
HOUSE BILL 1177

State of Washington

54th Legislature

1995 Regular Session

By Representatives Johnson, Koster, Sheldon, Chandler, Stevens, Beeksma, Hymes, Goldsmith, Hatfield, McMahan, Mielke, Kremen, Buck, Clements, McMorris, Thompson, D. Schmidt, Skinner, Hargrove, Boldt and Basich

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1 AN ACT Relating to flood damage reduction; amending RCW 43.21C.020,
2 86.12.200, 86.16.025, 86.26.105, 75.20.100, 75.20.100, 75.20.103,
3 75.20.103, 75.20.130, 75.20.130, 79.90.150, 79.90.300, 90.58.030,
4 90.58.180, 47.28.140, 86.15.030, 86.15.050, 86.15.160, and 86.16.031;
5 adding a new section to chapter 35.13 RCW; adding a new section to
6 chapter 35A.14 RCW; adding new sections to chapter 43.17 RCW; adding a
7 new section to chapter 86.26 RCW; adding new sections to chapter 75.20
8 RCW; adding a new section to chapter 79.90 RCW; creating new sections;
9 repealing RCW 79.90.325; and declaring an emergency.

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

11 NEW SECTION. **Sec. 1.** The legislature finds that river and stream
12 systems can threaten public and private property during flood events.
13 The legislature therefore declares that reducing flood damage through
14 the use of structural and nonstructural projects is in the public
15 interest and that it is the duty of the state to properly fund flood
16 control projects. Structural and nonstructural projects include but
17 are not limited to: Streambank stabilization, storage facilities,
18 river channel maintenance, land use restrictions, land buy-outs, flood
19 easements, and emergency notification.

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

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

6 (g) Enhance the quality of renewable resources and approach the
7 maximum attainable recycling of depletable resources; and

8 (h) Provide for the prevention, minimization, and repair of flood
9 damage as defined in RCW 86.16.120.

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

14 **Sec. 102.** RCW 86.12.200 and 1991 c 322 s 3 are each amended to
15 read as follows:

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

19 A comprehensive flood control management plan shall include the
20 following elements:

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

24 (2) Establishment of a comprehensive scheme of flood control
25 protection and improvements for the areas that are subject to such
26 periodic flooding, that includes: (a) Determining the need for, and
27 desirable location of, flood control improvements to protect or
28 preclude flood damage to structures, works, and improvements, based
29 upon a ((cost/benefit)) cost-benefit ratio between the expense of
30 providing and maintaining these improvements and the benefits arising
31 from these improvements; (b) establishing the level of flood protection
32 that each portion of the system of flood control improvements will be
33 permitted; (c) identifying potential impacts of in-stream flood control
34 work on the state's in-stream resources, meander belt, or floodway and
35 considering alternatives to in-stream flood control work; (d)
36 identifying areas where flood waters could be directed during a flood
37 to avoid damage to buildings and other structures; ((and)) (e)
38 identifying areas where a river may migrate into a new channel and

1 developing options to prevent the creation of the new channel, and
2 identifying practices that will avoid long-term accretion of sediments;
3 and (f) identifying sources of revenue that will be sufficient to
4 finance the comprehensive scheme of flood control protection and
5 improvements;

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

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

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

18 A comprehensive flood control management plan shall be subject to
19 the minimum requirements for participation in the national flood
20 insurance program, requirements exceeding the minimum national flood
21 insurance program that have been adopted by the department of ecology
22 for a specific flood plain pursuant to RCW 86.16.031, and rules adopted
23 by the department of ecology pursuant to chapter 86.16 RCW and RCW
24 86.26.050 relating to flood plain management activities. When a county
25 plans under chapter 36.70A RCW, it ((may)) must incorporate the portion
26 of its comprehensive flood control management plan relating to land use
27 restrictions in its comprehensive plan and development regulations
28 adopted pursuant to chapter 36.70A RCW.

29 **Sec. 103.** RCW 86.16.025 and 1989 c 64 s 2 are each amended to read
30 as follows:

31 With respect to such features as may affect flood conditions, the
32 department shall have authority to examine, approve or reject designs
33 and plans for any structure or works, public or private, to be erected
34 or built or to be reconstructed or modified upon the banks or in or
35 over the channel or over and across the federal emergency management
36 agency floodway of any stream or body of water in this state.

1 **Sec. 104.** RCW 86.26.105 and 1986 c 46 s 5 are each amended to read
2 as follows:

3 ~~((A comprehensive flood control management plan shall determine the
4 need for flood control work, consider alternatives to in stream flood
5 control work, identify and consider potential impacts of in stream
6 flood control work on the state's in stream resources, and identify the
7 river's meander belt or floodway.))~~

8 (1) A comprehensive flood control management plan shall be
9 completed and adopted ~~((within at least three years of the
10 certification that it is being prepared, as provided in RCW 86.26.050))~~
11 by December 31, 1998. If after this ~~((three year period))~~ date has
12 elapsed such a comprehensive flood control plan has not been completed
13 and adopted, grants for flood control maintenance projects shall not be
14 made to the county or municipal corporations in the county until a
15 comprehensive flood control plan is completed and adopted by the
16 appropriate local authority. These limitations on grants shall not
17 preclude allocations for emergency purposes made pursuant to RCW
18 86.26.060.

19 (2) A county with two or more presidentially declared flood
20 disasters within the most recent ten-year period shall complete a
21 comprehensive flood control plan by December 31, 1998, or within two
22 years of a second presidentially declared flood disaster.

23 NEW SECTION. **Sec. 105.** A new section is added to chapter 35.13
24 RCW to read as follows:

25 (1) No city or town may annex territory located within the
26 designated flood plain unless the city or town establishes zoning and
27 use requirements for the territory to be annexed that are consistent
28 with the comprehensive flood control management plan of the county of
29 jurisdiction.

