

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE SENATE BILL 5411**

Chapter 322, Laws of 1991  
(partial veto)

52nd Legislature  
1991 Regular Session

FLOOD CONTROL MANAGEMENT AND PROTECTION

EFFECTIVE DATE: 7/28/91 - Except Section 22 which becomes effective on 5/21/91.

Passed by the Senate April 28, 1991  
Yeas 41 Nays 3

JOEL PRITCHARD  
**President of the Senate**

Passed by the House April 28, 1991  
Yeas 98 Nays 0

JOE KING  
**Speaker of the  
House of Representatives**

Approved May 21, 1991, with  
the exception of section 25,  
which is vetoed.

BOOTH GARDNER  
**Governor of the State of Washington**

CERTIFICATE

I, Gordon Golob, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5411** as passed by the Senate and the House of Representatives on the dates hereon set forth.

GORDON A. GOLOB  
**Secretary**

FILED

May 21, 1991 - 10:36 a.m.

**Secretary of State  
State of Washington**



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ENGROSSED SUBSTITUTE SENATE BILL 5411

AS AMENDED BY THE HOUSE

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Passed Legislature - 1991 Regular Session

**State of Washington**                      **52nd Legislature**                      **1991 Regular Session**

**By** Senate Committee on Agriculture & Water Resources (originally sponsored by Senators Bailey, Anderson, Hansen, Barr, McMullen, Conner and Skratek).

Read first time March 4, 1991.

1            AN ACT Relating to the alleviation of flood damage; amending RCW  
2 86.26.050, 86.26.090, 86.26.100, 38.52.030, 36.70A.150, 79.90.130,  
3 79.90.150, 79.90.300, 47.28.140, 75.20.100, 75.20.103, and 90.58.100;  
4 reenacting and amending RCW 86.16.110; reenacting RCW 86.15.178; adding  
5 new sections to chapter 86.12 RCW; adding a new section to chapter  
6 86.15 RCW; adding a new section to chapter 86.16 RCW; adding new  
7 sections to chapter 75.20 RCW; adding a new section to chapter 79.90  
8 RCW; creating new sections; recodifying RCW 79.01.135; repealing RCW  
9 86.15.040, 86.16.027, 86.16.030, 86.16.040, 86.16.060, 86.16.065,  
10 86.16.067, 86.16.070, 86.16.080, 86.16.090, 86.16.170, and 79.90.140;  
11 and declaring an emergency.

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

13            NEW SECTION.    **Sec. 1.**            (1) The legislature finds that:  
14            (a) Floods pose threats to public health and safety including loss  
15 or endangerment to human life; damage to homes; damage to public roads,

1 highways, bridges, and utilities; interruption of travel,  
2 communication, and commerce; damage to private and public property;  
3 degradation of water quality; damage to fisheries, fish hatcheries, and  
4 fish habitat; harm to livestock; destruction or degradation of  
5 environmentally sensitive areas; erosion of soil, stream banks, and  
6 beds; and harmful accumulation of soil and debris in the beds of  
7 streams or other bodies of water and on public and private lands;

8 (b) Alleviation of flood damage to property and to public health  
9 and safety is a matter of public concern;

10 (c) Many land uses alter the pattern of runoff by decreasing the  
11 ability of upstream lands to store waters, thus increasing the rate of  
12 runoff and attendant downstream impacts; and

13 (d) Prevention of flood damage requires a comprehensive approach,  
14 incorporating storm water management and basin-wide flood damage  
15 protection planning.

16 (2) County legislative authorities are encouraged to use and  
17 coordinate all the regulatory, planning, and financing mechanisms  
18 available to those jurisdictions to address the problems of flooding in  
19 an equitable and comprehensive manner.

20 (3) It is the intent of the legislature to develop a coordinated  
21 and comprehensive state policy to address the problems of flooding and  
22 the minimization of flood damage.

23 NEW SECTION. **Sec. 2.** The purpose of sections 3 through 13 of  
24 this act is to permit counties in cooperation and consultation with  
25 cities and towns to adopt a comprehensive system of flood control  
26 management and protection within drainage basins and to coordinate the  
27 flood control activities of the state, counties, cities, towns, and  
28 special districts within such drainage basins.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 86.12 RCW  
2 to read as follows:

3        The county legislative authority of any county may adopt a  
4 comprehensive flood control management plan for any drainage basin that  
5 is located wholly or partially within the county.

6        A comprehensive flood control management plan shall include the  
7 following elements:

8        (1) Designation of areas that are susceptible to periodic flooding,  
9 from inundation by bodies of water or surface water runoff, or both,  
10 including the river's meander belt or floodway;

11        (2) Establishment of a comprehensive scheme of flood control  
12 protection and improvements for the areas that are subject to such  
13 periodic flooding, that includes: (a) Determining the need for, and  
14 desirable location of, flood control improvements to protect or  
15 preclude flood damage to structures, works, and improvements, based  
16 upon a cost/benefit ratio between the expense of providing and  
17 maintaining these improvements and the benefits arising from these  
18 improvements; (b) establishing the level of flood protection that each  
19 portion of the system of flood control improvements will be permitted;  
20 (c) identifying alternatives to in-stream flood control work; (d)  
21 identifying areas where flood waters could be directed during a flood  
22 to avoid damage to buildings and other structures; and (e) identifying  
23 sources of revenue that will be sufficient to finance the comprehensive  
24 scheme of flood control protection and improvements;

25        (3) Establishing land use regulations that preclude the location of  
26 structures, works, or improvements in critical portions of such areas  
27 subject to periodic flooding, including a river's meander belt or  
28 floodway, and permitting only flood-compatible land uses in such areas;

1 (4) Establishing restrictions on construction activities in areas  
2 subject to periodic floods that require the flood proofing of those  
3 structures that are permitted to be constructed or remodeled; and

4 (5) Establishing restrictions on land clearing activities and  
5 development practices that exacerbate flood problems by increasing the  
6 flow or accumulation of flood waters, or the intensity of drainage, on  
7 low-lying areas. Land clearing activities do not include forest  
8 practices as defined in chapter 76.09 RCW.

