
HOUSE BILL 1770

State of Washington 52nd Legislature 1991 Regular Session

By Representatives P. Johnson, Wynne, Betrozoff, Rayburn, McLean, Haugen, Ballard, Rasmussen, Brough, Paris, Chandler, Hargrove, Beck, Sheldon, May, Tate, Wood, Ferguson, Nealey, Van Luven, Mitchell, Lisk, Prince, Prentice, Hochstatter, Roland, Vance, D. Sommers, Silver, Casada, Padden, Bowman, Forner, Neher, Fuhrman, Moyer, Miller, Basich, Kremen, Wilson, Wineberry, Edmondson and Brumsickle.

Read first time February 8, 1991. Referred to Committee on Natural Resources & Parks.

1 AN ACT Relating to the alleviation of flood damage; amending RCW
2 86.16.120, 79.72.010, 79.72.020, 79.72.030, 79.72.070, 79.90.455,
3 90.58.020, 90.58.030, 75.20.100, 75.20.103, 75.10.130, 43.21C.020,
4 43.21C.037, 47.28.140, 79.01.135, 86.26.007, 36.32.290, 86.26.005,
5 86.26.040, 86.26.050, 86.26.060, 86.26.070, 86.26.100, and 86.26.105;
6 adding a new section to chapter 79.72 RCW; adding a new section to
7 chapter 90.58 RCW; adding a new section to chapter 86.16 RCW; adding a
8 new section to chapter 86.26 RCW; and creating a new section.

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

10 NEW SECTION. **Sec. 1.** The legislature finds that floods pose
11 threats to public health and to the safety of public and private
12 property including loss or endangerment to human life; damage to homes;
13 reduction of water quality; damage to public roads, highways, bridges,
14 and utilities; interruption of travel, communication, and commerce;
15 damage to fisheries, fish propagation facilities, and fish habitat;

1 harm to livestock; destruction or degradation of environmentally
2 sensitive areas; erosion of soil, stream banks and beds; and harmful
3 accumulation of soil and debris in the beds of streams or other bodies
4 of water and on public and private lands.

5 The legislature finds that the alleviation of flood damage to
6 public and private property and to the public health and safety is a
7 matter of public concern. The legislature further finds that most
8 actions that will be effective to prevent and minimize damage by floods
9 need to be planned and approved in advance of the time that a flood
10 occurs.

11 It is the policy of the state for state agencies to cooperate and
12 assist the public in actions which will prevent and minimize flood
13 damage.

14 The purpose of this act is to develop a coordinated state policy
15 that will provide a broader perspective to be applied in the
16 implementation of various state laws to require the inclusion of the
17 policy of alleviation of flood damage as a high priority.

18 **Sec. 2.** RCW 86.16.120 and 1935 c 159 s 2 are each amended to read
19 as follows:

20 Damages within the meaning of this chapter shall include loss of
21 human life and damages to homes and possessions; harmful
22 inundation(()); water erosion of soil, stream banks and beds(());
23 stream channel shifting and changes(()); harmful deposition by water
24 of eroded and shifting soils, rocks, gravel, and debris upon property
25 or in the beds of streams or other bodies of water(()); damages by
26 high water to public roads, highways, bridges, utilities and to works
27 built for protection against floods or inundation(()); the
28 interruption by floods of travel, communication and commerce(()); harm
29 to livestock by flood waters; reduction in the flow capacity of streams

1 due to the accumulation of deposited silt, soils, gravel, and other
2 materials in the beds of streams; the accumulations of deposited soils,
3 rocks, gravel, sand, and other materials on stream bars that may result
4 in a change in the flow direction of streams or erosion of stream
5 banks; damage to fisheries, fish propagation facilities, and fish
6 habitat; degradation of scenic, historic, and recreational values of
7 rivers; and all other high water influences and results which
8 injuriously affect the public health and the safety of property.

9 **Sec. 3.** RCW 79.72.010 and 1977 ex.s. c 161 s 1 are each amended to
10 read as follows:

11 The legislature hereby finds that many rivers of this state, with
12 their immediate environs, possess outstanding natural, scenic,
13 historic, ecological, and recreational values of present and future
14 benefit to the public. The legislature further finds that the policy
15 of permitting the construction of dams and other impoundment facilities
16 at appropriate sections of the rivers of this state needs to be
17 complemented by a policy that would protect and preserve the natural
18 character of such rivers and fulfill other conservation purposes. It
19 is hereby declared to be the policy of this state that certain selected
20 rivers of the state which, with their immediate environs, possess the
21 aforementioned characteristics, shall be preserved in as natural a
22 condition as practical with equal consideration given to the prevention
23 and minimization of flood damage policies of this act and that overuse
24 of such rivers, which tends to downgrade their natural condition, shall
25 be discouraged.

26 The purpose of this chapter is to establish a program for managing
27 publicly owned land on rivers included in the state's scenic river
28 system, to indicate the river segments to be initially included in that
29 system, to prescribe a procedure for adding additional

1 private property owners.

2 **Sec. 4.** RCW 79.72.020 and 1988 c 36 s 57 are each amended to read
3 as follows:

4 The definitions set forth in this section apply throughout this
5 chapter unless the context clearly requires otherwise.

6 (1) "Department" means the state parks and recreation commission.

7 (2) "Committee of participating agencies" or "committee" means a
8 committee composed of the executive head, or the executive's designee,
9 of each of the state departments of ecology, fisheries, wildlife,
10 natural resources, and transportation, the state parks and recreation
11 commission, the interagency committee for outdoor recreation, the
12 Washington state association of counties, and the association of
13 Washington cities. In addition, the governor shall appoint (~~two~~) to
14 the committee five public members of (~~the committee~~) which three
15 shall be persons owning property adjacent to a river segment designated
16 under this chapter, and whose land is prone to damage by floods.
17 Public members of the committee shall be compensated in accordance with
18 RCW 43.03.220 and shall receive reimbursement for their travel expenses
19 as provided in RCW 43.03.050 and RCW 43.03.060.

20 When a specific river or river segment of the state's scenic river
21 system is being considered by the committee, a representative of each
22 participating local government associated with that river or river
23 segment shall serve as a member of the committee.

24 (3) "Participating local government" means the legislative
25 authority of any city or county, a portion of whose territorial
26 jurisdiction is bounded by or includes a river or river segment of the
27 state's scenic river system.

28 (4) "River" means a flowing body of water or a section, segment, or
29 portion thereof.

1 (5) "River area" means a river and the land area in its immediate
2 environs as established by the participating agencies not exceeding a
3 width of one-quarter mile landward from the streamway on either side of
4 the river.

5 (6) "Scenic easement" means the negotiated right to control the use
6 of land, including the air space above the land, for the purpose of
7 protecting the scenic view throughout the visual corridor.

8 (7) "Streamway" means that stream-dependent corridor of single or
9 multiple, wet or dry, channel or channels within which the usual
10 seasonal or stormwater run-off peaks are contained, and within which
11 environment the flora, fauna, soil, and topography is dependent on or
12 influenced by the height and velocity of the fluctuating river
13 currents.