30 (2) As used in this section, "flood plain" means land area
31 susceptible to being inundated by water from inland or tidal waters
32 creating a general and temporary condition of partial or complete
33 inundation of normally dry land areas.

34 NEW SECTION. **Sec. 106.** A new section is added to chapter 35A.14
35 RCW to read as follows:

36 (1) No code city may annex territory located within the designated
37 flood plain unless the city establishes zoning and use requirements for

1 the territory to be annexed that are consistent with the comprehensive
2 flood control management plan of the county of jurisdiction.

3 (2) As used in this section, "flood plain" means land area
4 susceptible to being inundated by water from inland or tidal waters
5 creating a general and temporary condition of partial or complete
6 inundation of normally dry land areas.

7 NEW SECTION. **Sec. 107.** A new section is added to chapter 43.17
8 RCW to read as follows:

9 The heads of state agencies shall provide leadership in encouraging
10 a broad and unified effort to prevent uneconomic uses and development
11 of Washington flood plains and in particular, to promote the public
12 health, safety, and welfare and to reduce the risk of flood losses in
13 connection with Washington lands and installations and state-financed
14 or state-supported improvements.

15 In planning the location for new facilities, state agencies
16 directly responsible for the construction of state buildings,
17 structures, highways, roads, recreational facilities, or other
18 facilities shall evaluate flood hazards and as far as practicable shall
19 preclude the uneconomic, hazardous, or unnecessary use of flood plains
20 in connection with the facilities.

21 Whenever practical and economically feasible, floodproofing
22 measures shall be applied to existing facilities to reduce flood damage
23 potential.

24 State agencies responsible for the review or approval of sewage
25 treatment plants, water treatment plants, interceptor sewers,
26 subdivisions, trailer parks, and other facilities within the state
27 shall evaluate flood hazards in writing in connection with the review
28 and approval of facilities. These state agencies shall take measures
29 to minimize the exposure to potential flood damage to facilities and
30 development that the facilities may induce, and the need for future
31 state expenditures for flood protection and flood disaster relief.

32 State agencies responsible for programs that entail land use
33 planning shall take flood hazards into account when evaluating
34 applications for planning grants and when reviewing water and
35 wastewater facility plans, area-wide wastewater management plans, and
36 comprehensive land-use plans.

37 Requests for appropriations for state construction of new
38 buildings, structures, roads, or other facilities by state agencies

1 shall be accompanied by a statement on the findings of the agency's
2 evaluation and consideration of flood hazards in development of such
3 requests.

4 NEW SECTION. **Sec. 108.** A new section is added to chapter 86.26
5 RCW to read as follows:

6 A flood protection project is work necessary to preserve, restore,
7 or improve either natural or human-made stream banks or flood control
8 facilities that repair or prevent flood damage as defined in RCW
9 86.16.120 including but not limited to damage by erosion, stream flow,
10 sheet runoff, or other damages by the sea or other bodies of water.

11 NEW SECTION. **Sec. 109.** The department of transportation shall
12 assess all areas in the state in which road or bridge construction has
13 impacted the flood plain and the normal flow of flood waters. The
14 department shall report its findings and a plan for corrective action
15 to the legislature by December 31, 1995. The plan for corrective
16 action shall, to the greatest extent practicable, emphasize planned
17 renovation or reconstruction efforts for the roads and bridges outlined
18 in the assessment.

19 NEW SECTION. **Sec. 110.** RCW 79.90.325 and 1984 c 212 s 10 are
20 each repealed.

21 **PART II**
22 **PERMITTING**

23 NEW SECTION. **Sec. 201.** A new section is added to chapter 43.17
24 RCW to read as follows:

25 Each appropriate agency shall actively seek to encourage through
26 permit requirements the removal of accumulated materials from rivers
27 and streams where there is a flood damage reduction benefit. Each
28 agency shall develop policies to accomplish this goal. Policies shall
29 be developed from a designed, open-channel hydraulic engineering
30 criteria to facilitate the natural downstream movement of detrimental
31 material.

32 NEW SECTION. **Sec. 202.** A new section is added to chapter 75.20
33 RCW to read as follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply to RCW 75.20.100, 75.20.103, and 75.20.130.

3 (1) "Bed" means the land below the ordinary high water lines of
4 state waters. This definition does not include irrigation ditches,
5 canals, storm water run-off devices, or other artificial watercourses
6 except where they exist in a natural watercourse that has been altered
7 by humans.

8 (2) "Commercial" means a facility or building used for commerce,
9 including those used for agricultural or industrial purposes.

10 (3) "Emergency" means an immediate threat to life, public land, or
11 private property, or an immediate threat of serious environmental
12 degradation.

13 (4) "Local flood control agency" means a diking district, drainage
14 district, flood control zone district, or other similar flood control
15 entity.

16 (5) "Streambank stabilization" includes but is not limited to log
17 and debris removal; bank protection including riprap, jetties, and
18 groins; gravel removal; and erosion control.

19 (6) "To construct any form of hydraulic project or perform other
20 work" does not include the act of driving across an established ford.

21 NEW SECTION. **Sec. 203.** A new section is added to chapter 75.20
22 RCW to read as follows:

23 The permitting department may impose the following conditions on
24 persons applying under RCW 75.20.100 or 75.20.103:

25 (1) The permittee shall establish an excavation line. "Excavation
26 line" means a line on the dry bed, parallel to the water's edge unless
27 otherwise stated, that changes with water level fluctuations.

28 (2) The permittee may not remove bed material from the water side
29 of the excavation line.

30 (3) The permittee shall begin excavating at the excavation line and
31 proceed toward the bank, perpendicular to the alignment of the
32 watercourse.

33 (4) The permittee shall keep the maximum distance of excavation
34 toward the bank from the excavation line approximately equal throughout
35 the excavation zone. "Excavation zone" means the area between the
36 excavation line and the bank.