9 A comprehensive flood control management plan shall be subject to  
10 the minimum requirements for participation in the national flood  
11 insurance program, requirements exceeding the minimum national flood  
12 insurance program that have been adopted by the department of ecology  
13 for a specific flood plain pursuant to RCW 86.16.031, and rules adopted  
14 by the department of ecology pursuant to RCW 86.26.050 relating to  
15 flood plain management activities. When a county plans under chapter  
16 36.70A RCW, it may incorporate the portion of its comprehensive flood  
17 control management plan relating to land use restrictions in its  
18 comprehensive plan and development regulations adopted pursuant to  
19 chapter 36.70A RCW.

20 NEW SECTION. **Sec. 4.** A new section is added to chapter 86.12 RCW  
21 to read as follows:

22 A comprehensive flood control management plan that includes an area  
23 within which a city or town, or a special district subject to chapter  
24 85.38 RCW, is located shall be developed by the county with the full  
25 participation of officials from the city, town, or special district,  
26 including conservation districts, and appropriate state and federal  
27 agencies. Where a comprehensive flood control management plan is being  
28 prepared for a river basin that is part of the common boundary between  
29 two counties, the county legislative authority of the county preparing

1 the plan may allow participation by officials of the adjacently located  
2 county.

3       Following adoption by the county, city, or town, a comprehensive  
4 flood control management plan shall be binding on each jurisdiction and  
5 special district that is located within an area included in the plan.  
6 If within one hundred twenty days of the county's adoption, a city or  
7 town does not adopt the comprehensive flood control management plan,  
8 the city or county shall request arbitration on the issue or issues in  
9 dispute. If parties cannot agree to the selection of an arbitrator,  
10 the arbitrator shall be selected according to the process described in  
11 RCW 7.04.050. The cost of the arbitrator shall be shared equally by  
12 the participating parties and the arbitrator's decision shall be  
13 binding. Any land use regulations and restrictions on construction  
14 activities contained in a comprehensive flood control management plan  
15 applicable to a city or town shall be minimum standards that the city  
16 or town may exceed. A city or town undertaking flood or storm water  
17 control activities consistent with the comprehensive flood control  
18 management plan shall retain authority over such activities.

19       NEW SECTION. **Sec. 5.** A new section is added to chapter 86.12 RCW  
20 to read as follows:

21       A county may create one or more advisory committees to assist in  
22 the development of proposed comprehensive flood control management  
23 plans and to provide general advice on flood problems. The advisory  
24 committees may include city and town officials, officials of special  
25 districts subject to chapter 85.38 RCW, conservation districts,  
26 appropriate state and federal officials, and officials of other  
27 counties and other interested persons.

1       **Sec. 6.** RCW 86.26.050 and 1988 c 36 s 64 are each amended to read  
2 as follows:

3       (1) State participation shall be in such preparation of  
4 comprehensive flood control management plans under this chapter and  
5 chapter 86.12 RCW, cost sharing feasibility studies for new flood  
6 control projects, projects pursuant to section 33 of this act, and  
7 flood control maintenance projects as are affected with a general  
8 public and state interest, as differentiated from a private interest,  
9 and as are likely to bring about public benefits commensurate with the  
10 amount of state funds allocated thereto.

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

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

27       No participation with a county or other municipal corporation for  
28 flood control maintenance projects may occur unless the county engineer  
29 of the county within which the flood control maintenance project is  
30 located certifies that a comprehensive flood control management plan



1 has been completed and adopted by the appropriate local authority, or  
2 is being prepared for all portions of the river basin or other area,  
3 within which the project is located in that county, that are subject to  
4 flooding with a frequency of one hundred years or less.

5 (3) Participation for flood control maintenance projects and  
6 preparation of comprehensive flood control management plans shall be  
7 made from grants made by the department of ecology from the flood  
8 control assistance account. Comprehensive flood control management  
9 plans, and any revisions to the plans, must be approved by the  
10 department of ecology, in consultation with the department of fisheries  
11 and the department of wildlife. The department may only grant  
12 financial assistance to local governments that, in the opinion of the  
13 department, are making good faith efforts to take advantage of, or  
14 comply with, federal and state flood control programs.

15 **Sec. 7.** RCW 86.26.090 and 1984 c 212 s 7 are each amended to read  
16 as follows:

17 The state shall participate with eligible local authorities in  
18 maintaining and restoring the normal and reasonably stable river and  
19 stream channel alignment and the normal and reasonably stable river and  
20 stream channel capacity for carrying off flood waters with a minimum of  
21 damage from bank erosion or overflow of adjacent lands and property;  
22 and in restoring, maintaining and repairing natural conditions, works  
23 and structures for the maintenance of such conditions. State  
24 participation in the repair of flood control facilities may include the  
25 enhancement of such facilities. The state shall likewise participate  
26 in the restoration and maintenance of natural conditions, works or  
27 structures for the protection of lands and other property from  
28 inundation or other damage by the sea or other bodies of water. Funds  
29 from the flood control assistance account shall not be available for

1 maintenance of works or structures maintained solely for the detention  
2 or storage of flood waters.

3 **Sec. 8.** RCW 86.26.100 and 1986 c 46 s 4 are each amended to read  
4 as follows:

5 State participation in the cost of any flood control maintenance  
6 project shall be provided for by a written memorandum agreement between  
7 the director of ecology and the legislative authority of the county  
8 submitting the request, which agreement, among other things, shall  
9 state the estimated cost and the percentage thereof to be borne by the  
10 state. In no instance, except on emergency projects, shall the state's  
11 share exceed one-half the cost of the project, to include project  
12 planning and design. Grants for cost sharing feasibility studies for  
13 new flood control projects shall not exceed fifty percent of the  
14 matching funds that are required by the federal government, and shall  
15 not exceed twenty-five percent of the total costs of the feasibility  
16 study. However, grants to prepare a comprehensive flood control  
17 management plan required under RCW 86.26.050 shall not exceed seventy-  
18 five percent of the full planning costs, but not to exceed amounts for  
19 either purpose specified in rule and regulation by the department of  
20 ecology.

