
HOUSE BILL 2200

State of Washington

54th Legislature

1996 Regular Session

By Representatives Chandler, Mastin, Lisk, Mulliken, Honeyford, Robertson, Basich, Horn and Goldsmith

Read first time 01/08/96. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to water resource management; amending RCW
2 90.54.020, 90.54.180, 90.03.383, and 90.14.140; reenacting and amending
3 RCW 43.84.092; adding new sections to chapter 90.03 RCW; adding a new
4 section to chapter 90.22 RCW; adding a new section to chapter 90.54
5 RCW; adding a new section to chapter 34.05 RCW; creating new sections;
6 adding a new chapter to Title 90 RCW; and providing expiration dates.

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

8

PART I

9

BASIN PLANS AND INSTREAM FLOWS

10 NEW SECTION. **Sec. 101.** A new section is added to chapter 90.03
11 RCW to read as follows:

12 (1) During the period beginning January 1, 1996, and ending January
13 1, 1999, the department shall not, except as provided in section 105 of
14 this act, adopt rules establishing or modifying or otherwise establish
15 or modify a comprehensive water resources program for one or more water
16 basins, or an instream flow, instream protection program, or minimum
17 water flow or level. The purpose of this section is to provide the

1 legislature an opportunity to evaluate the value of local, watershed
2 planning for developing such programs, flows, and levels.

3 (2) This section expires January 31, 1999.

4 NEW SECTION. **Sec. 102.** A new section is added to chapter 90.22
5 RCW to read as follows:

6 (1) During the period beginning January 1, 1996, and ending January
7 1, 1999, the department of ecology shall not, except as provided in
8 section 105 of this act, adopt rules establishing or modifying or
9 otherwise establish or modify a comprehensive water resources program
10 for one or more water basins, or an instream flow, instream protection
11 program, or minimum water flow or level. The purpose of this section
12 is to provide the legislature an opportunity to evaluate the value of
13 local, watershed planning for developing such programs, flows, and
14 levels.

15 (2) This section expires January 31, 1999.

16 NEW SECTION. **Sec. 103.** A new section is added to chapter 90.54
17 RCW to read as follows:

18 (1) During the period beginning January 1, 1996, and ending January
19 1, 1999, the department shall not, except as provided in section 105 of
20 this act, adopt rules establishing or modifying or otherwise establish
21 or modify a comprehensive water resources program for one or more water
22 basins, or an instream flow, instream protection program, or minimum
23 water flow or level. The purpose of this section is to provide the
24 legislature an opportunity to evaluate the value of local, watershed
25 planning for developing such programs, flows, and levels.

26 (2) This section expires January 31, 1999.

27 **GENERAL PROVISIONS**

28 NEW SECTION. **Sec. 104.** Unless the context clearly requires
29 otherwise, the definitions in this section apply throughout this
30 chapter.

31 (1) "Department" means the department of ecology.

32 (2) "WRIA" means a water resource inventory area established in
33 chapter 173-500 WAC as it existed on January 1, 1996.

1 (3) "Water supply special purpose district" means a water, combined
2 water-sewer, irrigation, reclamation, or public utility district that
3 provides water to persons or other water users within the district.

4 NEW SECTION. **Sec. 105.** It is the intent of the legislature that
5 water resource planning be done locally, at the watershed level. Such
6 local planning is not required, but may be conducted as provided in
7 this chapter. If such local planning is conducted for a WRIA, it shall
8 provide for the establishment of instream flows and a comprehensive
9 water resources program for the WRIA, and the adoption of such flows
10 and programs developed under these planning efforts is exempted from
11 the limitations provided by sections 101, 102, and 103 of this act. No
12 plan developed under this chapter may impair or impede any water right
13 existing before the plan is adopted under section 114(5) of this act.

14 NEW SECTION. **Sec. 106.** Once a WRIA planning unit has been
15 organized and has established priorities under section 111 of this act,
16 it may apply to the department for funding assistance for conducting
17 the planning. The department shall provide five hundred thousand
18 dollars per WRIA on a first-come, first-served basis to each such
19 planning unit planning under this chapter and so applying. The moneys
20 shall be provided from and to the extent of appropriations made by the
21 legislature to the department expressly for this purpose. Funding
22 provided under this section shall be considered to be a contractual
23 obligation against the moneys appropriated for this purpose.

24 NEW SECTION. **Sec. 107.** (1) This chapter shall not be construed as
25 creating a new cause of action against the state or any county, city,
26 or special purpose district.

27 (2) Notwithstanding RCW 4.92.090, 4.96.010, and 64.40.020, no claim
28 for damages may be filed against the state or any county, city, or
29 special purpose district that participates in a WRIA planning unit for
30 performing responsibilities under this chapter. The exclusion from
31 liability contained in this subsection does not apply to a county,
32 city, or special purpose district that votes to adopt provisions in a
33 WRIA plan that have been identified by the department as being in
34 conflict with state or federal law with regard to those provisions if
35 advice regarding the conflict was provided under section 114(2) of this
36 act.

1 NEW SECTION. **Sec. 108.** (1) Of the counties located in whole or in
2 part in a WRIA, the county with the largest population residing within
3 the boundaries of the WRIA is the lead agency for WRIA planning
4 conducted for that WRIA under this chapter, except as provided in
5 section 109 of this act. Such a county may choose to initiate water
6 resource planning for the WRIA under this chapter. If it does so
7 choose, it shall: Convene a meeting of the members of the legislative
8 authorities of the counties with territory within a WRIA for the
9 appointment of a WRIA planning unit; and notify the cities, water
10 supply special purpose districts, and conservation districts with
11 territory within the WRIA that these groups are to meet to appoint
12 their members of the WRIA planning unit. For the purposes of this
13 section and sections 109 and 114 of this act, a county is considered to
14 have territory within a WRIA only if the territory of the county
15 located in the WRIA constitutes at least fifteen percent of the area of
16 the WRIA.

17 (2)(a) One WRIA planning unit shall be appointed for the WRIA as
18 provided by this section or of a multi-WRIA area as provided by section
19 109 of this act for multi-WRIA planning. The planning unit shall be
20 composed of: One member from each county with territory in the WRIA
21 representing the county and appointed by the county; one member for
22 each county with territory in the WRIA, but not less than two members,
23 representing cities with territory in the WRIA and appointed jointly by
24 those cities; two members representing all water supply special purpose
25 districts with territory within the WRIA and appointed jointly by those
26 districts; one member representing all conservation districts with
27 territory within the WRIA and appointed jointly by those districts;
28 four members representing the general citizenry, of which at least two
29 shall be holders of water rights, appointed jointly by the counties
30 with territory within the WRIA; and six members representing various
31 special interest groups appointed jointly by the counties with
32 territory within the WRIA.