14 (8) "System" means all the rivers and river areas in the state
15 designated by the legislature for inclusion as scenic rivers but does
16 not include tributaries of a designated river unless specifically
17 included by the legislature. The inclusion of a river in the system
18 does not mean that other rivers or tributaries in a drainage basin
19 shall be required to be part of the management program developed for
20 the system unless the rivers and tributaries within the drainage basin
21 are specifically designated for inclusion by the legislature.

22 (9) "Visual corridor" means that area which can be seen in a normal
23 summer month by a person of normal vision walking either bank of a
24 river included in the system. The visual corridor shall not exceed the
25 river area.

26 (10) "Flood damage" shall have the same meaning as provided in RCW
27 86.16.120.

28 **Sec. 5.** RCW 79.72.030 and 1977 ex.s. c 161 s 3 are each amended to
29 read as follows:

1 (1) The department shall develop and adopt management policies for
2 publicly owned or leased land on the rivers designated by the
3 legislature as being a part of the state's scenic river system and
4 within the associated river areas. The department may adopt regulations
5 identifying river classifications which reflect the characteristics
6 common to various segments of scenic rivers and may adopt management
7 policies consistent with local government's shoreline management master
8 plans appropriate for each such river classification. All such
9 policies shall be subject to review by the committee of participating
10 agencies. Once such a policy has been approved by a majority vote of
11 the committee members, it shall be adopted by the department in
12 accordance with the provisions of chapter 34.05 RCW, as now or
13 hereafter amended. Any variance with such a policy by any public
14 agency shall be authorized only by the approval of the committee of
15 participating agencies by majority vote, and shall be made only to
16 alleviate unusual hardships unique to a given segment of the system.

17 (2) Any policies developed pursuant to subsection (1) of this
18 section shall include management plans for (a) protecting ecological,
19 economic, recreational, aesthetic, botanical, scenic, geological,
20 hydrological, fish and wildlife, historical, cultural, archaeological,
21 and scientific features of the rivers designated as being in the system
22 and (b) prevention and minimization of flood damage as defined in RCW
23 86.16.120. Such policies shall also include management plans to
24 encourage any nonprofit group, organization, association, person, or
25 corporation to develop and adopt programs for the purpose of increasing
26 fish propagation.

27 (3) The committee of participating agencies shall, by two-thirds
28 majority vote, identify on a river by river basis any publicly owned or
29 leased lands which could be included in a river area of the system but
30 which are developed in a manner unsuitable for land to be managed as

1 part of the system. The department shall exclude lands so identified
2 from the provisions of any management policies implementing the
3 provisions of this chapter.

4 (4) The committee of participating agencies, by majority vote,
5 shall determine the boundaries which shall define the river area
6 associated with any included river. With respect to the rivers named in
7 RCW 79.72.080, the committee shall make such determination, and those
8 determinations authorized by subsection (3) of this section, within one
9 year of September 21, 1977.

10 (5) Before making a decision regarding the river area to be
11 included in the system, a variance in policy, or the excluding of land
12 from the provisions of the management policies, the committee shall
13 hold hearings in accord with chapter 34.05 RCW, with at least one
14 public hearing to be held in the general locale of the river under
15 consideration. The department shall cause to be published in a
16 newspaper of general circulation in the area which includes the river
17 or rivers to be considered, a description, including a map showing such
18 river or rivers, of the material to be considered at the public
19 hearing. Such notice shall appear at least twice in the time period
20 between two and four weeks prior to the public hearing.

21 (6) Meetings of the committee shall be called by the department or
22 by written petition signed by five or more of the committee members.
23 The chairman of the parks and recreation commission or the chairman's
24 designee shall serve as the chairman of any meetings of the committee
25 held to implement the provisions of this chapter.

26 The committee shall seek and receive comments from the public
27 regarding potential additions to the system, shall initiate studies,
28 and may, through the department, submit to any session of the
29 legislature proposals for additions to the state scenic river system.
30 These proposals shall be accompanied by a detailed report on the

1 factors which, in the committee's judgment, make an area a worthy
2 addition to the system.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 79.72 RCW
4 to read as follows:

5 The requirement to adopt policies for the prevention and
6 minimization of flood damage shall be complied with by July 1, 1992.

7 **Sec. 7.** RCW 79.72.070 and 1988 c 36 s 58 are each amended to read
8 as follows:

9 Nothing contained in this chapter shall (a) affect the authority of
10 the department of fisheries and the department of wildlife to construct
11 facilities or make improvements to facilitate the passage or
12 propagation of fish nor shall anything in this chapter be construed to
13 interfere with the powers, duties, and authority of the department of
14 fisheries or the department of wildlife to regulate, manage, conserve,
15 and provide for the harvest of fish or wildlife within any area
16 designated as being in the state's scenic river system: PROVIDED, That
17 no hunting shall be permitted in any state park or (b) be construed by
18 regulatory agencies as affecting their ability to issue permits to
19 entities to undertake activities within areas designated under this
20 chapter to prevent and minimize flood damage.

21 **Sec. 8.** RCW 79.90.455 and 1984 c 221 s 2 are each amended to read
22 as follows:

23 The management of state-owned aquatic lands shall be in conformance
24 with constitutional and statutory requirements. The manager of state-
25 owned aquatic lands shall strive to provide a balance of public
26 benefits for all citizens of the state. The public benefits provided
27 by aquatic lands are varied and include:

1 (1) Encouraging direct public use and access;
2 (2) Preventing and minimizing flood damage as defined in RCW
3 86.16.120;
4 (3) Fostering water-dependent uses;
5 ((+3)) (4) Ensuring environmental protection;
6 ((+4)) (5) Utilizing renewable resources.
7 Generating revenue in a manner consistent with subsections (1)
8 through ((+4)) (5) of this section is a public benefit.

9 **Sec. 9.** RCW 90.58.020 and 1982 1st ex.s. c 13 s 1 are each amended
10 to read as follows:

11 The legislature finds that the shorelines of the state are among
12 the most valuable and fragile of its natural resources and that there
13 is great concern throughout the state relating to their utilization,
14 protection, restoration, and preservation. In addition it finds that
15 ever increasing pressures of additional uses are being placed on the
16 shorelines necessitating increased coordination in the management and
17 development of the shorelines of the state. The legislature further
18 finds that much of the shorelines of the state and the uplands adjacent
19 thereto are in private ownership; that unrestricted construction on the
20 privately owned or publicly owned shorelines of the state is not in the
21 best public interest; and therefore, coordinated planning is necessary
22 in order to protect the public interest associated with the shorelines
23 of the state while, at the same time, recognizing and protecting
24 private property rights consistent with the public interest. There is,
25 therefor, a clear and urgent demand for a planned, rational, and
26 concerted effort, jointly performed by federal, state, and local
27 governments, to prevent the inherent harm in an uncoordinated and
28 piecemeal development of the state's shorelines.