21 NEW SECTION. **Sec. 9.** A new section is added to chapter 86.15 RCW  
22 to read as follows:

23 A board may not establish a zone including an area located in  
24 another zone unless this area is removed from the other zone, or the  
25 other zone is dissolved, as part of the action creating the new zone.

26 **Sec. 10.** RCW 86.15.178 and 1983 c 315 s 23 and 1983 c 167 s 212  
27 are each reenacted to read as follows:

1 (1) The supervisors may authorize the issuance of revenue bonds to  
2 finance any flood control improvement or storm water control  
3 improvement. The bonds may be issued by the supervisors in the same  
4 manner as prescribed in RCW 36.67.510 through 36.67.570 pertaining to  
5 counties. The bonds shall be issued on behalf of the zone or  
6 participating zones when the improvement has by the resolution,  
7 provided in RCW 86.15.110, been found to be of benefit to a zone or  
8 participating zones. The bonds may be in any form, including bearer  
9 bonds or registered bonds.

10 Each revenue bond shall state on its face that it is payable from  
11 a special fund, naming the fund and the resolution creating the fund.

12 Revenue bond principal, interest, and all other related necessary  
13 expenses shall be payable only out of the appropriate special fund.

14 A zone or participating zones shall have a lien for delinquent  
15 service charges, including interest thereon, against the premises  
16 benefited by a flood control improvement or storm water control  
17 improvement, which lien shall be superior to all other liens and  
18 encumbrances except general taxes and local and special assessments.  
19 The lien shall be effective and shall be enforced and foreclosed in the  
20 same manner as provided for sewerage liens of cities and towns by RCW  
21 35.67.200 through 35.67.290.

22 (2) Notwithstanding subsection (1) of this section, such bonds may  
23 be issued and sold in accordance with chapter 39.46 RCW.

24 **Sec. 11.** RCW 86.16.110 and 1987 c 109 s 23 are each reenacted and  
25 amended to read as follows:

26 Any person, association, or corporation, public, municipal, or  
27 private, feeling aggrieved at any order, decision, or determination of  
28 the department or director pursuant to this chapter, affecting his or  
29 her interest, may have the same reviewed pursuant to RCW 43.21B.310.

1        NEW SECTION.    **Sec. 12.**        The department of fisheries and the  
2 department of wildlife shall process hydraulic project applications  
3 submitted under RCW 75.20.100 or 75.20.103 within thirty days of  
4 receipt of the application. This requirement is only applicable for  
5 the repair and reconstruction of legally constructed dikes, seawalls,  
6 and other flood control structures damaged as a result of flooding or  
7 windstorms that occurred in November and December 1990.

8        NEW SECTION.    **Sec. 13.**        The following acts or parts of acts are  
9 each repealed:

- 10        (1) RCW 86.15.040 and 1961 c 153 s 4;
- 11        (2) RCW 86.16.027 and 1987 c 109 s 51 & 1935 c 159 s 9;
- 12        (3) RCW 86.16.030 and 1987 c 109 s 52 & 1935 c 159 s 5;
- 13        (4) RCW 86.16.040 and 1987 c 109 s 54 & 1935 c 159 s 11;
- 14        (5) RCW 86.16.060 and 1987 c 109 s 55 & 1935 c 159 s 13;
- 15        (6) RCW 86.16.065 and 1987 c 109 s 56 & 1935 c 159 s 14;
- 16        (7) RCW 86.16.067 and 1987 c 109 s 57, 1985 c 469 s 86, & 1935 c  
17 159 s 15;
- 18        (8) RCW 86.16.070 and 1987 c 109 s 58 & 1935 c 159 s 16;
- 19        (9) RCW 86.16.080 and 1987 c 109 s 59 & 1935 c 159 s 10;
- 20        (10) RCW 86.16.090 and 1987 c 109 s 60, 1939 c 85 s 2, & 1935 c 159  
21 s 7; and
- 22        (11) RCW 86.16.170 and 1987 c 109 s 62 & 1973 c 75 s 3.

23        NEW SECTION.    **Sec. 14.**        There is hereby created a joint select  
24 committee on state flood damage reduction composed of sixteen members  
25 as follows: (1) Four members of the senate, two from each of the major  
26 caucuses, who are appointed by the president of the senate; (2) four  
27 members of the house of representatives, two from each of the major  
28 caucuses, who are appointed by the speaker of the house of

1 representatives; and (3) eight additional members who are not  
2 legislators selected by the president of the senate and the speaker of  
3 the house of representatives.

4 The staff support shall be provided by the senate committee  
5 services and the office of program research as mutually agreed by the  
6 cochairs of the joint select committee. The cochairs shall be  
7 designated by the speaker of the house of representatives and the  
8 president of the senate.

9 The committee may seek assistance from appropriate state or federal  
10 agencies, including the United States army corps of engineers. The  
11 expenses of the legislative members shall be paid by the legislature.  
12 The expenses of any state agency officials, or their designees, shall  
13 be paid by their state agencies. Members not employed by the state  
14 shall be compensated in accordance with RCW 43.03.220 and shall be  
15 entitled to reimbursement individually for travel expenses incurred in  
16 performance of their duties as members of the committee in accordance  
17 with RCW 43.03.050 and 43.03.060.