37 (5) The permittee shall identify the excavation zone with boundary
38 markers.

1 (6) The permittee shall maintain a minimum one-half percent
2 gradient upward from the excavation line in the excavation zone.

3 (7) The permittee shall ensure that the excavation zone is free of
4 pits or potholes.

5 (8) The permittee shall not stockpile or spoil excavated materials
6 within the ordinary high water line except from June 15 to October 15.

7 (9) The permittee may not allow any equipment within the wetted
8 perimeter of the watercourse without specific permission.

9 (10) The permittee shall dispose of debris in the excavation zone
10 so it does not reenter the watercourse.

11 (11) The permittee may not perform gravel washing or crushing
12 operations below the ordinary high water line.

13 (12) The permittee shall be allowed to remove only that amount of
14 rock, sand, gravel, or silt that is naturally replenished on an annual
15 basis, except in instances where a lapse in material removal has
16 occurred. If a lapse has occurred, then an amount of material
17 equivalent to the amount estimated to have accumulated since the last
18 material removal operation, including debris and vegetation, may be
19 removed.

20 NEW SECTION. **Sec. 204.** A new section is added to chapter 75.20
21 RCW to read as follows:

22 The departments of fish and wildlife, natural resources, and
23 ecology shall jointly develop a memorandum of understanding to
24 facilitate the consideration of projects that will aid in the
25 minimization or prevention of flood damage as defined in RCW 86.16.120.
26 To reduce the duplication of information required by a project's
27 permits, the departments must provide in their memorandum procedures to
28 share data to the extent practicable among themselves and with other
29 agencies that may be involved in approving or denying a permit
30 application. The departments' memorandum must provide a plan to
31 implement a comprehensive permit process that is streamlined and easily
32 understandable to permit applicants.

33 **Sec. 205.** RCW 75.20.100 and 1993 sp.s. c 2 s 30 are each amended
34 to read as follows:

35 (1) In the event that any person or government agency desires to
36 construct any form of hydraulic project or perform other work that will
37 use, divert, obstruct, or change the natural flow or bed of any of the

1 salt or fresh waters of the state, such person or government agency
2 shall, before commencing construction or work thereon and to ensure the
3 proper protection of fish life, secure the written approval of the
4 department as to the adequacy of the means proposed for the protection
5 of fish life. This approval shall not be unreasonably withheld.
6 Except as provided in RCW 75.20.1001 (~~and 75.20.1002~~), the department
7 shall grant or deny approval within forty-five calendar days of the
8 receipt of a complete application and notice of compliance with any
9 applicable requirements of the state environmental policy act, made in
10 the manner prescribed in this section. The applicant may document
11 receipt of application by filing in person or by registered mail. A
12 complete application for approval shall contain general plans for the
13 overall project, complete plans and specifications of the proposed
14 construction or work within the mean higher high water line in salt
15 water or within the ordinary high water line in fresh water, and
16 complete plans and specifications for the proper protection of fish
17 life. The forty-five day requirement shall be suspended if ~~((1))~~ (a)
18 after ten working days of receipt of the application, the applicant
19 remains unavailable or unable to arrange for a timely field evaluation
20 of the proposed project; ~~((2))~~ (b) the site is physically
21 inaccessible for inspection; or ~~((3))~~ (c) the applicant requests
22 delay. Immediately upon determination that the forty-five day period
23 is suspended, the department shall notify the applicant in writing of
24 the reasons for the delay. Approval is valid for a period of up to
25 five years from date of issuance. The permittee must demonstrate
26 substantial progress on construction of that portion of the project
27 relating to the approval within two years of the date of issuance. If
28 the department denies approval, the department shall provide the
29 applicant, in writing, a statement of the specific reasons why and how
30 the proposed project would adversely affect fish life. Protection of
31 fish life shall be the only ground upon which approval may be denied or
32 conditioned.

33 (2) In making a decision as to whether fish life is protected, the
34 department shall determine if a project as proposed or modified:

35 (a) Improves fish life or habitat over the long term to compensate
36 for any potential short-term losses; or

37 (b)(i) Protects a residential, commercial, or industrial facility
38 or structure that the department determines is likely to incur
39 significant flood damage during the next flood season if the project is

1 not completed; and (ii) lessens the loss of fish life or habitat as
2 compared to a project resulting from an emergency request under this
3 section.

4 The department shall approve a project if it determines that the
5 project meets either (a) or (b) of this subsection.

6 (3) Chapter 34.05 RCW applies to any denial of project approval,
7 conditional approval, or requirements for project modification upon
8 which approval may be contingent. If any person or government agency
9 commences construction on any hydraulic works or projects subject to
10 this section without first having obtained written approval of the
11 department as to the adequacy of the means proposed for the protection
12 of fish life, or if any person or government agency fails to follow or
13 carry out any of the requirements or conditions as are made a part of
14 such approval, the person or director of the agency is guilty of a
15 gross misdemeanor. If any such person or government agency is
16 convicted of violating any of the provisions of this section and
17 continues construction on any such works or projects without fully
18 complying with the provisions hereof, such works or projects are hereby
19 declared a public nuisance and shall be subject to abatement as such.

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

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

31 (4) In case of an emergency arising from weather or stream flow
32 conditions or other natural conditions, upon request the department,
33 through its authorized representatives, shall ~~((issue))~~ grant
34 immediately ~~((upon request))~~, oral approval for removing any
35 obstructions, repairing existing structures, restoring stream banks, or
36 ~~((to protect))~~ protecting property threatened by the stream or a change
37 in the stream flow without ~~((the necessity of obtaining))~~ requiring a
38 written approval prior to commencing work. Conditions of an oral
39 approval shall be reduced to writing within thirty days and complied

1 with as provided for in this section. (~~Oral approval shall be granted~~
2 ~~immediately upon request, for a stream crossing during an emergency~~
3 ~~situation.~~)

4 (5) In granting approval for projects submitted by local flood
5 control agencies, the department shall grant a special duration
6 hydraulic permit approval if the submitted project is a multiyear
7 maintenance program. The approval shall be granted for up to five
8 years, or the actual number of years covered by the maintenance
9 program.