1 It is the policy of the state to provide for the management of the
2 shorelines of the state by planning for and fostering all reasonable
3 and appropriate uses. This policy is designed to insure the
4 development of these shorelines in a manner which, while allowing for
5 limited reduction of rights of the public in the navigable waters, will
6 promote and enhance the public interest. This policy contemplates
7 protecting against adverse effects to the public health, the land and
8 its vegetation and wildlife, and the waters of the state and their
9 aquatic life, while protecting generally public rights of navigation
10 and corollary rights incidental thereto.

11 The legislature declares that the interest of all of the people
12 shall be paramount in the management of shorelines of state-wide
13 significance. The department, in adopting guidelines for shorelines of
14 state-wide significance, and local government, in developing master
15 programs for shorelines of state-wide significance, shall give
16 preference to uses in the following order of preference which:

17 (1) Recognize and protect the state-wide interest over local
18 interest;

19 (2) Preserve the natural character of the shoreline with equal
20 consideration given to the state policy established in section 1 of
21 this act to alleviate flood damage;

22 (3) Result in long term over short term benefit;

23 (4) Protect the resources and ecology of the shoreline;

24 (5) Increase public access to publicly owned areas of the
25 shorelines;

26 (6) Increase recreational opportunities for the public in the
27 shoreline;

28 (7) Provide for any other element as defined in RCW 90.58.100
29 deemed appropriate or necessary.

1 In the implementation of this policy the public's opportunity to
2 enjoy the physical and aesthetic qualities of natural shorelines of the
3 state shall be preserved to the greatest extent feasible consistent
4 with the overall best interest of the state and the people generally
5 and the need to prevent and minimize flood damage. To this end uses
6 shall be preferred which are consistent with control of pollution and
7 prevention of damage to the natural environment, or are unique to or
8 dependent upon use of the state's shoreline. Alterations of the
9 natural condition of the shorelines of the state, in those limited
10 instances when authorized, shall be given priority for single family
11 residences, ports, shoreline recreational uses including but not
12 limited to parks, marinas, piers, and other improvements facilitating
13 public access to shorelines of the state, industrial and commercial
14 developments which are particularly dependent on their location on or
15 use of the shorelines of the state and other development that will
16 provide an opportunity for substantial numbers of the people to enjoy
17 the shorelines of the state. Alterations of the natural condition of
18 the shorelines and wetlands of the state with equal consideration given
19 to the need to perform activities that prevent or minimize flood damage
20 shall be recognized by the department. Shorelines and wetlands of the
21 state shall be appropriately classified and these classifications shall
22 be revised when circumstances warrant regardless of whether the change
23 in circumstances occurs through man-made causes or natural causes. Any
24 areas resulting from alterations of the natural condition of the
25 shorelines and wetlands of the state no longer meeting the definition
26 of "shorelines of the state" shall not be subject to the provisions of
27 chapter 90.58 RCW.

28 Permitted uses in the shorelines of the state shall be designed and
29 conducted in a manner to minimize, insofar as practical, any resultant

1 damage to the ecology and environment of the shoreline area and any
2 interference with the public's use of the water.

3 **Sec. 10.** RCW 90.58.030 and 1987 c 474 s 1 are each amended to read
4 as follows:

5 As used in this chapter, unless the context otherwise requires, the
6 following definitions and concepts apply:

7 (1) Administration:

8 (a) "Department" means the department of ecology;

9 (b) "Director" means the director of the department of ecology;

10 (c) "Local government" means any county, incorporated city, or town
11 which contains within its boundaries any lands or waters subject to
12 this chapter;

13 (d) "Person" means an individual, partnership, corporation,
14 association, organization, cooperative, public or municipal
15 corporation, or agency of the state or local governmental unit however
16 designated;

17 (e) "Hearing board" means the shoreline hearings board established
18 by this chapter.

19 (2) Geographical:

20 (a) "Extreme low tide" means the lowest line on the land reached by
21 a receding tide;

22 (b) "Ordinary high water mark" on all lakes, streams, and tidal
23 water is that mark that will be found by examining the bed and banks
24 and ascertaining where the presence and action of waters are so common
25 and usual, and so long continued in all ordinary years, as to mark upon
26 the soil a character distinct from that of the abutting upland, in
27 respect to vegetation as that condition exists on June 1, 1971, as it
28 may naturally change thereafter, or as it may change thereafter in
29 accordance with permits issued by a local government or the department:

1 PROVIDED, That in any area where the ordinary high water mark cannot be
2 found, the ordinary high water mark adjoining salt water shall be the
3 line of mean higher high tide and the ordinary high water mark
4 adjoining fresh water shall be the line of mean high water;

5 (c) "Shorelines of the state" are the total of all "shorelines" and
6 "shorelines of state-wide significance" within the state;

7 (d) "Shorelines" means all of the water areas of the state,
8 including reservoirs, and their associated wetlands, together with the
9 lands underlying them; except (i) shorelines of state-wide
10 significance; (ii) shorelines on segments of streams upstream of a
11 point where the mean annual flow is twenty cubic feet per second or
12 less and the wetlands associated with such upstream segments; and (iii)
13 shorelines on lakes less than twenty acres in size and wetlands
14 associated with such small lakes;

15 (e) "Shorelines of state-wide significance" means the following
16 shorelines of the state:

17 (i) The area between the ordinary high water mark and the western
18 boundary of the state from Cape Disappointment on the south to Cape
19 Flattery on the north, including harbors, bays, estuaries, and inlets;

20 (ii) Those areas of Puget Sound and adjacent salt waters and the
21 Strait of Juan de Fuca between the ordinary high water mark and the
22 line of extreme low tide as follows:

23 (A) Nisqually Delta--from DeWolf Bight to Tatsolo Point,

24 (B) Birch Bay--from Point Whitehorn to Birch Point,

25 (C) Hood Canal--from Tala Point to Foulweather Bluff,

26 (D) Skagit Bay and adjacent area--from Brown Point to Yokeko Point,

27 and

28 (E) Padilla Bay--from March Point to William Point;

1 (iii) Those areas of Puget Sound and the Strait of Juan de Fuca and
2 adjacent salt waters north to the Canadian line and lying seaward from
3 the line of extreme low tide;

4 (iv) Those lakes, whether natural, artificial, or a combination
5 thereof, with a surface acreage of one thousand acres or more measured
6 at the ordinary high water mark;

7 (v) Those natural rivers or segments thereof as follows:

8 (A) Any west of the crest of the Cascade range downstream of a
9 point where the mean annual flow is measured at one thousand cubic feet
10 per second or more,

11 (B) Any east of the crest of the Cascade range downstream of a
12 point where the annual flow is measured at two hundred cubic feet per
13 second or more, or those portions of rivers east of the crest of the
14 Cascade range downstream from the first three hundred square miles of
15 drainage area, whichever is longer;

16 (vi) Those wetlands associated with (i), (ii), (iv), and (v) of
17 this subsection (2)(e);

18 (f) "Wetlands" or "wetland areas" means those lands extending
19 landward for two hundred feet in all directions as measured on a
20 horizontal plane from the ordinary high water mark; floodways and
21 contiguous floodplain areas landward two hundred feet from such
22 floodways; and all marshes, bogs, swamps, and river deltas associated
23 with the streams, lakes, and tidal waters which are subject to the
24 provisions of this chapter; the same to be designated as to location by
25 the department of ecology: PROVIDED, That any county or city may
26 determine that portion of a one-hundred-year-flood plain to be included
27 in its master program as long as such portion includes, as a minimum,
28 the floodway and the adjacent land extending landward two hundred feet
29 therefrom;

1 (g) "Floodway" means those portions of the area of a river valley
2 lying streamward from the outer limits of a watercourse upon which
3 flood waters are carried during periods of flooding that occur with
4 reasonable regularity, although not necessarily annually, said floodway
5 being identified, under normal condition, by changes in surface soil
6 conditions or changes in types or quality of vegetative ground cover
7 condition. The floodway shall not include those lands that can
8 reasonably be expected to be protected from flood waters by flood
9 control devices maintained by or maintained under license from the
10 federal government, the state, or a political subdivision of the state;

11 (h) "Flood damage" shall have the same meaning as provided in RCW
12 86.16.120.