18 NEW SECTION. **Sec. 15.** The joint select committee on state  
19 flood damage reduction shall consider the development of comprehensive  
20 state flood policies and a comprehensive and coordinated flood damage  
21 reduction plan, including the following elements:

22 (1) Structural and nonstructural flood damage reduction projects;

23 (2) Forest practice effects on watershed hydraulics as determined  
24 by applicable research projects conducted under the timber-fish-  
25 wildlife cooperative monitoring, evaluation, and research program,  
26 including: (a) Percentage of watershed clearcut; (b) logging in very  
27 steep areas; and (c) logging in slide-prone areas;

28 (3) Growth management and land uses, including: (a) Flood plain  
29 development patterns; (b) loss of potential natural flood water storage

1 areas; (c) future development restrictions in flood-prone areas; and  
2 (d) coordination with the state's growth management act and county  
3 flood comprehensive planning;

4 (4) Comprehensive watershed and flood damage management;

5 (5) Storm water runoff pattern alterations and accompanying  
6 liabilities, including an analysis of: (a) Increases in peak flood  
7 flows caused by inadequate storm water planning and controls; (b) the  
8 need for minimum standards for land use development activities  
9 employing natural watercourses for storm water conveyance; and (c) the  
10 need for a statutory cause of action to provide a remedy for downstream  
11 property owners who are damaged by accelerated storm water runoff  
12 caused by cumulative upstream activities, including a modification of  
13 the court-adopted "common enemy" doctrine;

14 (6) Analysis of the federal, state, and local permitting  
15 requirements necessary for projects designed to reduce future flood  
16 damage or to restore areas damaged by floods, including any conflicting  
17 requirements that may exist;

18 (7) Emergency work and coordination, and emergency preparedness  
19 planning;

20 (8) Determination of the need for requirements to disclose the  
21 flood hazard to purchasers or renters of flood-prone property;

22 (9) The role of dredging in flood damage reduction, including  
23 environmental effects, funding sources, and upstream uses that alter  
24 its effectiveness;

25 (10) The role of dikes and levees in flood damage reduction,  
26 including environmental effects, construction and maintenance  
27 standards, sources of funding for construction and maintenance, and  
28 resultant upstream and downstream hydrologic effects;

29 (11) Review criteria for evaluating and approving local plans and  
30 projects funded by grants from the flood control account; and

1 (12) Public acquisition of properties to reduce flood damage.

2 NEW SECTION. **Sec. 16.** The joint select committee on state  
3 flood damage reduction shall report its initial findings to the  
4 legislature on or before December 31, 1991. The committee shall make  
5 a final report to the legislature on or before December 1, 1992. The  
6 report shall include the following: (1) Findings relating to a state  
7 flood damage reduction plan; (2) recommended state agency regulation  
8 and policy changes; (3) proposed legislation and associated costs to  
9 implement the state flood damage reduction plan; and (4) recommended  
10 local flood reduction and mitigation measures.

11 NEW SECTION. **Sec. 17.** A new section is added to chapter 86.16 RCW  
12 to read as follows:

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

24 NEW SECTION. **Sec. 18.** A new section is added to chapter 75.20 RCW  
25 to read as follows:

26 Whenever the placement of woody debris is required as a condition  
27 of a hydraulic permit approval issued pursuant to RCW 75.20.100 or

1 75.20.103, the department of fisheries and the department of wildlife,  
2 upon request, shall invite comment regarding that placement from the  
3 local governmental authority, affected tribes, affected federal and  
4 state agencies, and the project applicant.

5 NEW SECTION. **Sec. 19.** The department of fisheries, the  
6 department of wildlife, and the department of ecology will work  
7 cooperatively with the United States army corps of engineers to develop  
8 a memorandum of agreement outlining dike vegetation management  
9 guidelines so that dike owners are eligible for coverage under P.L. 84-  
10 99, and state requirements established pursuant to RCW 75.20.100 and  
11 75.20.103 are met.

12 **Sec. 20.** RCW 38.52.030 and 1986 c 266 s 25 are each amended to  
13 read as follows:

14 (1) The director may employ such personnel and may make such  
15 expenditures within the appropriation therefor, or from other funds  
16 made available for purposes of emergency management, as may be  
17 necessary to carry out the purposes of this chapter.

18 (2) The director, subject to the direction and control of the  
19 governor, shall be responsible to the governor for carrying out the  
20 program for emergency management of this state. The director shall  
21 coordinate the activities of all organizations for emergency management  
22 within the state, and shall maintain liaison with and cooperate with  
23 emergency management agencies and organizations of other states and of  
24 the federal government, and shall have such additional authority,  
25 duties, and responsibilities authorized by this chapter, as may be  
26 prescribed by the governor.

27 (3) The director shall develop and maintain a comprehensive, all-  
28 hazard emergency plan for the state which shall include an analysis of



1 the natural and man-caused hazards which could affect the state of  
2 Washington, and shall include the procedures to be used during  
3 emergencies for coordinating local resources, as necessary, and the  
4 resources of all state agencies, departments, commissions, and boards.  
5 The comprehensive emergency management plan shall direct the department  
6 in times of state emergency to administer and manage the state's  
7 emergency operations center. This will include representation from all  
8 appropriate state agencies and be available as a single point of  
9 contact for the authorizing of state resources or actions, including  
10 emergency permits. The comprehensive, all-hazard emergency plan  
11 authorized under this subsection may not include preparation for  
12 emergency evacuation or relocation of residents in anticipation of  
13 nuclear attack. This plan shall be known as the comprehensive  
14 emergency management plan.

15 (4) In accordance with the comprehensive emergency management plans  
16 and the programs for the emergency management of this state, the  
17 director shall procure supplies and equipment, institute training  
18 programs and public information programs, and shall take all other  
19 preparatory steps, including the partial or full mobilization of  
20 emergency management organizations in advance of actual disaster, to  
21 insure the furnishing of adequately trained and equipped forces of  
22 emergency management personnel in time of need.

23 (5) The director shall make such studies and surveys of the  
24 industries, resources, and facilities in this state as may be necessary  
25 to ascertain the capabilities of the state for emergency management,  
26 and shall plan for the most efficient emergency use thereof.

27 (6) The director may appoint a communications coordinating  
28 committee consisting of six to eight persons with the director, or his  
29 or her designee, as chairman thereof. Three of the members shall be  
30 appointed from qualified, trained and experienced telephone

1 communications administrators or engineers actively engaged in such  
2 work within the state of Washington at the time of appointment, and  
3 three of the members shall be appointed from qualified, trained and  
4 experienced radio communication administrators or engineers actively  
5 engaged in such work within the state of Washington at the time of  
6 appointment. This committee shall advise the director on all aspects  
7 of the communications and warning systems and facilities operated or  
8 controlled under the provisions of this chapter.