10 (6) This section shall not apply to a project involving the repair
11 of an existing flood control reduction facility if the project is
12 determined by the county to be:

13 (a) Consistent with a currently approved comprehensive flood
14 control management plan; and

15 (b) Necessary to avoid flood damage during the next flood season.

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

24 **Sec. 206.** RCW 75.20.103 and 1993 sp.s. c 2 s 32 are each amended
25 to read as follows:

26 (1) In the event that any person or government agency desires to
27 construct any form of hydraulic project or other work that diverts
28 water for agricultural irrigation or stock watering purposes, or when
29 such hydraulic project or other work is associated with streambank
30 stabilization or flood damage reduction to protect farm and
31 agricultural land as defined in RCW 84.34.020, and when such
32 (~~diversion or streambank stabilization~~) hydraulic project will use,
33 divert, obstruct, or change the natural flow or bed of any river or
34 stream or will utilize any waters of the state or materials from the
35 stream beds, the person or government agency shall, before commencing
36 construction or work thereon and to ensure the proper protection of
37 fish life, secure a written approval from the department as to the
38 adequacy of the means proposed for the protection of fish life. This

1 approval shall not be unreasonably withheld. Except as provided in RCW
2 75.20.1001 (~~and 75.20.1002~~), the department shall grant or deny the
3 approval within forty-five calendar days of the receipt of a complete
4 application (~~and notice of compliance with any applicable requirements~~
5 ~~of the state environmental policy act,~~) made in the manner prescribed
6 in this section. The applicant may document receipt of application by
7 filing in person or by registered mail.

8 (2) A complete application for an approval shall:

9 (a) Contain general plans for the overall project, complete plans
10 and specifications of the proposed construction or work within ordinary
11 high water line, and complete plans and specifications for the proper
12 protection of fish life; and

13 (b) Not be required to include notice of compliance with any
14 applicable requirements of the state environmental policy act. Final
15 approval of a project may not be granted until any applicable
16 requirements of the state environmental policy act have been satisfied.

17 (3) The forty-five day requirement shall be suspended if ((+1)):

18 (a) After ten working days of receipt of the application, the
19 applicant remains unavailable or unable to arrange for a timely field
20 evaluation of the proposed project; ((+2))

21 (b) The site is physically inaccessible for inspection; ((or (+3)))

22 (c) After forty-four days of receipt of a complete application, a
23 notice of compliance with the state environmental policy act has not
24 been issued; or

25 (d) The applicant requests delay.

26 (4) Immediately upon determination that the forty-five day period
27 is suspended, the department shall notify the applicant in writing of
28 the reasons for the delay.

29 (5) In making a decision as to whether fish life is protected, the
30 department shall determine if a project as proposed or modified:

31 (a) Improves fish life or habitat over the long term to compensate
32 for any potential short-term losses; or

33 (b)(i) Protects a residential, commercial, or industrial facility
34 or structure that the department determines is likely to incur
35 significant flood damage during the next flood season if the project is
36 not completed; and (ii) lessens the loss of fish life or habitat as
37 compared to a project resulting from an emergency request under this
38 section.

1 The department shall approve a project if it determines that the
2 project meets either (a) or (b) of this subsection.

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

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

24 (8) The department may, after consultation with the permittee,
25 modify an approval due to changed conditions. The modifications shall
26 become effective unless appealed to the hydraulic appeals board within
27 thirty days from the notice of the proposed modification. The burden
28 is on the department to show that changed conditions warrant the
29 modification in order to protect fish life.

30 (9) A permittee may request modification of an approval due to
31 changed conditions. The request shall be processed within forty-five
32 calendar days of receipt of the written request. A decision by the
33 department may be appealed to the hydraulic appeals board within thirty
34 days of the notice of the decision. The burden is on the permittee to
35 show that changed conditions warrant the requested modification and
36 that such modification will not impair fish life.

37 (10) If any person or government agency commences construction on
38 any hydraulic works or projects subject to this section without first
39 having obtained written approval of the department as to the adequacy

1 of the means proposed for the protection of fish life, or if any person
2 or government agency fails to follow or carry out any of the
3 requirements or conditions as are made a part of such approval, the
4 person or director of the agency is guilty of a gross misdemeanor. If
5 any such person or government agency is convicted of violating any of
6 the provisions of this section and continues construction on any such
7 works or projects without fully complying with the provisions hereof,
8 such works or projects are hereby declared a public nuisance and shall
9 be subject to abatement as such.

10 (11) In granting approval for projects submitted by local flood
11 control agencies, the department shall grant a special duration
12 hydraulic permit approval if the submitted project is a multiyear
13 maintenance program. The approval shall be granted for up to five
14 years, or the actual number of years covered by the maintenance
15 program.

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

26 ~~((For purposes of this chapter, "streambank stabilization" shall~~
27 ~~include but not be limited to log and debris removal, bank protection~~
28 ~~(including riprap, jetties, and groins), gravel removal and erosion~~
29 ~~control.))~~

30 (13) This section shall not apply to a project involving the repair
31 of an existing flood control facility if the project is determined by
32 the county to be:

33 (a) Consistent with a previously approved comprehensive flood
34 control management plan; and

35 (b) Necessary to avoid flood damage during the next flood season.