13 (3) Procedural terms:

14 (a) "Guidelines" means those standards adopted to implement the
15 policy of this chapter for regulation of use of the shorelines of the
16 state prior to adoption of master programs. Such standards shall also
17 provide criteria to local governments and the department in developing
18 master programs;

19 (b) "Master program" shall mean the comprehensive use plan for a
20 described area, and the use regulations together with maps, diagrams,
21 charts, or other descriptive material and text, a statement of desired
22 goals, and standards developed in accordance with the policies
23 enunciated in RCW 90.58.020;

24 (c) "State master program" is the cumulative total of all master
25 programs approved or adopted by the department of ecology;

26 (d) "Development" means a use consisting of the construction or
27 exterior alteration of structures; dredging; drilling; dumping;
28 filling; removal of any sand, gravel, or minerals; bulkheading; driving
29 of piling; placing of obstructions; or any project of a permanent or
30 temporary nature which interferes with the normal public use of the

1 surface of the waters overlying lands subject to this chapter at any
2 state of water level;

3 (e) "Substantial development" shall mean any development of which
4 the total cost or fair market value exceeds two thousand five hundred
5 dollars plus an amount to adjust for inflation, or any development
6 which materially interferes with the normal public use of the water or
7 shorelines of the state; except that the following shall not be
8 considered substantial developments for the purpose of this chapter.
9 The department shall adjust the amount subject to this subsection once
10 every five years commencing on January 1, 1991. The amount of the
11 inflation adjustment shall be based upon the inflation rate as measured
12 by the implicit price deflator index that has occurred since the last
13 increase:

14 (i) Normal maintenance or repair of existing structures or
15 developments, including damage by accident, fire, or elements;

16 (ii) Construction of the normal protective bulkhead common to
17 single family residences;

18 (iii) Emergency construction necessary to protect property from
19 damage by the elements;

20 (iv) Construction and practices normal or necessary for farming,
21 irrigation, and ranching activities, including agricultural service
22 roads and utilities on wetlands, and the construction and maintenance
23 of irrigation structures including but not limited to head gates,
24 pumping facilities, and irrigation channels: PROVIDED, That a feedlot
25 of any size, all processing plants, other activities of a commercial
26 nature, alteration of the contour of the wetlands by leveling or
27 filling other than that which results from normal cultivation, shall
28 not be considered normal or necessary farming or ranching activities.
29 A feedlot shall be an enclosure or facility used or capable of being
30 used for feeding livestock hay, grain, silage, or other livestock feed,

1 but shall not include land for growing crops or vegetation for
2 livestock feeding and/or grazing, nor shall it include normal livestock
3 wintering operations;

4 (v) Construction or modification of navigational aids such as
5 channel markers and anchor buoys;

6 (vi) Construction on wetlands by an owner, lessee, or contract
7 purchaser of a single family residence for his own use or for the use
8 of his family, which residence does not exceed a height of thirty-five
9 feet above average grade level and which meets all requirements of the
10 state agency or local government having jurisdiction thereof, other
11 than requirements imposed pursuant to this chapter;

12 (vii) Construction of a dock, including a community dock, designed
13 for pleasure craft only, for the private noncommercial use of the
14 owner, lessee, or contract purchaser of single and multiple family
15 residences, the cost of which does not exceed two thousand five hundred
16 dollars;

17 (viii) Operation, maintenance, or construction of canals,
18 waterways, drains, reservoirs, or other facilities that now exist or
19 are hereafter created or developed as a part of an irrigation system
20 for the primary purpose of making use of system waters, including
21 return flow and artificially stored ground water for the irrigation of
22 lands;

23 (ix) The marking of property lines or corners on state owned lands,
24 when such marking does not significantly interfere with normal public
25 use of the surface of the water;

26 (x) Operation and maintenance of any system of dikes, ditches,
27 drains, or other facilities (~~(existing on September 8, 1975,)~~) which
28 were created, developed, or utilized primarily as a part of an
29 agricultural drainage or diking system;

1 (xi) Any action commenced prior to December 31, 1982, pertaining to
2 (A) the restoration of interim transportation services as may be
3 necessary as a consequence of the destruction of the Hood Canal bridge,
4 including, but not limited to, improvements to highways, development of
5 park and ride facilities, and development of ferry terminal facilities
6 until a new or reconstructed Hood Canal bridge is open to traffic; and
7 (B) the reconstruction of a permanent bridge at the site of the
8 original Hood Canal bridge.

9 NEW SECTION. **Sec. 11.** A new section is added to chapter 90.58 RCW
10 to read as follows:

11 Within six months of the effective date of this act, the department
12 shall submit to local governments guidelines to incorporate the
13 policies of this chapter. Within nine months from receipt of such
14 guidelines, local governments shall submit to the department in writing
15 proposed changes to their master programs to incorporate the
16 requirements of this chapter.

17 **Sec. 12.** RCW 75.20.100 and 1988 c 272 s 1 and 1988 c 36 s 33 are
18 each amended to read as follows:

19 In the event that any person or government agency desires to
20 construct any form of hydraulic project or perform other work that will
21 use, divert, obstruct, or change the natural flow or bed of any of the
22 salt or fresh waters of the state, such person or government agency
23 shall, before commencing construction or work thereon and to ensure the
24 proper protection of fish life, secure the written approval of the
25 department of fisheries or the department of wildlife as to the
26 adequacy of the means proposed for the protection of fish life. This
27 approval shall not be unreasonably withheld. The department of
28 fisheries or the department of wildlife shall grant or deny approval