33 (b) In addition, for a WRIA located within Pierce, King, or
34 Snohomish county, a representative of the largest water purveyor using
35 water from the WRIA shall be an ex officio member of the planning unit
36 whether the principal offices of the purveyor are or are not located
37 within the WRIA.

38 (3) Except for a person who is an ex officio member of the planning
39 unit under subsection (2)(b) of this section, each person appointed to

1 a WRIA planning unit shall have been a resident of the WRIA for at
2 least five years. No state employee or state official may be appointed
3 to the planning unit. In appointing persons to the WRIA planning unit
4 representing special interest groups, the counties shall consider
5 industrial water users, general businesses, hydroelectric and thermal
6 power producers, and irrigated agriculture, nonirrigated agriculture,
7 forestry, recreation, environmental, and fisheries interest groups and
8 other groups with interests in the WRIA.

9 (4) In voting to appoint the members of a WRIA planning unit, to
10 approve a WRIA plan under section 114 of this act or to request or
11 concur with a request for multi-WRIA planning under section 109 of this
12 act, each county with territory within the WRIA shall have three votes,
13 divided equally among the members of the county's legislative authority
14 and appointments shall be made by majority vote based on the votes
15 allocated under this section. In voting to appoint members of a WRIA
16 planning unit: Each city with territory within the WRIA shall have one
17 vote and appointments shall be made by majority vote of such cities;
18 each water supply special purpose district with territory within the
19 WRIA shall have one vote and appointments shall be made by majority
20 vote of such districts; and each conservation district with territory
21 within the WRIA shall have one vote and appointments shall be made by
22 majority vote of such districts. All appointments shall be made within
23 sixty days of the date the county acting as lead agency in the WRIA
24 notifies the other appointing authorities to convene to make
25 appointments or the appointments shall be made by the counties with
26 territory in the WRIA in the same manner the counties make other
27 appointments. A vacancy on the planning unit shall be filled by
28 appointment in the same manner prescribed for appointing the position
29 that has become vacant.

30 NEW SECTION. **Sec. 109.** (1) The counties with territory in a WRIA
31 may elect to conduct multi-WRIA planning with the counties with
32 territory in one or more other WRIAs. If the counties with territory
33 in these other WRIAs concur, all of the counties with territory in
34 these WRIAs shall convene and shall appoint one planning unit to
35 conduct the water resource planning for the multi-WRIA area.

36 (a) The planning unit shall be composed of: Up to one member, as
37 that number is determined by the counties jointly, for each county with
38 territory in the multi-WRIA area representing the counties and

1 appointed by the counties jointly; up to one member, as that number is
2 determined by the cities jointly, for each county with territory in the
3 multi-WRIA area, representing cities with territory in the multi-WRIA
4 area and appointed jointly by those cities; up to three members, as
5 that number is determined by the districts, representing all water
6 supply special purpose districts with territory within the multi-WRIA
7 area and appointed jointly by those districts; up to two members, as
8 that number is determined by the districts, representing all
9 conservation districts with territory within the multi-WRIA area and
10 appointed jointly by those districts; four members representing the
11 general citizenry, of which at least two shall be holders of water
12 rights, appointed jointly by the counties with territory within the
13 multi-WRIA area; and six members representing various special interest
14 groups appointed jointly by the counties with territory within the
15 multi-WRIA area.

16 (b) In addition, for a WRIA located within Pierce, King, or
17 Snohomish county, a representative of the largest water purveyor using
18 water from the multi-WRIA area shall be an ex officio member of the
19 planning unit whether the principal offices of the purveyor are or are
20 not located within the multi-WRIA area.

21 (c) Except for a person who is an ex officio member of the planning
22 unit under subsection (1)(b) of this section, each person appointed to
23 a multi-WRIA planning unit shall have been a resident of the multi-WRIA
24 area for at least five years. No state employee or state official may
25 be appointed to the planning unit. In appointing persons to the multi-
26 WRIA planning unit representing special interest groups the counties
27 shall consider industrial water users, general businesses,
28 hydroelectric and thermal power producers, and irrigated agriculture,
29 nonirrigated agriculture, forestry, recreation, environmental, and
30 fisheries interest groups and other groups with interests in the multi-
31 WRIA area.

32 (2) The counties in the multi-WRIA area shall select a county as a
33 lead agency from among those that would qualify as a lead agency in
34 each WRIA. All appointments shall be made within sixty days of the
35 date the county acting as lead agency in the multi-WRIA area notifies
36 the other appointing authorities to convene to make appointments or the
37 appointments shall be made by the counties with territory in the multi-
38 WRIA area in the same manner the counties make other appointments. A

1 vacancy on the planning unit shall be filled by appointment in the same
2 manner prescribed for appointing the position that has become vacant.

3 (3) A planning unit for a multi-WRIA area shall perform all of the
4 functions assigned by this chapter to a WRIA planning unit and is
5 subject to all of the provisions of this chapter that apply to a WRIA
6 planning unit.

7 NEW SECTION. **Sec. 110.** The lead agency shall provide staff
8 support for the work of the WRIA planning unit. Each WRIA planning
9 unit may establish its own methods of operation that are consistent
10 with this chapter and may establish methods for reviewing the
11 operations of its lead agency. Each WRIA planning unit is encouraged
12 to: Consider information and plans that may have been previously
13 developed by other entities in establishing water resource management
14 plans for the WRIA; consider existing data regarding water resources in
15 the WRIA; and, for a WRIA that borders another state, cooperate with
16 local government counterparts in the adjacent state regarding water
17 resource planning. Water resource plans developed under this chapter
18 for a WRIA may not interfere in any manner with a general adjudication
19 of water rights, completed or ongoing. Such a WRIA plan may not in any
20 manner impair, diminish, or interfere with a water right that exists
21 before the adoption of the plan by the department under section 114 of
22 this act.

