



1 addition, the commissioner of public lands (~~or the commissioner's~~  
2 ~~designee~~) and the director of ecology (~~or the director's designee~~)  
3 shall serve as ex officio members. Three of the members shall include  
4 a representative from the counties, a representative from the cities,  
5 and a tribal representative. The (~~director of ecology shall be~~)  
6 chair of the authority shall be chosen from among the authority members  
7 by the authority. The position of chair shall be rotated annually. In  
8 making these appointments, the governor shall seek to include  
9 representation of the variety of interested parties concerned about  
10 Puget Sound water quality. Of the appointed members, at least one  
11 shall be selected from each of the six congressional districts  
12 surrounding Puget Sound. All votes shall be cast by members.  
13 Designees or alternates may not vote. Members shall serve four-year  
14 terms. Of the initial members appointed to the authority, two shall  
15 serve for two years, two shall serve for three years, and two shall  
16 serve for four years. Thereafter members shall be appointed to four-  
17 year terms. Members representing cities, counties, and the tribes  
18 shall also serve four-year staggered terms, as determined by the  
19 governor. Vacancies shall be filled by appointment for the remainder  
20 of the unexpired term of the position being vacated. The executive  
21 director of the authority shall be selected by the governor and shall  
22 serve at the pleasure of the governor. The executive director shall  
23 not be a member of the authority.

24 (2) Members shall be compensated as provided in RCW 43.03.250.  
25 Members shall be reimbursed for travel expenses as provided in RCW  
26 43.03.050 and 43.03.060.

27 (3) The executive director of the authority shall be a full-time  
28 employee responsible for the administration of all functions of the  
29 authority, including hiring and terminating staff, contracting,  
30 coordinating with the governor, the legislature, and other state and  
31 local entities, and the delegation of responsibilities as deemed  
32 appropriate. The executive director shall report to the authority and  
33 shall serve to carry out the policy direction of the authority. The  
34 salary of the executive director shall be comparable to those of other  
35 agency directors and shall be fixed by the governor, subject to RCW  
36 43.03.040.

37 (4) The authority shall prepare a budget and a work plan.

38 (5) Not more than four employees of the authority may be exempt  
39 from the provisions of chapter 41.06 RCW.

1 (6) The executive director and staff of the authority shall be  
2 located in the Olympia area(~~(, as space becomes available. The~~  
3 ~~department of general administration shall house the authority within~~  
4 ~~the department of ecology)~~).

5 **Sec. 2.** RCW 90.70.060 and 1990 c 115 s 5 are each amended to read  
6 as follows:

7 The plan adopted by the authority shall be a positive document  
8 prescribing the needed actions for the maintenance and enhancement of  
9 Puget Sound water quality and shall be implemented by state agencies  
10 and local governments, subject to the availability of appropriated  
11 funds or other funding authority. The plan shall address all the  
12 waters and sediments of Puget Sound, the Strait of Juan de Fuca, and,  
13 to the extent that they affect water and sediment quality in Puget  
14 Sound, all waters flowing into Puget Sound, and adjacent lands. The  
15 authority may define specific geographic boundaries within which the  
16 plan applies. The plan shall coordinate and incorporate existing  
17 planning and research efforts of state agencies and local government  
18 related to Puget Sound, and shall avoid duplication of existing  
19 efforts. The plan shall include:

20 (1) A statement of the goals and objectives for long and short-term  
21 management of the water quality of Puget Sound;

22 (2) A schedule for achieving each goal within the plan;

23 (3) An education and public involvement program that encourages  
24 public participation in the development and implementation of the plan  
25 and other Puget Sound water quality programs on the state and local  
26 level;

27 (4) A resource assessment which identifies critically sensitive  
28 areas, key characteristics, and other factors which lead to an  
29 understanding of Puget Sound as an ecosystem;

30 ~~((+3))~~ (5) Demographic information and assessment as relates to  
31 future water quality impacts on Puget Sound;

32 ~~((+4))~~ (6) An identification and legal analysis of all existing  
33 laws governing actions of government entities which may affect water  
34 quality management of Puget Sound, the interrelationships of those  
35 laws, and the effect of those laws on implementation of the provisions  
36 of the plan;

37 ~~((+5))~~ (7) Review and assessment of existing criteria and  
38 guidelines for governmental activities affecting Puget Sound's

1 resources, including shoreline resources, aquatic resources, associated  
2 watersheds, recreational resources and commercial resources;  
3 ~~((6))~~ (8) Identification of research needs and priorities;  
4 ~~((7) Recommendations for guidelines, standards, and timetables for  
5 protection and clean-up activities and the establishment of priorities  
6 for major clean-up investments and nonpoint source management, and the  
7 projected costs of such priorities;~~  
8 ~~(8))~~ (9) A procedure assuring local government initiated planning  
9 for Puget Sound water quality protection;  
10 ~~((9))~~ (10) Ways to better coordinate federal, state, and local  
11 planning and management activities affecting Puget Sound's water  
12 quality;  
13 ~~((10) Public involvement strategies, including household hazardous  
14 waste education, community clean-up efforts, and public participation  
15 in developing and implementing the plan;))~~  
16 (11) Recommendations on protecting, preserving and, where possible,  
17 restoring wetlands and wildlife habitat and shellfish beds throughout  
18 Puget Sound;  
19 (12) ((Recommendations for)) A description of the comprehensive  
20 water quality and sediment monitoring program implemented pursuant to  
21 RCW 90.70.065;  
22 ~~(13) ((Analysis of current industrial pretreatment programs for  
23 toxic wastes, and procedures and enforcement measures needed to enhance  
24 them;~~  
25 ~~(14) Recommendations for a program of dredge spoil disposal,  
26 including interim measures for disposal and storage of dredge spoil  
27 material from or into Puget Sound;~~  
28 ~~(15) Definition of major public actions subject to review and  
29 comment by the authority because of a significant impact on Puget Sound  
30 water quality and related resources, and development of criteria for  
31 review thereof;~~  
32 ~~(16) Recommendations))~~ A program for reducing and eventually  
33 eliminating harm from toxics and other contaminants entering and  
34 accumulating in the Sound, including but not limited to, provisions for  
35 the development of rules classifying sediments having adverse effects,  
36 industrial pretreatment programs, dilution zone criteria development,  
37 the setting of effluent limits in permits to eliminate harm from  
38 discharges of toxics and particulates, and educational and citizen  
39 awareness programs;

1       (14) A program to reduce pollution discharges from storm water and  
2 combined sewer overflows throughout Puget Sound, including the  
3 development of local government storm water programs in the urbanized  
4 areas of the Puget Sound basin, the development of operation and  
5 maintenance programs including the adoption of ordinances governing  
6 storm water management in new development, plans for reducing combined  
7 sewer overflow events, the control of storm water from state highways  
8 facilities in the Puget Sound basin, and other necessary actions;

9       (15) A program to assure the quality and timeliness of laboratory  
10 tests related to water quality and sediment quality in the Puget Sound  
11 basin;

12       (16) Other programs as are deemed necessary to protect Puget Sound  
13 water quality including, but not limited to, pesticides, household  
14 hazardous waste, atmospheric deposition, and the prevention of oil and  
15 hazardous substance spills;

16       (17) Implementation mechanisms to be used by state and local  
17 government agencies in carrying out their responsibilities under the  
18 plan;

19       ~~((17))~~ (18) Standards and procedures for reporting progress by  
20 state and local governments in the implementation of the plan;

21       ~~((18) An analysis of resource requirements and funding mechanisms~~  
22 ~~for updating of the plan and))~~ (19) A funding plan and budget for plan  
23 implementation; and

24       ~~((19))~~ (20) Legislation needed to assure plan implementation.