1 within forty-five calendar days of the receipt of a complete
2 application and notice of compliance with any applicable requirements
3 of the state environmental policy act, made in the manner prescribed in
4 this section. The applicant may document receipt of application by
5 filing in person or by registered mail. A complete application for
6 approval shall contain general plans for the overall project, complete
7 plans and specifications of the proposed construction or work within
8 the mean higher high water line in salt water or within the ordinary
9 high water line in fresh water, and complete plans and specifications
10 for the proper protection of fish life. The forty-five day requirement
11 shall be suspended if (1) after ten working days of receipt of the
12 application, the applicant remains unavailable or unable to arrange for
13 a timely field evaluation of the proposed project; (2) the site is
14 physically inaccessible for inspection; or (3) the applicant requests
15 delay. Immediately upon determination that the forty-five day period
16 is suspended, the department of fisheries or the department of wildlife
17 shall notify the applicant in writing of the reasons for the delay.
18 Approval is valid for a period of up to five years from date of
19 issuance. The permittee must demonstrate substantial progress on
20 construction of that portion of the project relating to the approval
21 within two years of the date of issuance. If either the department of
22 fisheries or the department of wildlife denies approval, that
23 department shall provide the applicant, in writing, a statement of the
24 specific reasons why and how the proposed project would adversely
25 affect fish life. In deliberating permit approval, the department of
26 fisheries or the department of wildlife shall give equal consideration
27 to the state policy to prevent or minimize flood damage as defined in
28 RCW 86.16.120. Protection of fish life shall be the only ground upon
29 which approval may be denied or conditioned. Chapter 34.05 RCW applies
30 to any denial of project approval, conditional approval, or

1 requirements for project modification upon which approval may be
2 contingent. If any person or government agency commences construction
3 on any hydraulic works or projects subject to this section without
4 first having obtained written approval of the department of fisheries
5 or the department of wildlife as to the adequacy of the means proposed
6 for the protection of fish life, or if any person or government agency
7 fails to follow or carry out any of the requirements or conditions as
8 are made a part of such approval, the person or director of the agency
9 is guilty of a gross misdemeanor. If any such person or government
10 agency is convicted of violating any of the provisions of this section
11 and continues construction on any such works or projects without fully
12 complying with the provisions hereof, such works or projects are hereby
13 declared a public nuisance and shall be subject to abatement as such.

14 For the purposes of this section and RCW 75.20.103, "bed" shall
15 mean the land below the ordinary high water lines of state waters.
16 This definition shall not include irrigation ditches, canals, storm
17 water run-off devices, or other artificial watercourses except where
18 they exist in a natural watercourse that has been altered by ~~((man))~~
19 people. For the purposes of this section and RCW 75.20.103,
20 "emergency" means an imminent threat to life, public or private
21 property, or an imminent threat of serious environmental degradation.

22 The phrase "to construct any form of hydraulic project or perform
23 other work" shall not include the act of driving across an established
24 ford. Driving across streams or on wetted stream beds at areas other
25 than established fords requires approval. Work within the ordinary
26 high water line of state waters to construct or repair a ford or
27 crossing requires approval.

28 For each application, the department of fisheries and the
29 department of wildlife shall mutually agree on whether the department
30 of fisheries or the department of wildlife shall administer the

1 provisions of this section, in order to avoid duplication of effort.
2 The department designated to act shall cooperate with the other
3 department in order to protect all species of fish life found at the
4 project site. If the department of fisheries or the department of
5 wildlife receives an application concerning a site not in its
6 jurisdiction, it shall transmit the application to the other department
7 within three days and notify the applicant.

8 In case of an emergency arising from weather or stream flow
9 conditions or other natural conditions, the department of fisheries or
10 department of wildlife, through their authorized representatives, shall
11 issue immediately upon request oral approval for removing any
12 obstructions, repairing existing structures, restoring stream banks, or
13 to protect property threatened by the stream or a change in the stream
14 flow without the necessity of obtaining a written approval prior to
15 commencing work. Conditions of an oral approval shall be reduced to
16 writing within thirty days and complied with as provided for in this
17 section. Oral approval shall be granted immediately upon request, for
18 a stream crossing during an emergency situation.

19 This section shall not apply to the construction of any form of
20 hydraulic project or other work which diverts water for agricultural
21 irrigation or stock watering purposes authorized under or recognized as
22 being valid by the state's water codes, or when such hydraulic project
23 or other work is associated with streambank stabilization (~~((to protect~~
24 ~~farm and agricultural land as defined in RCW 84.34.020))~~ as defined in
25 RCW 75.20.103. These irrigation or stock watering diversion and
26 streambank stabilization projects shall be governed by RCW 75.20.103.

27 If requirements for maintenance and repair of levies imposed by the
28 United States Army corps of engineers and the requirements imposed as
29 a condition of the approval issued pursuant to this section or RCW

1 75.20.103 are in conflict, the requirements of the federal agency shall
2 prevail.

3 **Sec. 13.** RCW 75.20.103 and 1988 c 272 s 2 and 1988 c 36 s 34 are
4 each amended to read as follows:

5 In the event that any person or government agency desires to
6 construct any form of hydraulic project or other work that diverts
7 water for agricultural irrigation or stock watering purposes, or when
8 such hydraulic project or other work is associated with streambank
9 stabilization (~~((to protect farm and agricultural land as defined in RCW~~
10 ~~84.34.020))~~), and when such diversion or streambank stabilization will
11 use, divert, obstruct, or change the natural flow or bed of any river
12 or stream or will utilize any waters of the state or materials from the
13 stream beds, the person or government agency shall, before commencing
14 construction or work thereon and to ensure the proper protection of
15 fish life, secure a written approval from the department of fisheries
16 or the department of wildlife as to the adequacy of the means proposed
17 for the protection of fish life. This approval shall not be
18 unreasonably withheld. The department of fisheries or the department
19 of wildlife shall grant or deny the approval within forty-five calendar
20 days of the receipt of a complete application and notice of compliance
21 with any applicable requirements of the state environmental policy act,
22 made in the manner prescribed in this section. The applicant may
23 document receipt of application by filing in person or by registered
24 mail. A complete application for an approval shall contain general
25 plans for the overall project, complete plans and specifications of the
26 proposed construction or work within ordinary high water line, and
27 complete plans and specifications for the proper protection of fish
28 life. The forty-five day requirement shall be suspended if (1) after
29 ten working days of receipt of the application, the applicant remains

1 unavailable or unable to arrange for a timely field evaluation of the
2 proposed project; (2) the site is physically inaccessible for
3 inspection; or (3) the applicant requests delay.

4 Immediately upon determination that the forty-five day period is
5 suspended, the department of fisheries or the department of wildlife
6 shall notify the applicant in writing of the reasons for the delay.

7 An approval shall remain in effect without need for periodic
8 renewal for projects that divert water for agricultural irrigation or
9 stock watering purposes and that involve seasonal construction or other
10 work. Approval for streambank stabilization projects shall remain in
11 effect without need for periodic renewal if the problem causing the
12 need for the streambank stabilization occurs on an annual or more
13 frequent basis. The permittee must notify the appropriate agency before
14 commencing the construction or other work within the area covered by
15 the approval.