23 All meetings of a WRIA planning unit shall be conducted as public
24 meetings as required for such meetings by the open public meetings act,
25 chapter 42.30 RCW. Some time shall be set aside at the end of each
26 meeting of a WRIA planning unit for public comments.

27 No person who is a member of a WRIA planning unit may designate
28 another to act on behalf of the person as a member or to attend as a
29 member a meeting of the unit on behalf of the person. If a member of
30 a WRIA planning unit is absent from more than five meetings of the WRIA
31 planning unit that constitute twenty percent or more of the meetings
32 that have been conducted by the planning unit while the person is a
33 member of the unit and these absences have not been excused as provided
34 by this section, the member's position on the WRIA planning unit is to
35 be considered vacant. A person's absence from a meeting may be
36 excused: By the chair of the planning unit if a written request to do
37 so is received by the chair before the meeting from which the member is

1 to be absent; or by a majority vote of the members of the planning unit
2 at the meeting during which the member is absent.

3 NEW SECTION. **Sec. 111.** (1) Each WRIA planning unit shall develop
4 a water resource plan. The plan must contain the elements listed in
5 subsection (2) of this section and may include other elements added by
6 the planning unit. Once organized, the first task of the planning unit
7 is to prioritize these elements regarding their importance in the WRIA
8 and in developing a water resource plan for the WRIA. A plan shall not
9 be developed such that its provisions are in conflict with state or
10 federal law.

11 (2) The plan must include the following:

12 (a) A quantitative estimation of how much surface and ground water
13 is in the planning unit using United States geological survey
14 information and other existing sources;

15 (b) A quantitative estimation using existing sources of
16 information, of how much surface and ground water is available for use,
17 both in-stream and out-of-stream, for agricultural, fisheries,
18 recreational, environmental, industrial, municipal, and residential
19 purposes;

20 (c) A quantitative estimation using existing sources of
21 information, of how much surface and ground water is being used, both
22 in-stream and out-of-stream, for agricultural, industrial, fisheries,
23 recreational, environmental, municipal, and residential purposes, and
24 including amounts claimed or permitted for future municipal needs;

25 (d) A quantitative estimation of how much water, approximately, is
26 claimed or permitted, including in-stream flows;

27 (e) A quantitative description of future water-based in-stream and
28 out-of-stream needs in the planning unit, based on projected population
29 and agricultural and other economic growth;

30 (f) Instream flows established prior to January 1, 1996, by rule.
31 Notwithstanding any other provisions of state law, the planning unit
32 will set instream flows as part of the plan for the other rivers,
33 streams, and lakes in the WRIA, or in the multi-WRIA area for multi-
34 WRIA planning under section 109 of this act, for which flows have not
35 been set and may make adjustments to flows that have already been set.
36 Planning units are encouraged to set the flow levels as soon as is
37 practicable;

1 (g) Management strategies for achieving present and future needs,
2 including:

3 (i) Conservation measures;

4 (ii) Storage enhancements, including modifications to existing
5 reservoirs and new reservoirs;

6 (iii) In-stream flows;

7 (h) An estimation of hydraulic continuity between ground and
8 surface waters that is to be taken into consideration for the
9 allocation and use of water resources. This estimation shall be based
10 on available data and any data the planning unit may secure with funds
11 other than the funds provided to the unit by the department for WRIA
12 planning;

13 (i) A description of the strategies for plan implementation and the
14 entities responsible for implementing the plan, including but not
15 limited to local, tribal, state, and federal governments working
16 singularly or in combination. The implementing entities may also
17 include activities conducted by private organizations and individuals.

18 NEW SECTION. **Sec. 112.** (1) Water resource management plans
19 developed pursuant to the process in this chapter and subsequently
20 adopted by the department under section 114 of this act are presumed
21 valid. This presumption shall apply in any petition or action filed
22 against a plan.

23 (2) Any action taken by a state agency regarding or affecting water
24 resources within a WRIA for which a plan has been adopted under section
25 114 of this act and any planning conducted by a state agency regarding
26 or affecting water resources within a WRIA for which a plan has been
27 adopted under section 114 of this act shall be taken or conducted in a
28 manner that is consistent with the plan. All actions and decisions of
29 the department regarding water resources in the WRIA shall be
30 consistent with and based upon such an adopted plan for the WRIA. Any
31 other authority of the department exercised within the WRIA regarding
32 or affecting water resources shall be exercised in a manner that is
33 consistent with such an adopted plan.

34 NEW SECTION. **Sec. 113.** If a WRIA or multi-WRIA planning unit
35 proposes to develop habitat conservation measures as part of the water
36 resource planning for the WRIA because there are species that are
37 endangered or threatened within the WRIA or multi-WRIA area, the

1 planning unit shall submit its proposal to the department which shall
2 forward the proposal to the governor. The governor shall, within
3 thirty days of receiving the proposal, request appropriate federal
4 agencies to endorse under the federal endangered species act the
5 development of a habitat conservation plan for species listed or that
6 may soon be listed as endangered or threatened under the endangered
7 species act. In coordination with the planning unit, the governor may
8 request the federal government to enter into a memorandum of
9 understanding or cooperative agreement for the development and
10 implementation of habitat conservation measures that will, at a
11 minimum, satisfy the requirements of the endangered species act.

12 NEW SECTION. **Sec. 114.** (1) Upon completing a proposed water
13 resource plan for the WRIA, the WRIA planning unit shall conduct at
14 least one public hearing in the WRIA on the proposed plan. After
15 considering the public comments presented at the hearing or hearings,
16 the planning unit shall submit a copy of its proposed plan to the
17 department. A proposed plan may be submitted to the department only if
18 the unit has provided interim approval of the plan for this purpose by
19 a majority vote of the members of the planning unit.

20 (2) The department shall conduct at least one public hearing,
21 announced in accordance with chapter 34.05 RCW, on each proposed WRIA
22 water resource plan submitted under this section. The department shall
23 provide advice as to any aspects of the plan that the department
24 believes to be in conflict with state or federal law and may provide
25 other recommendations regarding the plan. The department shall
26 transmit its advice and recommendations regarding the plan to the WRIA
27 planning unit within sixty days of receiving it for review.

28 (3) The WRIA planning unit shall vote on each recommendation
29 provided by the department and on the department's advice regarding any
30 elements of the proposed WRIA plan the department believed to be in
31 conflict with state or federal law. The planning unit may adopt such
32 a recommendation or provide changes to respond to the advice of the
33 department by a majority vote of the members of the planning unit.