25       The authority shall circulate and receive comments on drafts of the  
26 plan mandated herein, and keep a record of all relevant comments made  
27 at public hearings and in writing. These records should be made easily  
28 available to interested persons.

29       As part of the plan, the authority shall prepare a strategy for  
30 implementing the plan that includes, but is not limited to: (a)  
31 Setting priorities for implementation of plan elements to facilitate  
32 executive and legislative decision making; (b) assessment of the  
33 capabilities and constraints, both internal and external to state and  
34 local government, that may affect plan implementation; and (c) an  
35 analysis of the strategic options in light of the resources available  
36 to the state. In developing this strategy, the authority shall consult  
37 and coordinate with other related environmental planning efforts.

38       Each program of the plan shall contain an analysis of the  
39 activities of all state agencies and their effects on the goals of that

1 program. State agencies shall manage state-owned lands and resources  
2 and carry out other state agency functions in a manner to protect and  
3 enhance Puget Sound.

4 NEW SECTION. Sec. 3. A new section is added to chapter 90.70 RCW  
5 to read as follows:

6 SUPPLEMENT TO AGENCY AUTHORITY. The policies and authorities set  
7 forth in this chapter and the plan developed pursuant to RCW 90.70.060  
8 are supplementary to the existing authorizations of all governments and  
9 agencies having responsibilities for implementation of the plan. Where  
10 specified in the plan, agencies may allocate responsibility for  
11 implementation to different levels of government except where expressly  
12 prohibited by law. Agencies may adopt rules or guidelines for the  
13 purpose of plan implementation.

14 **Sec. 4.** RCW 90.70.025 and 1985 c 451 s 5 are each amended to read  
15 as follows:

16 In order to carry out its responsibilities under this chapter, the  
17 authority may:

18 (1) ~~((Develop interim proposals and recommendations, before the~~  
19 ~~plan is adopted, concerning the elements identified in RCW 90.70.060))~~  
20 Allocate responsibilities for implementation of the plan to other  
21 agencies and different levels of government;

22 (2) Enter into, amend, and terminate contracts with individuals,  
23 corporations, or research institutions for the purposes of this  
24 chapter;

25 (3) Receive such gifts, grants, and endowments, in trust or  
26 otherwise, for the use and benefit of the purposes of the authority.  
27 The authority may expend the same or any income therefrom according to  
28 the terms of the gifts, grants, or endowments;

29 (4) Conduct studies and research relating to Puget Sound water  
30 quality;

31 (5) Obtain information relating to Puget Sound from other state and  
32 local agencies;

33 (6) Conduct appropriate public hearings and otherwise seek to  
34 broadly disseminate information concerning Puget Sound;

35 (7) Receive funding from other public agencies;

36 (8) Prepare a biennial budget request for consideration by the  
37 governor and the legislature; and

1 (9) Adopt rules under chapter 34.05 RCW as it deems necessary for  
2 the purposes of this chapter.

3 **Sec. 5.** RCW 90.70.070 and 1990 c 115 s 6 are each amended to read  
4 as follows:

5 (1) In conducting planning, regulatory, and appeals actions, the  
6 state agencies and local governments identified in the plan must  
7 evaluate, and incorporate as applicable, subject to the availability of  
8 appropriated funds or other funding ((sources)) authority, the  
9 provisions of the plan, including any guidelines, standards, and  
10 timetables contained in the plan. When a local government rejects an  
11 applicable plan element for lack of funding, it shall document the  
12 decision and its review of funding authority and provide it to the  
13 authority. The authority shall periodically compile such decisions and  
14 report to the legislature on local government funding needs for plan  
15 implementation.

16 (2) The authority shall review the progress of state agencies and  
17 local governments regarding the timely implementation of the plan.  
18 Where prescribed actions have not been accomplished in accordance with  
19 the plan, the responsible state agencies and local governments shall,  
20 at the request of the authority, submit written explanations for the  
21 shortfalls, together with their proposed remedies, to the authority.

22 The results of the review and a description of the actions  
23 necessary to comply with the plan shall be included in the biennial  
24 state of the Sound report.

25 (3) The state agencies and local governments identified in the plan  
26 shall review their activities biennially and document their consistency  
27 with the plan. They shall submit written reports or updates of their  
28 findings to the authority.

29 (4) The authority shall review the major actions ((affected by the  
30 plan)) affecting the Sound being considered by the state agencies and  
31 local governments and shall comment in a timely manner regarding  
32 consistency with the plan and may participate in administrative and  
33 subsequent judicial proceedings with respect to such actions. Any  
34 deviations from the plan, identified by the authority, shall be  
35 transmitted in writing by the authority to the responsible state agency  
36 or local government.

1       **Sec. 6.** RCW 43.88.030 and 1991 c 358 s 1 and 1991 c 284 s 1 are  
2 each reenacted and amended to read as follows:

3       (1) The director of financial management shall provide all agencies  
4 with a complete set of instructions for submitting biennial budget  
5 requests to the director at least three months before agency budget  
6 documents are due into the office of financial management. The  
7 director shall provide agencies that are required under RCW 44.40.070  
8 to develop comprehensive six-year program and financial plans with a  
9 complete set of instructions for submitting these program and financial  
10 plans at the same time that instructions for submitting other budget  
11 requests are provided. The budget document or documents shall consist  
12 of the governor's budget message which shall be explanatory of the  
13 budget and shall contain an outline of the proposed financial policies  
14 of the state for the ensuing fiscal period, as well as an outline of  
15 the proposed six-year financial policies where applicable, and shall  
16 describe in connection therewith the important features of the budget.  
17 The message shall set forth the reasons for salient changes from the  
18 previous fiscal period in expenditure and revenue items and shall  
19 explain any major changes in financial policy. Attached to the budget  
20 message shall be such supporting schedules, exhibits and other  
21 explanatory material in respect to both current operations and capital  
22 improvements as the governor shall deem to be useful to the  
23 legislature. The budget document or documents shall set forth a  
24 proposal for expenditures in the ensuing fiscal period, or six-year  
25 period where applicable, based upon the estimated revenues as approved  
26 by the economic and revenue forecast council or upon the estimated  
27 revenues of the office of financial management for those funds,  
28 accounts, and sources for which the office of the economic and revenue  
29 forecast council does not prepare an official forecast, including those  
30 revenues anticipated to support the six-year programs and financial  
31 plans under RCW 44.40.070. In estimating revenues to support financial  
32 plans under RCW 44.40.070, the office of financial management shall  
33 rely on information and advice from the interagency revenue task force.  
34 Revenues shall be estimated for such fiscal period from the source and  
35 at the rates existing by law at the time of submission of the budget  
36 document, including the supplemental budgets submitted in the even-  
37 numbered years of a biennium. However, the estimated revenues for use  
38 in the governor's budget document may be adjusted to reflect budgetary  
39 revenue transfers and revenue estimates dependent upon budgetary