36 **Sec. 207.** RCW 75.20.130 and 1993 sp.s. c 2 s 37 are each amended
37 to read as follows:

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

4 (2) The hydraulic appeals board shall consist of three members:
5 The director of the department of ecology or the director's designee,
6 the director of the department of agriculture or the director's
7 designee, and the director or the director's designee of the department
8 whose action is appealed under subsection (6) of this section. A
9 decision must be agreed to by at least two members of the board to be
10 final.

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

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

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

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

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

33 (c) If a review proceeding authorized in (a) of this subsection
34 finds for the aggrieved permit applicant, the applicant may be awarded
35 any legal and engineering costs involved in challenging the permit
36 decision.

37 NEW SECTION. Sec. 208. A new section is added to chapter 79.90
38 RCW to read as follows:

1 (1) Use or modification, or both, of a river system shall involve
2 basic hydraulic principles, as well as harmonize as much as possible
3 with existing aquatic ecosystems, and human needs.

4 (2) The department, commissioner, and board shall:

5 (a) Give priority consideration to the preservation of the
6 streamway environment with special attention given to preservation of
7 those areas considered aesthetically or environmentally unique;

8 (b) Encourage bank and island stabilization programs that rely
9 mainly on natural vegetative systems as holding elements;

10 (c) Encourage research to develop alternative methods of channel
11 control, utilizing natural systems of stabilization;

12 (d) Recognize natural plant and animal communities and other
13 features that provide an ecological balance to a streamway in
14 evaluating competing human uses and require protection from significant
15 human impact; and

16 (e) Recognize that hydraulic conditions may require the
17 installation of riprap or other similar measure to further protect
18 natural systems of stabilization.

19 (3) No person may remove normal stream depositions of logs,
20 uprooted tree snags, and stumps that abut on shorelands and do not
21 intrude on the navigational channel or reduce flow, or adversely
22 redirect a river course, and are not harmful to life and property
23 without the department's permission but the department must consider
24 the need to protect the resultant dependent aquatic systems.

25 (4) No person may fill indentations such as mudholes, eddies,
26 pools, and aeration drops without permission of the department.

27 (5) The department shall encourage and may permit river channel
28 relocations and improvements when public benefit can be shown.
29 Filling, grading, lagooning, or dredging that would result in
30 substantial detriment to navigable waters by reason of erosion,
31 sedimentation, or impairment of fish and aquatic life are not
32 authorized.

33 (6) No person may remove sand and gravel below the wetted perimeter
34 of navigable rivers unless authorized by a hydraulics permit issued by
35 the department of fish and wildlife under RCW 75.20.100 and 75.20.103.
36 These removals may be authorized for maintenance and improvement of
37 navigational channels or for creating backwater channels for fish
38 rearing or improvement of the flow capacity of the channels.

1 (7) The department may allow sand and gravel removals above the
2 wetted perimeter of a navigable river that are not harmful to public
3 health and safety if any or all of the following situations exist:

4 (a) The removal is designed to create or improve a feature such as
5 a pond, wetland, or other habitat valuable for fish and wildlife;

6 (b) The removal provides recreational benefits;

7 (c) The removal will aid in reducing a detrimental accumulation of
8 aggregates in downstream lakes, reservoirs, and river beds;

9 (d) The removal will aid in reducing damage to private or public
10 land and property abutting a navigable river; or

11 (e) The removal will contribute to increased flood protection for
12 private or public land.

13 (8) The department may not allow sand and gravel removals above the
14 wetted perimeter of a navigable river when:

15 (a) The location of such material is below a dam and has inadequate
16 supplementary feeding of gravel or sand;

17 (b) Removal will cause unstable hydraulic conditions detrimental to
18 fish, wildlife, public health, and safety; or

19 (c) Removal will impact esthetics of nearby recreational
20 facilities.

21 (9) No person may perform bank dumping or junk revetment on aquatic
22 lands.

23 (10) The department shall condition sand and gravel removal leases
24 to allow removal of only that amount that is naturally replenished on
25 an annual basis, except in instances where a lapse in material removal
26 has occurred. If such a lapse has occurred, then an amount of material
27 equivalent to the amount estimated to have accumulated since the last
28 material removal operation, including debris and vegetation, may be
29 removed.

30 **Sec. 209.** RCW 79.90.150 and 1991 c 337 s 1 are each amended to
31 read as follows:

32 When gravel, rock, sand, silt or other material from any aquatic
33 lands is removed by any public agency or under public contract for
34 channel or harbor improvement, or flood control, use of such material
35 may be authorized by the department of natural resources for a public
36 purpose on land owned or leased by the state or any municipality,
37 county, or public corporation: PROVIDED, That when no public land site
38 is available for deposit of such material, its deposit on private land

1 with the landowner's permission is authorized and may be designated by
2 the department of natural resources to be for a public purpose. Prior
3 to removal and use, the state agency, municipality, county, or public
4 corporation contemplating or arranging such use shall first obtain
5 written permission from the department of natural resources. No
6 payment of royalty shall be required for such gravel, rock, sand, silt,
7 or other material used for such public purpose, but a charge will be
8 made if such material is subsequently sold or used for some other
9 purpose: PROVIDED, That the department may authorize such public
10 agency or private landowner to dispose of such material without charge
11 when necessary to implement disposal of material. No charge shall be
12 required for any use of the material obtained under the provisions of
13 this chapter when used solely on an authorized site. No charge shall
14 be required for any use of the material obtained under the provisions
15 of this chapter if the material is used for public purposes by local
16 governments. No charge may be required for removal or use of such
17 material if the removal of the material is determined by the local
18 government to be for flood control purposes. Public purposes include,
19 but are not limited to, construction and maintenance of roads, dikes,
20 and levies. Nothing in this section shall repeal or modify the
21 provisions of RCW 75.20.100 or eliminate the necessity of obtaining a
22 permit for such removal from other state or federal agencies as
23 otherwise required by law.