34 The WRIA planning unit shall approve a water resource plan for the
35 WRIA by a two-thirds majority vote of the members of the planning unit.
36 An approved plan shall be submitted to the counties with territory
37 within the WRIA for adoption.

1 (4) The legislative authority of each of the counties with
2 territory within the WRIA shall conduct at least two public hearings on
3 the WRIA plan submitted to the county under this section. After the
4 public hearings, the legislative authorities of these counties shall
5 convene in joint session to consider the plan. The counties may
6 approve or reject the plan, but may not amend the plan. Approval of a
7 plan, or of recommendations for a plan that is not approved, shall be
8 made by a majority vote of the members of the various legislative
9 authorities of the counties with territory in the WRIA based on the
10 votes allocated under section 105 of this act.

11 If the plan is not approved, it shall be returned to the WRIA
12 planning unit with recommendations for revisions. Any revised plan
13 prepared by the planning unit shall be submitted to the department and
14 to the counties as provided by this section for WRIA water resource
15 plans generally.

16 (5) If the plan is approved by the members of the legislative
17 authorities, the plan shall be transmitted to the department for
18 adoption. The department shall adopt such an approved WRIA water
19 resource plan by rule. The department has no discretion to amend or
20 reject the plan. A copy of the plan and notice of its adoption as
21 rules shall be published in the state register under chapter 34.05 RCW.

22 (6) If the department advises a planning unit that an element of
23 its WRIA plan is in conflict with state or federal law and the unit
24 does not remove the conflict created by the element from its plan, the
25 state is not liable for any judgment that may be awarded regarding the
26 conflict. This subsection shall not be construed as establishing such
27 state liability for any other element of the plan adopted as rules.

28 NEW SECTION. Sec. 115. The WRIA planning units may accept grants,
29 funds, and other financing, as well as enter into cooperative
30 agreements with private and public entities for planning assistance and
31 funding.

32 NEW SECTION. Sec. 116. (1) The department shall rule in a timely
33 manner upon applications to appropriate public surface and ground
34 water. For applications that seek to appropriate water from within a
35 WRIA for which a WRIA plan has been adopted, the department shall grant
36 or deny the application within one hundred eighty days of the date the
37 properly completed application is filed with the department. For

1 applications that seek to appropriate water from within a WRIA for
2 which no WRIA plan has been adopted, the department shall grant or deny
3 the application within one year of the date the properly completed
4 application is filed with the department. The times allowed in this
5 section to rule upon an application shall not include the time it takes
6 the applicant to respond to an explicit request for additional
7 information reasonably required to make a determination on the
8 application. The department shall be allowed only one such request for
9 additional information. The cost of obtaining such information shall
10 be reasonable in relation to the quantity and value of the water right
11 applied for. Once the applicant responds to an information request,
12 the stay of the time allowed for the permit decision shall end.

13 NEW SECTION. **Sec. 117.** A new section is added to chapter 34.05
14 RCW to read as follows:

15 (1) Once the department of ecology receives a water resource plan
16 submitted by a WRIA planning unit for advice and recommendations under
17 section 114 of this act, the department shall conduct at least one
18 public hearing on the plan and shall provide notice of the hearing and
19 proposed plan as provided in RCW 34.05.320 for the proposal of a rule.
20 The department shall maintain a file for the plan. Once the plan has
21 been adopted by the counties in the WRIA under section 114 of this act
22 and the plan has been submitted to the department of ecology, the
23 department shall file the plan with the code reviser along with an
24 order adopting the plan as rules. The code reviser shall cause the
25 order and the water resource plan to be published in the Washington
26 state register in the manner provided for the adoption of final rules
27 and shall incorporate the plan into the Washington Administrative Code.
28 No other aspect of this chapter that establishes procedures for the
29 adoption of rules applies to the adoption of the plan by the
30 department.

31 (2) For the purposes of this section, "WRIA" has the meaning
32 established in section 104 of this act.

33 **PART II**
34 **STORAGE**

35 **Sec. 201.** RCW 90.54.020 and 1989 c 348 s 1 are each amended to
36 read as follows:

1 Utilization and management of the waters of the state shall be
2 guided by the following general declaration of fundamentals:

3 (1) Uses of water for domestic, stock watering, industrial,
4 commercial, agricultural, irrigation, hydroelectric power production,
5 mining, fish and wildlife maintenance and enhancement, recreational,
6 and thermal power production purposes, and preservation of
7 environmental and aesthetic values, and all other uses compatible with
8 the enjoyment of the public waters of the state, are declared to be
9 beneficial.

10 (2) Allocation of waters among potential uses and users shall be
11 based generally on the securing of the maximum net benefits for the
12 people of the state. Maximum net benefits shall constitute total
13 benefits less costs including opportunities lost.

14 (3) The quality of the natural environment shall be protected and,
15 where possible, enhanced as follows:

16 (a) Perennial rivers and streams of the state shall be retained
17 with base flows necessary to provide for preservation of wildlife,
18 fish, scenic, aesthetic and other environmental values, and
19 navigational values. Lakes and ponds shall be retained substantially
20 in their natural condition. Withdrawals of water which would conflict
21 therewith shall be authorized only in those situations where it is
22 clear that overriding considerations of the public interest will be
23 served.

24 (b) Waters of the state shall be of high quality. Regardless of
25 the quality of the waters of the state, all wastes and other materials
26 and substances proposed for entry into said waters shall be provided
27 with all known, available, and reasonable methods of treatment prior to
28 entry. Notwithstanding that standards of quality established for the
29 waters of the state would not be violated, wastes and other materials
30 and substances shall not be allowed to enter such waters which will
31 reduce the existing quality thereof, except in those situations where
32 it is clear that overriding considerations of the public interest will
33 be served. Technology-based effluent limitations or standards for
34 discharges for municipal water treatment plants located on the
35 Chehalis, Columbia, Cowlitz, Lewis, or Skagit river shall be adjusted
36 to reflect credit for substances removed from the plant intake water
37 if:

38 (i) The municipality demonstrates that the intake water is drawn
39 from the same body of water into which the discharge is made; and

1 (ii) The municipality demonstrates that no violation of receiving
2 water quality standards or appreciable environmental degradation will
3 result.