1 assumptions of enrollments, workloads, and caseloads. All adjustments  
2 to the approved estimated revenues must be set forth in the budget  
3 document. The governor may additionally submit, as an appendix to each  
4 supplemental, biennial, or six-year agency budget or to the budget  
5 document or documents, a proposal for expenditures in the ensuing  
6 fiscal period from revenue sources derived from proposed changes in  
7 existing statutes.

8 Supplemental and biennial documents shall reflect a six-year  
9 expenditure plan consistent with estimated revenues from existing  
10 sources and at existing rates for those agencies required to submit  
11 six-year program and financial plans under RCW 44.40.070. Any  
12 additional revenue resulting from proposed changes to existing statutes  
13 shall be separately identified within the document as well as related  
14 expenditures for the six-year period.

15 The budget document or documents shall also contain:

16 (a) Revenues classified by fund and source for the immediately past  
17 fiscal period, those received or anticipated for the current fiscal  
18 period, those anticipated for the ensuing biennium, and those  
19 anticipated for the ensuing six-year period to support the six-year  
20 programs and financial plans required under RCW 44.40.070;

21 (b) The undesignated fund balance or deficit, by fund;

22 (c) Such additional information dealing with expenditures,  
23 revenues, workload, performance, and personnel as the legislature may  
24 direct by law or concurrent resolution;

25 (d) Such additional information dealing with revenues and  
26 expenditures as the governor shall deem pertinent and useful to the  
27 legislature;

28 (e) Tabulations showing expenditures classified by fund, function,  
29 activity and object;

30 (f) A delineation of each agency's activities, including those  
31 activities funded from nonbudgeted, nonappropriated sources, including  
32 funds maintained outside the state treasury; and

33 (g) Identification of all proposed direct expenditures to implement  
34 the Puget Sound water quality plan under chapter 90.70 RCW, shown by  
35 agency and in total and estimates submitted by each agency to fully  
36 carry out the agency's responsibilities under the plan.

37 (2) The budget document or documents shall include detailed  
38 estimates of all anticipated revenues applicable to proposed operating  
39 or capital expenditures and shall also include all proposed operating

1 or capital expenditures. The total of beginning undesignated fund  
2 balance and estimated revenues less working capital and other reserves  
3 shall equal or exceed the total of proposed applicable expenditures.  
4 The budget document or documents shall further include:

5 (a) Interest, amortization and redemption charges on the state  
6 debt;

7 (b) Payments of all reliefs, judgments and claims;

8 (c) Other statutory expenditures;

9 (d) Expenditures incident to the operation for each agency;

10 (e) Revenues derived from agency operations;

11 (f) Expenditures and revenues shall be given in comparative form  
12 showing those incurred or received for the immediately past fiscal  
13 period and those anticipated for the current biennium and next ensuing  
14 biennium, as well as those required to support the six-year programs  
15 and financial plans required under RCW 44.40.070;

16 (g) A showing and explanation of amounts of general fund and other  
17 funds obligations for debt service and any transfers of moneys that  
18 otherwise would have been available for appropriation;

19 (h) Common school expenditures on a fiscal-year basis;

20 (i) A showing, by agency, of the value and purpose of financing  
21 contracts for the lease/purchase or acquisition of personal or real  
22 property for the current and ensuing fiscal periods.

23 (3) A separate capital budget document or schedule shall be  
24 submitted that will contain the following:

25 (a) A capital plan consisting of proposed capital spending for at  
26 least four fiscal periods succeeding the next fiscal period;

27 (b) A capital program consisting of proposed capital projects for  
28 at least the two fiscal periods succeeding the next fiscal period;

29 (c) A capital plan consisting of proposed capital spending for at  
30 least four fiscal periods succeeding the next fiscal period;

31 (d) A statement of the reason or purpose for a project;

32 (e) Verification that a project is consistent with the provisions  
33 set forth in chapter 36.70A RCW;

34 (f) A statement about the proposed site, size, and estimated life  
35 of the project, if applicable;

36 (g) Estimated total project cost;

37 (h) Estimated total project cost for each phase of the project as  
38 defined by the office of financial management;

39 (i) Estimated ensuing biennium costs;

- 1 (j) Estimated costs beyond the ensuing biennium;  
2 (k) Estimated construction start and completion dates;  
3 (l) Source and type of funds proposed;  
4 (m) Such other information bearing upon capital projects as the  
5 governor deems to be useful;  
6 (n) Standard terms, including a standard and uniform definition of  
7 maintenance for all capital projects;  
8 (o) Such other information as the legislature may direct by law or  
9 concurrent resolution.

10 For purposes of this subsection (3), the term "capital project"  
11 shall be defined subsequent to the analysis, findings, and  
12 recommendations of a joint committee comprised of representatives from  
13 the house capital appropriations committee, senate ways and means  
14 committee, legislative transportation committee, legislative evaluation  
15 and accountability program committee, and office of financial  
16 management.

17 (4) No change affecting the comparability of agency or program  
18 information relating to expenditures, revenues, workload, performance  
19 and personnel shall be made in the format of any budget document or  
20 report presented to the legislature under this section or RCW  
21 43.88.160(1) relative to the format of the budget document or report  
22 which was presented to the previous regular session of the legislature  
23 during an odd-numbered year without prior legislative concurrence.  
24 Prior legislative concurrence shall consist of (a) a favorable majority  
25 vote on the proposal by the standing committees on ways and means of  
26 both houses if the legislature is in session or (b) a favorable  
27 majority vote on the proposal by members of the legislative evaluation  
28 and accountability program committee if the legislature is not in  
29 session.

30 **Sec. 7.** RCW 43.131.369 and 1990 c 115 s 11 are each amended to  
31 read as follows:

32 AUTHORITY SUNSET EXTENDED. The Puget Sound water quality authority  
33 and its powers and duties shall be terminated on June 30, (~~1995~~)  
34 1997, as provided in RCW 43.131.370. On or before November 15, 1996,  
35 the legislative budget committee shall prepare a report to the  
36 legislature on the means for future implementation of the Puget Sound  
37 water quality management plan.



1 may be continued to other times, dates, and places announced at the  
2 public hearing, without publication of the notice. At the public  
3 hearing, the county legislative authority shall hear objections and  
4 comments from anyone interested in the proposed district.