24 **Sec. 210.** RCW 79.90.300 and 1991 c 322 s 26 are each amended to
25 read as follows:

26 (1) The department of natural resources, upon application by any
27 person or when determined by the department to be in the best interest
28 of the state, may enter into a contract or lease providing for the
29 removal and sale of rock, gravel, sand, and silt, or other valuable
30 materials located within or upon beds of navigable waters, or upon any
31 tidelands or shorelands belonging to the state and providing for
32 payment to be made therefor by such royalty as the department may fix,
33 by negotiation, by sealed bid, or at public auction. If application is
34 made for the purchase of any valuable material situated within or upon
35 aquatic lands the department shall inspect and appraise the value of
36 the material in the application. The department may reduce or
37 eliminate royalties in areas prone to flooding. Removal of material
38 from within the ordinary high water mark shall be construed as being

1 removed for flood control purposes. The department may include a
2 provision in contracts for the removal of rock, gravel, sand, or silt
3 that allows for payment to be made as the material is sold.

4 (2) The department shall actively seek to encourage through permit
5 requirements and adjusted fees the removal of accumulated materials
6 from rivers and streams where there is a flood damage reduction
7 benefit. The department shall develop policies to accomplish this
8 goal.

9 **Sec. 211.** RCW 90.58.030 and 1987 c 474 s 1 are each amended to
10 read as follows:

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

13 (1) Administration:

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

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

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

19 (d) "Person" means an individual, partnership, corporation,
20 association, organization, cooperative, public or municipal
21 corporation, or agency of the state or local governmental unit however
22 designated;

23 (e) "Hearing board" means the shoreline hearings board established
24 by this chapter.

25 (2) Geographical:

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

28 (b) "Ordinary high water mark" on all lakes, streams, and tidal
29 water is that mark that will be found by examining the bed and banks
30 and ascertaining where the presence and action of waters are so common
31 and usual, and so long continued in all ordinary years, as to mark upon
32 the soil a character distinct from that of the abutting upland, in
33 respect to vegetation as that condition exists on June 1, 1971, as it
34 may naturally change thereafter, or as it may change thereafter in
35 accordance with permits issued by a local government or the department:
36 PROVIDED, That in any area where the ordinary high water mark cannot be
37 found, the ordinary high water mark adjoining salt water shall be the

1 line of mean higher high tide and the ordinary high water mark
2 adjoining fresh water shall be the line of mean high water;

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

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

13 (e) "Shorelines of state-wide significance" means the following
14 shorelines of the state:

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

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

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

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

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

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

25 and

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

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

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

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

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

37 (B) Any east of the crest of the Cascade range downstream of a
38 point where the annual flow is measured at two hundred cubic feet per
39 second or more, or those portions of rivers east of the crest of the

1 Cascade range downstream from the first three hundred square miles of
2 drainage area, whichever is longer;

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

5 (f) "Wetlands" or "wetland areas" means those lands extending
6 landward for two hundred feet in all directions as measured on a
7 horizontal plane from the ordinary high water mark; floodways and
8 contiguous floodplain areas landward two hundred feet from such
9 floodways; and all marshes, bogs, swamps, and river deltas associated
10 with the streams, lakes, and tidal waters which are subject to the
11 provisions of this chapter; the same to be designated as to location by
12 the department of ecology(~~(:—PROVIDED, That)~~). However, any county or
13 city may determine that portion of a one-hundred-year-flood plain to be
14 included in its master program as long as such portion includes, as a
15 minimum, the floodway and the adjacent land extending landward two
16 hundred feet (~~(therefrom)~~);

17 (g) "Floodway" means those portions of the area of a river valley
18 lying streamward from the outer limits of a watercourse upon which
19 flood waters are carried during periods of flooding that occur with
20 reasonable regularity, although not necessarily annually, said floodway
21 being identified, under normal condition, by changes in surface soil
22 conditions or changes in types or quality of vegetative ground cover
23 condition. The floodway shall not include those lands that can
24 reasonably be expected to be protected from flood waters by flood
25 control devices maintained by or maintained under license from the
26 federal government, the state, or a political subdivision of the state.

27 (3) Procedural terms:

28 (a) "Guidelines" means those standards adopted to implement the
29 policy of this chapter for regulation of use of the shorelines of the
30 state prior to adoption of master programs. Such standards shall also
31 provide criteria to local governments and the department in developing
32 master programs;

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

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

1 (d) "Development" means a use consisting of the construction or
2 exterior alteration of structures; dredging; drilling; dumping;
3 filling; removal of any sand, gravel, or minerals; bulkheading; driving
4 of piling; placing of obstructions; or any project of a permanent or
5 temporary nature which interferes with the normal public use of the
6 surface of the waters overlying lands subject to this chapter at any
7 state of water level;

8 (e) "Substantial development" shall mean any development of which
9 the total cost or fair market value exceeds two thousand five hundred
10 dollars, or any development which materially interferes with the normal
11 public use of the water or shorelines of the state; except that the
12 following shall not be considered substantial developments for the
13 purpose of this chapter:

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

16 (ii) Reconstruction or improvements to dikes and levees if the
17 reconstruction or improvement is determined by a county to be
18 consistent with a flood control management plan developed under chapter
19 86.26 RCW;

20 (iii) Streambed maintenance including sediment removal, sediment
21 disposal, and streambank stabilization if performed to provide public
22 flood control benefit as determined by the appropriate county
23 legislative authority;

24 (iv) Construction of stream flow regulation, retention, or
25 detention facilities if consistent with a flood control management plan
26 developed under chapter 86.26 RCW;

27 (v) Construction of the normal protective bulkhead common to single
28 family residences;

29 ~~((iii))~~ (vi) Emergency construction necessary to protect property
30 from damage by the elements;