4 (4) The development of multipurpose water storage facilities shall
5 be a high priority for programs of water allocation, planning,
6 management, and efficiency. The department, other state agencies,
7 local governments, and planning units formed under section 105 or 109
8 of this act shall evaluate the potential for the development of new
9 storage projects and the benefits of storage in reducing damage to
10 stream banks and property, increasing the use of land, providing water
11 for municipal, industrial, agricultural, power generation, and other
12 beneficial uses, and improving stream flow regimes for fisheries and
13 other instream uses.

14 (5) Adequate and safe supplies of water shall be preserved and
15 protected in potable condition to satisfy human domestic needs.

16 ((+5)) (6) Multiple-purpose impoundment structures are to be
17 preferred over single-purpose structures. Due regard shall be given to
18 means and methods for protection of fishery resources in the planning
19 for and construction of water impoundment structures and other
20 artificial obstructions.

21 ((+6)) (7) Federal, state, and local governments, individuals,
22 corporations, groups and other entities shall be encouraged to carry
23 out practices of conservation as they relate to the use of the waters
24 of the state. In addition to traditional development approaches,
25 improved water use efficiency and conservation shall be emphasized in
26 the management of the state's water resources and in some cases will be
27 a potential new source of water with which to meet future needs
28 throughout the state.

29 ((+7)) (8) Development of water supply systems, whether publicly
30 or privately owned, which provide water to the public generally in
31 regional areas within the state shall be encouraged. Development of
32 water supply systems for multiple domestic use which will not serve the
33 public generally shall be discouraged where water supplies are
34 available from water systems serving the public.

35 ((+8)) (9) Full recognition shall be given in the administration
36 of water allocation and use programs to the natural interrelationships
37 of surface and ground waters.

38 ((+9)) (10) Expressions of the public interest will be sought at
39 all stages of water planning and allocation discussions.

1 (~~(10)~~) (11) Water management programs, including but not limited
2 to, water quality, flood control, drainage, erosion control and storm
3 runoff are deemed to be in the public interest.

4 **Sec. 202.** RCW 90.54.180 and 1989 c 348 s 5 are each amended to
5 read as follows:

6 Consistent with the fundamentals of water resource policy set forth
7 in this chapter, state and local governments, individuals,
8 corporations, groups and other entities shall be encouraged to carry
9 out water use efficiency and conservation programs and practices
10 consistent with the following:

11 (1) Water efficiency and conservation programs should utilize an
12 appropriate mix of economic incentives, cost share programs, regulatory
13 programs, and technical and public information efforts. Programs which
14 encourage voluntary participation are preferred.

15 (2) Increased water use efficiency should receive consideration as
16 a potential source of water in state and local water resource planning
17 processes. In determining the cost-effectiveness of alternative water
18 sources, consideration should be given to the benefits of conservation,
19 including waste water recycling, and (~~(impoundment)~~) storage of waters.

20 (3) In determining the cost-effectiveness of alternative water
21 sources, full consideration should be given to the benefits of storage
22 which can reduce the damage to stream banks and property, increase the
23 utilization of land, provide water for municipal, industrial,
24 agricultural, and other beneficial uses, provide for the generation of
25 electric power from renewable resources, and improve stream flow
26 regimes for fishery and other instream uses.

27 (4) Entities receiving state financial assistance for construction
28 of water source expansion or acquisition of new sources shall develop,
29 and implement if cost-effective, a water use efficiency and
30 conservation element of a water supply plan pursuant to RCW
31 43.20.230(1).

32 (5) State programs to improve water use efficiency should focus on
33 those areas of the state in which water is overappropriated; areas that
34 experience diminished streamflows or aquifer levels; and areas where
35 projected water needs, including those for instream flows, exceed
36 available supplies.

37 (6) Existing and future generations of citizens of the state of
38 Washington should be made aware of the importance of the state's water

1 resources and the need for wise and efficient use and development of
2 this vital resource. In order to increase this awareness, state
3 agencies should integrate public education on increasing water use
4 efficiency into existing public information efforts. This effort shall
5 be coordinated with other levels of government, including local
6 governments and Indian tribes.

7 **PART III**

8 **GENERAL ADJUDICATIONS - ESCROW ACCOUNT**

9 NEW SECTION. **Sec. 301.** A new section is added to chapter 90.03
10 RCW to read as follows:

11 The legislature finds that the lack of certainty regarding water
12 rights within a water resource basin may impede management and planning
13 for water resources. The legislature further finds that planning units
14 conducting water resource planning under chapter 90.-- RCW (sections
15 104 through 116 of this act) may find that the certainty provided by a
16 general adjudication of water rights under this chapter is required for
17 water planning or water management in a water resource inventory area
18 or in a portion of the area. Therefore, such planning units may
19 petition the department to conduct such a general adjudication and the
20 department shall give high priority to such a request in initiating any
21 such general adjudications under this chapter.

22 NEW SECTION. **Sec. 302.** A new section is added to chapter 90.03
23 RCW to read as follows:

24 (1) The water escrow account is established in the state treasury.
25 Funds in the water escrow account may be expended, subject to
26 appropriation in the 1995-97 and subsequent fiscal biennia for the
27 costs of basin-wide water rights adjudications.

28 (2) By June 30, 1996, the state treasurer shall transfer five
29 hundred thousand dollars from the state general fund to the water
30 escrow account.

31 **Sec. 303.** RCW 43.84.092 and 1995 c 394 s 1 and 1995 c 122 s 12 are
32 each reenacted and amended to read as follows:

33 (1) All earnings of investments of surplus balances in the state
34 treasury shall be deposited to the treasury income account, which
35 account is hereby established in the state treasury.

1 (2) The treasury income account shall be utilized to pay or receive
2 funds associated with federal programs as required by the federal cash
3 management improvement act of 1990. The treasury income account is
4 subject in all respects to chapter 43.88 RCW, but no appropriation is
5 required for refunds or allocations of interest earnings required by
6 the cash management improvement act. Refunds of interest to the
7 federal treasury required under the cash management improvement act
8 fall under RCW 43.88.180 and shall not require appropriation. The
9 office of financial management shall determine the amounts due to or
10 from the federal government pursuant to the cash management improvement
11 act. The office of financial management may direct transfers of funds
12 between accounts as deemed necessary to implement the provisions of the
13 cash management improvement act, and this subsection. Refunds or
14 allocations shall occur prior to the distributions of earnings set
15 forth in subsection (4) of this section.