5 After the public hearing, the county legislative authority may  
6 adopt a resolution to authorize the creation of the watershed  
7 protection district, if the county legislative authority finds that the  
8 creation of the watershed management area would be in the public  
9 interest. The resolution shall: (a) Describe the boundaries of the  
10 proposed watershed protection district; and (b) find that its creation  
11 is in the public interest.

12 Where the proposed district includes territory located within a  
13 city or town, the county shall coordinate and cooperate with the city  
14 or town in establishing the district, in establishing and collecting  
15 fees or charges to be collected within the incorporated area, and in  
16 carrying out watershed protection programs funded by the district. The  
17 legislative authority of more than one county may by agreement provide  
18 for the creation of a district including areas within each of those  
19 counties. The legislative authority or authorities creating an area  
20 may abolish that area on its or their motion or by submitting the  
21 question to the voters of the district and obtaining a majority vote.

22 (3) The county legislative authority establishing a watershed  
23 protection district may finance the district's programs through:

- 24 (a) County tax revenues;
- 25 (b) Inspection fees and similar fees for services performed;
- 26 (c) Charges or rates; or
- 27 (d) Federal, state, or private grants.

28 Counties may fix, alter, regulate, and control household rates or  
29 charges in the manner determined by the county legislative authority.  
30 A district may also receive gifts, grants, and donations to carry out  
31 its activities.

32 A county may contract with existing public utilities to collect the  
33 fees or charges, or collect the fees or charges itself.

34 A county may adopt an ordinance reducing the level of fees that are  
35 imposed upon the residential property of a class or classes of low-  
36 income persons.

37 (4) Within available funding, watershed protection districts shall:  
38 (a) Contract with conservation districts for implementation of plans to  
39 control pollution effects of farm animal waste; (b) make use of

1 conservation corps surface water action teams to assist landowners in  
2 reaching best management practices to reduce pollution; and (c) assist  
3 in funding county health departments for water quality activities  
4 within the watershed, including implementation of plans to monitor,  
5 inspect, and cause on-site and off-site septic drainfield systems to be  
6 adequately maintained and working properly.

7 NEW SECTION. **Sec. 11.** Counties may issue general obligation  
8 bonds, revenue bonds, and other evidences of indebtedness to assist in  
9 carrying out the programs of watershed protection districts, and  
10 counties may issue revenue bonds and other revenue obligations payable  
11 from fees, household charges, and other revenue of districts. Any such  
12 obligations shall be issued in accordance with chapter 36.67 or 36.94  
13 RCW.

14 NEW SECTION. **Sec. 12.** Revenues collected under this chapter may  
15 be used to fund any activity, program, or project related to water  
16 resource protection in the watershed protection district, including  
17 sewage treatment, the protection of ground water and drinking water,  
18 the management of storm water runoff, the prevention and management of  
19 nonpoint source pollution generally, and the construction, maintenance,  
20 and operation of facilities for these purposes.

21 Activities should be consistent with any adopted watershed action  
22 plan, ground water management plan, or other water-related plan for the  
23 area covered.

### 24 **PART III**

### 25 **STORM WATER MANAGEMENT**

26 **Sec. 13.** RCW 82.02.090 and 1990 1st ex.s. c 17 s 48 are each  
27 amended to read as follows:

28 **DEVELOPMENT IMPACT FEES FOR STORM WATER FACILITIES.** Unless the  
29 context clearly requires otherwise, the following definitions shall  
30 apply in RCW 82.02.050 through 82.02.090:

31 (1) "Development activity" means any construction or expansion of  
32 a building, structure, or use, any change in use of a building or  
33 structure, or any changes in the use of land, that creates additional  
34 demand and need for public facilities.

1 (2) "Development approval" means any written authorization from a  
2 county, city, or town which authorizes the commencement of development  
3 activity.

4 (3) "Impact fee" means a payment of money imposed upon development  
5 as a condition of development approval to pay for public facilities  
6 needed to serve new growth and development, and that is reasonably  
7 related to the new development that creates additional demand and need  
8 for public facilities, that is a proportionate share of the cost of the  
9 public facilities, and that is used for facilities that reasonably  
10 benefit the new development. "Impact fee" does not include a  
11 reasonable permit or application fee.

12 (4) "Owner" means the owner of record of real property, although  
13 when real property is being purchased under a real estate contract, the  
14 purchaser shall be considered the owner of the real property if the  
15 contract is recorded.

16 (5) "Proportionate share" means that portion of the cost of public  
17 facility improvements that are reasonably related to the service  
18 demands and needs of new development.

19 (6) "Project improvements" mean site improvements and facilities  
20 that are planned and designed to provide service for a particular  
21 development project and that are necessary for the use and convenience  
22 of the occupants or users of the project, and are not system  
23 improvements. No improvement or facility included in a capital  
24 facilities plan approved by the governing body of the county, city, or  
25 town shall be considered a project improvement.

26 (7) "Public facilities" means the following capital facilities  
27 owned or operated by government entities: (a) Public streets and roads;  
28 (b) publicly owned parks, open space, and recreation facilities; (c)  
29 school facilities; ~~((and))~~ (d) fire protection facilities in  
30 jurisdictions that are not part of a fire district; and (e) storm water  
31 management facilities.

32 (8) "Service area" means a geographic area defined by a county,  
33 city, town, or intergovernmental agreement in which a defined set of  
34 public facilities provide service to development within the area.  
35 Service areas shall be designated on the basis of sound planning or  
36 engineering principles.

37 (9) "System improvements" mean public facilities that are included  
38 in the capital facilities plan and are designed to provide service to

1 service areas within the community at large, in contrast to project  
2 improvements.

3 **Sec. 14.** RCW 36.70A.070 and 1990 1st ex.s. c 17 s 7 are each  
4 amended to read as follows:

5 STORM WATER PROGRAMS IN LOCAL COMPREHENSIVE PLANS. The  
6 comprehensive plan of a county or city that is required or chooses to  
7 plan under RCW 36.70A.040 shall consist of a map or maps, and  
8 descriptive text covering objectives, principles, and standards used to  
9 develop the comprehensive plan. The plan shall be an internally  
10 consistent document and all elements shall be consistent with the  
11 future land use map. A comprehensive plan shall be adopted and amended  
12 with public participation as provided in RCW 36.70A.140.

13 Each comprehensive plan shall include a plan, scheme, or design for  
14 each of the following:

15 (1) A land use element designating the proposed general  
16 distribution and general location and extent of the uses of land, where  
17 appropriate, for agriculture, timber production, housing, commerce,  
18 industry, recreation, open spaces, public utilities, public facilities,  
19 and other land uses. The land use element shall include population  
20 densities, building intensities, and estimates of future population  
21 growth. The land use element shall provide for protection of the  
22 quality and quantity of ground water used for public water supplies.  
23 Where applicable, the land use element shall ~~((review drainage,  
24 flooding, and storm water run-off in the area and nearby jurisdictions  
25 and provide guidance for corrective actions to mitigate or cleanse  
26 those discharges that pollute waters of the state, including Puget  
27 Sound or waters entering Puget Sound))~~ incorporate storm water  
28 management programs adopted pursuant to the Puget Sound water quality  
29 management plan required under RCW 90.70.060. The land use element  
30 shall include levels of service standards for storm water management as  
31 the basis for development review ordinances required under subsection  
32 (9) of this section.

