
SENATE BILL 5317

State of Washington**54th Legislature****1995 Regular Session****By** Senators Morton, Haugen, West, Winsley, Deccio, Rasmussen and RoachRead first time 01/18/95. Referred to Committee on Senate Select
Committee on Water Policy.

1 AN ACT Relating to water resource governance; amending RCW
2 43.20.230, 43.21A.020, 43.21A.061, 43.21A.064, 43.21A.067, 43.21A.445,
3 43.21B.110, 43.21B.300, 43.21B.310, 43.27A.020, 43.27A.090, 43.27A.130,
4 43.27A.190, 89.16.040, 89.16.045, 89.16.050, 89.16.055, 89.16.060,
5 89.16.080, 89.30.055, 89.30.058, 89.30.070, 89.30.427, 90.03.005,
6 90.03.015, 90.03.130, 90.03.247, 90.03.345, 90.03.360, 90.03.383,
7 90.03.386, 90.03.390, 90.03.471, 90.03.600, 90.08.040, 90.14.041,
8 90.14.043, 90.14.061, 90.14.065, 90.14.091, 90.14.101, 90.14.111,
9 90.14.130, 90.14.150, 90.14.180, 90.14.190, 90.14.200, 90.14.230,
10 90.16.060, 90.16.090, 90.22.010, 90.22.030, 90.22.040, 90.24.010,
11 90.24.030, 90.24.040, 90.24.050, 90.24.060, 90.38.010, 90.40.090,
12 90.42.020, 90.44.035, 90.44.130, 90.44.400, 90.44.410, 90.44.410,
13 90.44.420, 90.44.430, 90.44.450, 90.46.005, 90.46.020, 90.46.030,
14 90.46.040, 90.54.010, 90.54.100, 90.54.110, 90.54.120, 90.54.130,
15 90.54.140, 90.54.150, 90.66.040, and 90.66.080; reenacting and amending
16 RCW 43.17.010, 43.17.020, and 43.83B.300; adding a new section to
17 chapter 43.21A RCW; adding a new section to chapter 90.03 RCW; adding
18 a new chapter to Title 43 RCW; creating a new section; providing
19 effective dates; providing an expiration date; and declaring an
20 emergency.

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

2 NEW SECTION. **Sec. 1.** The legislature finds that balanced
3 administration and management of the state water resources is of
4 paramount importance to the citizens of the state. The legislature
5 finds that regional differences in water resource conditions require
6 greater consideration in the development and administration of water
7 resource policy. The legislature finds that to effectively take
8 regional differences into consideration the decision-making authority
9 needs to be composed of persons from various regions of the state.

10 It is the intent of the legislature to establish a state water
11 resources board, which consists of members from regional areas of the
12 state. Further, it is the direction of the legislature that the board
13 develop policies and implement programs that are balanced with the
14 interests of all sectors of the state's residents taken in account.

15 **Sec. 2.** RCW 43.17.010 and 1993 sp.s. c 2 s 16, 1993 c 472 s 17,
16 and 1993 c 280 s 18 are each reenacted and amended to read as follows:

17 There shall be departments of the state government which shall be
18 known as (1) the department of social and health services, (2) the
19 department of ecology, (3) the department of labor and industries, (4)
20 the department of agriculture, (5) the department of fish and wildlife,
21 (6) the department of transportation, (7) the department of licensing,
22 (8) the department of general administration, (9) the department of
23 community, trade, and economic development, (10) the department of
24 veterans affairs, (11) the department of revenue, (12) the department
25 of retirement systems, (13) the department of corrections, ((and)) (14)
26 the department of health, ((and)) (15) the department of financial
27 institutions, and (16) the department of water resources, which shall
28 be charged with the execution, enforcement, and administration of such
29 laws, and invested with such powers and required to perform such
30 duties, as the legislature may provide.

31 **Sec. 3.** RCW 43.17.020 and 1993 sp.s. c 2 s 17, 1993 c 472 s 18,
32 and 1993 c 280 s 19 are each reenacted and amended to read as follows:

33 There shall be a chief executive officer of each department to be
34 known as: (1) The secretary of social and health services, (2) the
35 director of ecology, (3) the director of labor and industries, (4) the
36 director of agriculture, (5) the director of fish and wildlife, (6) the

1 secretary of transportation, (7) the director of licensing, (8) the
2 director of general administration, (9) the director of community,
3 trade, and economic development, (10) the director of veterans affairs,
4 (11) the director of revenue, (12) the director of retirement systems,
5 (13) the secretary of corrections, ((and)) (14) the secretary of
6 health, ((and)) (15) the director of financial institutions, and (16)
7 the director of water resources.

8 Such officers, except the secretary of transportation and the
9 director of water resources, shall be appointed by the governor, with
10 the consent of the senate, and hold office at the pleasure of the
11 governor. The secretary of transportation shall be appointed by the
12 transportation commission as prescribed by RCW 47.01.041.

13 NEW SECTION. **Sec. 4.** The state water resources board is hereby
14 established. The board has authority over water resources policy
15 matters. The board shall exercise all policy-related powers relating
16 to water quantity matters prescribed by law including the management,
17 conservation, utilization, planning, development, and adjudication of
18 the state's water. The board or its authorized designee shall
19 represent itself in legislative matters.

20 The board shall appoint a director who shall have the duty to
21 implement the policies and decisions of the board and who shall serve
22 as the director of the department of water resources. The salary of
23 the director shall be fixed by the governor in accordance with RCW
24 43.03.040. The director shall have full supervisory authority over all
25 employees in the water resource program. The director shall serve at
26 the pleasure of the board.

27 NEW SECTION. **Sec. 5.** The board shall consist of seven members who
28 shall be appointed by the governor from nominees submitted by county
29 legislative authorities. Each county legislative authority in each
30 region established in section 7 of this act shall submit within sixty
31 calendar days of the effective date of this section a name of a person
32 from within its region that meets the qualifications in this section to
33 the governor as a nominee from that area for the board. County
34 legislative authorities from the same region may submit the same name
35 to the governor.

36 The appointed members shall be qualified electors and residents for
37 at least five years of the geographic regions specified under section

1 7 of this act. Members must be knowledgeable about state water law and
2 have at least five years' experience in water resource matters. No
3 current state-wide elected official, or state employee within two years
4 after termination of employment with the state, may be appointed to the
5 board. Not more than four shall be appointed from the same political
6 party. Of these, not more than two can be appointed from the same
7 political party from the same side of the crest of the Cascade
8 mountains. All appointments and reappointments, including those to
9 fill vacancies, shall be confirmed by the senate. The first members of
10 the board shall be appointed by the governor within ninety days after
11 the effective date of this section.

12 The initial terms for board members from region one, region four,
13 and region seven shall expire on the first Thursday following the
14 second Monday in January 1997, for board members from region two and
15 region five shall expire on the first Thursday following the second
16 Monday in January 1998, and for board members from region three and
17 region six shall expire on the first Thursday following the second
18 Monday in January 1999. Upon the expiration of the term of any member,
19 the governor shall appoint a successor for a term of four years.
20 Vacancies on the board shall be filled by appointment made by the
21 governor for the unexpired term.

22 Board members shall not be appointed for more than two consecutive
23 terms.

24 NEW SECTION. **Sec. 6.** The board shall meet at such times as it
25 deems advisable but at least once every month. It may adopt its own
26 rules and may establish its own procedures consistent with other
27 provisions of state law. Resolutions or motions shall be adopted by an
28 affirmative vote of at least four members. The board shall elect one
29 of its members as chair for a term of one year. The chair may vote on
30 all matters before the board. Members of the board shall be
31 compensated in accordance with RCW 43.03.250 and shall receive
32 reimbursement for their travel expenses as provided in RCW 43.03.050
33 and 43.03.060.

34 NEW SECTION. **Sec. 7.** The state shall be divided into sixty-two
35 water resource inventory areas as provided in WAC 173-500-040 and 173-
36 500-990. There shall be established seven water resource regions in
37 the state and each shall be comprised as follows: Region one shall

1 include Clallam, Jefferson, Mason, Grays Harbor, Pacific, and Wahkiakum
2 counties; region two shall include Whatcom, Skagit, Island, San Juan,
3 Kitsap, and Snohomish counties; region three shall include King,
4 Pierce, Thurston, Cowlitz, and Lewis counties; region four shall
5 include Clark, Skamania, Klickitat, Benton, Yakima, and Kittitas
6 counties; region five shall include Douglas, Grant, Chelan, Adams,
7 Franklin, and Okanogan counties; region six shall include Lincoln,
8 Ferry, Stevens, Pend Oreille, and Spokane counties; region seven shall
9 include Walla Walla, Whitman, Garfield, Columbia, and Asotin counties.

10 NEW SECTION. **Sec. 8.** The department of water resources is hereby
11 created. The director of the department shall be appointed by the
12 water resources board, and shall serve at the pleasure of the board.
13 The director, subject to guidance by the board, shall carry out the
14 policy of the board and the authority delegated to the director by the
15 board. The department may not adopt rules. Rule adoption for the
16 department must be done through the water resources board. The
17 department of water resources shall provide technical assistance to
18 regional planning groups if requested by the local government managing
19 the planning process.

20 **Sec. 9.** RCW 43.20.230 and 1993 sp.s. c 4 s 9 are each amended to
21 read as follows:

22 Consistent with the water resource planning process of the
23 department of (~~ecology~~) water resources, the department of health
24 shall:

25 (1) Develop procedures and guidelines relating to water use
26 efficiency, as defined in section 4(3), chapter 348, Laws of 1989, to
27 be included in the development and approval of cost-efficient water
28 system plans required under RCW 43.20.050;

29 (2) Develop criteria, with input from technical experts, with the
30 objective of encouraging the cost-effective reuse of greywater and
31 other water recycling practices, consistent with protection of public
32 health and water quality;

33 (3) Provide advice and technical assistance upon request in the
34 development of water use efficiency plans; and

35 (4) Provide advice and technical assistance on request for
36 development of model conservation rate structures for public water

1 systems. Subsections (1), (2), and (3) of this section are subject to
2 the availability of funding.

3 **Sec. 10.** RCW 43.21A.020 and 1970 ex.s. c 62 s 2 are each amended
4 to read as follows:

5 In recognition of the responsibility of state government to carry
6 out the policies set forth in RCW 43.21A.010, it is the purpose of this
7 chapter to establish a single state agency with the authority to manage
8 ~~((and develop))~~ our air ~~((and water))~~ resources in an orderly,
9 efficient, and effective manner and to carry out a coordinated program
10 of pollution control involving these and related land resources. To
11 this end a department of ecology is created by this chapter to
12 undertake, in an integrated manner, the various water ~~((regulation,~~
13 ~~management, planning and development))~~ quality programs ~~((now~~
14 ~~authorized to be performed by the department of water resources and the~~
15 ~~water pollution control commission))~~, the air regulation and management
16 program now performed by the state air pollution control board, the
17 solid waste regulation and management program authorized to be
18 performed by state government as provided by chapter 70.95 RCW, and
19 such other environmental, management protection and development
20 programs as may be authorized by the legislature.

21 **Sec. 11.** RCW 43.21A.061 and 1987 c 109 s 26 are each amended to
22 read as follows:

23 The department of ~~((ecology))~~ water resources shall exercise all
24 the powers and perform all the duties prescribed by law with respect to
25 the reclamation and development of arid, swamp, overflow, and logged-
26 off lands in the state and such other duties as may be prescribed by
27 law.

28 **Sec. 12.** RCW 43.21A.064 and 1977 c 75 s 46 are each amended to
29 read as follows:

30 The director of the department of ~~((ecology))~~ water resources shall
31 have the following powers and duties:

32 (1) The supervision of public waters within the state and their
33 appropriation, diversion, and use, and of the various officers
34 connected therewith;

35 (2) Insofar as may be necessary to assure safety to life or
36 property, ~~((he))~~ the director shall inspect the construction of all

1 dams, canals, ditches, irrigation systems, hydraulic power plants, and
2 all other works, systems, and plants pertaining to the use of water,
3 and he or she may require such necessary changes in the construction or
4 maintenance of said works, to be made from time to time, as will
5 reasonably secure safety to life and property;

6 (3) He or she shall regulate and control the diversion of water in
7 accordance with the rights thereto;

8 (4) He or she shall determine the discharge of streams and springs
9 and other sources of water supply, and the capacities of lakes and of
10 reservoirs whose waters are being or may be utilized for beneficial
11 purposes;

12 (5) He or she shall keep such records as may be necessary for the
13 recording of the financial transactions and statistical data thereof,
14 and shall procure all necessary documents, forms, and blanks. He or
15 she shall keep a seal of the office, and all certificates by him or her
16 covering any of his or her acts or the acts of his or her office, or
17 the records and files of his or her office, under such seal, shall be
18 taken as evidence thereof in all courts;

19 (6) ((He)) The director shall render when required by the governor,
20 a full written report of the work of his or her office with such
21 recommendations for legislation as he or she may deem advisable for the
22 better control and development of the water resources of the state;

23 (7) The director and duly authorized deputies may administer oaths;

24 (8) He or she shall ((~~establish and promulgate~~)) develop rules
25 governing the administration of chapter 90.03 RCW, subject to section
26 8 of this act;

27 (9) ((He)) The director shall perform such other duties as may be
28 prescribed by law.