16 (3) Except for the provisions of RCW 43.84.160, the treasury income
17 account may be utilized for the payment of purchased banking services
18 on behalf of treasury funds including, but not limited to, depository,
19 safekeeping, and disbursement functions for the state treasury and
20 affected state agencies. The treasury income account is subject in all
21 respects to chapter 43.88 RCW, but no appropriation is required for
22 payments to financial institutions. Payments shall occur prior to
23 distribution of earnings set forth in subsection (4) of this section.

24 (4) Monthly, the state treasurer shall distribute the earnings
25 credited to the treasury income account. The state treasurer shall
26 credit the general fund with all the earnings credited to the treasury
27 income account except:

28 (a) The following accounts and funds shall receive their
29 proportionate share of earnings based upon each account's and fund's
30 average daily balance for the period: The capitol building
31 construction account, the Cedar River channel construction and
32 operation account, the Central Washington University capital projects
33 account, the charitable, educational, penal and reformatory
34 institutions account, the common school construction fund, the county
35 criminal justice assistance account, the county sales and use tax
36 equalization account, the data processing building construction
37 account, the deferred compensation administrative account, the deferred
38 compensation principal account, the department of retirement systems
39 expense account, the Eastern Washington University capital projects

1 account, the education construction fund, the emergency reserve fund,
2 the federal forest revolving account, the health services account, the
3 public health services account, the health system capacity account, the
4 personal health services account, the industrial insurance premium
5 refund account, the judges' retirement account, the judicial retirement
6 administrative account, the judicial retirement principal account, the
7 local leasehold excise tax account, the local real estate excise tax
8 account, the local sales and use tax account, the medical aid account,
9 the mobile home park relocation fund, the municipal criminal justice
10 assistance account, the municipal sales and use tax equalization
11 account, the natural resources deposit account, the perpetual
12 surveillance and maintenance account, the public employees' retirement
13 system plan I account, the public employees' retirement system plan II
14 account, the Puyallup tribal settlement account, the resource
15 management cost account, the site closure account, the special wildlife
16 account, the state employees' insurance account, the state employees'
17 insurance reserve account, the state investment board expense account,
18 the state investment board commingled trust fund accounts, the
19 supplemental pension account, the teachers' retirement system plan I
20 account, the teachers' retirement system plan II account, the tuition
21 recovery trust fund, the University of Washington bond retirement fund,
22 the University of Washington building account, the volunteer fire
23 fighters' relief and pension principal account, the volunteer fire
24 fighters' relief and pension administrative account, the Washington
25 judicial retirement system account, the Washington law enforcement
26 officers' and fire fighters' system plan I retirement account, the
27 Washington law enforcement officers' and fire fighters' system plan II
28 retirement account, the Washington state patrol retirement account, the
29 Washington State University building account, the Washington State
30 University bond retirement fund, the water escrow account, the water
31 pollution control revolving fund, and the Western Washington University
32 capital projects account. Earnings derived from investing balances of
33 the agricultural permanent fund, the normal school permanent fund, the
34 permanent common school fund, the scientific permanent fund, and the
35 state university permanent fund shall be allocated to their respective
36 beneficiary accounts. All earnings to be distributed under this
37 subsection (4)(a) shall first be reduced by the allocation to the state
38 treasurer's service fund pursuant to RCW 43.08.190.

1 (b) The following accounts and funds shall receive eighty percent
2 of their proportionate share of earnings based upon each account's or
3 fund's average daily balance for the period: The aeronautics account,
4 the aircraft search and rescue account, the central Puget Sound public
5 transportation account, the city hardship assistance account, the
6 county arterial preservation account, the department of licensing
7 services account, the economic development account, the essential rail
8 assistance account, the essential rail banking account, the ferry bond
9 retirement fund, the gasohol exemption holding account, the grade
10 crossing protective fund, the high capacity transportation account, the
11 highway bond retirement fund, the highway construction stabilization
12 account, the highway safety account, the marine operating fund, the
13 motor vehicle fund, the motorcycle safety education account, the
14 pilotage account, the public transportation systems account, the Puget
15 Sound capital construction account, the Puget Sound ferry operations
16 account, the recreational vehicle account, the rural arterial trust
17 account, the safety and education account, the small city account, the
18 special category C account, the state patrol highway account, the
19 transfer relief account, the transportation capital facilities account,
20 the transportation equipment fund, the transportation fund, the
21 transportation improvement account, the transportation revolving loan
22 account, and the urban arterial trust account.

23 (5) In conformance with Article II, section 37 of the state
24 Constitution, no treasury accounts or funds shall be allocated earnings
25 without the specific affirmative directive of this section.

26 **PART IV**
27 **INTERTIES**

28 **Sec. 401.** RCW 90.03.383 and 1991 c 350 s 1 are each amended to
29 read as follows:

30 (1) The legislature recognizes the value of interties for improving
31 the reliability of public water systems, enhancing their management,
32 and more efficiently utilizing the increasingly limited resource.
33 Given the continued growth in the most populous areas of the state, the
34 increased complexity of public water supply management, and the trend
35 toward regional planning and regional solutions to resource issues,
36 interconnections of public water systems through interties provide a
37 valuable tool to ensure reliable public water supplies for the citizens

1 of the state. Public water systems have been encouraged in the past to
2 utilize interties to achieve public health and resource management
3 objectives. The legislature finds that it is in the public interest to
4 recognize interties existing and in use as of January 1, 1991, and to
5 have associated water rights modified by the department of ecology to
6 reflect current use of water through those interties, pursuant to
7 subsection (3) of this section. The legislature further finds it in
8 the public interest to develop a coordinated process to review
9 proposals for interties commencing use after January 1, 1991.

10 (2) For the purposes of this section, the following definitions
11 shall apply:

12 (a) "Interties" are interconnections between public water systems
13 permitting exchange, acquisition, or delivery of wholesale and/or
14 retail water between those systems for other than emergency supply
15 purposes, where such exchange, acquisition, or delivery is within
16 established instantaneous and annual withdrawal rates specified in the
17 systems' existing water right permits or certificates, or contained in
18 claims filed pursuant to chapter 90.14 RCW, and which results in better
19 management of public water supply consistent with existing rights and
20 obligations. Interties include interconnections between public water
21 systems permitting exchange, acquisition, or delivery of water to serve
22 as primary or secondary sources of supply(~~(, but do not include~~
23 ~~development of new sources of supply to meet future demand))~~).