33 (2) A housing element recognizing the vitality and character of  
34 established residential neighborhoods that: (a) Includes an inventory  
35 and analysis of existing and projected housing needs; (b) includes a  
36 statement of goals, policies, and objectives for the preservation,  
37 improvement, and development of housing; (c) identifies sufficient land  
38 for housing, including, but not limited to, government-assisted

1 housing, housing for low-income families, manufactured housing,  
2 multifamily housing, and group homes and foster care facilities; and  
3 (d) makes adequate provisions for existing and projected needs of all  
4 economic segments of the community.

5 (3) A capital facilities plan element consisting of: (a) An  
6 inventory of existing capital facilities owned by public entities,  
7 showing the locations and capacities of the capital facilities; (b) a  
8 forecast of the future needs for such capital facilities; (c) the  
9 proposed locations and capacities of expanded or new capital  
10 facilities; (d) at least a six-year plan that will finance such capital  
11 facilities within projected funding capacities and clearly identifies  
12 sources of public money for such purposes; and (e) a requirement to  
13 reassess the land use element if probable funding falls short of  
14 meeting existing needs and to ensure that the land use element, capital  
15 facilities plan element, and financing plan within the capital  
16 facilities plan element are coordinated and consistent.

17 (4) A utilities element consisting of the general location,  
18 proposed location, and capacity of all existing and proposed utilities,  
19 including, but not limited to, electrical lines, telecommunication  
20 lines, and natural gas lines.

21 (5) Counties shall include a rural element including lands that are  
22 not designated for urban growth, agriculture, forest, or mineral  
23 resources. The rural element shall permit land uses that are  
24 compatible with the rural character of such lands and provide for a  
25 variety of rural densities.

26 (6) A transportation element that implements, and is consistent  
27 with, the land use element. The transportation element shall include  
28 the following subelements:

29 (a) Land use assumptions used in estimating travel;

30 (b) Facilities and services needs, including:

31 (i) An inventory of air, water, and land transportation facilities  
32 and services, including transit alignments, to define existing capital  
33 facilities and travel levels as a basis for future planning;

34 (ii) Level of service standards for all arterials and transit  
35 routes to serve as a gauge to judge performance of the system. These  
36 standards should be regionally coordinated;

37 (iii) Specific actions and requirements for bringing into  
38 compliance any facilities or services that are below an established  
39 level of service standard;

1 (iv) Forecasts of traffic for at least ten years based on the  
2 adopted land use plan to provide information on the location, timing,  
3 and capacity needs of future growth;

4 (v) Identification of system expansion needs and transportation  
5 system management needs to meet current and future demands;

6 (c) Finance, including:

7 (i) An analysis of funding capability to judge needs against  
8 probable funding resources;

9 (ii) A multiyear financing plan based on the needs identified in  
10 the comprehensive plan, the appropriate parts of which shall serve as  
11 the basis for the six-year street, road, or transit program required by  
12 RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW  
13 35.58.2795 for public transportation systems;

14 (iii) If probable funding falls short of meeting identified needs,  
15 a discussion of how additional funding will be raised, or how land use  
16 assumptions will be reassessed to ensure that level of service  
17 standards will be met;

18 (d) Intergovernmental coordination efforts, including an assessment  
19 of the impacts of the transportation plan and land use assumptions on  
20 the transportation systems of adjacent jurisdictions;

21 (e) Demand-management strategies.

22 (7) The land use, capital facilities, and transportation elements  
23 of comprehensive plans shall incorporate and be consistent with  
24 applicable provisions of watershed management plans adopted pursuant to  
25 the Puget Sound water quality management plan.

26 (8) After adoption of the comprehensive plan by jurisdictions  
27 required to plan or who choose to plan under RCW 36.70A.040, local  
28 jurisdictions must adopt and enforce ordinances which prohibit  
29 development approval if the development causes the level of service on  
30 a transportation facility to decline below the standards adopted in the  
31 transportation element of the comprehensive plan, unless transportation  
32 improvements or strategies to accommodate the impacts of development  
33 are made concurrent with the development. These strategies may include  
34 increased public transportation service, ride sharing programs, demand  
35 management, and other transportation systems management strategies.  
36 For the purposes of this ((subsection (6))) section "concurrent with  
37 the development" shall mean that improvements or strategies are in  
38 place at the time of development, or that a financial commitment is in  
39 place to complete the improvements or strategies within six years.

1 The transportation element described in this subsection, and the  
2 six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for  
3 counties, and RCW 35.58.2795 for public transportation systems, must be  
4 consistent.

5 (9) Upon adoption of a plan under this section, a local  
6 jurisdiction shall adopt and enforce ordinances prohibiting development  
7 approval if, the development causes the level of service in a storm  
8 water management facility to decline below standards adopted in the  
9 land use element of the plan, unless storm water management  
10 improvements or strategies to mitigate the storm water impacts of  
11 development are made concurrent with the development. "Concurrent with  
12 the development" shall have the meaning provided in subsection (8) of  
13 this section.

14 NEW SECTION. Sec. 15. A new section is added to chapter 70.146  
15 RCW to read as follows:

16 STORM WATER PROGRAMS AS CONDITION FOR STATE FUNDS. After July 1,  
17 1995, no grant or loan may be made under this chapter to a county or  
18 city that has not adopted a storm water management program as part of  
19 its comprehensive plan as required by RCW 36.70A.070. For any city or  
20 county for which a comprehensive plan under chapter 36.70A RCW is due  
21 after July 1, 1994, the limitation of this section shall apply twelve  
22 months after the deadline for adoption of the comprehensive plan.

23 **Sec. 16.** RCW 58.17.110 and 1990 1st ex.s. c 17 s 52 are each  
24 amended to read as follows:

25 STORM WATER FACILITIES CONSIDERED IN SUBDIVISION APPROVAL. (1) The  
26 city, town, or county legislative body shall inquire into the public  
27 use and interest proposed to be served by the establishment of the  
28 subdivision and dedication. It shall determine: (a) If appropriate  
29 provisions are made for, but not limited to, the public health, safety,  
30 and general welfare, for open spaces, drainage ways, streets or roads,  
31 alleys, other public ways, transit stops, potable water supplies,  
32 sanitary wastes, storm water management, parks and recreation,  
33 playgrounds, schools and schoolgrounds, and shall consider all other  
34 relevant facts, including sidewalks and other planning features that  
35 assure safe walking conditions for students who only walk to and from  
36 school; and (b) whether the public interest will be served by the  
37 subdivision and dedication.