31 ~~((iv))~~ (vii) Construction and practices normal or necessary for
32 farming, irrigation, and ranching activities, including agricultural
33 service roads and utilities on wetlands, and the construction and
34 maintenance of irrigation structures including but not limited to head
35 gates, pumping facilities, and irrigation channels: PROVIDED, That a
36 feedlot of any size, all processing plants, other activities of a
37 commercial nature, alteration of the contour of the wetlands by
38 leveling or filling other than that which results from normal
39 cultivation, shall not be considered normal or necessary farming or

1 ranching activities. A feedlot shall be an enclosure or facility used
2 or capable of being used for feeding livestock hay, grain, silage, or
3 other livestock feed, but shall not include land for growing crops or
4 vegetation for livestock feeding and/or grazing, nor shall it include
5 normal livestock wintering operations;

6 ~~((v))~~ (viii) Construction or modification of navigational aids
7 such as channel markers and anchor buoys;

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

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

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

26 ~~((ix))~~ (xii) The marking of property lines or corners on state
27 owned lands, when such marking does not significantly interfere with
28 normal public use of the surface of the water;

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

33 ~~((xi))~~ (xiv) Any action commenced prior to December 31, 1982,
34 pertaining to (A) the restoration of interim transportation services as
35 may be necessary as a consequence of the destruction of the Hood Canal
36 bridge, including, but not limited to, improvements to highways,
37 development of park and ride facilities, and development of ferry
38 terminal facilities until a new or reconstructed Hood Canal bridge is

1 open to traffic; and (B) the reconstruction of a permanent bridge at
2 the site of the original Hood Canal bridge.

3 **Sec. 212.** RCW 90.58.180 and 1994 c 253 s 3 are each amended to
4 read as follows:

5 (1) Any person aggrieved by the granting, denying, or rescinding of
6 a permit on shorelines of the state pursuant to RCW 90.58.140 may seek
7 review from the shorelines hearings board by filing a request for the
8 same within thirty days of the date of filing as defined in RCW
9 90.58.140(6).

10 Concurrently with the filing of any request for review with the
11 board as provided in this section pertaining to a final order of a
12 local government, the requestor shall file a copy of his or her request
13 with the department and the attorney general. If it appears to the
14 department or the attorney general that the requestor has valid reasons
15 to seek review, either the department or the attorney general may
16 certify the request within thirty days after its receipt to the
17 shorelines hearings board following which the board shall then, but not
18 otherwise, review the matter covered by the requestor. The failure to
19 obtain such certification shall not preclude the requestor from
20 obtaining a review in the superior court under any right to review
21 otherwise available to the requestor. The department and the attorney
22 general may intervene to protect the public interest and insure that
23 the provisions of this chapter are complied with at any time within
24 fifteen days from the date of the receipt by the department or the
25 attorney general of a copy of the request for review filed pursuant to
26 this section. The shorelines hearings board shall initially schedule
27 review proceedings on such requests for review without regard as to
28 whether such requests have or have not been certified or as to whether
29 the period for the department or the attorney general to intervene has
30 or has not expired, unless such review is to begin within thirty days
31 of such scheduling. If at the end of the thirty day period for
32 certification neither the department nor the attorney general has
33 certified a request for review, the hearings board shall remove the
34 request from its review schedule.

35 (2) The department or the attorney general may obtain review of any
36 final order granting a permit, or granting or denying an application
37 for a permit issued by a local government by filing a written request
38 with the shorelines hearings board and the appropriate local government

1 within thirty days from the date the final order was filed as provided
2 in RCW 90.58.140(6).

3 (3) The review proceedings authorized in subsections (1) and (2) of
4 this section are subject to the provisions of chapter 34.05 RCW
5 pertaining to procedures in adjudicative proceedings. Judicial review
6 of such proceedings of the shorelines hearings board is governed by
7 chapter 34.05 RCW.

8 (4) If the review proceedings authorized in subsection (1) of this
9 section find for the requestor, the requestor may be awarded any legal
10 and engineering costs involved in challenging the permit decision.

11 (5) A local government may appeal to the shorelines hearings board
12 any rules, regulations, or guidelines adopted or approved by the
13 department within thirty days of the date of the adoption or approval.
14 The board shall make a final decision within sixty days following the
15 hearing held thereon.

16 If the board determines that the rule, regulation, or guideline:

17 (a) Is clearly erroneous in light of the policy of this chapter; or

18 (b) Constitutes an implementation of this chapter in violation of
19 constitutional or statutory provisions; or

20 (c) Is arbitrary and capricious; or

21 (d) Was developed without fully considering and evaluating all
22 material submitted to the department by the local government; or

23 (e) Was not adopted in accordance with required procedures;
24 the board shall enter a final decision declaring the rule, regulation,
25 or guideline invalid, remanding the rule, regulation, or guideline to
26 the department with a statement of the reasons in support of the
27 determination, and directing the department to adopt, after a thorough
28 consultation with the affected local government, a new rule,
29 regulation, or guideline. Unless the board makes one or more of the
30 determinations as hereinbefore provided, the board shall find the rule,
31 regulation, or guideline to be valid and enter a final decision to that
32 effect.

33 ~~((+5))~~ (6) Rules, regulations, and guidelines shall be subject to
34 review in superior court, if authorized pursuant to RCW 34.05.570(2).
35 No review shall be granted by a superior court on petition from a local
36 government unless the local government shall first have obtained review
37 under subsection ~~((+4))~~ (5) of this section and the petition for court
38 review is filed within three months after the date of final decision by
39 the shorelines hearings board.

1 the problem or benefits received. The department may make payment only
2 after an agreement has been entered into between the department and the
3 appropriate state or local government entity. The department may not
4 make the contribution less than ten percent of the total project cost.