16 The permittee must demonstrate substantial progress on construction
17 of that portion of the project relating to the approval within two
18 years of the date of issuance. If either the department of fisheries
19 or the department of wildlife denies approval, that department shall
20 provide the applicant, in writing, a statement of the specific reasons
21 why and how the proposed project would adversely affect fish life. In
22 deliberating permit approval, the department of fisheries or the
23 department of wildlife shall give equal consideration to the state
24 policy to prevent or minimize flood damage as defined in RCW 86.16.120.
25 Protection of fish life shall be the only ground upon which approval
26 may be denied or conditioned. Issuance, denial, conditioning, or
27 modification shall be appealable to the hydraulic appeals board
28 established in RCW 43.21B.005 within thirty days of the notice of
29 decision. The burden shall be upon the department of fisheries or the

1 department of wildlife to show that the denial or conditioning of an
2 approval is solely aimed at the protection of fish life.

3 The department granting approval may, after consultation with the
4 permittee, modify an approval due to changed conditions. The
5 modifications shall become effective unless appealed to the hydraulic
6 appeals board within thirty days from the notice of the proposed
7 modification. The burden is on the department issuing the approval to
8 show that changed conditions warrant the modification in order to
9 protect fish life.

10 A permittee may request modification of an approval due to changed
11 conditions. The request shall be processed within forty-five calendar
12 days of receipt of the written request. A decision by the department
13 that issued the approval may be appealed to the hydraulic appeals board
14 within thirty days of the notice of the decision. The burden is on the
15 permittee to show that changed conditions warrant the requested
16 modification and that such modification will not impair fish life.

17 If any person or government agency commences construction on any
18 hydraulic works or projects subject to this section without first
19 having obtained written approval of the department of fisheries or the
20 department of wildlife as to the adequacy of the means proposed for the
21 protection of fish life, or if any person or government agency fails to
22 follow or carry out any of the requirements or conditions as are made
23 a part of such approval, the person or director of the agency is guilty
24 of a gross misdemeanor. If any such person or government agency is
25 convicted of violating any of the provisions of this section and
26 continues construction on any such works or projects without fully
27 complying with the provisions hereof, such works or projects are hereby
28 declared a public nuisance and shall be subject to abatement as such.

29 For each application, the department of fisheries and the
30 department of wildlife shall mutually agree on whether the department

1 of fisheries or the department of wildlife shall administer the
2 provisions of this section, in order to avoid duplication of effort.
3 The department designated to act shall cooperate with the other
4 department in order to protect all species of fish life found at the
5 project site. If the department of fisheries or the department of
6 wildlife receives an application concerning a site not in its
7 jurisdiction, it shall transmit the application to the other department
8 within three days and notify the applicant.

9 In case of an emergency arising from weather or stream flow
10 conditions or other natural conditions, the department of fisheries or
11 department of wildlife, through their authorized representatives, shall
12 issue immediately upon request oral approval for removing any
13 obstructions, repairing existing structures, restoring stream banks, or
14 to protect property threatened by the stream or a change in the stream
15 flow without the necessity of obtaining a written approval prior to
16 commencing work. Conditions of an oral approval shall be reduced to
17 writing within thirty days and complied with as provided for in this
18 section.

19 For purposes of this chapter, "streambank stabilization" shall
20 include but not be limited to log and debris removal, bank protection
21 (including riprap, jetties, and groins), gravel removal and erosion
22 control.

23 If requirements for maintenance and repair of levies imposed by the
24 United States Army corps of engineers and the requirements imposed as
25 a condition of the approval issued pursuant to this section or RCW
26 75.20.100 are in conflict, the requirements of the federal agency shall
27 prevail.

28 **Sec. 14.** RCW 75.10.130 and 1989 c 175 s 160 are each amended to
29 read as follows:

1 (1) There is hereby created within the environmental hearings
2 office under RCW 43.21B.005 the hydraulic appeals board of the state of
3 Washington.

4 (2) The hydraulic appeals board shall consist of three members:
5 The director of the department of ecology or the director's designee,
6 the director of the department of agriculture or the director's
7 designee, (~~and the director or the director's designee of the~~
8 ~~department whose action is appealed under subsection (6) of this~~
9 ~~section)) and a member of the county legislative authority appointed by
10 the chair of that authority from the county where the project in
11 question is situated. A decision must be agreed to by at least two
12 members of the board to be final.~~

13 (3) The board may adopt rules necessary for the conduct of its
14 powers and duties or for transacting other official business.

15 (4) The board shall make findings of fact and prepare a written
16 decision in each case decided by it, and that finding and decision
17 shall be effective upon being signed by two or more board members and
18 upon being filed at the hydraulic appeals board's principal office, and
19 shall be open to public inspection at all reasonable times.

20 (5) The board has exclusive jurisdiction to hear appeals arising
21 from the approval, denial, conditioning, or modification of a hydraulic
22 approval issued by either the department of fisheries or the department
23 of wildlife under the authority granted in RCW 75.20.103 for the
24 diversion of water for agricultural irrigation or stock watering
25 purposes or when associated with streambank stabilization to protect
26 farm and agricultural land as defined in RCW 84.34.020.

27 (6) (a) Any person aggrieved by the approval, denial, conditioning,
28 or modification of a hydraulic approval pursuant to RCW 75.20.103 may
29 seek review from the board by filing a request for the same within

1 thirty days of notice of the approval, denial, conditioning, or
2 modification of such approval.

3 (b) The review proceedings authorized in (a) of this subsection are
4 subject to the provisions of chapter 34.05 RCW pertaining to procedures
5 in adjudicative proceedings.

6 NEW SECTION. **Sec. 15.** A new section is added to chapter 86.16 RCW
7 to read as follows:

8 Local governments that have adopted flood plain management
9 regulations pursuant to this chapter shall include provisions that
10 allow for the establishment of livestock flood sanctuary areas at a
11 convenient location within a farming unit that contains domestic
12 livestock. Local governments may limit the size and configuration of
13 the livestock flood sanctuary areas, but such limitation shall provide
14 adequate space for the expected number of livestock on the farming unit
15 and shall be at an adequate elevation to protect livestock.
16 Modification to flood plain management regulations required pursuant to
17 this section shall be within the minimum federal requirements necessary
18 to maintain coverage under the national flood insurance program.

19 NEW SECTION. **Sec. 16.** A new section is added to chapter 86.26 RCW
20 to read as follows:

21 Flood protection project is the work necessary to preserve,
22 restore, or improve either natural or human-made flood control
23 facilities to repair or prevent flood damage as defined in RCW
24 86.16.120 including but not limited to action by erosion, stream flow,
25 sheet runoff, or other damages by the sea or other bodies of water.

26 **Sec. 17.** RCW 43.21C.020 and 1971 ex.s. c 109 s 2 are each amended
27 to read as follows:

1 (1) The legislature, recognizing that ((~~man~~)) people depend((~~s~~)) on
2 ((~~his~~)) biological and physical surroundings for food, shelter, and
3 other needs, and for cultural enrichment as well; and recognizing
4 further the profound impact of man's activity on the interrelations of
5 all components of the natural environment, particularly the profound
6 influences of population growth, high-density urbanization, industrial
7 expansion, resource utilization and exploitation, and new and expanding
8 technological advances and recognizing further the critical importance
9 of restoring and maintaining environmental quality to the overall
10 welfare and development of man, declares that it is the continuing
11 policy of the state of Washington, in cooperation with federal and
12 local governments, and other concerned public and private
13 organizations, to use all practicable means and measures, including
14 financial and technical assistance, in a manner calculated to: (a)
15 Foster and promote the general welfare; (b) to create and maintain
16 conditions under which man and nature can exist in productive harmony;
17 and (c) fulfill the social, economic, and other requirements of present
18 and future generations of Washington citizens.