29 **Sec. 13.** RCW 43.21A.067 and 1987 c 109 s 27 are each amended to
30 read as follows:

31 The director of ((~~ecology~~)) water resources may create within his
32 or her department a fund to be known as the "basic data fund."

33 Into such fund shall be deposited all moneys contributed by persons
34 for stream flow, ground water and water quality data or other
35 hydrographic information furnished by the department in cooperation
36 with the United States geological survey, and the fund shall be
37 expended on a matching basis with the United States geological survey

1 for the purpose of obtaining additional basic information needed for an
2 intelligent inventory of water resources in the state.

3 Disbursements from the basic data fund shall be on vouchers
4 approved by the department and the district engineer of the United
5 States geological survey.

6 **Sec. 14.** RCW 43.21A.445 and 1989 1st ex.s. c 9 s 218 are each
7 amended to read as follows:

8 The department of ecology, the department of water resources, the
9 department of natural resources, and the department of health(~~(, and~~
10 ~~the oil and gas conservation committee))~~) are authorized to participate
11 fully in and are empowered to administer all programs of Part C of the
12 federal Safe Drinking Water Act (42 U.S.C. Sec. 300h et seq.), as it
13 exists on June 19, 1986, contemplated for state participation in
14 administration under the act.

15 The department of ecology and the department of water resources, in
16 the implementation of powers provided herein shall enter into
17 agreements of administration with the departments of health and natural
18 resources (~~(and the oil and gas conservation committee))~~) to administer
19 those portions of the state program, approved under the federal act,
20 over which the said departments and committee have primary subject-
21 matter authority under existing state law. The departments of health
22 and natural resources (~~(and the oil and gas conservation committee))~~)
23 are empowered to enter into such agreements and perform the
24 administration contained therein.

25 **Sec. 15.** RCW 43.21B.110 and 1993 c 387 s 22 are each amended to
26 read as follows:

27 (1) The pollution control hearings board shall only have
28 jurisdiction to hear and decide appeals from the following decisions of
29 the department, the director, the administrator of the office of marine
30 safety, and the air pollution control boards or authorities as
31 established pursuant to chapter 70.94 RCW, or local health departments:

32 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
33 70.105.080, 70.107.050, 88.46.090, (~~(90.03.600,)~~) 90.48.144, 90.56.310,
34 and 90.56.330.

35 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
36 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
37 (~~(90.14.130,)~~) and 90.48.120.

1 (c) The issuance, modification, or termination of any permit,
2 certificate, or license by the department or any air authority in the
3 exercise of its jurisdiction, including the issuance or termination of
4 a waste disposal permit, the denial of an application for a waste
5 disposal permit, or the modification of the conditions or the terms of
6 a waste disposal permit.

7 (d) Decisions of local health departments regarding the grant or
8 denial of solid waste permits pursuant to chapter 70.95 RCW.

9 (e) Decisions of local health departments regarding the issuance
10 and enforcement of permits to use or dispose of biosolids under RCW
11 70.95J.080.

12 (f) Any other decision by the department, the administrator of the
13 office of marine safety, or an air authority which pursuant to law must
14 be decided as an adjudicative proceeding under chapter 34.05 RCW.

15 (2) The jurisdiction of the pollution control hearings board is
16 limited as follows:

17 (a) The hearings board has no jurisdiction to review department of
18 water resources or board of water resources decisions on water permits
19 or water rights or general adjudications of water rights under chapter
20 90.03 or 90.44 RCW.

21 (b) The following hearings shall not be conducted by the hearings
22 board:

23 ~~((a))~~ (i) Hearings required by law to be conducted by the
24 shorelines hearings board pursuant to chapter 90.58 RCW.

25 ~~((b))~~ (ii) Hearings conducted by the department pursuant to RCW
26 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and
27 90.44.180.

28 ~~((c) Proceedings by the department relating to general~~
29 ~~adjudications of water rights pursuant to chapter 90.03 or 90.44 RCW.~~

30 ~~(d))~~ (iii) Hearings conducted by the department to adopt, modify,
31 or repeal rules.

32 (3) Review of rules and regulations adopted by the hearings board
33 shall be subject to review in accordance with the provisions of the
34 Administrative Procedure Act, chapter 34.05 RCW.

35 **Sec. 16.** RCW 43.21B.300 and 1993 c 387 s 23 are each amended to
36 read as follows:

37 (1) Any civil penalty provided in RCW 18.104.155, 70.94.431,
38 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and

1 90.56.330 shall be imposed by a notice in writing, either by certified
2 mail with return receipt requested or by personal service, to the
3 person incurring the penalty from the department, the administrator of
4 the office of marine safety, or the local air authority, describing the
5 violation with reasonable particularity. Within fifteen days after the
6 notice is received, the person incurring the penalty may apply in
7 writing to the department, the administrator, or the authority for the
8 remission or mitigation of the penalty. Upon receipt of the
9 application, the department, the administrator, or authority may remit
10 or mitigate the penalty upon whatever terms the department, the
11 administrator, or the authority in its discretion deems proper. The
12 department or the authority may ascertain the facts regarding all such
13 applications in such reasonable manner and under such rules as it may
14 deem proper and shall remit or mitigate the penalty only upon a
15 demonstration of extraordinary circumstances such as the presence of
16 information or factors not considered in setting the original penalty.

17 (2) Any penalty imposed under this section may be appealed to the
18 (~~pollution control hearings board in accordance with this chapter if~~
19 ~~the appeal is filed with the hearings board and served on the~~
20 ~~department, the administrator, or authority~~) superior court thirty
21 days after receipt by the person penalized of the notice imposing the
22 penalty or thirty days after receipt of the notice of disposition of
23 the application for relief from penalty.

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

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

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

28 (c) Thirty days after receipt of the (~~notice of decision of the~~
29 ~~hearings board~~) superior court decision if the penalty is appealed.

30 (4) If the amount of any penalty is not paid to the department or
31 the administrator within thirty days after it becomes due and payable,
32 the attorney general, upon request of the department or the
33 administrator, shall bring an action in the name of the state of
34 Washington in the superior court of Thurston county, or of any county
35 in which the violator does business, to recover the penalty. If the
36 amount of the penalty is not paid to the authority within thirty days
37 after it becomes due and payable, the authority may bring an action to
38 recover the penalty in the superior court of the county of the
39 authority's main office or of any county in which the violator does

1 business. In these actions, the procedures and rules of evidence shall
2 be the same as in an ordinary civil action.

3 (5) All penalties recovered shall be paid into the state treasury
4 and credited to the general fund except those penalties imposed
5 pursuant to RCW 18.104.155, which shall be credited to the reclamation
6 account as provided in RCW 18.104.155(7), RCW 70.94.431, the
7 disposition of which shall be governed by that provision, RCW
8 70.105.080, which shall be credited to the hazardous waste control and
9 elimination account, created by RCW 70.105.180, and RCW 90.56.330,
10 which shall be credited to the coastal protection fund created by RCW
11 90.48.390.

12 **Sec. 17.** RCW 43.21B.310 and 1992 c 73 s 3 are each amended to read
13 as follows:

14 (1) Except as provided in subsection (2) of this section, any order
15 issued by the department, the administrator of the office of marine
16 safety, or authority pursuant to RCW 70.94.211, 70.94.332, 70.105.095,
17 43.27A.190, 86.16.020, 88.46.070, or 90.48.120(2) or any provision
18 enacted after July 26, 1987, or any permit, certificate, or license
19 issued by the department may be appealed to the pollution control
20 hearings board if the appeal is filed with the board and served on the
21 department or authority within thirty days after receipt of the order.
22 Except as provided under chapter 70.105D RCW, this is the exclusive
23 means of appeal of such an order.

24 ~~((2))~~ (a) The department, the administrator, or the authority in
25 its discretion may stay the effectiveness of an order during the
26 pendency of such an appeal.

27 ~~((3))~~ (b) At any time during the pendency of an appeal of such an
28 order to the board, the appellant may apply pursuant to RCW 43.21B.320
29 to the hearings board for a stay of the order or for the removal
30 thereof.

31 ~~((4))~~ (c) Any appeal must contain the following in accordance
32 with the rules of the hearings board:

33 ~~((a))~~ (i) The appellant's name and address;

34 ~~((b))~~ (ii) The date and docket number of the order, permit, or
35 license appealed;

36 ~~((c))~~ (iii) A description of the substance of the order, permit,
37 or license that is the subject of the appeal;

1 (~~(d)~~) (iv) A clear, separate, and concise statement of every
2 error alleged to have been committed;

3 (~~(e)~~) (v) A clear and concise statement of facts upon which the
4 requester relies to sustain his or her statements of error; and

5 (~~(f)~~) (vi) A statement setting forth the relief sought.

6 (~~(5)~~) (d) Upon failure to comply with any final order of the
7 department or the administrator, the attorney general, on request of
8 the department or the administrator, may bring an action in the
9 superior court of the county where the violation occurred or the
10 potential violation is about to occur to obtain such relief as
11 necessary, including injunctive relief, to insure compliance with the
12 order. The air authorities may bring similar actions to enforce their
13 orders.

14 (~~(6)~~) (e) An appealable decision or order shall be identified as
15 such and shall contain a conspicuous notice to the recipient that it
16 may be appealed only by filing an appeal with the hearings board and
17 serving it on the department within thirty days of receipt.

18 (2) Department of water resources decisions concerning water
19 permits or water rights shall be appealed to superior court.

20 **Sec. 18.** RCW 43.27A.020 and 1987 c 109 s 31 are each amended to
21 read as follows:

22 As used in this chapter, and unless the context indicates
23 otherwise, words and phrases shall mean:

24 "Department" means the department of (~~(ecology)~~) water resources;

25 "Director" means the director of (~~(ecology)~~) water resources;

26 "State agency" and "state agencies" mean any branch, department or
27 unit of state government, however designated or constituted;

28 "Water resources" means all waters above, upon, or beneath the
29 surface of the earth, located within the state and over which the state
30 has sole or concurrent jurisdiction(~~(-)~~);

31 "Beneficial use" means, but its meaning shall not be limited to:
32 Domestic water supplies; irrigation; fish, shellfish, game, and other
33 aquatic life; recreation; industrial water supplies; generation of
34 hydroelectric power; and navigation.

35 **Sec. 19.** RCW 43.27A.090 and 1988 c 127 s 25 are each amended to
36 read as follows:

37 The department of water resources shall be empowered as follows:

1 (1) To represent the state at, and fully participate in, the
2 activities of any basin or regional commission, interagency committee,
3 or any other joint interstate or federal-state agency, committee or
4 commission, or publicly financed entity engaged in the planning,
5 development, administration, management, conservation or preservation
6 of the water resources of the state.

7 (2) To prepare the views and recommendations of the state of
8 Washington on any project, plan or program relating to the planning,
9 development, administration, management, conservation and preservation
10 of any waters located in or affecting the state of Washington,
11 including any federal permit or license proposal, and appear on behalf
12 of, and present views and recommendations of the state at any
13 proceeding, negotiation or hearing conducted by the federal government,
14 interstate agency, state or other agency.

15 (3) To cooperate with, assist, advise and coordinate plans with the
16 federal government and its officers and agencies, and serve as a state
17 liaison agency with the federal government in matters relating to the
18 use, conservation, preservation, quality, disposal or control of water
19 and activities related thereto.

20 (4) To cooperate with appropriate agencies of the federal
21 government and/or agencies of other states, to enter into contracts,
22 and to make appropriate contributions to federal or interstate projects
23 and programs and governmental bodies to carry out the provisions of
24 this chapter.

25 (5) To apply for, accept, administer and expend grants, gifts and
26 loans from the federal government or any other entity to carry out the
27 purposes of this chapter and make contracts and do such other acts as
28 are necessary insofar as they are not inconsistent with other
29 provisions hereof.

30 (6) To develop and maintain a coordinated and comprehensive state
31 water and water resources related development plan, and adopt, with
32 regard to such plan, such policies as are necessary to insure that the
33 waters of the state are used, conserved and preserved for the best
34 interest of the state. There shall be included in the state plan a
35 description of developmental objectives and a statement of the
36 recommended means of accomplishing these objectives. To the extent the
37 director deems desirable, the plan shall integrate into the state plan,
38 the plans, programs, reports, research and studies of other state
39 agencies.

1 (7) To assemble and correlate information relating to water supply,
2 power development, irrigation, watersheds, water use, future
3 possibilities of water use and prospective demands for all purposes
4 served through or affected by water resources development.

5 (8) To assemble and correlate state, local and federal laws,
6 regulations, plans, programs and policies affecting the beneficial use,
7 disposal, pollution, control or conservation of water, river basin
8 development, flood prevention, parks, reservations, forests, wildlife
9 refuges, drainage and sanitary systems, waste disposal, water works,
10 watershed protection and development, soil conservation, power
11 facilities and area and municipal water supply needs, and recommend
12 suitable legislation or other action to the legislature, the congress
13 of the United States, or any city, municipality, or to responsible
14 state, local or federal executive departments or agencies.

15 (9) To cooperate with federal, state, regional, interstate and
16 local public and private agencies in the making of plans for drainage,
17 flood control, use, conservation, allocation and distribution of
18 existing water supplies and the development of new water resource
19 projects.

20 (10) To encourage, assist and advise regional, and city and
21 municipal agencies, officials or bodies responsible for planning in
22 relation to water aspects of their programs, and coordinate local water
23 resources activities, programs, and plans.