1 (2) A proposed subdivision and dedication shall not be approved  
2 unless the city, town, or county legislative body makes written  
3 findings that: (a) Appropriate provisions are made for the public  
4 health, safety, and general welfare and for such open spaces, drainage  
5 ways, streets or roads, alleys, other public ways, transit stops,  
6 potable water supplies, sanitary wastes, storm water management, parks  
7 and recreation, playgrounds, schools and schoolgrounds and all other  
8 relevant facts, including sidewalks and other planning features that  
9 assure safe walking conditions for students who only walk to and from  
10 school; and (b) the public use and interest will be served by the  
11 platting of such subdivision and dedication. If it finds that the  
12 proposed subdivision and dedication make such appropriate provisions  
13 and that the public use and interest will be served, then the  
14 legislative body shall approve the proposed subdivision and dedication.  
15 Dedication of land to any public body, provision of public improvements  
16 to serve the subdivision, and/or impact fees imposed under RCW  
17 82.02.050 through 82.02.090 may be required as a condition of  
18 subdivision approval. Dedications shall be clearly shown on the final  
19 plat. No dedication, provision of public improvements, or impact fees  
20 imposed under RCW 82.02.050 through 82.02.090 shall be allowed that  
21 constitutes an unconstitutional taking of private property. The  
22 legislative body shall not as a condition to the approval of any  
23 subdivision require a release from damages to be procured from other  
24 property owners.

25 NEW SECTION. **Sec. 17.** A new section is added to chapter 46.68 RCW  
26 to read as follows:

27 STORM WATER CONTROLS IN TRANSPORTATION PROJECTS. (1) Beginning  
28 July 1, 1995, a county, city, town, or special district receiving  
29 moneys from the motor vehicle fund or an account in the motor vehicle  
30 fund for the purpose of constructing a new transportation project shall  
31 incorporate all known, available, and reasonable methods of storm water  
32 controls.

33 (2) The department of transportation, in consultation with the  
34 department of ecology and the Puget Sound water quality authority,  
35 shall adopt rules to implement this section. The rules shall include  
36 guidance and design standards for storm water management facilities  
37 constructed by local governments as a part of transportation  
38 improvement projects.

PART IV

CENTENNIAL CLEAN WATER FUND AND STORM WATER MANAGEMENT

Sec. 18. RCW 70.146.060 and 1987 c 527 s 1 and 1987 c 436 s 7 are each reenacted and amended to read as follows:

WATER QUALITY ACCOUNT DISTRIBUTIONS--LIMITATIONS--STORM WATER MANAGEMENT AND COMBINED SEWER OVERFLOW REDUCTION FUNDING. During the period from July 1, 1987, until June 30, 1995, the following limitations shall apply to the department's total distribution of funds appropriated from the water quality account:

(1) Not more than fifty percent for water pollution control facilities which discharge directly into marine waters, including projects to reduce combined sewer overflows and projects to manage storm water runoff;

(2) Not more than twenty percent for water pollution control activities that prevent or mitigate pollution of underground waters and facilities that protect federally designated sole source aquifers with at least two-thirds for the Spokane-Rathdrum Prairie Aquifer;

(3) Not more than ten percent for water pollution control activities that protect freshwater lakes and rivers including but not limited to Lake Chelan and the Yakima and Columbia rivers;

(4) Not more than ten percent for activities which control nonpoint source water pollution;

(5) Ten percent and such sums as may be remaining from the categories specified in subsections (1) through (4) of this section for water pollution control activities or facilities as determined by the department; and

(6) Two and one-half percent of the total amounts of moneys under subsections (1) through (5) of this section from February 21, 1986, until December 31, 1995, shall be appropriated biennially to the state conservation commission for the purposes of this chapter. Not less than ten percent of the moneys received by the state conservation commission under the provisions of this section shall be expended on research activities.

The distribution under this section shall not be required to be met in any single fiscal year.

Funds provided for facilities and activities under this chapter may be used for payments to a service provider under a service agreement pursuant to RCW 70.150.060. If funds are to be used for such payments,

1 the department may make periodic disbursements to a public body or may  
2 make a single lump sum disbursement. Disbursements of funds with  
3 respect to a facility owned or operated by a service provider shall be  
4 equivalent in value to disbursements that would otherwise be made if  
5 that facility were owned or operated by a public body. Payments under  
6 this chapter for waste disposal and management facilities made to  
7 public bodies entering into service agreements pursuant to RCW  
8 70.150.060 shall not exceed amounts paid to public bodies not entering  
9 into service agreements.

10 Until January 1, 1997, the department shall place a priority upon  
11 providing assistance to projects for the reduction of combined sewer  
12 overflows that are otherwise eligible under this chapter. Beginning  
13 January 1, 1994, the department may not distribute funds from the water  
14 quality account to a local government not in compliance with the  
15 following requirements: (a) Plans and compliance schedules for the  
16 reduction of combined sewer overflows pursuant to RCW 90.48.480; and  
17 (b) adoption of storm water management plans and ordinances under the  
18 Puget Sound water quality management plan.

19 **PART V**  
20 **SEPTIC SYSTEMS**

21 NEW SECTION. Sec. 19. A new section is added to chapter 90.48 RCW  
22 to read as follows:

23 SELLER DISCLOSURE OF SEPTIC SYSTEM IN SENSITIVE AREAS. Before the  
24 closing of the sale of real property located within a sensitive area  
25 designated under section 20 of this act, the seller shall provide a  
26 report to the purchaser that discloses whether the property being sold  
27 is served by a public or private sewer system, an on-site sewage  
28 disposal system, other means of waste disposal, or is undeveloped  
29 property. If the property is served by an on-site sewage disposal  
30 system, the report shall include:

31 (1) The location of the system and, if known, the location of  
32 drainfields identified on a scale drawing;

33 (2) Drawings of the system as it was built, if available from  
34 either the seller or the local health agency; and

35 (3) A statement of the most recent pumping of the system and a  
36 description of the most recent inspection of the system by a certified  
37 professional, if known.



1 certain conditions or in certain quantities of concentrations; however,  
2 any person licensed to sell such pesticides may purchase and possess  
3 such pesticides without a permit;

4 (d) Establishing recordkeeping requirements for licensees,  
5 permittees, and certified applicators;

6 (e) Fixing and collecting examination fees;

7 (f) Establishing testing procedures, licensing classifications, and  
8 requirements for licenses and permits as provided by this chapter;  
9 (~~and~~)

10 (g) Fixing and collecting permit fees; and

11 (h) Establishing use and application guidelines for pesticides that  
12 can cause adverse environmental impacts through concentration in marine  
13 waters, sediment, or biota.

14 (2) The director may adopt any other rules necessary to carry out  
15 the purpose and provisions of this chapter.

16 NEW SECTION. Sec. 22. A new section is added to chapter 15.58 RCW  
17 to read as follows:

18 By January 1, 1993, the director shall adopt rules establishing  
19 requirements for the denial of new registration, and schedules for the  
20 cancellation of existing registration, of active and inert ingredients  
21 of pesticides that pose a substantial risk of adverse effects upon  
22 public health, water quality, sediment, or biota.