9 (7) The director shall appoint a state coordinator of search and  
10 rescue operations to coordinate those state resources, services and  
11 facilities (other than those for which the state director of  
12 aeronautics is directly responsible) requested by political  
13 subdivisions in support of search and rescue operations, and on request  
14 to maintain liaison with and coordinate the resources, services, and  
15 facilities of political subdivisions when more than one political  
16 subdivision is engaged in joint search and rescue operations.

17 (8) The director, subject to the direction and control of the  
18 governor, shall prepare and administer a state program for emergency  
19 assistance to individuals within the state who are victims of a natural  
20 or man-made disaster, as defined by RCW 38.52.010(6). Such program may  
21 be integrated into and coordinated with disaster assistance plans and  
22 programs of the federal government which provide to the state, or  
23 through the state to any political subdivision thereof, services,  
24 equipment, supplies, materials, or funds by way of gift, grant, or loan  
25 for purposes of assistance to individuals affected by a disaster.  
26 Further, such program may include, but shall not be limited to, grants,  
27 loans, or gifts of services, equipment, supplies, materials, or funds  
28 of the state, or any political subdivision thereof, to individuals who,  
29 as a result of a disaster, are in need of assistance and who meet  
30 standards of eligibility for disaster assistance established by the

1 department of social and health services: PROVIDED, HOWEVER, That  
2 nothing herein shall be construed in any manner inconsistent with the  
3 provisions of Article VIII, section 5 or section 7 of the Washington  
4 state Constitution.

5 (9) The director shall appoint a state coordinator for radioactive  
6 and hazardous waste emergency response programs. The coordinator shall  
7 consult with the state radiation control officer in matters relating to  
8 radioactive materials. The duties of the state coordinator for  
9 radioactive and hazardous waste emergency response programs shall  
10 include:

11 (a) Assessing the current needs and capabilities of state and local  
12 radioactive and hazardous waste emergency response teams on an ongoing  
13 basis;

14 (b) Coordinating training programs for state and local officials  
15 for the purpose of updating skills relating to emergency response;

16 (c) Utilizing appropriate training programs such as those offered  
17 by the federal emergency management agency, the department of  
18 transportation and the environmental protection agency; and

19 (d) Undertaking other duties in this area that are deemed  
20 appropriate by the director.

21 NEW SECTION. **Sec. 21.** A new section is added to chapter 75.20 RCW  
22 to read as follows:

23 The department of fisheries, the department of wildlife, the  
24 department of ecology, and the department of natural resources shall  
25 jointly develop an informational brochure that describes when permits  
26 and any other authorizations are required for flood damage prevention  
27 and reduction projects, and recommends ways to best proceed through the  
28 various regulatory permitting processes.

1        NEW SECTION.    **Sec. 22.**        (1) This section shall apply only to  
2 projects:

3        (a) Needed to repair streambank and other damage done by the  
4 November or December 1990 flood events, or remove accumulated debris  
5 and gravel that significantly contributed to flooding during the  
6 November and December 1990 flood events; and

7        (b) That require permits or other authorization for removal of  
8 valuable materials as defined in RCW 79.90.060 or permits or  
9 authorization under RCW 75.20.100 or 75.20.103.

10        (2) The department of fisheries, the department of wildlife, and  
11 the department of natural resources shall expedite and coordinate any  
12 required responses to the project application. A complete application  
13 for approval shall contain general plans for the overall project, and  
14 complete plans and specifications of the proposed construction or work.  
15 Upon receipt of a completed application, the agency that first receives  
16 that application shall, within fifteen days, schedule and hold a  
17 coordination meeting with all appropriate state, local, or county  
18 permitting or authorizing agencies. The project applicant shall be  
19 invited to this meeting. The appropriate city, county, or town may  
20 coordinate their permit approval processes with the state agencies. As  
21 soon as possible, but no later than thirty days after the receipt of a  
22 complete application, all appropriate state agencies will deny or  
23 approve the project. Any conditions placed upon project approvals  
24 shall be coordinated among the state agencies so that those conditions  
25 do not conflict.

26        (3) It is the intent of the legislature that the process described  
27 in this section remain in effect until the legislature has an  
28 opportunity to enact legislation creating a coordinated, timely  
29 permitting process based on the report required in section 16 of this  
30 act. This section shall expire on June 30, 1993.

1       **Sec. 23.** RCW 36.70A.150 and 1990 1st ex.s. c 17 s 15 are each  
2 amended to read as follows:

3       Each county and city that is required or chooses to prepare a  
4 comprehensive land use plan under RCW 36.70A.040 shall identify lands  
5 useful for public purposes such as utility corridors, transportation  
6 corridors, landfills, sewage treatment facilities, storm water  
7 management facilities, recreation, schools, and other public uses. The  
8 county shall work with the state and the cities within its borders to  
9 identify areas of shared need for public facilities. The jurisdictions  
10 within the county shall prepare a prioritized list of lands necessary  
11 for the identified public uses including an estimated date by which the  
12 acquisition will be needed.

13       The respective capital acquisition budgets for each jurisdiction  
14 shall reflect the jointly agreed upon priorities and time schedule.

15       **Sec. 24.** RCW 79.90.130 and 1982 1st ex.s. c 21 s 19 are each  
16 amended to read as follows:

17       ~~((Valuable materials situated within or upon tidelands, shorelands,~~  
18 ~~or the beds of navigable waters belonging to the state may be sold~~  
19 ~~separately from the land, when in the judgment of the department of~~  
20 ~~natural resources, it is in the best interests of the state to sell the~~  
21 ~~same. When application is made for the purchase of any valuable~~  
22 ~~material, situated within or upon aquatic lands, the department shall~~  
23 ~~inspect and appraise the value of the material applied for: PROVIDED,~~  
24 ~~That no valuable material shall be sold for less than the appraised~~  
25 ~~value thereof: PROVIDED FURTHER, That))~~ The department is authorized  
26 and empowered to confer with and enter into any agreements with the  
27 public authorities of the state of Oregon, which in the judgment of the  
28 department will assist the state of Washington and the state of Oregon  
29 in securing the maximum revenues for sand, gravel or other valuable

1 materials taken from the bed of the Columbia river where said river  
2 forms the boundary line between said states.