24 (11) To ~~((promulgate such))~~ develop rules ~~((and regulations))~~ as
25 are necessary to carry out the purposes of this chapter, subject to
26 section 8 of this act.

27 (12) To hold public hearings, and make such investigations, studies
28 and surveys as are necessary to carry out the purposes of the chapter.

29 (13) To subpoena witnesses, compel their attendance, administer
30 oaths, take the testimony of any person under oath and require the
31 production of any books or papers when the department, subject to the
32 approval of the board, deems such measures necessary in the exercise of
33 its rule-making power or in determining whether or not any license,
34 certificate, or permit shall be granted or extended.

35 **Sec. 20.** RCW 43.27A.130 and 1988 c 127 s 26 are each amended to
36 read as follows:

37 The department of ~~((ecology))~~ water resources may make complete
38 inventories of the state's water resources and enter into such

1 agreements with the director of the United States geological survey as
2 will insure that investigations and surveys are carried on in an
3 economical manner.

4 **Sec. 21.** RCW 43.27A.190 and 1987 c 109 s 11 are each amended to
5 read as follows:

6 Notwithstanding and in addition to any other powers granted to the
7 department of ~~((ecology))~~ water resources, whenever it appears to the
8 department that a person is violating or is about to violate any of the
9 provisions of the following:

10 (1) Chapter 90.03 RCW; or

11 (2) Chapter 90.44 RCW; or

12 (3) ~~((Chapter 86.16 RCW; or~~

13 ~~(4)))~~ Chapter 43.37 RCW; or

14 ~~((+5)))~~ (4) Chapter 43.27A RCW; or

15 ~~((+6)))~~ (5) Any other law relating to water resources administered
16 by the department; or

17 ~~((+7)))~~ (6) A rule or regulation adopted, or a directive or order
18 issued by the ~~((department))~~ water resources board relating to
19 subsections (1) through ~~((+6)))~~ (5) of this section; the department,
20 through the board, may cause a written regulatory order to be served
21 upon said person either personally, or by registered or certified mail
22 delivered to addressee only with return receipt requested and
23 acknowledged by him or her. The order shall specify the provision of
24 the statute, rule, regulation, directive or order alleged to be or
25 about to be violated, and the facts upon which the conclusion of
26 violating or potential violation is based, and shall order the act
27 constituting the violation or the potential violation to cease and
28 desist or, in appropriate cases, shall order necessary corrective
29 action to be taken with regard to such acts within a specific and
30 reasonable time. The regulation of a headgate or controlling works as
31 provided in RCW 90.03.070, by a watermaster, stream patrolman, or other
32 person so authorized by the department shall constitute a regulatory
33 order within the meaning of this section. A regulatory order issued
34 hereunder shall become effective immediately upon receipt by the person
35 to whom the order is directed, except for regulations under RCW
36 90.03.070 which shall become effective when a written notice is
37 attached as provided therein. Any person aggrieved by such order may
38 appeal the order pursuant to RCW 43.21B.310.

1 NEW SECTION. **Sec. 22.** A new section is added to chapter 43.21A
2 RCW to read as follows:

3 Notwithstanding and in addition to any other powers granted to the
4 department of water resources, whenever it appears to the department
5 that a person is violating or is about to violate any of the provisions
6 of chapter 86.16 RCW or a rule or regulation adopted thereunder, or a
7 directive or order issued by the department relating to chapter 86.16
8 RCW; the department may cause a written regulatory order to be served
9 upon said person either personally, or by registered or certified mail
10 delivered to addressee only with return receipt requested and
11 acknowledged by him or her. The order shall specify the provision of
12 the statute, rule, regulation, directive or order alleged to be or
13 about to be violated, and the facts upon which the conclusion of
14 violating or potential violation is based, and shall order the act
15 constituting the violation or the potential violation to cease and
16 desist or, in appropriate cases, shall order necessary corrective
17 action to be taken with regard to such acts within a specific and
18 reasonable time. Any person aggrieved by such order may appeal the
19 order pursuant to RCW 43.21B.310.

20 NEW SECTION. **Sec. 23.** (1) All powers, duties, and functions of
21 the department of ecology pertaining to water quantity matters
22 prescribed by law, including management, conservation, utilization,
23 planning, development, and adjudication are transferred to the water
24 resources board. All references to the director or the department of
25 ecology in the Revised Code of Washington shall be construed to mean
26 the director or the water resources board when referring to the
27 functions transferred in this section.

28 (2)(a) All reports, documents, surveys, books, records, files,
29 papers, or written material in the possession of the department of
30 ecology pertaining to the powers, functions, and duties transferred
31 shall be delivered to the custody of the water resources board. All
32 cabinets, furniture, office equipment, motor vehicles, and other
33 tangible property employed by the department of ecology in carrying out
34 the powers, functions, and duties transferred shall be made available
35 to the water resources board. All funds, credits, or other assets held
36 in connection with the powers, functions, and duties transferred shall
37 be assigned to the water resources board.

1 (b) Any appropriations made to the department of ecology for
2 carrying out the powers, functions, and duties transferred shall, on
3 the effective date of this section, be transferred and credited to the
4 water resources board.

5 (c) Whenever any question arises as to the transfer of any
6 personnel, funds, books, documents, records, papers, files, equipment,
7 or other tangible property used or held in the exercise of the powers
8 and the performance of the duties and functions transferred, the
9 director of financial management shall make a determination as to the
10 proper allocation and certify the same to the state agencies concerned.

11 (3) All rules and all pending business before the department of
12 ecology pertaining to the powers, functions, and duties transferred
13 shall be continued and acted upon by the water resources board. All
14 existing contracts and obligations shall remain in full force and shall
15 be performed by the water resources board.

16 (4) The transfer of the powers, duties, functions, and personnel of
17 the department of ecology shall not affect the validity of any act
18 performed before the effective date of this section.

19 (5) If apportionments of budgeted funds are required because of the
20 transfers directed by this section, the director of financial
21 management shall certify the apportionments to the agencies affected,
22 the state auditor, and the state treasurer. Each of these shall make
23 the appropriate transfer and adjustments in funds and appropriation
24 accounts and equipment records in accordance with the certification.

25 NEW SECTION. **Sec. 24.** (1) All employees of the department of
26 ecology engaged in performing the powers, functions, and duties
27 transferred are transferred to the jurisdiction of the water resources
28 board for a period of ninety days after the board is appointed. The
29 board shall during this ninety-day period, make decisions regarding the
30 structure and staffing needs of the department.

31 (2) Nothing contained in this section may be construed to alter any
32 existing collective bargaining unit or the provisions of any existing
33 collective bargaining agreement until the agreement has expired or
34 until the bargaining unit has been modified by action of the personnel
35 board as provided by law.

36 **Sec. 25.** RCW 43.83B.300 and 1988 c 47 s 1, 1988 c 46 s 2, and 1988
37 c 45 s 1 are each reenacted and amended to read as follows:

1 The legislature finds that the fundamentals of water resource
2 policy in this state must be reviewed by the legislature to ensure that
3 the water resources of the state are protected and fully utilized for
4 the greatest benefit to the people of the state of Washington. The
5 legislature further finds that it is necessary to provide the
6 department of ((ecology)) water resources with emergency powers to
7 authorize withdrawals of public surface and ground waters, including
8 dead storage within reservoirs, on a temporary basis, and construction
9 of facilities in relation thereto, in order to alleviate emergency
10 water supply conditions arising from the drought forecast for the state
11 of Washington during 1977 and during 1987 through 1989.

12 The legislature further finds that there is a continuing water
13 supply shortage in many areas of the state and that there is an urgent
14 need to assure the survival of irrigated crops and of the state's
15 fisheries.

16 The legislature further finds that in addition to water storage
17 facilities or other augmentation programs, improved efficiency of water
18 use could provide an important new supply of water in many parts of the
19 state with which to meet future water needs and that improved
20 efficiency of water use should receive greater emphasis in the
21 management of the state's water resources.

22 In order to study the fundamentals of water resource policy of the
23 state and to provide needed moneys for the planning, acquisition,
24 construction, and improvement of water supply facilities and for other
25 appropriate measures to assure the survival of irrigated crops and/or
26 the state's fisheries to alleviate emergency water supply conditions
27 arising from droughts occurring from time to time in the state of
28 Washington, and to carry out a comprehensive water use efficiency study
29 for the state of Washington, the state finance committee is authorized
30 to issue general obligation bonds of the state of Washington in the sum
31 of eighteen million dollars, or so much thereof as may be required to
32 finance such projects, and all costs incidental thereto. No bonds
33 authorized by this section and RCW 43.83B.360 through 43.83B.375 shall
34 be offered for sale without prior legislative appropriation, and these
35 bonds shall be paid and discharged within thirty years of the date of
36 issuance in accordance with Article VIII, section 1 of the state
37 Constitution.

1 **Sec. 26.** RCW 89.16.040 and 1981 c 216 s 2 are each amended to read
2 as follows:

3 From the moneys appropriated from the reclamation account there
4 shall be paid, upon vouchers approved by the director of ((ecology))
5 water resources, the administrative expenses of the director under this
6 chapter and such amounts as are found necessary for the investigation
7 and survey of reclamation projects proposed to be financed in whole or
8 in part by the director, and such amounts as may be authorized by him
9 or her for the reclamation of lands in diking, diking improvement,
10 drainage, drainage improvement, diking and drainage, diking and
11 drainage improvement, irrigation and irrigation improvement districts,
12 and such other districts as are authorized by law for the reclamation
13 or development of waste or undeveloped lands or the rehabilitation of
14 existing reclamation projects, and all such districts and improvement
15 districts shall, for the purposes of this chapter be known as
16 reclamation districts.

17 **Sec. 27.** RCW 89.16.045 and 1972 ex.s. c 51 s 4 are each amended to
18 read as follows:

19 Notwithstanding any other provisions of this chapter, the director
20 of ((ecology)) water resources may, by written contract with a
21 reclamation district, loan moneys from the reclamation account to said
22 district for use in financing a project of construction, reconstruction
23 or improvement of district facilities, or a project of additions to
24 such facilities. No such contract shall exceed fifty thousand dollars
25 per project or a term of ten years, or provide for an interest rate of
26 more than eight percent per annum. The director shall not execute any
27 contract as provided in this section until he or she determines that
28 the project for which the moneys are furnished is within the scope of
29 the district's powers to undertake, that the project is feasible, that
30 its construction is in the best interest of the state and the district,
31 and that the district proposing the project is in a sound financial
32 condition and capable of repaying the loan with interest in not more
33 than ten annual payments. Any district is empowered to enter into a
34 contract, as provided for in this section, and to levy assessments
35 based on the special benefits accruing to lands within the district as
36 are necessary to satisfy the contract, when a resolution of the
37 governing body of the reclamation district authorizing its execution is
38 approved by the body: PROVIDED, That no district shall be empowered to

1 execute with the director any such contract during the term of any
2 previously executed contract authorized by this section.

3 **Sec. 28.** RCW 89.16.050 and 1983 c 167 s 248 are each amended to
4 read as follows:

5 In carrying out the purposes of this chapter, the director of the
6 department of ((ecology)) water resources of the state of Washington
7 shall be authorized and empowered:

8 To make surveys and investigations of the wholly or partially
9 unreclaimed and undeveloped lands in this state and to determine the
10 relative agricultural values, productiveness and uses, and the
11 feasibility and cost of reclamation and development thereof;

12 To formulate and adopt a sound policy for the reclamation and
13 development of the agricultural resources of the state, and from time
14 to time select for reclamation and development such lands as may be
15 deemed advisable, and the director may in his or her discretion advise
16 as to the formation and assist in the organization of reclamation
17 districts under the laws of this state;

18 To purchase the bonds of any reclamation district whose project is
19 approved by the director and which is found to be upon a sound
20 financial basis, to contract with any such district for making surveys
21 and furnishing engineering plans and supervision for the construction
22 of its project, or for constructing or completing its project and to
23 advance money to the credit of the district for any or all of such
24 purposes, and to accept the bonds, notes or warrants of such district
25 in payment therefor, and to expend the moneys appropriated from the
26 reclamation account in the purchase of such bonds, notes or warrants or
27 in carrying out such contracts: PROVIDED, That interest not to exceed
28 the annual rate provided for in the bonds, notes or warrants agreed to
29 be purchased, shall be charged and received for all moneys advanced to
30 the district prior to the delivery of the bonds, notes or warrants and
31 the amount of such interest shall be included in the purchase price of
32 such bonds, notes or warrants: PROVIDED FURTHER, That no district, the
33 bonds, notes or warrants of which have been purchased by the state
34 under the provisions of the state reclamation act, shall thereafter
35 during the life of said bonds, notes or warrants make expenditures of
36 any kind from the bond or warrant funds of the district or incur
37 obligations chargeable against such funds or issue any additional notes
38 without previous written approval of the director of ((ecology)) water

1 resources of the state of Washington, and any obligations incurred
2 without such approval shall be void;