24 (b) "Service area" is the area designated as the wholesale and/or
25 retail area in a water system plan or a coordinated water system plan
26 pursuant to chapter 43.20 or 70.116 RCW respectively. When a public
27 water system does not have a designated service area subject to the
28 approval process of those chapters, the service area shall be the
29 designated place of use contained in the water right permit or
30 certificate, or contained in the claim filed pursuant to chapter 90.14
31 RCW.

32 (3) Public water systems with interties existing and in use as of
33 January 1, 1991, or that have received written approval from the
34 department of health prior to that date, shall file written notice of
35 those interties with the department of health and the department of
36 ecology. The notice may be incorporated into the public water system's
37 five-year update of its water system plan, but shall be filed no later
38 than June 30, 1996. The notice shall identify the location of the
39 intertie; the dates of its first use; the purpose, capacity, and

1 current use; the intertie agreement of the parties and the service
2 areas assigned; and other information reasonably necessary to modify
3 the public water system's water right (~~(permit)~~). Notwithstanding the
4 provisions of RCW 90.03.380 and 90.44.100, for public water systems
5 with interties existing and in use or with written approval as of
6 January 1, 1991, the department of ecology, upon receipt of notice
7 meeting the requirements of this subsection, shall, as soon as
8 practicable, modify the place of use descriptions in the water right
9 permits, certificates, or claims to reflect the actual use through such
10 interties, provided that the place of use is within service area
11 designations established in a water system plan approved pursuant to
12 chapter 43.20 RCW, or a coordinated water system plan approved pursuant
13 to chapter 70.116 RCW, and further provided that the water used is
14 within the instantaneous and annual withdrawal rates specified in the
15 water rights (~~(permit)~~) and that no outstanding complaints of
16 impairment to existing water rights have been filed with the department
17 of ecology prior to September 1, 1991. Where such complaints of
18 impairment have been received, the department of ecology shall make all
19 reasonable efforts to resolve them in a timely manner through agreement
20 of the parties or through available administrative remedies.

21 (4) Notwithstanding the provisions of RCW 90.03.380 and 90.44.100,
22 exchange, acquisition, or delivery of water through interties approved
23 by the department of health commencing use after January 1, 1991, shall
24 be permitted when the intertie improves overall system reliability,
25 enhances the manageability of the systems, provides opportunities for
26 conjunctive use, or delays or avoids the need to develop new water
27 sources, and otherwise meets the requirements of this section, provided
28 that each public water system's water use shall not exceed the
29 instantaneous or annual withdrawal rate specified in its water right
30 authorization, shall not adversely affect existing water rights, and
31 shall not be inconsistent with state-approved plans such as water
32 system plans or other plans which include specific proposals for
33 construction of interties. Interties approved and commencing use after
34 January 1, 1991, shall not be inconsistent with regional water resource
35 plans developed pursuant to chapter 90.54 RCW.

36 (5) For public water systems subject to the approval process of
37 chapter 43.20 RCW or chapter 70.116 RCW, proposals for interties
38 commencing use after January 1, 1991, shall be incorporated into water
39 system plans pursuant to chapter 43.20 RCW or coordinated water system

1 plans pursuant to chapter 70.116 RCW and submitted to the department of
2 health and the department of ecology for review and approval as
3 provided for in subsections (5) through (9) of this section. The plan
4 shall state how the proposed intertie will improve overall system
5 reliability, enhance the manageability of the systems, provide
6 opportunities for conjunctive use, or delay or avoid the need to
7 develop new water sources.

8 (6) The department of health shall be responsible for review and
9 approval of proposals for new interties. In its review the department
10 of health shall determine whether the intertie satisfies the criteria
11 of subsection (4) of this section, with the exception of water rights
12 considerations, which are the responsibility of the department of
13 ecology, and shall determine whether the intertie is necessary to
14 address emergent public health or safety concerns associated with
15 public water supply.

16 (7) If the intertie is determined by the department of health to be
17 necessary to address emergent public health or safety concerns
18 associated with public water supply, the public water system shall
19 amend its water system plan as required and shall file an application
20 with the department of ecology to change its existing water right to
21 reflect the proposed use of the water as described in the approved
22 water system plan. The department of ecology shall process the
23 application for change pursuant to RCW 90.03.380 or 90.44.100 as
24 appropriate, except that, notwithstanding the requirements of those
25 sections regarding notice and protest periods, applicants shall be
26 required to publish notice one time, and the comment period shall be
27 fifteen days from the date of publication of the notice. Within sixty
28 days of receiving the application, the department of ecology shall
29 issue findings and advise the department of health if existing water
30 rights are determined to be adversely affected. If no determination is
31 provided by the department of ecology within the sixty-day period, the
32 department of health shall proceed as if existing rights are not
33 adversely affected by the proposed intertie. The department of ecology
34 may obtain an extension of the sixty-day period by submitting written
35 notice to the department of health and to the applicant indicating a
36 definite date by which its determination will be made. No additional
37 extensions shall be granted, and in no event shall the total review
38 period for the department of ecology exceed one hundred eighty days.

1 (8) If the department of health determines the proposed intertie
2 appears to meet the requirements of subsection (4) of this section but
3 is not necessary to address emergent public health or safety concerns
4 associated with public water supply, the department of health shall
5 instruct the applicant to submit to the department of ecology an
6 application for change to the underlying water right or claim as
7 necessary to reflect the new place of use. The department of ecology
8 shall consider the applications pursuant to the provisions of RCW
9 90.03.380 and 90.44.100 as appropriate. The department of ecology
10 shall not deny or limit a change of place of use for an intertie on the
11 grounds that the holder of a permit has not yet put all of the water
12 authorized in the permit to beneficial use. If in its review of
13 proposed interties and associated water rights the department of
14 ecology determines that additional information is required to act on
15 the application, the department may request applicants to provide
16 information necessary for its decision, consistent with agency rules
17 and written guidelines. Parties disagreeing with the decision of the
18 department of ecology ((æ)) to approve or deny the application for
19 change in place of use may appeal the decision to the pollution control
20 hearings board.

21 (9) The department of health may approve plans containing intertie
22 proposals prior to the department of ecology's decision on the water
23 right application for change in place of use. However, notwithstanding
24 such approval, construction work on the intertie shall not begin until
25 the department of ecology issues the appropriate water right document
26 to the applicant consistent with the approved plan.