4       *\*Sec. 25. RCW 79.90.150 and 1982 1st ex.s. c 21 s 21 are each*  
5 *amended to read as follows:*

6       *When gravel, rock, sand, silt or other material from any aquatic*  
7 *lands is removed by any public agency or under public contract for*  
8 *channel or harbor improvement, or flood control, or for preventing or*  
9 *minimizing flood damages as defined in RCW 86.16.120, use of such*  
10 *material may be authorized by the department of natural resources for*  
11 *a public purpose on land owned or leased by the federal government,*  
12 *state, or any municipality, county, city, town, or public corporation:*  
13 *PROVIDED, That when no public land site is available for deposit of*  
14 *such material, its deposit on private land with the landowner's*  
15 *permission is authorized and may be designated by the department of*  
16 *natural resources to be for a public purpose. Prior to removal and*  
17 *use, the federal agency, state agency, municipality, county, city,*  
18 *town, or public corporation contemplating or arranging such use shall*  
19 *first obtain written permission from the department of natural*  
20 *resources. No payment of royalty shall be required for such gravel,*  
21 *rock, sand, silt, or other material used for such public purpose, but*  
22 *a charge will be made if such material is subsequently sold or used for*  
23 *some other purpose: PROVIDED, That the department may authorize such*  
24 *public agency or private landowner to dispose of such material without*  
25 *charge when necessary to implement disposal of material. No charge*  
26 *shall be required for any use of the material obtained under the*  
27 *provisions of this chapter when used solely on an authorized site.*  
28 *Nothing in this section shall repeal or modify the provisions of RCW*  
29 *75.20.100 or eliminate the necessity of obtaining a permit for such*  
30 *removal from other state or federal agencies as otherwise required by*

1 law. For the purpose of this section, "public purpose" includes, but  
2 is not limited to, the construction, maintenance, improvement, or  
3 repair of any public street, road, highway, dike, levee, or project  
4 undertaken pursuant to chapter 86.26 RCW.

5 \*Sec. 25 was vetoed, see message at end of chapter.

6 **Sec. 26.** RCW 79.90.300 and 1982 1st ex.s. c 21 s 36 are each  
7 amended to read as follows:

8 The department of natural resources, upon application by any person  
9 or when determined by the department to be in the best interest of the  
10 state, may enter into a contract or lease providing for the removal and  
11 sale of rock, gravel, sand, and silt, or other valuable materials  
12 located within or upon beds of navigable waters, or upon any tidelands  
13 or shorelands belonging to the state and providing for payment to be  
14 made therefor by such royalty as the department may fix, by  
15 negotiation, by sealed bid, or at public auction. If application is  
16 made for the purchase of any valuable material situated within or upon  
17 aquatic lands the department shall inspect and appraise the value of  
18 the material in the application.

19 NEW SECTION. Sec. 27. RCW 79.01.135 is recodified as a section  
20 in chapter 79.90 RCW.

21 NEW SECTION. Sec. 28. RCW 79.90.140 and 1982 1st ex.s. c 21 s  
22 20 are each repealed.

23 **Sec. 29.** RCW 47.28.140 and 1984 c 7 s 174 are each amended to read  
24 as follows:

25 When in the opinion of the governing authorities representing the  
26 department and any agency, instrumentality, municipal corporation, or

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

27       **Sec. 30.** RCW 75.20.100 and 1988 c 272 s 1 are each amended to read  
28 as follows:



1 In the event that any person or government agency desires to  
2 construct any form of hydraulic project or perform other work that will  
3 use, divert, obstruct, or change the natural flow or bed of any of the  
4 salt or fresh waters of the state, such person or government agency  
5 shall, before commencing construction or work thereon and to ensure the  
6 proper protection of fish life, secure the written approval of the  
7 department of fisheries or the department of wildlife as to the  
8 adequacy of the means proposed for the protection of fish life. This  
9 approval shall not be unreasonably withheld. Except as provided in  
10 sections 12 and 22 of this act, the department of fisheries or the  
11 department of wildlife shall grant or deny approval within forty-five  
12 calendar days of the receipt of a complete application and notice of  
13 compliance with any applicable requirements of the state environmental  
14 policy act, made in the manner prescribed in this section. The  
15 applicant may document receipt of application by filing in person or by  
16 registered mail. A complete application for approval shall contain  
17 general plans for the overall project, complete plans and  
18 specifications of the proposed construction or work within the mean  
19 higher high water line in salt water or within the ordinary high water  
20 line in fresh water, and complete plans and specifications for the  
21 proper protection of fish life. The forty-five day requirement shall  
22 be suspended if (1) after ten working days of receipt of the  
23 application, the applicant remains unavailable or unable to arrange for  
24 a timely field evaluation of the proposed project; (2) the site is  
25 physically inaccessible for inspection; or (3) the applicant requests  
26 delay. Immediately upon determination that the forty-five day period  
27 is suspended, the department of fisheries or the department of wildlife  
28 shall notify the applicant in writing of the reasons for the delay.  
29 Approval is valid for a period of up to five years from date of  
30 issuance. The permittee must demonstrate substantial progress on

1 construction of that portion of the project relating to the approval  
2 within two years of the date of issuance. If either the department of  
3 fisheries or the department of wildlife denies approval, that  
4 department shall provide the applicant, in writing, a statement of the  
5 specific reasons why and how the proposed project would adversely  
6 affect fish life. Protection of fish life shall be the only ground  
7 upon which approval may be denied or conditioned. Chapter 34.05 RCW  
8 applies to any denial of project approval, conditional approval, or  
9 requirements for project modification upon which approval may be  
10 contingent. If any person or government agency commences construction  
11 on any hydraulic works or projects subject to this section without  
12 first having obtained written approval of the department of fisheries  
13 or the department of wildlife as to the adequacy of the means proposed  
14 for the protection of fish life, or if any person or government agency  
15 fails to follow or carry out any of the requirements or conditions as  
16 are made a part of such approval, the person or director of the agency  
17 is guilty of a gross misdemeanor. If any such person or government  
18 agency is convicted of violating any of the provisions of this section  
19 and continues construction on any such works or projects without fully  
20 complying with the provisions hereof, such works or projects are hereby  
21 declared a public nuisance and shall be subject to abatement as such.