23 **Sec. 23.** RCW 15.58.100 and 1979 c 146 s 2 are each amended to read  
24 as follows:

25 (1) The director shall require the information required under RCW  
26 15.58.060 and shall register the label or labeling for such pesticide  
27 if (~~he~~) the director determines that:

28 (a) Its composition is such as to warrant the proposed claims for  
29 it;

30 (b) Its labeling and other material required to be submitted comply  
31 with the requirements of this chapter;

32 (c) It will perform its intended function without unreasonable  
33 adverse effects on the environment;

34 (d) When used in accordance with widespread and commonly recognized  
35 practice it will not generally cause unreasonable adverse effects on  
36 the environment;

1 (e) Denial of registration is not required by section 22 of this  
2 act;

3 (f) In the case of any pesticide subject to section 24(c) of FIFRA,  
4 it meets (1) (a), (b), (c), and (d) of this section and the following  
5 criteria:

6 (i) The proposed classification for general use, for restricted  
7 use, or for both is in conformity with section 3(d) of FIFRA;

8 (ii) A special local need exists.

9 (2) The director shall not make any lack of essentiality a  
10 criterion for denying registration of any pesticide.

11 **PART VII**

12 **WATER QUALITY ENFORCEMENT**

13 **Sec. 24.** RCW 90.48.037 and 1991 c 200 s 1102 are each amended to  
14 read as follows:

15 (1) The department, with the assistance of the attorney general, is  
16 authorized to bring any appropriate action at law or in equity,  
17 including action for injunctive relief, in the name of the people of  
18 the state of Washington as may be necessary to carry out the provisions  
19 of this chapter or chapter 90.56 RCW.

20 (2) In a civil action brought pursuant to this chapter, the court  
21 may assess a civil penalty in an amount not to exceed ten thousand  
22 dollars a day for each violation of a provision of this chapter, or of  
23 a rule, permit, or order of the department pursuant to the authority of  
24 this chapter. Each day of such violation shall constitute a separate  
25 violation. In determining the penalty amount to be assessed, the court  
26 shall be guided by the considerations enumerated in RCW 43.21B.300(2).

27 NEW SECTION. **Sec. 25.** A new section is added to chapter 90.48 RCW  
28 to read as follows:

29 CIVIL PENALTIES DEDICATED TO WATER QUALITY PURPOSES. All penalties  
30 collected under RCW 90.48.144 and section 20 of this act, except for  
31 penalties deposited to the Puget Sound restoration account created by  
32 section 26 of this act, shall be deposited in the water quality  
33 protection account, which is hereby created in the state treasury.  
34 Moneys in the account shall be subject to legislative appropriation and  
35 shall be expended by the department as grants to local governments and  
36 nonprofit service organizations for the purpose of water quality

1 restoration projects. The department shall place a priority upon  
2 projects that will use volunteers. Not more than ten percent of the  
3 appropriated moneys shall be expended by the department for  
4 administering the grants. All earnings of balances in the water  
5 quality protection account shall be credited to the general fund.

6 NEW SECTION. **Sec. 26.** A new section is added to chapter 90.48 RCW  
7 to read as follows:

8 CIVIL PENALTIES FOR PUGET SOUND WATER QUALITY VIOLATIONS DEDICATED  
9 TO PUGET SOUND RESTORATION. All penalties collected under RCW  
10 90.48.144 and section 20 of this act for water quality violations in  
11 the waters of Puget Sound as defined by RCW 90.70.005 or water draining  
12 to Puget Sound shall be deposited to the Puget Sound restoration  
13 account, which is hereby created in the state treasury. Moneys in the  
14 account shall be subject to legislative appropriation and expended by  
15 the Puget Sound water quality authority for the funding of local  
16 programs for public involvement and education. The authority shall  
17 seek proposals which raise awareness of water quality issues by  
18 engaging people in actions to protect Puget Sound and through diverse  
19 education activities. A portion of the fund shall be directed to  
20 programs which specifically support the educational needs of local  
21 government directly related to the Puget Sound plan. Not more than  
22 ten percent of the appropriated moneys shall be expended by the  
23 authority for administering the grants. All earnings of balances in  
24 the Puget Sound restoration account shall be credited to the general  
25 fund.

26 **Sec. 27.** RCW 43.21B.300 and 1992 c 73 s 2 are each amended to read  
27 as follows:

28 (1) Any civil penalty provided in RCW 70.94.431, 70.105.080,  
29 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and 90.56.330  
30 shall be imposed by a notice in writing, either by certified mail with  
31 return receipt requested or by personal service, to the person  
32 incurring the penalty from the department, the administrator of the  
33 office of marine safety, or the local air authority, describing the  
34 violation with reasonable particularity. Within fifteen days after the  
35 notice is received, the person incurring the penalty may apply in  
36 writing to the department, the administrator, or the authority for the  
37 remission or mitigation of the penalty. Upon receipt of the

1 application, the department, the administrator, or authority may remit  
2 or mitigate the penalty upon whatever terms the department, the  
3 administrator, or the authority in its discretion deems proper. The  
4 department or the authority may ascertain the facts regarding all such  
5 applications in such reasonable manner and under such rules as it may  
6 deem proper and shall remit or mitigate the penalty only upon a  
7 demonstration of extraordinary circumstances such as the presence of  
8 information or factors not considered in setting the original penalty.

9 (2) Any penalty imposed under this section may be appealed to the  
10 pollution control hearings board in accordance with this chapter if the  
11 appeal is filed with the hearings board and served on the department,  
12 the administrator, or authority thirty days after receipt by the person  
13 penalized of the notice imposing the penalty or thirty days after  
14 receipt of the notice of disposition of the application for relief from  
15 penalty.

16 (3) A penalty shall become due and payable on the later of:

17 (a) Thirty days after receipt of the notice imposing the penalty;

18 (b) Thirty days after receipt of the notice of disposition on  
19 application for relief from penalty, if such an application is made; or

20 (c) Thirty days after receipt of the notice of decision of the  
21 hearings board if the penalty is appealed.

22 (4) If the amount of any penalty is not paid to the department or  
23 the administrator within thirty days after it becomes due and payable,  
24 the attorney general, upon request of the department or the  
25 administrator, shall bring an action in the name of the state of  
26 Washington in the superior court of Thurston county, or of any county  
27 in which the violator does business, to recover the penalty. If the  
28 amount of the penalty is not paid to the authority within thirty days  
29 after it becomes due and payable, the authority may bring an action to  
30 recover the penalty in the superior court of the county of the  
31 authority's main office or of any county in which the violator does  
32 business. In these actions, the procedures and rules of evidence shall  
33 be the same as in an ordinary civil action.