5 **Sec. 302.** RCW 86.15.030 and 1969 ex.s. c 195 s 2 are each amended
6 to read as follows:

7 Upon receipt of a petition asking that a zone be created, or upon
8 motion of the board, the board shall adopt a resolution which shall
9 describe the boundaries of such proposed zone; describe in general
10 terms the flood control needs or requirements within the zone; set a
11 date for public hearing upon the creation of such zone, which shall be
12 not more than thirty days after the adoption of such resolution.
13 Notice of such hearing and publication shall be had in the manner
14 provided in RCW 36.32.120(7).

15 At the hearing scheduled upon the resolution, the board shall
16 permit all interested parties to be heard. Thereafter, the board may
17 reject the resolution or it may modify the boundaries of such zone and
18 make such other corrections or additions to the resolutions as they
19 deem necessary to the accomplishment of the purpose of this chapter:
20 PROVIDED, That if the boundaries of such zone are enlarged, the board
21 shall hold an additional hearing following publication and notice of
22 such new boundaries: PROVIDED FURTHER, That the boundaries of any zone
23 shall generally follow the boundaries of the watershed area affected:
24 PROVIDED FURTHER, That the immediately preceding proviso shall in no
25 way limit or be construed to prohibit the formation of a county-wide
26 flood control zone district authorized to be created by RCW 86.15.025.

27 Within (~~ten~~) thirty days after final hearing on a resolution, the
28 board shall issue its (~~order~~) ordinance creating the flood control
29 zone district.

30 **Sec. 303.** RCW 86.15.050 and 1961 c 153 s 5 are each amended to
31 read as follows:

32 The board (~~of county commissioners of each county~~) shall be ex
33 officio, by virtue of their office, supervisors of the zones created in
34 each county. The supervisors of the district shall conduct the
35 business of the flood control zone district according to the regular
36 rules and procedures that it adopts.

1 **Sec. 304.** RCW 86.15.160 and 1986 c 278 s 60 are each amended to
2 read as follows:

3 For the purposes of this chapter the supervisors may authorize:

4 (1) An annual excess ad valorem tax levy within any zone or
5 participating zones when authorized by the voters of the zone or
6 participating zones under RCW 84.52.052 and 84.52.054;

7 (2) An assessment upon property, including state property,
8 specially benefited by flood control improvements or storm water
9 control improvements imposed under chapter 86.09 RCW;

10 (3) Within any zone or participating zones an annual ad valorem
11 property tax levy of not to exceed fifty cents per thousand dollars of
12 assessed value when the levy will not take dollar rates that other
13 taxing districts may lawfully claim and that will not cause the
14 combined levies to exceed the constitutional and/or statutory
15 limitations, and the additional levy, or any portion thereof, may also
16 be made when dollar rates of other taxing units is released therefor by
17 agreement with the other taxing units from their authorized levies
18 under chapter 39.67 RCW;

19 (4) A charge, under RCW 36.89.080 through 36.89.100, for the
20 furnishing of service to those who are receiving or will receive
21 benefits from storm water control facilities ((and)) or who are
22 contributing to an increase in surface water runoff. Except as
23 otherwise provided in RCW 90.03.525, any public entity and public
24 property, including the state and state property, shall be liable for
25 the charges to the same extent a private person and privately owned
26 property is liable for the charges, and in setting these rates and
27 charges, consideration may be made of in-kind services, such as stream
28 improvements or donation of property;

29 (5) The creation of local improvement districts and utility local
30 improvement districts, the issuance of improvement district bonds and
31 warrants, and the imposition, collection, and enforcement of special
32 assessments on all property, including any state-owned or other
33 publicly-owned property, specially benefited from improvements in the
34 same manner as provided for counties by chapter 36.94 RCW.

35

PART IV

36

FLOOD HAZARD INFORMATION

1 **Sec. 401.** RCW 86.16.031 and 1989 c 64 s 3 are each amended to read
2 as follows:

3 The department of ecology shall:

4 (1) Review and approve county, city, or town flood plain management
5 ordinances pursuant to RCW 86.16.041;

6 (2) When requested, provide guidance and assistance to local
7 governments in development and amendment of their flood plain
8 management ordinances;

9 (3) Provide technical assistance to local governments in the
10 administration of their flood plain management ordinances;

11 (4) Provide local governments and the general public with
12 information related to the national flood insurance program;

13 (5) When requested, provide assistance to local governments in
14 enforcement actions against any individual or individuals performing
15 activities within the flood plain that are not in compliance with
16 local, state, or federal flood plain management requirements;

17 (6) Establish state minimum requirements that equal minimum federal
18 requirements for the national flood insurance program;

19 (7) Assist counties, cities, and towns in identifying the location
20 of the one hundred year flood plain, and petitioning the federal
21 government to alter its designations of where the one hundred year
22 flood plain is located if the federally recognized location of the one
23 hundred year flood plain is found to be inaccurate; ~~((and))~~

24 (8) Establish minimum state requirements for specific flood plains
25 that exceed the minimum federal requirements for the national flood
26 insurance program, but only if:

27 (a) The location of the one hundred year flood plain has been
28 reexamined and is certified by the department as being accurate;

29 (b) Negotiations have been held with the affected county, city, or
30 town over these regulations;

31 (c) Public input from the affected community has been obtained; and

32 (d) The department makes a finding that these increased
33 requirements are necessary due to local circumstances and general
34 public safety; and

35 (9) File copies of the flood insurance rate maps, provided by the
36 federal emergency management authority for the national flood insurance
37 program, with the county auditor in each county in which property shown
38 on the maps is located. The department shall, on an annual basis,

1 file revised maps with each county auditor in counties for which the
2 maps are revised.

3 **PART V**
4 **MISCELLANEOUS**

5 NEW SECTION. **Sec. 501.** Part headings as used in this act
6 constitute no part of the law.

7 NEW SECTION. **Sec. 502.** This act is necessary for the immediate
8 preservation of the public peace, health, or safety, or support of the
9 state government and its existing public institutions, and shall take
10 effect immediately.

--- END ---