3 To sell and dispose of any reclamation district bonds acquired by
4 the director, at public or private sale, and to pay the proceeds of
5 such sale into the reclamation account: PROVIDED, That such bonds
6 shall not be sold for less than the purchase price plus accrued
7 interest, except in case of a sale to an agency supplied with money by
8 the United States of America, or to the United States of America in
9 furtherance of refunding operations of any irrigation district, diking
10 or drainage district, or diking or drainage improvement district, now
11 pending or hereafter carried on by such district, in which case the
12 director shall have authority to sell any bonds of such district owned
13 by the state of Washington under the provisions of the state
14 reclamation act, to the United States of America, or other federal
15 agency on such terms as said United States of America, or other federal
16 agency shall prescribe for bonds of the same issue of such district as
17 that held by the state of Washington in connection with such refunding
18 operations;

19 To borrow money upon the security of any bonds, including refunding
20 bonds, of any reclamation district, acquired by the director, on such
21 terms and rate of interest and over such period of time as the director
22 may see fit, and to hypothecate and pledge reclamation district bonds
23 or refunding bonds acquired by the director as security for such loan.
24 Such loans shall have, as their sole security, the bonds so pledged and
25 the revenues therefrom, and the director shall not have authority to
26 pledge the general credit of the state of Washington: PROVIDED, That
27 in reloaning any money so borrowed, or obtained from a sale of bonds it
28 shall be the duty of the director to fix such rates of interest as will
29 prevent impairment of the reclamation revolving account;

30 To purchase delinquent general tax or delinquent special assessment
31 certificates chargeable against lands included within any reclamation
32 district obligated to the state under the provisions of the state
33 reclamation act, and to purchase lands included in such districts and
34 placed on sale on account of delinquent taxes or delinquent assessments
35 with the same rights, privileges and powers with respect thereto as a
36 private holder and owner of said certificates, or as a private
37 purchaser of said lands: PROVIDED, That the director shall be entitled
38 to a delinquent tax certificate upon application to the proper county
39 treasurer therefor without the necessity of a resolution of the county

1 legislative authority authorizing the issuance of certificates of
2 delinquency required by law in the case of the sale of such
3 certificates to private purchasers;

4 To sell said delinquent certificates or the lands acquired at sale
5 on account of delinquent taxes or delinquent assessments at public or
6 private sale, and on such conditions as the director shall determine;

7 To, whenever the director shall deem it advisable, require any
8 district with which he or she may contract, to provide such safeguards
9 as he or she may deem necessary to assure bona fide settlement and
10 development of the lands within such district, by securing from the
11 owners of lands therein agreements to limit the amount of their
12 holdings to such acreage as they can properly farm and to sell their
13 excess land holdings at reasonable prices;

14 To employ all necessary experts, assistants and employees and fix
15 their compensation and to enter into any and all contracts and
16 agreements necessary to carry out the purposes of this chapter;

17 To have the assistance, cooperation and services of, and the use of
18 the records and files in, all the departments and institutions of the
19 state, particularly the office of the commissioner of public lands, the
20 state department of agriculture, Washington State University, and the
21 University of Washington; and all state officers and the governing
22 authorities of all state institutions are hereby authorized and
23 directed to cooperate with the director in furthering the purpose of
24 this chapter;

25 To cooperate with the United States in any plan of land
26 reclamation, land settlement or agricultural development which the
27 congress of the United States may provide and which may effect the
28 development of agricultural resources within the state of Washington,
29 and the director shall have full power to carry out the provisions of
30 any cooperative land settlement act that may be enacted by the United
31 States.

32 **Sec. 29.** RCW 89.16.055 and 1993 c 387 s 27 are each amended to
33 read as follows:

34 In addition to the powers provided in RCW 89.16.050, the department
35 of ((ecology)) water resources is authorized and empowered to:

36 (1) Conduct surveys, studies, investigations, and water right
37 examinations for proposed reclamation projects or the rehabilitation of
38 existing reclamation projects that may be funded fully or partially

1 from the receipts of the sale of bonds issued by the state of
2 Washington.

3 (2) Support the preparation for and administration of proceedings,
4 provided in RCW 90.03.110 or 90.44.220, or both, pertaining to river
5 systems or other water bodies that are associated with existing or
6 proposed reclamation projects.

7 (3) Conduct a regulatory program for well construction as provided
8 in chapter 18.104 RCW.

9 Funds of the account established by RCW 89.16.020 may, as
10 appropriated by the legislature, be used in relation to the powers
11 provided in this section, notwithstanding any other provisions of
12 chapter 89.16 RCW that may be to the contrary.

13 **Sec. 30.** RCW 89.16.060 and 1972 ex.s. c 51 s 6 are each amended to
14 read as follows:

15 The department of (~~ecology~~) water resources shall have the power
16 to cooperate and to contract with the United States for the reclamation
17 of lands in this state by the United States, and shall have the power
18 to contract with the United States for the handling of such reclamation
19 work by the United States and for the repayment of such moneys as the
20 department (~~of ecology~~) shall invest from the reclamation account,
21 under such terms and conditions as the United States laws and the
22 regulations of the interior department shall provide for the repayment
23 of reclamation costs by the lands reclaimed.

24 **Sec. 31.** RCW 89.16.080 and 1972 ex.s. c 51 s 7 are each amended to
25 read as follows:

26 Whenever in the judgment of the department of natural resources any
27 state, school, granted, or other public lands of the state will be
28 specially benefited by any proposed reclamation project approved by the
29 department of (~~ecology~~) water resources, it may consent that such
30 lands be included in any reclamation district organized for the purpose
31 of carrying out such reclamation project, and in that event the
32 department of natural resources shall be authorized to pay, out of
33 current appropriations, the district assessments levied as provided by
34 law against such lands, and any such assessments paid shall be made a
35 charge against the lands upon which they were levied, and the amount
36 thereof, but without interest, shall be included in the appraised value
37 of such lands when sold or leased.

1 **Sec. 32.** RCW 89.30.055 and 1988 c 127 s 70 are each amended to
2 read as follows:

3 Upon the giving of notice of hearing on the petition by the clerk
4 of the county board aforesaid, there is hereby authorized and created
5 a commission composed of the chairman of the board of county
6 commissioners of each of the counties in which any of the lands to be
7 included in the proposed reclamation district are situated, and of the
8 state director of ((ecology)) water resources, which commission shall
9 consider and determine said petition.

10 **Sec. 33.** RCW 89.30.058 and 1988 c 127 s 71 are each amended to
11 read as follows:

12 The state director of ((ecology)) water resources shall be ex
13 officio chairman of said commission, and the clerk of the county board
14 of the county in which the petition is filed, shall be ex officio clerk
15 of said commission. A majority of the members of said commission shall
16 constitute a quorum for the transaction or exercise of any of its
17 powers, functions, duties and business.

18 **Sec. 34.** RCW 89.30.070 and 1988 c 127 s 72 are each amended to
19 read as follows:

20 Except as otherwise herein provided the necessary expenses of the
21 commission and of the members thereof in performing the duties and
22 functions of said commission shall be borne by the respective counties
23 concerned in proportion to the taxable value of the acreage of each
24 included in the proposed reclamation district and said respective
25 counties are hereby made liable for such expenses. The individual
26 expenses of the state director of ((ecology)) water resources shall be
27 borne by the state.

28 **Sec. 35.** RCW 89.30.427 and 1983 c 167 s 254 are each amended to
29 read as follows:

30 (1) In any instance where the district, general improvement or
31 divisional district is selling, renting or leasing water or electric
32 energy under the provisions of this chapter and there is reasonable
33 certainty of a permanent fixed income from this source, the district
34 board shall have authority to create a special fund derived from a
35 fixed proportion of the gross income thus obtained and to issue bonds
36 of the district payable from such special fund and to sell the same to

1 raise revenue for the payment or amortization of the cost of the
2 construction and/or the operation and maintenance of the reclamation
3 district or general improvement or divisional district works and for
4 such other purposes as the state of Washington and/or the United States
5 may require: PROVIDED, That the state of Washington may, through the
6 director of ((ecology)) water resources, enter into a contract with the
7 reclamation district, improvement or divisional district or districts
8 or the United States to purchase, rent or lease and to sell or resell
9 and/or distribute all or any part of the electric energy developed or
10 to be developed at the reclamation, improvement or divisional district
11 works at a price sufficient to amortize the cost of power development
12 over a period of fifty years after the completion of such power
13 development and to provide a surplus sufficient to reduce the cost of
14 reclaiming the lands of the district or districts within economic
15 limits: AND PROVIDED FURTHER, That no contract or contracts as in this
16 section provided shall be finally consummated or become binding in any
17 way whatsoever until the legislature of the state of Washington in
18 special or regular session shall approve the same, and provided further
19 in such sale and/or distribution of power by the director of
20 ((ecology)) water resources preference in the purchase and/or
21 distribution thereof shall be given to municipal corporations and
22 cooperative associations: AND PROVIDED FURTHER, That general
23 improvement and divisional districts shall have (in addition to the
24 powers granted them in chapter 254 of the Session Laws of 1927 and in
25 this act) the same powers as are given to the reclamation districts
26 under RCW 89.30.007.

27 (2) Such bonds may be issued and sold in accordance with chapter
28 39.46 RCW.

29 **Sec. 36.** RCW 90.03.005 and 1989 c 348 s 2 are each amended to read
30 as follows:

31 It is the policy of the state to promote the use of the public
32 waters in a fashion which provides for obtaining maximum net benefits
33 arising from both diversionary uses of the state's public waters and
34 the retention of waters within streams and lakes in sufficient quantity
35 and quality to protect instream and natural values and rights.
36 Consistent with this policy, the state supports economically feasible
37 and environmentally sound development of physical facilities through
38 the concerted efforts of the state with the United States, public

1 corporations, Indian tribes, or other public or private entities.
2 Further, based on the tenet of water law which precludes wasteful
3 practices in the exercise of rights to the use of waters, the
4 department of ((ecology)) water resources shall reduce these practices
5 to the maximum extent practicable, taking into account sound principles
6 of water management, the benefits and costs of improved water use
7 efficiency, and the most effective use of public and private funds,
8 and, when appropriate, to work to that end in concert with the agencies
9 of the United States and other public and private entities.

10 **Sec. 37.** RCW 90.03.015 and 1987 c 109 s 65 are each amended to
11 read as follows:

12 As used in this chapter:

13 (1) "Department" means the department of ((ecology)) water
14 resources;

15 (2) "Director" means the director of ((ecology)) water resources;
16 and

17 (3) "Person" means any firm, association, water users' association,
18 corporation, irrigation district, or municipal corporation, as well as
19 an individual.

20 **Sec. 38.** RCW 90.03.130 and 1987 c 109 s 74 are each amended to
21 read as follows:

22 Service of said summons shall be made in the same manner and with
23 the same force and effect as service of summons in civil actions
24 commenced in the superior courts of the state: PROVIDED, That for good
25 cause, the court, at the request of the department, as an alternative
26 to personal service, may authorize service of summons to be made by
27 certified mail, with return receipt signed by defendant, a spouse of a
28 defendant, or another person authorized to accept service. If the
29 defendants, or either of them, cannot be found within the state of
30 Washington, of which the return of the sheriff of the county in which
31 the proceeding is pending shall be prima facie evidence, upon the
32 filing of an affidavit by the department, or its attorney, in
33 conformity with the statute relative to the service of summons by
34 publication in civil actions, such service may be made by publication
35 in a newspaper of general circulation in the county in which such
36 proceeding is pending, and also publication of said summons in a
37 newspaper of general circulation in each county in which any portion of

1 the water is situated, once a week for six consecutive weeks (six
2 publications). In cases where personal service can be had, such
3 summons shall be served at least twenty days before the return day
4 thereof. The summons by publication shall state that statements of
5 claim must be filed within twenty days after the last publication or
6 before the return date, whichever is later.

7 Personal service of summons may be made by department of
8 ((ecology)) water resources' employees for actions pertaining to water
9 rights.

10 **Sec. 39.** RCW 90.03.247 and 1994 c 264 s 82 are each amended to
11 read as follows:

12 Whenever an application for a permit to make beneficial use of
13 public waters is approved relating to a stream or other water body for
14 which minimum flows or levels have been adopted and are in effect at
15 the time of approval, the permit shall be conditioned to protect the
16 levels or flows. No agency may establish minimum flows and levels or
17 similar water flow or level restrictions for any stream or lake of the
18 state other than the department of ((ecology)) water resources whose
19 authority to establish is exclusive, as provided in chapter 90.03 RCW
20 and RCW 90.22.010 and 90.54.040. The provisions of other statutes,
21 including but not limited to RCW 75.20.100 and chapter 43.21C RCW, may
22 not be interpreted in a manner that is inconsistent with this section.
23 In establishing such minimum flows, levels, or similar restrictions,
24 the department shall, during all stages of development by the
25 department of ((ecology)) water resources of minimum flow proposals,
26 consult with, and carefully consider the recommendations of, the
27 department of fish and wildlife, the state energy office, the
28 department of agriculture, and representatives of the affected Indian
29 tribes. Nothing herein shall preclude the department of fish and
30 wildlife, the energy office, or the department of agriculture from
31 presenting its views on minimum flow needs at any public hearing or to
32 any person or agency, and the department of fish and wildlife, the
33 energy office, and the department of agriculture are each empowered to
34 participate in proceedings of the federal energy regulatory commission
35 and other agencies to present its views on minimum flow needs.