22 For the purposes of this section and RCW 75.20.103, "bed" shall  
23 mean the land below the ordinary high water lines of state waters.  
24 This definition shall not include irrigation ditches, canals, storm  
25 water run-off devices, or other artificial watercourses except where  
26 they exist in a natural watercourse that has been altered by man.

27 The phrase "to construct any form of hydraulic project or perform  
28 other work" shall not include the act of driving across an established  
29 ford. Driving across streams or on wetted stream beds at areas other  
30 than established fords requires approval. Work within the ordinary

1 high water line of state waters to construct or repair a ford or  
2 crossing requires approval.

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

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

24 This section shall not apply to the construction of any form of  
25 hydraulic project or other work which diverts water for agricultural  
26 irrigation or stock watering purposes authorized under or recognized as  
27 being valid by the state's water codes, or when such hydraulic project  
28 or other work is associated with streambank stabilization to protect  
29 farm and agricultural land as defined in RCW 84.34.020. These

1 irrigation or stock watering diversion and streambank stabilization  
2 projects shall be governed by RCW 75.20.103.

3 **Sec. 31.** RCW 75.20.103 and 1988 c 272 s 2 are each amended to read  
4 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. Except as provided in sections 12 and 22 of  
19 this act, the department of fisheries or the department of wildlife  
20 shall grant or deny the approval within forty-five calendar days of the  
21 receipt of a complete application and notice of compliance with any  
22 applicable requirements of the state environmental policy act, made in  
23 the manner prescribed in this section. The applicant may document  
24 receipt of application by filing in person or by registered mail. A  
25 complete application for an approval shall contain general plans for  
26 the overall project, complete plans and specifications of the proposed  
27 construction or work within ordinary high water line, and complete  
28 plans and specifications for the proper protection of fish life. The  
29 forty-five day requirement shall be suspended if (1) after ten working

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

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

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

17 The permittee must demonstrate substantial progress on construction  
18 of that portion of the project relating to the approval within two  
19 years of the date of issuance. If either the department of fisheries  
20 or the department of wildlife denies approval, that department shall  
21 provide the applicant, in writing, a statement of the specific reasons  
22 why and how the proposed project would adversely affect fish life.  
23 Protection of fish life shall be the only ground upon which approval  
24 may be denied or conditioned. Issuance, denial, conditioning, or  
25 modification shall be appealable to the hydraulic appeals board  
26 established in RCW 43.21B.005 within thirty days of the notice of  
27 decision. The burden shall be upon the department of fisheries or the  
28 department of wildlife to show that the denial or conditioning of an  
29 approval is solely aimed at the protection of fish life.

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

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

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

27 For each application, the department of fisheries and the  
28 department of wildlife shall mutually agree on whether the department  
29 of fisheries or the department of wildlife shall administer the  
30 provisions of this section, in order to avoid duplication of effort.

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

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

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

21 **Sec. 32.** RCW 90.58.100 and 1971 ex.s. c 286 s 10 are each amended  
22 to read as follows:

23 (1) The master programs provided for in this chapter, when adopted  
24 and approved by the department, as appropriate, shall constitute use  
25 regulations for the various shorelines of the state. In preparing the  
26 master programs, and any amendments thereto, the department and local  
27 governments shall to the extent feasible:

1 (a) Utilize a systematic interdisciplinary approach which will  
2 insure the integrated use of the natural and social sciences and the  
3 environmental design arts;

4 (b) Consult with and obtain the comments of any federal, state,  
5 regional, or local agency having any special expertise with respect to  
6 any environmental impact;

7 (c) Consider all plans, studies, surveys, inventories, and systems  
8 of classification made or being made by federal, state, regional, or  
9 local agencies, by private individuals, or by organizations dealing  
10 with pertinent shorelines of the state;

11 (d) Conduct or support such further research, studies, surveys, and  
12 interviews as are deemed necessary;

13 (e) Utilize all available information regarding hydrology,  
14 geography, topography, ecology, economics, and other pertinent data;

15 (f) Employ, when feasible, all appropriate, modern scientific data  
16 processing and computer techniques to store, index, analyze, and manage  
17 the information gathered.

18 (2) The master programs shall include, when appropriate, the  
19 following:

20 (a) An economic development element for the location and design of  
21 industries, transportation facilities, port facilities, tourist  
22 facilities, commerce and other developments that are particularly  
23 dependent on their location on or use of the shorelines of the state;

24 (b) A public access element making provision for public access to  
25 publicly owned areas;

26 (c) A recreational element for the preservation and enlargement of  
27 recreational opportunities, including but not limited to parks,  
28 tidelands, beaches, and recreational areas;

29 (d) A circulation element consisting of the general location and  
30 extent of existing and proposed major thoroughfares, transportation



1 routes, terminals, and other public utilities and facilities, all  
2 correlated with the shoreline use element;

3 (e) A use element which considers the proposed general distribution  
4 and general location and extent of the use on shorelines and adjacent  
5 land areas for housing, business, industry, transportation,  
6 agriculture, natural resources, recreation, education, public buildings  
7 and grounds, and other categories of public and private uses of the  
8 land;

9 (f) A conservation element for the preservation of natural  
10 resources, including but not limited to scenic vistas, aesthetics, and  
11 vital estuarine areas for fisheries and wildlife protection;

12 (g) An historic, cultural, scientific, and educational element for  
13 the protection and restoration of buildings, sites, and areas having  
14 historic, cultural, scientific, or educational values; ((and))

15 (h) An element that gives consideration to the state-wide interest  
16 in the prevention and minimization of flood damages; and

17 (i) Any other element deemed appropriate or necessary to effectuate  
18 the policy of this chapter.