34 (5) All penalties recovered shall be paid into the state treasury  
35 and credited to the general fund except those penalties imposed  
36 pursuant to RCW 70.94.431, the disposition of which shall be governed  
37 by that provision, RCW 70.105.080, which shall be credited to the  
38 hazardous waste control and elimination account, created by RCW  
39 70.105.180, RCW 90.48.144, which shall be credited to either the water

1 quality protection account created under section 25 of this act or the  
2 Puget Sound restoration account created under section 26 of this act,  
3 as applicable, and RCW 90.56.330, which shall be credited to the  
4 coastal protection fund created by RCW 90.48.390.

5 **Sec. 28.** RCW 90.48.140 and 1992 c 73 s 26 are each amended to read  
6 as follows:

7 Any person (~~((found guilty of willfully violating))~~) who knowingly  
8 violates any of the provisions of this chapter or chapter 90.56 RCW, or  
9 any final written orders or directive of the department or a court in  
10 pursuance thereof, except for those violations enumerated in section 29  
11 of this act, shall be (~~((deemed))~~) guilty of a (~~((crime))~~) gross  
12 misdemeanor, and upon conviction thereof shall be punished (~~((by a fine~~  
13 ~~of up to ten thousand dollars and costs of prosecution, or by~~  
14 ~~imprisonment in the county jail for not more than one year, or by both~~  
15 ~~such fine and imprisonment in the discretion of the court))~~) as provided  
16 in RCW 9A.20.021. Each day upon which a (~~((willful))~~) knowing violation  
17 of the provisions of this chapter or chapter 90.56 RCW occurs may be  
18 deemed a separate and additional violation.

19 NEW SECTION. **Sec. 29.** A new section is added to chapter 90.48 RCW  
20 to read as follows:

21 CRIMINAL PENALTIES. (1) A person who knowingly commits any of the  
22 following shall be guilty of a class C felony and upon conviction shall  
23 be punished as provided in RCW 9A.20.021:

24 (a) Omitting or falsifying records, reports, information, plans, or  
25 specifications required by the department under this chapter;

26 (b) Falsifying, tampering with, or rendering inaccurate a  
27 monitoring device or method, or tampering with a portion of a treatment  
28 or conveyance system resulting in the discharge of untreated waste or  
29 waste not meeting permit standards;

30 (c) Discharging after a permit has been revoked, or discharging in  
31 violation of a final written order or directive of the department, or  
32 discharging without a permit;

33 (d) Failure to report a discharge that violates or exceeds permit  
34 conditions or limitations; and

35 (e) Failure to comply with a final written order or directive of  
36 the department.

1 Each day upon which a violation of this section occurs may be  
2 deemed a separate and additional violation.

3 (2) No person is in violation of this section where the discharge  
4 of waste constitutes only a minor statistical exceedance of effluent  
5 limitations.

6 NEW SECTION. Sec. 30. A new section is added to chapter 90.48 RCW  
7 to read as follows:

8 DEFINITIONS. The following definitions apply to RCW 90.48.140 and  
9 section 29 of this act.

10 (1) "Knowingly" shall be defined in the same manner as that term is  
11 defined in RCW 9A.08.010.

12 (2) "Final written order or directive of the department" means a  
13 department order or directive that has been fully adjudicated with all  
14 available administrative and judicial reviews having been exhausted.

15 (3) "Person" shall have the meaning given in RCW 9A.04.110(17).

16 NEW SECTION. Sec. 31. A new section is added to chapter 90.48 RCW  
17 to read as follows:

18 (1) By July 1, 1994, the department shall establish a schedule  
19 ensuring inspection of facilities subject to discharge permits with at  
20 least the following frequency:

21 (a) Twice per year for class I inspections of major dischargers;

22 (b) Once per year for class II inspections of major dischargers,  
23 class I inspections of significant minor dischargers, and minor NPDES  
24 dischargers;

25 (c) Once every two years for class II inspections of significant  
26 minor dischargers;

27 (d) Once every ten years for class II inspections of significant  
28 state and minor NPDES dischargers.

29 A significant number of class I inspections shall be conducted on  
30 an unannounced basis.

31 (2) The department shall include toxic limits, sediment quality  
32 limits, and monitoring requirements in all permits issued. In the  
33 Puget Sound region, such requirements shall be at least as stringent as  
34 those specified in the Puget Sound water quality management plan.

35 NEW SECTION. Sec. 32. A new section is added to chapter 90.48 RCW  
36 to read as follows:

1 INCREASED ENFORCEMENT AGAINST UNPERMITTED DISCHARGERS. For the  
2 biennium ending June 30, 1995, the department shall initiate no fewer  
3 than twenty-five enforcement actions against persons discharging  
4 pollutants to state waters without a permit as required by this  
5 chapter. The department shall place primary emphasis upon initiating  
6 enforcement against large dischargers having significant adverse  
7 impacts upon water quality. A minimum of fifteen of such actions shall  
8 be initiated against persons discharging to Puget Sound or to waters  
9 which drain into Puget Sound.

10 NEW SECTION. **Sec. 33.** A new section is added to chapter 90.48 RCW  
11 to read as follows:

12 CITIZEN SUITS FOR WATER QUALITY ENFORCEMENT. (1) A person having  
13 an interest that is or may be affected may commence an action against:

14 (a) A person alleged to be in violation of a permit or order issued  
15 by the department;

16 (b) A person alleged to be discharging waste without a permit  
17 issued by the department; or

18 (c) The department where there is alleged a failure of the  
19 department to perform an act or duty under this chapter that is not  
20 discretionary with the department.

21 (2) No action may be commenced under subsection (1) (a) and (b) of  
22 this section:

23 (a) Prior to sixty days after the plaintiff has given notice of the  
24 alleged violation to the department and an alleged violator; or

25 (b) If the department has commenced and is diligently prosecuting  
26 or negotiating an administrative or judicial enforcement action.

27 (3) No action may be commenced under subsection (1)(c) of this  
28 section prior to sixty days after the plaintiff has given notice of  
29 such action to the department.

30 (4) In an action commenced under subsection (1) (a) and (b) of this  
31 section the plaintiff shall serve a copy of the complaint on the  
32 attorney general and the department. The department may intervene as  
33 a matter of right in the action. A consent judgment shall not be  
34 entered in an action in which the department is not a party prior to  
35 forty-five days following the receipt of a copy of the proposed consent  
36 judgment by the attorney general and the department.

37 (5) The court, in issuing a final order in an action brought  
38 pursuant to this section, may award costs of litigation, including

1 reasonable attorney and expert witness fees, to a prevailing or  
2 substantially prevailing party, wherever the court determines such  
3 award is appropriate.

4 (6) Nothing in this section restricts:

5 (a) The department or a unit of state or local government from  
6 bringing an enforcement action under any other provision of law; or

7 (b) A right that a person may have under statute or common law to  
8 seek enforcement of a water quality standard or limitation or to seek  
9 other relief.

10 NEW SECTION. **Sec. 34.** Sections 10 through 12 of this act shall  
11 constitute a new chapter in Title 36 RCW.

12 NEW SECTION. **Sec. 35.** CAPTIONS. Part headings and section  
13 captions as used in this act constitute no part of the law.

--- END ---