36 **Sec. 40.** RCW 90.03.345 and 1979 ex.s. c 216 s 7 are each amended
37 to read as follows:

1 The establishment of reservations of water for agriculture,
2 hydroelectric energy, municipal, industrial, and other beneficial uses
3 under RCW 90.54.050(1) or minimum flows or levels under RCW 90.22.010
4 or 90.54.040 shall constitute appropriations within the meaning of this
5 chapter with priority dates as of the effective dates of their
6 establishment. Whenever an application for a permit to make beneficial
7 use of public waters embodied in a reservation, established after
8 September 1, 1979, is filed with the department of ((ecology)) water
9 resources after the effective date of such reservation, the priority
10 date for a permit issued pursuant to an approval by the department of
11 ((ecology)) water resources of the application shall be the effective
12 date of the reservation.

13 **Sec. 41.** RCW 90.03.360 and 1994 c 264 s 85 are each amended to
14 read as follows:

15 (1) The owner or owners of any water diversion shall maintain, to
16 the satisfaction of the department of ((ecology)) water resources,
17 substantial controlling works and a measuring device constructed and
18 maintained to permit accurate measurement and practical regulation of
19 the flow of water diverted. Every owner or manager of a reservoir for
20 the storage of water shall construct and maintain, when required by the
21 department, any measuring device necessary to ascertain the natural
22 flow into and out of said reservoir.

23 Metering of diversions or measurement by other approved methods
24 shall be required as a condition for all new surface water right
25 permits, and except as provided in subsection (2) of this section, may
26 be required as a condition for all previously existing surface water
27 rights. The department may also require, as a condition for all water
28 rights, metering of diversions, and reports regarding such metered
29 diversions as to the amount of water being diverted. Such reports
30 shall be in a form prescribed by the department.

31 (2) Where water diversions are from waters in which the salmonid
32 stock status is depressed or critical, as determined by the department
33 of fish and wildlife, or where the volume of water being diverted
34 exceeds one cubic foot per second, the department shall require
35 metering or measurement by other approved methods as a condition for
36 all new and previously existing water rights or claims. The department
37 shall attempt to integrate the requirements of this subsection into its
38 existing compliance workload priorities, but shall prioritize the

1 requirements of this subsection ahead of the existing compliance
2 workload where a delay may cause the decline of wild salmonids. The
3 department shall notify the department of fish and wildlife of the
4 status of fish screens associated with these diversions.

5 This subsection (2) shall not apply to diversions for public or
6 private hatcheries or fish rearing facilities if the diverted water is
7 returned directly to the waters from which it was diverted.

8 **Sec. 42.** RCW 90.03.383 and 1991 c 350 s 1 are each amended to read
9 as follows:

10 (1) The legislature recognizes the value of interties for improving
11 the reliability of public water systems, enhancing their management,
12 and more efficiently utilizing the increasingly limited resource.
13 Given the continued growth in the most populous areas of the state, the
14 increased complexity of public water supply management, and the trend
15 toward regional planning and regional solutions to resource issues,
16 interconnections of public water systems through interties provide a
17 valuable tool to ensure reliable public water supplies for the citizens
18 of the state. Public water systems have been encouraged in the past to
19 utilize interties to achieve public health and resource management
20 objectives. The legislature finds that it is in the public interest to
21 recognize interties existing and in use as of January 1, 1991, and to
22 have associated water rights modified by the department of ((ecology))
23 water resources to reflect current use of water through those
24 interties, pursuant to subsection (3) of this section. The legislature
25 further finds it in the public interest to develop a coordinated
26 process to review proposals for interties commencing use after January
27 1, 1991.

28 (2) For the purposes of this section, the following definitions
29 shall apply:

30 (a) "Interties" are interconnections between public water systems
31 permitting exchange or delivery of water between those systems for
32 other than emergency supply purposes, where such exchange or delivery
33 is within established instantaneous and annual withdrawal rates
34 specified in the systems' existing water right permits or certificates,
35 or contained in claims filed pursuant to chapter 90.14 RCW, and which
36 results in better management of public water supply consistent with
37 existing rights and obligations. Interties include interconnections
38 between public water systems permitting exchange or delivery of water

1 to serve as primary or secondary sources of supply, but do not include
2 development of new sources of supply to meet future demand.

3 (b) "Service area" is the area designated in a water system plan or
4 a coordinated water system plan pursuant to chapter 43.20 or 70.116 RCW
5 respectively. When a public water system does not have a designated
6 service area subject to the approval process of those chapters, the
7 service area shall be the designated place of use contained in the
8 water right permit or certificate, or contained in the claim filed
9 pursuant to chapter 90.14 RCW.

10 (3) Public water systems with interties existing and in use as of
11 January 1, 1991, or that have received written approval from the
12 department of health prior to that date, shall file written notice of
13 those interties with the department of health and the department of
14 ((ecology)) water resources. The notice may be incorporated into the
15 public water system's five-year update of its water system plan, but
16 shall be filed no later than June 30, 1996. The notice shall identify
17 the location of the intertie; the dates of its first use; the purpose,
18 capacity, and current use; the intertie agreement of the parties and
19 the service areas assigned; and other information reasonably necessary
20 to modify the water right permit. Notwithstanding the provisions of
21 RCW 90.03.380 and 90.44.100, for public water systems with interties
22 existing and in use as of January 1, 1991, the department of
23 ((ecology)) water resources, upon receipt of notice meeting the
24 requirements of this subsection, shall, as soon as practicable, modify
25 the place of use descriptions in the water right permits, certificates,
26 or claims to reflect the actual use through such interties, provided
27 that the place of use is within service area designations established
28 in a water system plan approved pursuant to chapter 43.20 RCW, or a
29 coordinated water system plan approved pursuant to chapter 70.116 RCW,
30 and further provided that the water used is within the instantaneous
31 and annual withdrawal rates specified in the water right permit and
32 that no outstanding complaints of impairment to existing water rights
33 have been filed with the department of ((ecology)) water resources
34 prior to September 1, 1991. Where such complaints of impairment have
35 been received, the department of ((ecology)) water resources shall make
36 all reasonable efforts to resolve them in a timely manner through
37 agreement of the parties or through available administrative remedies.

38 (4) Notwithstanding the provisions of RCW 90.03.380 and 90.44.100,
39 exchange or delivery of water through interties commencing use after

1 January 1, 1991, shall be permitted when the intertie improves overall
2 system reliability, enhances the manageability of the systems, provides
3 opportunities for conjunctive use, or delays or avoids the need to
4 develop new water sources, and otherwise meets the requirements of this
5 section, provided that each public water system's water use shall not
6 exceed the instantaneous or annual withdrawal rate specified in its
7 water right authorization, shall not adversely affect existing water
8 rights, and shall not be inconsistent with state-approved plans such as
9 water system plans or other plans which include specific proposals for
10 construction of interties. Interties commencing use after January 1,
11 1991, shall not be inconsistent with regional water resource plans
12 developed pursuant to chapter 90.54 RCW.

13 (5) For public water systems subject to the approval process of
14 chapter 43.20 RCW or chapter 70.116 RCW, proposals for interties
15 commencing use after January 1, 1991, shall be incorporated into water
16 system plans pursuant to chapter 43.20 RCW or coordinated water system
17 plans pursuant to chapter 70.116 RCW and submitted to the department of
18 health and the department of ((ecology)) water resources for review and
19 approval as provided for in subsections (5) through (9) of this
20 section. The plan shall state how the proposed intertie will improve
21 overall system reliability, enhance the manageability of the systems,
22 provide opportunities for conjunctive use, or delay or avoid the need
23 to develop new water sources.

24 (6) The department of health shall be responsible for review and
25 approval of proposals for new interties. In its review the department
26 of health shall determine whether the intertie satisfies the criteria
27 of subsection (4) of this section, with the exception of water rights
28 considerations, which are the responsibility of the department of
29 ((ecology)) water resources, and shall determine whether the intertie
30 is necessary to address emergent public health or safety concerns
31 associated with public water supply.

32 (7) If the intertie is determined by the department of health to be
33 necessary to address emergent public health or safety concerns
34 associated with public water supply, the public water system shall
35 amend its water system plan as required and shall file an application
36 with the department of ((ecology)) water resources to change its
37 existing water right to reflect the proposed use of the water as
38 described in the approved water system plan. The department of
39 ((ecology)) water resources shall process the application for change

1 pursuant to RCW 90.03.380 or 90.44.100 as appropriate, except that,
2 notwithstanding the requirements of those sections regarding notice and
3 protest periods, applicants shall be required to publish notice one
4 time, and the comment period shall be fifteen days from the date of
5 publication of the notice. Within sixty days of receiving the
6 application, the department of ((ecology)) water resources shall issue
7 findings and advise the department of health if existing water rights
8 are determined to be adversely affected. If no determination is
9 provided by the department of ((ecology)) water resources within the
10 sixty-day period, the department of health shall proceed as if existing
11 rights are not adversely affected by the proposed intertie. The
12 department of ((ecology)) water resources may obtain an extension of
13 the sixty-day period by submitting written notice to the department of
14 health and to the applicant indicating a definite date by which its
15 determination will be made. No additional extensions shall be granted,
16 and in no event shall the total review period for the department of
17 ((ecology)) water resources exceed one hundred eighty days.

18 (8) If the department of health determines the proposed intertie
19 appears to meet the requirements of subsection (4) of this section but
20 is not necessary to address emergent public health or safety concerns
21 associated with public water supply, the department of health shall
22 instruct the applicant to submit to the department of ((ecology)) water
23 resources an application for change to the underlying water right or
24 claim as necessary to reflect the new place of use. The department of
25 ((ecology)) water resources shall consider the applications pursuant to
26 the provisions of RCW 90.03.380 and 90.44.100 as appropriate. If in
27 its review of proposed interties and associated water rights the
28 department of ((ecology)) water resources determines that additional
29 information is required to act on the application, the department may
30 request applicants to provide information necessary for its decision,
31 consistent with ((agency)) water resources board rules and written
32 guidelines. Parties disagreeing with the decision of the department of
33 ((ecology)) water resources on the application for change in place of
34 use may appeal the decision to the ((~~pollution control hearings board~~))
35 superior court.

36 (9) The department of health may approve plans containing intertie
37 proposals prior to the department of ((ecology's)) water resource's
38 decision on the water right application for change in place of use.
39 However, notwithstanding such approval, construction work on the

1 intertie shall not begin until the department of ((ecology)) water
2 resources issues the appropriate water right document to the applicant
3 consistent with the approved plan.

4 **Sec. 43.** RCW 90.03.386 and 1991 c 350 s 2 are each amended to read
5 as follows:

6 Within service areas established pursuant to chapters 43.20 and
7 70.116 RCW, the department of ((ecology)) water resources and the
8 department of health shall coordinate approval procedures to ensure
9 compliance and consistency with the approved water system plan.

10 **Sec. 44.** RCW 90.03.390 and 1991 c 350 s 3 are each amended to read
11 as follows:

12 RCW 90.03.380 shall not be construed to prevent water users from
13 making a seasonal or temporary change of point of diversion or place of
14 use of water when such change can be made without detriment to existing
15 rights, but in no case shall such change be made without the permission
16 of the water master of the district in which such proposed change is
17 located, or of the department. Nor shall RCW 90.03.380 be construed to
18 prevent construction of emergency interties between public water
19 systems to permit exchange of water during short-term emergency
20 situations, or rotation in the use of water for bringing about a more
21 economical use of the available supply, provided however, that the
22 department of health in consultation with the department of ((ecology))
23 water resources shall adopt rules or develop written guidelines setting
24 forth standards for determining when a short-term emergency exists and
25 the circumstances in which emergency interties are permitted. The
26 rules or guidelines shall be consistent with the procedures established
27 in RCW 43.83B.400 through 43.83B.420. Water users owning lands to
28 which water rights are attached may rotate in the use of water to which
29 they are collectively entitled, or an individual water user having
30 lands to which are attached water rights of a different priority, may
31 in like manner rotate in use when such rotation can be made without
32 detriment to other existing water rights, and has the approval of the
33 water master or department.

34 **Sec. 45.** RCW 90.03.471 and 1987 c 109 s 99 are each amended to
35 read as follows:

1 All fees, collections and revenues derived under RCW 90.03.470 or
2 by virtue of RCW 90.03.180, shall be used exclusively for the purpose
3 of carrying out the work and performing the functions of the ((~~division~~
4 ~~of water resources of the~~)) department.

5 **Sec. 46.** RCW 90.03.600 and 1987 c 109 s 157 are each amended to
6 read as follows:

7 The power is granted to the department ((~~of ecology~~)) to levy civil
8 penalties of up to one hundred dollars per day for violation of any of
9 the provisions of this chapter and chapters 43.83B, 90.22, and 90.44
10 RCW, and rules, permits, and similar documents and regulatory orders of
11 the ((~~department of ecology~~)) water resources board adopted or issued
12 pursuant to such chapters. The procedures of RCW 90.48.144 shall be
13 applicable to all phases of the levying of a penalty as well as review
14 and appeal of the same.

15 **Sec. 47.** RCW 90.08.040 and 1977 c 22 s 1 are each amended to read
16 as follows:

17 Where water rights of a stream have been adjudicated a stream
18 patrolman shall be appointed by the director of the department of
19 ((~~ecology~~)) water resources upon application of water users having
20 adjudicated water rights in each particular water resource making a
21 reasonable showing of the necessity therefor, which application shall
22 have been approved by the district water master if one has been
23 appointed, at such time, for such stream, and for such periods of
24 service as local conditions may indicate to be necessary to provide the
25 most practical supervision and to secure to water users and owners the
26 best protection in their rights.