19 (2) In order to carry out the policy set forth in this chapter, it
20 is the continuing responsibility of the state of Washington and all
21 agencies of the state to use all practicable means, consistent with
22 other essential considerations of state policy including the prevention
23 and minimization of flood damage as defined in RCW 86.16.120, to
24 improve and coordinate plans, functions, programs, and resources to the
25 end that the state and its citizens may:

26 (a) Fulfill the responsibilities of each generation as trustee of
27 the environment for succeeding generations;

28 (b) Assure for all people of Washington safe, healthful,
29 productive, and esthetically and culturally pleasing surroundings;

1 (c) Attain the widest range of beneficial uses of the environment
2 without degradation, risk to health or safety, or other undesirable and
3 unintended consequences;

4 (d) Preserve important historic, cultural, and natural aspects of
5 our national heritage;

6 (e) Maintain, wherever possible, an environment which supports
7 diversity and variety of individual choice;

8 (f) Achieve a balance between population and resource use which
9 will permit high standards of living and a wide sharing of life's
10 amenities; and

11 (g) Enhance the quality of renewable resources and approach the
12 maximum attainable recycling of depletable resources.

13 (3) The legislature recognizes that each person has a fundamental
14 and inalienable right to a healthful environment and that each person
15 has a responsibility to contribute to the preservation and enhancement
16 of the environment.

17 **Sec. 18.** RCW 43.21C.037 and 1983 c 117 s 2 are each amended to
18 read as follows:

19 (1)~~(a)~~ Decisions pertaining to applications for Class I, II, and
20 III forest practices, as defined by rule of the forest practices board
21 under RCW 76.09.050, are not subject to the requirements of RCW
22 43.21C.030(2)(c) as now or hereafter amended.

23 ~~((2))~~ (b) When the applicable county, city, or town requires a
24 license in connection with any proposal involving forest practices
25 ~~((a))~~ (i) on lands platted after January 1, 1960, ~~((b))~~ (ii) on
26 lands being converted to another use, or ~~((c))~~ (iii) on lands which,
27 pursuant to RCW 76.09.070 as now or hereafter amended, are not to be
28 reforested because of the likelihood of future conversion to urban
29 development, then the local government, rather than the department of

1 natural resources, is responsible for any detailed statement required
2 under RCW 43.21C.030(2)(c).

3 ~~((3))~~ (c) Those forest practices determined by rule of the forest
4 practices board to have a potential for a substantial impact on the
5 environment, and thus to be Class IV practices, require an evaluation
6 by the department of natural resources as to whether or not a detailed
7 statement must be prepared pursuant to this chapter. The evaluation
8 shall be made within ten days from the date the department receives the
9 application. A Class IV forest practice application must be approved
10 or disapproved by the department within thirty calendar days from the
11 date the department receives the application, unless the department
12 determines that a detailed statement must be made, in which case the
13 application must be approved or disapproved by the department within
14 sixty days from the date the department receives the application,
15 unless the commissioner of public lands, through the promulgation of a
16 formal order, determines that the process cannot be completed within
17 such period. This section shall not be construed to prevent any local
18 or regional governmental entity from determining that a detailed
19 statement must be prepared for an action regarding a Class IV forest
20 practice taken by that governmental entity concerning the land on which
21 forest practices will be conducted.

22 (2) Decisions pertaining to applications for projects that are not
23 a substantial development as defined in RCW 90.58.030(3)(e) and will
24 aid in the prevention or minimization of flood damages as defined in
25 RCW 86.16.120, shall be approved or disapproved by the agency within
26 thirty calendar days from the date the agency receives the application,
27 unless the agency determines that a detailed statement must be made, in
28 which case the application must be approved or disapproved within sixty
29 days from the date the agency receives the application, unless the

1 director of the agency, through the promulgation of a formal order,
2 determines that the process cannot be completed within such period.

3 **Sec. 19.** RCW 47.28.140 and 1984 c 7 s 174 are each amended to read
4 as follows:

5 When in the opinion of the governing authorities representing the
6 department and any agency, instrumentality, municipal corporation, or
7 political subdivision of the state of Washington, any highway, road, or
8 street will be benefited or improved by constructing, reconstructing,
9 locating, relocating, laying out, repairing, surveying, altering,
10 improving, or maintaining, or by the establishment adjacent to, under,
11 upon, within, or above any portion of any such highway, road, or street
12 of an urban public transportation system, by either the department or
13 any agency, instrumentality, municipal corporation, or political
14 subdivision of the state, and it is in the public interest to do so,
15 the authorities may enter into cooperative agreements wherein either
16 agrees to perform the work and furnish the materials necessary and pay
17 the cost thereof, including necessary engineering assistance, which
18 costs and expenses shall be reimbursed by the party whose
19 responsibility it was to do or perform the work or improvement in the
20 first instance. The work may be done by either day labor or contract,
21 and the cooperative agreement between the parties shall provide for the
22 method of reimbursement. In the case of some special benefit or
23 improvement to a state highway derived from any project that assists in
24 the prevention or minimization of flood damages as defined in RCW
25 86.16.120 or from the construction of any public works project,
26 including any urban public transportation system, the department may
27 contribute to the cost thereof by making direct payment to the
28 particular state department, agency, instrumentality, municipal
29 corporation, or political subdivision on the basis of benefits

1 received, but such payment shall be made only after a cooperative
2 agreement has been entered into for a specified amount or on an actual
3 cost basis prior to the commencement of the particular public works
4 project.

5 **Sec. 20.** RCW 79.01.135 and 1984 c 212 s 10 are each amended to
6 read as follows:

7 Whenever, pursuant to RCW 79.01.134, the commissioner of public
8 lands enters into a contract for the sale and removal of rock, gravel,
9 sand, or silt out of a riverbed, the commissioner shall, when
10 establishing a royalty, take into consideration flood protection value
11 to the public such as the prevention and minimization of flood damage
12 as defined in RCW 86.16.120 that will arise as a result of such
13 removal.

14 **Sec. 21.** RCW 86.26.007 and 1986 c 46 s 1 are each amended to read
15 as follows:

16 The flood control assistance account is hereby established in the
17 state treasury. At the beginning of each biennium after June 30, 1985,
18 the state treasurer shall transfer from the general fund to the flood
19 control assistance account an amount of money which, when combined with
20 money remaining in the account from the previous biennium, will equal
21 (~~four~~) million dollars. Moneys in the flood control assistance
22 account may be spent only after appropriation for purposes specified
23 under this chapter. All earnings of investments of balances in the
24 flood control assistance account shall be credited to the general fund.