27 **PART V**
28 **RELINQUISHMENT**

29 **Sec. 501.** RCW 90.14.140 and 1987 c 125 s 1 are each amended to
30 read as follows:

31 (1) For the purposes of RCW 90.14.130 through 90.14.180,
32 "sufficient cause" shall be defined as the nonuse of all or a portion
33 of the water by the owner of a water right for a period of five or more
34 consecutive years where such nonuse occurs as a result of:

- 35 (a) Drought, or other unavailability of water;
36 (b) Active service in the armed forces of the United States during
37 military crisis;

1 (c) Nonvoluntary service in the armed forces of the United States;

2 (d) The operation of legal proceedings;

3 (e) Federal laws imposing land or water use restrictions either
4 directly or through the voluntary enrollment of a landowner in a
5 federal program implementing those laws, or acreage limitations, or
6 production quotas.

7 (2) Notwithstanding any other provisions of RCW 90.14.130 through
8 90.14.180, there shall be no relinquishment of any water right:

9 (a) If such right is claimed for power development purposes under
10 chapter 90.16 RCW and annual license fees are paid in accordance with
11 chapter 90.16 RCW, or

12 (b) If such right is used for a standby or reserve water supply to
13 be used in time of drought or other low flow period so long as
14 withdrawal or diversion facilities are maintained in good operating
15 condition for the use of such reserve or standby water supply, or

16 (c) If such right is claimed for a determined future development to
17 take place (~~either~~) at any time within fifteen years of either July
18 1, 1967, or the most recent beneficial use of the water right,
19 whichever date is later, or

20 (d) If such right is claimed for municipal water supply purposes
21 under chapter 90.03 RCW, or

22 (e) If such waters are not subject to appropriation under the
23 applicable provisions of RCW 90.40.030 as now or hereafter amended.

24

PART VI

25

GENERAL PERMITS

26 NEW SECTION. **Sec. 601.** The legislature finds that the present
27 delay in the processing of water right applications is not beneficial
28 to the citizens of the state nor is it in keeping with the goal of
29 managing the resource to the highest possible standard and maximum net
30 benefit.

31 The legislature further finds that water conservation efforts would
32 be greatly enhanced by a permit system that encourages water right
33 applicants to use only the amount of water actually necessary to meet
34 their needs.

35 NEW SECTION. **Sec. 602.** A new section is added to chapter 90.03
36 RCW to read as follows:

1 (1) The department shall develop a general permit system for
2 appropriating water for nonconsumptive, nonbypass uses. This system
3 must be designed and used to accurately identify and register any water
4 right application that qualifies for the streamlined process of
5 appropriation of water by meeting the requirements in this section and
6 registering the use. The general permit system must be applicable
7 state-wide, and all waters of the state shall be eligible for coverage
8 under the system. The evaluation and report required for an
9 application under RCW 90.03.290 are not required for applications
10 processed under the general permit system. For the purposes of this
11 section:

12 (a) "Nonconsumptive, nonbypass use" means a use of water in which
13 water is diverted from a stream or drawn from an aquifer and following
14 its use is discharged back into or near the point of diversion or
15 withdrawal without diminishment in quality and less than five thousand
16 gallons of net consumption per day; and

17 (b) "Without diminishment of quality" means that, before being
18 discharged back to its source, the water being discharged meets state
19 water quality standards adopted under chapter 90.48 RCW.

20 (2) The department shall, by January 1, 1997, establish the general
21 permit system by adopting rules in accordance with chapter 34.05 RCW.
22 Before the adoption of rules for a system, the department shall consult
23 with representatives of the following interest groups: Agriculture;
24 aquaculture; home construction and development; county government; city
25 government; surface mining; and the environmental community. At least
26 four public hearings must be held at various locations around the
27 state, not less than two of which shall be east of the crest of the
28 Cascade mountains. The rules must identify criteria for proposed uses
29 of water for which applications might be processed under the system and
30 must establish procedures for filing and processing applications and
31 issuing water rights certificates under the general permit system.

32 NEW SECTION. **Sec. 603.** A new section is added to chapter 90.03
33 RCW to read as follows:

34 An application for registration as a nonconsumptive, nonbypass
35 water user under the general permit system established under section
36 602 of this act must be made on a form adopted and provided by the
37 department. Within sixty days of receipt of a properly completed
38 application, the department shall determine whether the proposed use is

1 eligible to be processed under the general permit system. If the
2 department determines that the proposed use is eligible to be processed
3 under the system, the application must be processed under the system
4 within the next sixty days. The priority date of the water right
5 established pursuant to this section shall be the date that the
6 properly completed application is submitted. If the department
7 determines that the proposed use is not eligible for the processing,
8 the department shall explain to the applicant in writing the reasons
9 for its determination. For a proposed use determined ineligible for
10 the processing, if the department finds that the information contained
11 on the application form substantially satisfies the information
12 requirements for an application for a use that would normally be filed
13 for processing the application outside of the general permit system,
14 the department shall notify the applicant of its finding and shall
15 process the application as if it were filed for processing outside of
16 the system. If the department finds that the information does not
17 substantially satisfy the requirements, the application must be
18 considered to be incomplete for the processing and the applicant must
19 be notified of this consideration.

20 NEW SECTION. **Sec. 604.** A new section is added to chapter 90.03
21 RCW to read as follows:

22 Nothing in sections 602 and 603 of this act authorizes the
23 impairment or operates to impair any existing water rights. A water
24 right holder under sections 602 and 603 of this act shall not make
25 withdrawals that impair a senior water right. A holder of a senior
26 water right who believes his or her water right is impaired may file a
27 complaint with the department of ecology. Where such complaints of
28 impairment have been received, the department of ecology shall make all
29 reasonable efforts to resolve them in a timely manner through agreement
30 of the parties or through available administrative remedies. Nothing
31 in section 602 or 603 of this act may be construed as waiving any
32 requirement established under chapter 90.48 RCW or federal law that a
33 permittee secure a discharge permit regarding water quality.

34
35

PART VII
MISCELLANEOUS

1 NEW SECTION. **Sec. 701.** As used in this act, part headings
2 constitute no part of the law.

3 NEW SECTION. **Sec. 702.** Sections 104 through 116 of this act shall
4 constitute a new chapter in Title 90 RCW.

--- END ---