27 The stream patrolman shall have the same powers as a water master
28 appointed under RCW 90.03.060, but his or her district shall be
29 confined to the regulation of waters of a designated stream or streams.
30 Such patrolman shall be under the supervision of the director or his or
31 her designated representative. He or she shall also enforce such
32 special rules and regulations as the director may prescribe from time
33 to time.

34 **Sec. 48.** RCW 90.14.041 and 1988 c 127 s 73 are each amended to
35 read as follows:

1 All persons using or claiming the right to withdraw or divert and
2 make beneficial use of public surface or ground waters of the state,
3 except as hereinafter provided in this section, shall file with the
4 department of ecology not later than June 30, 1974, a statement of
5 claim for each water right asserted on a form provided by the
6 department. This section shall not apply to any water rights which are
7 based on the authority of a permit or certificate issued by the
8 department of ecology or one of its predecessors. The authority under
9 this section is transferred to the department of water resources.

10 **Sec. 49.** RCW 90.14.043 and 1985 c 435 s 1 are each amended to read
11 as follows:

12 (1) Notwithstanding any time restrictions imposed by the provisions
13 of chapter 90.14 RCW, a person may file a claim pursuant to RCW
14 90.14.041 if such person obtains a certification from the (~~pollution~~
15 ~~control hearings board~~) superior court as provided in this section.

16 (2) A certification shall be issued by the (~~pollution control~~
17 ~~hearings board~~) court if, upon petition to the (~~board~~) court, it is
18 shown to the satisfaction of the (~~board~~) court that:

19 (a) Waters of the state have been applied to beneficial use
20 continuously (with no period of nonuse exceeding five consecutive
21 years) in the case of surface water beginning not later than June 7,
22 1917, and in the case of ground water beginning not later than June 7,
23 1945, or

24 (b) Waters of the state have been applied to beneficial use
25 continuously (with no period of nonuse exceeding five consecutive
26 years) from the date of entry of a court decree confirming a water
27 right and any failure to register a claim resulted from a reasonable
28 misinterpretation of the requirements as they related to such court
29 decreed rights.

30 (3) The (~~board~~) court shall have jurisdiction to accept petitions
31 for certification from any person through September 1, 1985, and not
32 thereafter.

33 (4) A petition for certification shall include complete information
34 on the claim pursuant to RCW 90.14.051 (1) through (8), and any such
35 information as the (~~board~~) court may require.

36 (5) The department (~~of ecology~~) is directed to accept for filing
37 any claim certified by the (~~board~~) court as provided in subsection
38 (2) of this section. The department (~~of ecology~~), upon request of

1 the ((~~board~~)) court, may provide assistance to the ((~~board~~)) court
2 pertinent to any certification petition.

3 (6) A certification by the ((~~pollution control hearings board~~))
4 court or a filing with the department ((~~of ecology~~)) of a claim under
5 this section shall not constitute a determination or confirmation that
6 a water right exists.

7 (7) The provisions of RCW 90.14.071 shall have no applicability to
8 certified claims filed pursuant to this section.

9 (8) This section shall have no applicability to ground waters
10 resulting from the operations of reclamation projects.

11 **Sec. 50.** RCW 90.14.061 and 1988 c 127 s 74 are each amended to
12 read as follows:

13 Filing of a statement of a claim shall take place and be completed
14 upon receipt by the department of ecology, at its office in Olympia, of
15 an original statement signed by the claimant or his or her authorized
16 agent, and two copies thereof. Any person required to file hereunder
17 may file through a designated representative. A company, district,
18 public or municipal corporation, or the United States when furnishing
19 to persons water pertaining to water rights required to be filed under
20 RCW 90.14.041, shall have the right to file one claim on behalf of said
21 persons on a form prepared by the department for the total benefits of
22 each person served; provided that a separate claim shall be filed by
23 such company, district, public or private corporation, or the United
24 States for each operating unit of the filing entity providing such
25 water and for each water source. Within thirty days after receipt of
26 a statement of claim the department shall acknowledge the same by a
27 notation on one copy indicating receipt thereof and the date of
28 receipt, together with the wording of the first sentence of RCW
29 90.14.081, and shall return said copy by certified or registered mail
30 to the claimant at the address set forth in the statement of claim. No
31 statement of claim shall be accepted for filing by the department of
32 ecology unless accompanied by a two dollar filing fee. The department
33 of water resources shall administer this section after the effective
34 date of this section.

35 **Sec. 51.** RCW 90.14.065 and 1987 c 93 s 1 are each amended to read
36 as follows:

1 Any person or entity, or successor to such person or entity, having
2 a statement of claim on file with the water rights claims registry on
3 April 20, 1987, may submit to the department of (~~ecology~~) water
4 resources for filing, an amendment to such a statement of claim if the
5 submitted amendment is based on:

6 (1) An error in estimation of the quantity of the applicant's water
7 claim prescribed in RCW 90.14.051 if the applicant provides reasons for
8 the failure to claim such right in the original claim;

9 (2) A change in circumstances not foreseeable at the time the
10 original claim was filed, if such change in circumstances relates only
11 to the manner of transportation or diversion of the water and not to
12 the use or quantity of such water; or

13 (3) The amendment is ministerial in nature.

14 The department shall accept any such submission and file the same
15 in the registry unless the department by written determination
16 concludes that the requirements of subsection (1), (2), or (3) of this
17 section have not been satisfied. Any person aggrieved by a
18 determination of the department may obtain a review thereof by filing
19 a petition for review with the (~~pollution control hearings board~~)
20 superior court within thirty days of the date of the determination by
21 the department. The provisions of RCW 90.14.081 shall apply to any
22 amendment filed under this section.

23 **Sec. 52.** RCW 90.14.091 and 1988 c 127 s 75 are each amended to
24 read as follows:

25 For the purpose of RCW 90.14.031 through 90.14.121 the following
26 words and phrases shall have the following meanings:

27 (1) "Statement of taxes due" means the statement required under RCW
28 84.56.050.

29 (2) "Notice in writing" means a notice substantially in the
30 following form:

31 WATER RIGHTS NOTICE

32 Every person, including but not limited to an individual,
33 partnership, association, public or private corporation, city or other
34 municipality, county, state agency and the state of Washington, and the
35 United States of America, when claiming water rights established under
36 the laws of the state of Washington, are hereby notified that all water
37 rights or claimed water rights relating to the withdrawal or diversion

1 of public surface or ground waters of the state, except those water
2 rights based upon authority of a permit or certificate issued by the
3 department of ecology or one of its predecessors, must be registered
4 with the department of ecology, Olympia, Washington not later than June
5 30, 1974. FAILURE TO REGISTER AS REQUIRED BY LAW WILL RESULT IN A
6 WAIVER AND RELINQUISHMENT OF SAID WATER RIGHT OR CLAIMED WATER RIGHT.
7 For further information contact the Department of Ecology, Olympia,
8 Washington, for a copy of the act and an explanation thereof.

9 The department of water resources shall administer this section
10 after the effective date of this section.

11 **Sec. 53.** RCW 90.14.101 and 1988 c 127 s 76 are each amended to
12 read as follows:

13 To insure that all persons referred to in RCW 90.14.031 and
14 90.14.041 are notified of the registration provisions of this chapter,
15 the department of ecology is directed to give notice of the
16 registration provisions of this chapter as follows:

17 (1) It shall cause a notice in writing to be placed in a prominent
18 and conspicuous place in all newspapers of the state having a
19 circulation of more than fifty thousand copies for each week day, and
20 in at least one newspaper published in each county of the state, at
21 least once each year for five consecutive years.

22 (2) It shall cause a notice substantially the same as a notice in
23 writing to be broadcast by each commercial television station operating
24 in the United States and viewed in the state, and by at least one
25 commercial radio station operating from each county of the state having
26 such a station regularly at six month intervals for five consecutive
27 years.

28 (3) It shall cause a notice in writing to be placed in a prominent
29 and conspicuous location in each county court house in the state.

30 (4) The county treasurer of each county shall enclose with each
31 mailing of one or more statements of taxes due issued in 1972 a copy of
32 a notice in writing and a declaration that it shall be the duty of the
33 recipient of the statement of taxes due to forward the notice to the
34 beneficial owner of the property. A sufficient number of copies of the
35 notice and declaration shall be supplied to each county treasurer by
36 the director of ecology before the fifteenth day of January, 1972. In
37 the implementation of this subsection the department of ecology shall
38 provide reimbursement to the county treasurer for the reasonable

1 additional costs, if any there may be, incurred by said treasurer
2 arising from the inclusion of a notice in writing as required herein.

3 (5) It shall provide copies of the notice in writing to the press
4 services with offices located in Thurston county during January of the
5 years 1970, 1971, 1972, 1973 and 1974.

6 The director of the department may also in his or her discretion
7 give notice in any other manner which will carry out the purposes of
8 this section. Where notice in writing is given pursuant to subsections
9 (1) and (3) of this section, RCW 90.14.041, 90.14.051 and 90.14.071
10 shall be set forth and quoted in full.

11 The department of water resources shall administer this section
12 after the effective date of this section.

13 **Sec. 54.** RCW 90.14.111 and 1988 c 127 s 77 are each amended to
14 read as follows:

15 The department of ecology is directed to establish a registry
16 entitled the "Water Rights Claims Registry". All claims set forth
17 pursuant to RCW 90.14.041, 90.14.051 and 90.14.061 shall be filed in
18 the registry alphabetically and consecutively by control number, and by
19 such other manner as deemed appropriate by the department.

20 The department of water resources shall administer this section
21 after the effective date of this section.

22 **Sec. 55.** RCW 90.14.130 and 1987 c 109 s 13 are each amended to
23 read as follows:

24 When it appears to the department of ((ecology)) water resources
25 that a person entitled to the use of water has not beneficially used
26 his or her water right or some portion thereof, and it appears that
27 said right has or may have reverted to the state because of such
28 nonuse, as provided by RCW 90.14.160, 90.14.170, or 90.14.180, the
29 department of ((ecology)) water resources shall notify such person by
30 order: PROVIDED, That where a company, association, district, or the
31 United States has filed a blanket claim under the provisions of RCW
32 90.14.060 for the total benefits of those served by it, the notice
33 shall be served on such company, association, district or the United
34 States and not upon any of its individual water users who may not have
35 used the water or some portion thereof which they were entitled to use.
36 The order shall contain: (1) A description of the water right,
37 including the approximate location of the point of diversion, the

1 general description of the lands or places where such waters were used,
2 the water source, the amount involved, the purpose of use, and the
3 apparent authority upon which the right is based; (2) a statement that
4 unless sufficient cause be shown on appeal the water right will be
5 declared relinquished; and (3) a statement that such order may be
6 appealed to the (~~pollution control hearings board~~) superior court.
7 Any person aggrieved by such an order may appeal it to the (~~pollution
8 control hearings board~~) superior court pursuant to RCW 43.21B.310.
9 The order shall be served by registered or certified mail to the last
10 known address of the person and be posted at the point of division or
11 withdrawal. The order by itself shall not alter the recipient's right
12 to use water, if any.

13 **Sec. 56.** RCW 90.14.150 and 1987 c 109 s 100 are each amended to
14 read as follows:

15 Nothing in this chapter shall be construed to affect any rights or
16 privileges arising from any permit to withdraw public waters or any
17 application for such permit, but the department of (~~ecology~~) water
18 resources shall grant extensions of time to the holder of a preliminary
19 permit only as provided by RCW 90.03.290.

20 **Sec. 57.** RCW 90.14.180 and 1987 c 109 s 101 are each amended to
21 read as follows:

22 Any person hereafter entitled to divert or withdraw waters of the
23 state through an appropriation authorized under RCW 90.03.330,
24 90.44.080, or 90.44.090 who abandons the same, or who voluntarily
25 fails, without sufficient cause, to beneficially use all or any part of
26 said right to withdraw for any period of five successive years shall
27 relinquish such right or portion thereof, and such right or portion
28 thereof shall revert to the state, and the waters affected by said
29 right shall become available for appropriation in accordance with RCW
30 90.03.250. All certificates hereafter issued by the department of
31 (~~ecology~~) water resources pursuant to RCW 90.03.330 shall expressly
32 incorporate this section by reference.

33 **Sec. 58.** RCW 90.14.190 and 1987 c 109 s 14 are each amended to
34 read as follows:

35 Any person feeling aggrieved by any decision of the department of
36 (~~ecology~~) water resources may have the same reviewed pursuant to RCW

1 43.21B.310. In any such review, the findings of fact as set forth in
2 the report of the department of ((~~ecology~~)) water resources shall be
3 prima facie evidence of the fact of any waiver or relinquishment of a
4 water right or portion thereof. If the ((~~hearings board affirms the~~
5 ~~decision of the department, a party seeks review in superior court of~~
6 ~~that hearings board decision pursuant to chapter 34.05 RCW, and the~~))
7 court determines that the party was injured by an arbitrary,
8 capricious, or erroneous order of the department, the court may award
9 reasonable attorneys' fees.