25 **Sec. 22.** RCW 36.32.290 and 1963 c 4 s 36.32.290 are each amended
26 to read as follows:

1 When the board of county commissioners of any county deems it
2 essential to the public interest for flood prevention purposes it may
3 remove drifts, jams, logs, debris, gravel, earth, stone or bars forming
4 obstructions to the stream, or other material from the beds, channels,
5 and banks of watercourses in any manner deemed expedient, including the
6 deposit thereof on bars not forming obstructions to the stream, or on
7 subsidiary or high water channels of such watercourses.

8 Prior to any person or agency placing wooded debris within a stream
9 channel or flood way, a permit must be obtained from the county
10 government in the county that placement is proposed. The county may
11 approve, deny, or place conditions on the permit to assure that any
12 flood hazard caused by such debris is minimized.

13 **Sec. 23.** RCW 86.26.005 and 1951 c 240 s 2 are each amended to read
14 as follows:

15 It is the purpose of the state in the exercise of its sovereign and
16 police powers and in the interest of public welfare, to establish a
17 state and local participating flood ((~~control maintenance~~)) protection
18 policy.

19 **Sec. 24.** RCW 86.26.040 and 1988 c 36 s 63 are each amended to read
20 as follows:

21 Whenever state grants under this chapter are used in a flood
22 ((~~control maintenance~~)) protection project, the engineer of the county
23 within which the project is located shall approve all plans for the
24 specific project and shall supervise the work. The approval of such
25 plans, construction and expenditures by the department of ecology, in
26 consultation with the department of fisheries and the department of
27 wildlife, shall be a condition precedent to state participation in the
28 cost of any project beyond planning and designing the specific project.

1 Additionally, state grants may be made to counties for preparation
2 of a comprehensive flood (~~control-management~~) protection plan
3 required to be prepared under RCW 86.26.050.

4 **Sec. 25.** RCW 86.26.050 and 1988 c 36 s 64 are each amended to read
5 as follows:

6 (1) State participation shall be in such preparation of
7 comprehensive flood (~~control-management~~) protection plans and flood
8 (~~control-maintenance~~) protection projects as are affected with a
9 general public and state interest, as differentiated from a private
10 interest, and as are likely to bring about public benefits commensurate
11 with the amount of state funds allocated thereto.

12 (2) No participation for flood (~~control-maintenance~~) protection
13 projects may occur with a county or other municipal corporation unless
14 the director of ecology has approved the flood plain management
15 activities of the county, city, or town having planning jurisdiction
16 over the area where the flood (~~control-maintenance~~) protection
17 project will be, on the one hundred year flood plain surrounding such
18 area.

19 The department of ecology shall adopt rules concerning the flood
20 plain management activities of a county, city, or town that are
21 adequate to protect or preclude flood damage to structures, works, and
22 improvements, including the restriction of land uses within a river's
23 meander belt or floodway to only flood-compatible uses. Whenever the
24 department has approved county, city, and town flood plain management
25 activities, as a condition of receiving an allocation of funds under
26 this chapter, each revision to the flood plain management activities
27 must be approved by the department of ecology, in consultation with the
28 department of fisheries and the department of wildlife.

1 No participation with a county or other municipal corporation for
2 flood ((~~control maintenance~~)) protection projects may occur unless the
3 county engineer of the county within which the flood ((~~control~~
4 ~~maintenance~~)) protection project is located certifies that a
5 comprehensive flood ((~~control management~~)) protection plan has been
6 completed and adopted by the appropriate local authority, or is being
7 prepared for all portions of the river basin or other area, within
8 which the project is located in that county, that are subject to
9 flooding with a frequency of one hundred years or less.

10 (3) Participation for flood ((~~control maintenance~~)) protection
11 projects and preparation of comprehensive flood ((~~control management~~))
12 protection plans shall be made from grants made by the department of
13 ecology from the flood control assistance account. Comprehensive flood
14 ((~~control management~~)) protection plans, and any revisions to the
15 plans, must be approved by the department of ecology, in consultation
16 with the department of fisheries and the department of wildlife.

17 **Sec. 26.** RCW 86.26.060 and 1984 c 212 s 5 are each amended to read
18 as follows:

19 Grants for flood ((~~control maintenance~~)) protection shall be so
20 employed that as far as possible, funds will be on hand to meet
21 unusual, unforeseeable and emergent flood conditions. Allocations by
22 the department of ecology, for emergency purposes, shall in each
23 instance be in amounts which together with funds provided by local
24 authority, if any, under reasonable exercise of its emergency powers,
25 shall be adequate for the preservation of life and property, and with
26 due regard to similar needs elsewhere in the state.

27 **Sec. 27.** RCW 86.26.070 and 1951 c 240 s 9 are each amended to read
28 as follows:

1 Any municipal corporation subject to flood conditions, may
2 establish in its treasury a flood (~~control maintenance~~) protection
3 fund. Such fund may be maintained by transfer thereto of moneys
4 derived from regular or special lawful levies for flood (~~control~~)
5 protection purposes, moneys which may be lawfully transferred to it
6 from any other municipal fund; and gifts and contributions received for
7 flood (~~control~~) protection purposes. All costs and expenses for
8 flood (~~control maintenance~~) protection purposes shall be paid out of
9 said flood (~~control maintenance~~) protection fund, which fund shall
10 not be used for any other purpose.

11 **Sec. 28.** RCW 86.26.100 and 1986 c 46 s 4 are each amended to read
12 as follows:

13 State participation in the cost of any flood (~~control~~
14 ~~maintenance~~) protection project shall be provided for by a written
15 memorandum agreement between the director of ecology and the
16 legislative authority of the county submitting the request, which
17 agreement, among other things, shall state the estimated cost and the
18 percentage thereof to be borne by the state. In no instance, except on
19 emergency projects, shall the state's share exceed one-half the cost of
20 the project, to include project planning and design. However, grants
21 to prepare a comprehensive flood (~~control~~) protection management plan
22 required under RCW 86.26.050 shall not exceed seventy-five percent of
23 the full planning costs, but not to exceed amounts for either purpose
24 specified in rule and regulation by the department of ecology.

25 **Sec. 29.** RCW 86.26.105 and 1986 c 45 s 5 are each amended to read
26 as follows:

27 A comprehensive flood (~~control management~~) protection plan shall
28 determine the need for flood (~~control~~) protection work, consider

1 alternatives to in-stream flood ((~~control~~)) protection work, identify
2 and consider potential impacts of in-stream flood ((~~control~~))
3 protection work on the state's in-stream resources, and identify the
4 river's meander belt or floodway. A comprehensive flood ((~~control~~))
5 protection management plan shall be completed and adopted within at
6 least three years of the certification that it is being prepared, as
7 provided in RCW 86.26.050.

8 If after this three-year period has elapsed such a comprehensive
9 flood ((~~control~~)) protection plan has not been completed and adopted,
10 grants for flood ((~~control-maintenance~~)) protection projects shall not
11 be made to the county or municipal corporations in the county until a
12 comprehensive flood ((~~control~~)) protection plan is completed and
13 adopted by the appropriate local authority. These limitations on
14 grants shall not preclude allocations for emergency purposes made
15 pursuant to RCW 86.26.060.