19 (3) The master programs shall include such map or maps, descriptive  
20 text, diagrams and charts, or other descriptive material as are  
21 necessary to provide for ease of understanding.

22 (4) Master programs will reflect that state-owned shorelines of the  
23 state are particularly adapted to providing wilderness beaches,  
24 ecological study areas, and other recreational activities for the  
25 public and will give appropriate special consideration to same.

26 (5) Each master program shall contain provisions to allow for the  
27 varying of the application of use regulations of the program, including  
28 provisions for permits for conditional uses and variances, to insure  
29 that strict implementation of a program will not create unnecessary  
30 hardships or thwart the policy enumerated in RCW 90.58.020. Any such

1 varying shall be allowed only if extraordinary circumstances are shown  
2 and the public interest suffers no substantial detrimental effect. The  
3 concept of this subsection shall be incorporated in the rules adopted  
4 by the department relating to the establishment of a permit system as  
5 provided in RCW 90.58.140(3).

6 NEW SECTION. **Sec. 33.** (1) The purpose of this section is to  
7 develop, and test on a pilot basis, a cooperative, interjurisdictional  
8 approach to processing permit applications for projects related to  
9 flood control. The objectives of the pilot shall be to:

10 (a)(i) Identify opportunities and methods for expediting and  
11 coordinating permit decision-making processes that involve multiple  
12 jurisdictions and state agencies; and (ii) assess the effects of acting  
13 in a coordinated and expedited manner; and

14 (b)(i) Identify opportunities during the permit decision-making  
15 process for state agencies and local governments to consider potential  
16 flood control benefits consistent with the policies, mandates, and  
17 requirements of current law; (ii) identify where in the permitting  
18 process, impediments to the consideration of potential flood control  
19 benefits exist; and (iii) assess how the consideration of any potential  
20 flood control benefits of an individual project during the permitting  
21 process for that project, may or may not be compatible with the  
22 objective of comprehensive and coordinated flood control.

23 (2) The pilot shall consist of up to one project in each of the  
24 counties declared a federal disaster area as a result of the November  
25 and December 1990 floods.

26 (3)(a) The departments of ecology, wildlife, fisheries, and natural  
27 resources shall participate in the pilot. The department of ecology  
28 shall act as the lead agency among the state agencies and shall  
29 coordinate among the state agencies as necessary.

1 (b) The department of ecology shall notify each of the eligible  
2 counties of the pilot, describe the nature of the pilot, and invite  
3 county participation. When a county, eligible to participate in the  
4 pilot, receives an application for a project that will require permits  
5 or authorizations from multiple jurisdictions, and in the county's  
6 judgment the proposed project offers an appropriate opportunity to test  
7 the permitting process under subsection (1) of this section, the  
8 county, with the approval of the project applicant, may request that  
9 the department of ecology include the project as part of the pilot.  
10 The department of ecology shall make a decision on the county's request  
11 and inform the county of its decision within seven working days.

12 In selecting projects for the pilot, the department of ecology  
13 shall provide an opportunity to test and evaluate a variety of  
14 applications of subsection (1) of this section, including, but not  
15 limited to: Application to storm water management, dredging,  
16 streambank stabilization, and dike construction or repair. When the  
17 county receives notification that a project has been approved for  
18 inclusion in the pilot, the county shall schedule an initial  
19 coordination meeting and contact all appropriate agencies and the  
20 project applicant. Other local jurisdictions, including but not limited  
21 to cities, diking districts, and flood management districts, shall be  
22 invited to participate when a project is selected for inclusion in the  
23 pilot and those jurisdictions have a role in the permitting process.

24 The purpose of the coordination meeting shall be to:

25 (i) Identify all necessary permit requirements;

26 (ii) Determine the sequence of permitting decisions and  
27 opportunities where those decisions can be made concurrently;

28 (iii) Determine a timeline for the decisions and how those  
29 decisions can be expedited; and

1 (iv) Work with the applicant to make sure that he or she  
2 understands how the process will work, what the applicant is  
3 responsible for, and when those responsibilities must be met in order  
4 to adhere to the overall permitting timeline.

5 (4) The department of ecology shall determine the number of  
6 projects to be included in the pilot based on available funding in the  
7 flood control assistance account. The department shall authorize flood  
8 control assistance account funding for a minimum of three projects.

9 (5) The department of ecology, in cooperation with the  
10 participating counties, other participating local jurisdictions, and  
11 state agencies, shall submit a final report on the pilot to the  
12 appropriate committees of the legislature by December 1, 1992. The  
13 report shall include an assessment of the degree to which the pilot  
14 project achieved the objectives identified in subsection (1) of this  
15 section.

16 NEW SECTION. **Sec. 34.** Section 22 of this act is necessary  
17 for the immediate preservation of the public peace, health, or safety,  
18 or support of the state government and its existing public  
19 institutions, and shall take effect immediately.

Passed the Senate April 28, 1991.

Passed the House April 28, 1991.

Approved by the Governor May 21, 1991, with the exception of  
certain items which were vetoed.

Filed in Office of Secretary of State May 21, 1991.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 25,  
3 Engrossed Substitute Senate Bill No. 5411 entitled:

4 "AN ACT Relating to the alleviation of flood damage."

5 Section 25 of Engrossed Substitute Senate Bill No. 5411 requires  
6 the Department of Natural Resources to not charge for removal of  
7 material from state-owned aquatic lands when such material is used for  
8 public purposes. Public purposes are defined by section 25 to include  
9 construction, maintenance, improvement or repair of roads, dikes, and

1 levees. Similar language is contained in Substitute House Bill No.  
2 1864. For this reason I have vetoed section 25 of this bill.

3 With the exception of section 25, Engrossed Substitute Senate Bill  
4 No. 5411 is approved."