10 **Sec. 59.** RCW 90.14.200 and 1989 c 175 s 180 are each amended to
11 read as follows:

12 (1) All matters relating to the implementation and enforcement of
13 this chapter by the department of ((~~ecology~~)) water resources shall be
14 carried out in accordance with chapter 34.05 RCW, the Administrative
15 Procedure Act, except where the provisions of this chapter expressly
16 conflict with chapter 34.05 RCW. Proceedings held pursuant to RCW
17 90.14.130 are adjudicative proceedings within the meaning of chapter
18 34.05 RCW. Final decisions of the department ((~~of ecology~~)) in these
19 proceedings are subject to review ((~~in accordance with chapter 43.21B~~
20 ~~RCW~~)) by superior court.

21 (2) RCW 90.14.130 provides nonexclusive procedures for determining
22 a relinquishment of water rights under RCW 90.14.160, 90.14.170, and
23 90.14.180. RCW 90.14.160, 90.14.170, and 90.14.180 may be applied in,
24 among other proceedings, general adjudication proceedings initiated
25 under RCW 90.03.110 or 90.44.220: PROVIDED, That nothing herein shall
26 apply to litigation involving determinations of the department ((~~of~~
27 ~~ecology~~)) under RCW 90.03.290 relating to the impairment of existing
28 rights.

29 **Sec. 60.** RCW 90.14.230 and 1987 c 109 s 102 are each amended to
30 read as follows:

31 The department of ((~~ecology~~)) water resources, through the water
32 resources board, is authorized to promulgate such rules ((~~and~~
33 ~~regulations~~)) as are necessary to carry out the provisions of this
34 chapter.

35 **Sec. 61.** RCW 90.16.060 and 1988 c 127 s 78 are each amended to
36 read as follows:

1 The license fee herein required shall be paid in advance to the
2 state department of ((ecology)) water resources and shall be
3 accompanied by written statement, showing the extent of the claim.
4 Said statement shall set forth the name and address of the claimant,
5 the name of the stream from which the water is appropriated or claimed
6 for power development, a description of the forty acres or smallest
7 legal subdivision in which the point of diversion and point of return
8 are located, the date of the right as claimed, the maximum amount of
9 water claimed, expressed in cubic feet per second of time, the total
10 average fall utilized under such claim, the manner of developing power
11 and the use to which the power is applied. If the regular flow is
12 supplemented by water stored in a reservoir, the location of such
13 reservoir, its capacity in acre feet, and the stream from which it is
14 filled and fed, should be given, also the date of the right as claimed
15 for storage purposes.

16 Should any claimant fail or neglect to file such statement within
17 the time specified, or fail or neglect to pay such fees within the time
18 specified, the fees due and payable shall be at the schedule rates set
19 out in RCW 90.16.050, increased twenty-five percent, and the state
20 shall have preference lien therefor, with interest at the rate of ten
21 percent per annum from the date of delinquency, upon the property of
22 claimant used or necessary for use in the development of the right or
23 claim, together with any improvements erected thereon for such
24 development, and upon request from the director of ((ecology)) water
25 resources the attorney general shall proceed to foreclose the lien, and
26 collect the amount due, as herein provided, in the same manner as other
27 liens for general state and county taxes on real property are
28 foreclosed.

29 The filing of a claim to water in excess of the amount to which the
30 claimant is legally entitled shall not operate to vest in such claimant
31 any right to the use of such excess water, nor shall the payment of the
32 annual license fees, provided for herein, operate to vest in any
33 claimant any right to the use of such water beyond the amount to which
34 claimant is legally entitled. The filing of such claim, or claims to
35 water shall be conclusive evidence of abandonment by the claimant of
36 all right to water for power purposes not covered by the claim, or
37 claims, as filed; and the failure to file statement and pay the fees,
38 as herein required, for any power site or claim of power rights on
39 account of riparian ownership within two years after June 12, 1929,

1 shall be conclusive evidence of abandonment. The amount of the
2 theoretical horsepower upon which fees shall be paid shall be computed
3 by multiplying the maximum amount of water claimed, expressed in cubic
4 feet per second of time, by the average fall utilized, expressed in
5 feet, and dividing the product by 8.8.

6 **Sec. 62.** RCW 90.16.090 and 1988 c 127 s 79 are each amended to
7 read as follows:

8 All fees paid under provisions of this chapter, shall be credited
9 by the state treasurer to the reclamation revolving account and subject
10 to legislative appropriation, be allocated and expended by the director
11 of ((ecology)) water resources for investigations and surveys of
12 natural resources in cooperation with the federal government, or
13 independently thereof, including stream gaging, hydrographic,
14 topographic, river, underground water, mineral and geological surveys:
15 PROVIDED, That in any one biennium all said expenditures shall not
16 exceed total receipts from said power license fees collected during
17 said biennium: AND PROVIDED FURTHER, That the portion of money
18 allocated by said director to be expended in cooperation with the
19 federal government shall be contingent upon the federal government
20 making available equal amounts for such investigations and surveys.

21 **Sec. 63.** RCW 90.22.010 and 1994 c 264 s 86 are each amended to
22 read as follows:

23 The department of ((ecology)) water resources may establish minimum
24 water flows or levels for streams, lakes or other public waters for the
25 purposes of protecting fish, game, birds or other wildlife resources,
26 or recreational or aesthetic values of said public waters whenever it
27 appears to be in the public interest to establish the same. In
28 addition, the department ((of ecology)) shall, when requested by the
29 department of fish and wildlife to protect fish, game or other wildlife
30 resources under the jurisdiction of the requesting state agency, or if
31 the department ((of ecology)) finds it necessary to preserve water
32 quality, establish such minimum flows or levels as are required to
33 protect the resource or preserve the water quality described in the
34 request or determination. Any request submitted by the department of
35 fish and wildlife shall include a statement setting forth the need for
36 establishing a minimum flow or level. When the department acts to
37 preserve water quality, ((it)) the department, through the water

1 resources board shall include a similar statement with the proposed
2 rule filed with the code reviser. This section shall not apply to
3 waters artificially stored in reservoirs, provided that in the granting
4 of storage permits by the department (~~(of ecology)~~) in the future, full
5 recognition shall be given to downstream minimum flows, if any there
6 may be, which have theretofore been established hereunder.

7 (~~The current guidelines, standards, or criteria governing the~~
8 ~~instream flow programs established pursuant to this chapter shall not~~
9 ~~be altered or amended after March 15, 1988, in accordance with RCW~~
10 ~~90.54.022(5).)~~)

11 **Sec. 64.** RCW 90.22.030 and 1988 c 127 s 81 are each amended to
12 read as follows:

13 The establishment of levels and flows pursuant to RCW 90.22.010
14 shall in no way affect existing water and storage rights and the use
15 thereof, including but not limited to rights relating to the operation
16 of any hydroelectric or water storage reservoir or related facility.
17 No right to divert or store public waters shall be granted by the
18 department of (~~ecology~~) water resources which shall conflict with
19 regulations adopted pursuant to RCW 90.22.010 and 90.22.020
20 establishing flows or levels. All regulations establishing flows or
21 levels shall be filed in a "Minimum Water Level and Flow Register" of
22 the department (~~(of ecology)~~).

23 **Sec. 65.** RCW 90.22.040 and 1987 c 109 s 104 are each amended to
24 read as follows:

25 It shall be the policy of the state, and the department of
26 (~~ecology~~) water resources shall be so guided in the implementation of
27 RCW 90.22.010 and 90.22.020, to retain sufficient minimum flows or
28 levels in streams, lakes or other public waters to provide adequate
29 waters in such water sources to satisfy stockwatering requirements for
30 stock on riparian grazing lands which drink directly therefrom where
31 such retention shall not result in an unconscionable waste of public
32 waters. The policy hereof shall not apply to stockwatering relating to
33 feed lots and other activities which are not related to normal
34 stockgrazing land uses.

35 **Sec. 66.** RCW 90.24.010 and 1985 c 398 s 28 are each amended to
36 read as follows:

1 Ten or more owners of real property abutting on a meandered lake
2 may petition the superior court of the county in which the lake is
3 situated, for an order to provide for the regulation of the outflow of
4 the lake in order to maintain a certain water level therein. The
5 court, after hearing, is authorized to make an order fixing the water
6 level thereof and directing the department of ((ecology)) water
7 resources to regulate the outflow therefrom in accordance with the
8 purposes described in the petition. This section shall not apply to
9 any meandered lake or reservoir used for the storage of water for
10 irrigation or other beneficial purposes, or to lakes navigable from the
11 sea.

12 **Sec. 67.** RCW 90.24.030 and 1994 c 264 s 88 are each amended to
13 read as follows:

14 The petition shall be entitled "In the matter of fixing the level
15 of Lake in county, Washington", and shall be
16 filed with the clerk of the court and a copy thereof, together with a
17 copy of the order fixing the time for hearing the petition, shall be
18 served on each owner of property abutting on the lake, not less than
19 ten days before the hearing. Like copies shall also be served upon the
20 director of fish and wildlife and the director of ((ecology)) water
21 resources. The copy of the petition and of the order fixing time for
22 hearing shall be served in the manner provided by law for the service
23 of summons in civil actions, or in such other manner as may be
24 prescribed by order of the court. For the benefit of every riparian
25 owner abutting on a stream or river flowing from such lake, a copy of
26 the notice of hearing shall be published at least once a week for two
27 consecutive weeks before the time set for hearing in a newspaper in
28 each county or counties wherein located, said notice to contain a brief
29 statement of the reasons and necessity for such application.

30 **Sec. 68.** RCW 90.24.040 and 1985 c 398 s 29 are each amended to
31 read as follows:

32 At the hearing evidence shall be introduced in support of the
33 petition and all interested parties may be heard for or against it.
34 The court shall make findings and conclusions and enter an order
35 granting or refusing the petition, and if the petition is granted,
36 shall fix the water level to be maintained and direct the department of
37 ((ecology)) water resources to regulate and control the outflow of the

1 lake so as to properly maintain the water level so far as practicable
2 within maximum and minimum limits when the proper control devices are
3 installed: PROVIDED, That the court shall have continuing jurisdiction
4 after a petition is once granted and shall, upon subsequent petition
5 filed and heard in accordance with the preceding sections, make such
6 further findings and conclusions and enter such further orders as are
7 necessary to accomplish fully the objectives sought in the initial
8 petition: AND PROVIDED FURTHER, That shall the court find any such
9 riparian owners abutting on a stream or river flowing from such lake be
10 adversely affected in any way by the granting of such a petition, such
11 petition shall be refused.

12 **Sec. 69.** RCW 90.24.050 and 1988 c 127 s 82 are each amended to
13 read as follows:

14 In the event the court shall find that to protect fish and game
15 fish in said lake that fish ladders or other devices should be
16 constructed therein or that other construction shall be necessary in
17 order to maintain the determined lake level, the court shall find the
18 proper device to be constructed, the probable cost thereof and by its
19 order and judgment shall apportion the cost thereof among the persons
20 whose property abuts on said lake in proportion to the lineal feet of
21 waterfront owned by each, which sum so found shall constitute a lien
22 against said real property and shall be paid to the county treasurer
23 and by him or her placed in a special fund to be known as "Lake
24 Improvement Fund." The director of ((ecology)) water
25 resources shall appoint a suitable person to be compensated by the
26 property owners to regulate the determined level as decreed by the
27 court.

28 **Sec. 70.** RCW 90.24.060 and 1994 c 264 s 89 are each amended to
29 read as follows:

30 Such improvement or device in said lake for the protection of the
31 fish and game fish therein shall be installed by and under the
32 direction of the board of county commissioners of said county with the
33 approval of the respective directors of the department of fish and
34 wildlife and the department of ((ecology)) water resources of the state
35 of Washington and paid for out of the special fund provided for in RCW
36 90.24.050.

1 **Sec. 71.** RCW 90.38.010 and 1989 c 429 s 2 are each amended to read
2 as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) "Department" means the department of ((ecology)) water
6 resources.

7 (2) "Net water savings" means the amount of water that through
8 hydrological analysis is determined to be conserved and usable for
9 other purposes without impairing existing water rights, reducing the
10 ability to deliver water, or reducing the supply of water that
11 otherwise would have been available to other water users.

12 (3) "Trust water right" means that portion of an existing water
13 right, constituting net water savings, that is no longer required to be
14 diverted for beneficial use due to the installation of a water
15 conservation project that improves an existing system. The term "trust
16 water right" also applies to any other water right acquired by the
17 department under this chapter for management in the Yakima river basin
18 trust water rights program.

19 (4) "Water conservation project" means any project funded to
20 further the purposes of this chapter and that achieves physical or
21 operational improvements of efficiency in existing systems for
22 diversion, conveyance, or application of water under existing water
23 rights.

24 **Sec. 72.** RCW 90.40.090 and 1988 c 127 s 83 are each amended to
25 read as follows:

26 An application filed by the department of ((ecology)) water
27 resources or its assignee, the United States Bureau of Reclamation, for
28 a permit to appropriate waters of the Columbia River under chapter
29 90.03 RCW, for the development of the Grand Coulee project shall be
30 perfected in the same manner and to the same extent as though such
31 appropriation had been made by a private person, corporation or
32 association, but no fees, as provided for in RCW 90.03.470, shall be
33 required.

34 **Sec. 73.** RCW 90.42.020 and 1991 c 347 s 6 are each amended to read
35 as follows:

36 Unless the context clearly requires otherwise, the definitions in
37 this section apply throughout this chapter.

1 (1) "Department" means the department of ((ecology)) water
2 resources.

