinations of the property of the corporation~~)).

3 **Sec. 38.** RCW 79.01.649 and 1965 c 56 s 14 are each amended to read
4 as follows:

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

15 **Sec. 39.** RCW 79.01.650 and 1987 c 20 s 14 are each amended to read
16 as follows:

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

28 **Sec. 40.** RCW 79.01.676 and 1927 c 255 s 169 are each amended to
29 read as follows:

30 The commissioner of public lands or any person designated by him
31 (~~shall have the right at any time to~~) or her may, subject to RCW
32 9A.52.070 and 9A.52.080, enter upon the lands and inspect and examine
33 the structures, works and mines situated thereon, and (~~shall also have~~
34 ~~the right to~~) may examine such books, records and accounts of the
35 lessee as are directly connected with the operation of the mine on the

1 property under lease from the state; but it shall be unlawful for the
2 commissioner or any person so appointed to disclose any information
3 thus obtained to any person other than the commissioner of public lands
4 and his employees, except the attorney general and prosecuting
5 attorneys of the state.

6 **Sec. 41.** RCW 79.01.680 and 1927 c 255 s 170 are each amended to
7 read as follows:

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

22 **Sec. 42.** RCW 80.32.070 and 1961 c 14 s 80.32.070 are each amended
23 to read as follows:

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

28 **Sec. 43.** RCW 80.36.020 and 1985 c 450 s 16 are each amended to
29 read as follows:

30 Every corporation incorporated under the laws of this state or any
31 state or territory of the United States for the purpose of
32 constructing, operating or maintaining any telecommunications line in
33 this state (~~shall have the right to~~) may, subject to RCW 9A.52.070
34 and 9A.52.080, enter upon any land between the termini of its proposed

1 telecommunications lines for the purpose of examining, locating and
2 surveying the telecommunications line, doing no unnecessary damage
3 thereby.

4 **Sec. 44.** RCW 80.36.030 and 1985 c 450 s 17 are each amended to
5 read as follows:

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

18 **Sec. 45.** RCW 81.36.020 and 1961 c 14 s 81.36.020 are each amended
19 to read as follows:

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

28 **Sec. 46.** RCW 81.64.050 and 1961 c 14 s 81.64.050 are each amended
29 to read as follows:

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

1 **Sec. 47.** RCW 86.09.226 and 1937 c 72 s 76 are each amended to read
2 as follows:

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

9 **Sec. 48.** RCW 87.03.140 and 1921 c 129 s 6 are each amended to read
10 as follows:

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

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

32 The use of all water required for the irrigation of the lands
33 within any district, together with rights-of-way for canals, laterals,
34 ditches, sites for reservoirs, power plants, sites, and lines, and all
35 other property required in fully carrying out the purposes of the
36 organization of the district is hereby declared to be a public use; and
37 in condemnation proceedings to acquire any property or property rights
38 for the use of the district, the board of directors shall proceed in

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

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

33 **Sec. 49.** RCW 89.30.211 and 1933 c 149 s 11 are each amended to
34 read as follows:

35 The reclamation district board and its agents and employees (~~shall~~
36 ~~have the right to~~) may, subject to RCW 9A.52.070 and 9A.52.080, enter
37 upon any land, to make surveys and may locate the necessary irrigation

1 works and the line for canal or canals and the necessary branches for
2 the same or for necessary transmission power lines on any lands which
3 may be deemed necessary for such location.

4 **Sec. 50.** RCW 90.16.040 and 1901 c 143 s 2 are each amended to read
5 as follows:

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

17 **Sec. 51.** RCW 90.48.090 and 1994 c 232 s 21 are each amended to
18 read as follows:

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

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

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