3 (2) "Net water savings" means the amount of water that is
4 determined to be conserved and usable within a specified stream reach
5 or reaches for other purposes without impairment or detriment to water
6 rights existing at the time that a water conservation project is
7 undertaken, reducing the ability to deliver water, or reducing the
8 supply of water that otherwise would have been available to other
9 existing water uses.

10 (3) "Trust water right" means any water right acquired by the state
11 under this chapter for management in the state's trust water rights
12 program.

13 (4) "Pilot planning areas" means the geographic areas designated
14 under RCW 90.54.045(2).

15 (5) "Water conservation project" means any project or program that
16 achieves physical or operational improvements that provide for
17 increased water use efficiency in existing systems of diversion,
18 conveyance, application, or use of water under water rights existing on
19 July 28, 1991.

20 **Sec. 74.** RCW 90.44.035 and 1987 c 109 s 107 are each amended to
21 read as follows:

22 For purposes of this chapter:

23 (1) "Department" means the department of ((ecology)) water
24 resources;

25 (2) "Director" means the director of ((ecology)) water resources;

26 (3) "Ground waters" means all waters that exist beneath the land
27 surface or beneath the bed of any stream, lake or reservoir, or other
28 body of surface water within the boundaries of this state, whatever may
29 be the geological formation or structure in which such water stands or
30 flows, percolates or otherwise moves. There is a recognized
31 distinction between natural ground water and artificially stored ground
32 water;

33 (4) "Natural ground water" means water that exists in underground
34 storage owing wholly to natural processes; and

35 (5) "Artificially stored ground water" means water that is made
36 available in underground storage artificially, either intentionally, or
37 incidentally to irrigation and that otherwise would have been
38 dissipated by natural waste.

1 **Sec. 75.** RCW 90.44.130 and 1987 c 109 s 116 are each amended to
2 read as follows:

3 As between appropriators of public ground water, the prior
4 appropriator shall as against subsequent appropriators from the same
5 ground water body be entitled to the preferred use of such ground water
6 to the extent of his or her appropriation and beneficial use, and shall
7 enjoy the right to have any withdrawals by a subsequent appropriator of
8 ground water limited to an amount that will maintain and provide a safe
9 sustaining yield in the amount of the prior appropriation. The
10 department shall have jurisdiction over the withdrawals of ground water
11 and shall administer the ground water rights under the principle just
12 set forth, and it shall have the jurisdiction to limit withdrawals by
13 appropriators of ground water so as to enforce the maintenance of a
14 safe sustaining yield from the ground water body. For this purpose,
15 the department shall have authority and it shall be its duty from time
16 to time, as adequate factual data become available, to designate ground
17 water areas or sub-areas, to designate separate depth zones within any
18 such area or sub-area, or to modify the boundaries of such existing
19 area, or sub-area, or zones to the end that the withdrawals therefrom
20 may be administratively controlled as prescribed in RCW 90.44.180 in
21 order that overdraft of public ground waters may be prevented so far as
22 is feasible. Each such area or zone shall, as nearly as known facts
23 permit, be so designated as to enclose a single and distinct body of
24 public ground water. Each such sub-area may be so designated as to
25 enclose all or any part of a distinct body of public ground water, as
26 the department deems will most effectively accomplish the purposes of
27 this chapter.

28 Designation of, or modification of the boundaries of such a ground
29 water area, sub-area, or zone may be proposed by the department on its
30 own motion or by petition to the department signed by at least fifty or
31 one-fourth, whichever is the lesser number, of the users of ground
32 water in a proposed ground water area, sub-area, or zone. Before any
33 proposed ground water area, sub-area, or zone shall be designated, or
34 before the boundaries or any existing ground water area, sub-area, or
35 zone shall be modified the department shall publish a notice setting
36 forth: (1) In terms of the appropriate legal subdivisions a
37 description of all lands enclosed within the proposed area, sub-area,
38 or zone, or within the area, sub-area, or zone whose boundaries are
39 proposed to be modified; (2) the object of the proposed designation or

1 modification of boundaries; and (3) the day and hour, and the place
2 where written objections may be submitted and heard. Such notice shall
3 be published in three consecutive weekly issues of a newspaper of
4 general circulation in the county or counties containing all or the
5 greater portion of the lands involved, and the newspaper of publication
6 shall be selected by the department. Publication as just prescribed
7 shall be construed as sufficient notice to the landowners and water
8 users concerned.

9 Objections having been heard as herein provided, the department
10 shall make and file in its office written findings of fact with respect
11 to the proposed designation or modification and, if the findings are in
12 the affirmative, shall also enter a written order designating the
13 ground water area, or sub-area, or zone or modifying the boundaries of
14 the existing area, sub-area, or zone. Such findings and order shall
15 also be published substantially in the manner herein prescribed for
16 notice of hearing, and when so published shall be final and conclusive
17 unless an appeal therefrom is taken (~~within the period and in the~~
18 ~~manner prescribed by RCW 43.21B.310~~) to superior court. Publication
19 of such findings and order shall give force and effect to the remaining
20 provisions of this section and to the provisions of RCW 90.44.180, with
21 respect to the particular area, sub-area, or zone.

22 Priorities of right to withdraw public ground water shall be
23 established separately for each ground water area, sub-area, or zone
24 and, as between such rights, the first in time shall be the superior in
25 right. The priority of the right acquired under a certificate of
26 ground water right shall be the date of filing of the original
27 application for a withdrawal with the department, or the date or
28 approximate date of the earliest beneficial use of water as set forth
29 in a certificate of a vested ground water right, under the provisions
30 of RCW 90.44.090.

31 Within ninety days after the designation of a ground water area,
32 sub-area or zone as herein provided, any person, firm or corporation
33 then claiming to be the owner of artificially stored ground water
34 within such area, sub-area, or zone shall file a certified declaration
35 to that effect with the department on a form prescribed by the
36 department. Such declaration shall cover: (1) The location and
37 description of the works by whose operation such artificial ground
38 water storage is purported to have been created, and the name or names
39 of the owner or owners thereof; (2) a description of the lands

1 purported to be underlain by such artificially stored ground water, and
2 the name or names of the owner or owners thereof; (3) the amount of
3 such water claimed; (4) the date or approximate date of the earliest
4 artificial storage; (5) evidence competent to show that the water
5 claimed is in fact water that would have been dissipated naturally
6 except for artificial improvements by the claimant; and (6) such
7 additional factual information as reasonably may be required by the
8 department. If any of the purported artificially stored ground water
9 has been or then is being withdrawn, the claimant also shall file (1)
10 the declarations which this chapter requires of claimants to a vested
11 right to withdraw public ground waters, and (2) evidence competent to
12 show that none of the water withdrawn under those declarations is in
13 fact public ground water from the area, sub-area, or zone concerned:
14 PROVIDED, HOWEVER, That in case of failure to file a declaration within
15 the ninety-day period herein provided, the claimant may apply to the
16 department for a reasonable extension of time, which shall not exceed
17 two additional years and which shall be granted only upon a showing of
18 good cause for such failure.

19 Following publication of the declaration and findings--as in the
20 case of an original application, permit, or certificate of right to
21 appropriate public ground waters--the department shall accept or reject
22 such declaration or declarations with respect to ownership or
23 withdrawal of artificially stored ground water. Acceptance of such
24 declaration or declarations by the department shall convey to the
25 declarant no right to withdraw public ground waters from the particular
26 area, sub-area, or zone, nor to impair existing or subsequent rights to
27 such public waters.

28 Any person, firm or corporation hereafter claiming to be the owner
29 of ground water within a designated ground water area, sub-area, or
30 zone by virtue of its artificial storage subsequent to such designation
31 shall, within three years following the earliest artificial storage
32 file a declaration of claim with the department, as herein prescribed
33 for claims based on artificial storage prior to such designation:
34 PROVIDED, HOWEVER, That in case of such failure the claimant may apply
35 to the department for a reasonable extension of time, which shall not
36 exceed two additional years and which shall be granted upon a showing
37 of good cause for such failure.

38 Any person, firm or corporation hereafter withdrawing ground water
39 claimed to be owned by virtue of artificial storage subsequent to

1 designation of the relevant ground water area, sub-area, or zone shall,
2 within ninety days following the earliest such withdrawal, file with
3 the department the declarations required by this chapter with respect
4 to withdrawals of public ground water.

5 **Sec. 76.** RCW 90.44.400 and 1985 c 453 s 1 are each amended to read
6 as follows:

7 (1) This legislation is enacted for the purpose of identifying
8 ground water management procedures that are consistent with both local
9 needs and state water resource policies and management objectives;
10 including the protection of water quality, assurance of quantity, and
11 efficient management of water resources to meet future needs.

12 In recognition of existing water rights and the need to manage
13 ground water aquifers for future use, the department (~~(of ecology)~~),
14 through the water resources board, shall, by rule, establish standards,
15 criteria, and a process for the designation of specific ground water
16 areas or sub-areas, or separate depth zones within such area or sub-
17 area, and provide for either the department (~~(of ecology)~~), local
18 governments, or ground water users of the area to initiate development
19 of a ground water management program for each area or sub-area,
20 consistent with state and local government objectives, policies, and
21 authorities. The department, through the water resources board, shall
22 develop and adopt these rules by January 1, 1986.

23 (2) The department (~~(of ecology)~~), in cooperation with other state
24 agencies, local government, and user groups, shall identify probable
25 ground water management areas or sub-areas. The department shall also
26 prepare a general schedule for the development of ground water
27 management programs that recognizes the available local or state agency
28 staff and financial resources to carry out the intent of RCW 90.44.400
29 through 90.44.420. The department shall also provide the option for
30 locally initiated studies and for local government to assume the lead
31 agency role in developing the ground water management program and in
32 implementing the provisions of RCW 90.44.400 through 90.44.420. The
33 criteria to guide identification of the ground water areas or sub-areas
34 shall include but not be limited to, the following:

35 (a) Aquifer systems that are declining due to restricted recharge
36 or over-utilization;

37 (b) Aquifer systems in which over-appropriation may have occurred
38 and adjudication of water rights has not yet been completed;

1 (c) Aquifer systems currently being considered for water supply
2 reservation under chapter 90.54 RCW for future beneficial uses;

3 (d) Aquifers identified as the primary source of supply for public
4 water supply systems;

5 (e) Aquifers designated as a sole source aquifer by the federal
6 environmental protection agency; and

7 (f) Geographical areas where land use may result in contamination
8 or degradation of the ground water quality.

9 (3) In developing the ground water management programs, priority
10 shall be given to areas or sub-areas where water quality is imminently
11 threatened.

12 **Sec. 77.** RCW 90.44.410 and 1985 c 453 s 2 are each amended to read
13 as follows:

14 (1) To assist in the development of ground water management
15 programs, a ground water management advisory committee, with
16 representation from major user and public interest groups, and state
17 and local governments shall be appointed by the department for each
18 area or sub-area. The procedure for advisory committee appointment,
19 terms of appointment, and committee responsibilities shall be addressed
20 in the rules prepared under RCW 90.44.400.

21 (2) The ground water area or sub-area management programs shall
22 include:

23 (a) A description of the specific ground water area or sub-areas,
24 or separate depth zones within any such area or sub-area, and the
25 relationship of this zone or area to the land use management
26 responsibilities of county government;

27 (b) A management program based on long-term monitoring and resource
28 management objectives for the area or sub-area;

29 (c) Identification of water resources and the allocation of the
30 resources to meet state and local needs;

31 (d) Projection of water supply needs for existing and future
32 identified user groups and beneficial uses;

33 (e) Identification of water resource management policies and/or
34 practices that may impact the recharge of the designated area or
35 policies that may affect the safe yield and quantity of water available
36 for future appropriation;

37 (f) Identification of land use and other activities that may impact
38 the quality and efficient use of the ground water, including domestic,

1 industrial, solid, and other waste disposal, underground storage
2 facilities, or storm water management practices;

3 (g) The design of the program necessary to manage the resource to
4 assure long-term benefits to the citizens of the state;

5 (h) Identification of water quality objectives for the aquifer
6 system which recognize existing and future uses of the aquifer and that
7 are in accordance with department of ((ecology)) water resources and
8 department of social and health services drinking and surface water
9 quality standards;

10 (i) Long-term policies and construction practices necessary to
11 protect existing water rights and subsequent facilities installed in
12 accordance with the ground water area or sub-area management programs
13 and/or other water right procedures;

14 (j) Annual withdrawal rates and safe yield guidelines which are
15 directed by the long-term management programs that recognize annual
16 variations in aquifer recharge;

17 (k) A description of conditions and potential conflicts and
18 identification of a program to resolve conflicts with existing water
19 rights;

20 (l) Alternative management programs to meet future needs and
21 existing conditions, including water conservation plans; and

22 (m) A process for the periodic review of the ground water
23 management program and monitoring of the implementation of the program.

24 (3) The ground water area or sub-area management programs shall be
25 submitted for review in accordance with the state environmental policy
26 act.

27 **Sec. 78.** RCW 90.44.410 and 1988 c 186 s 1 are each amended to read
28 as follows:

29 (1) The ground water area or sub-area management programs shall
30 include:

31 (a) A description of the specific ground water area or sub-areas,
32 or separate depth zones within any such area or sub-area, and the
33 relationship of this zone or area to the land use management
34 responsibilities of county government;

35 (b) A management program based on long-term monitoring and resource
36 management objectives for the area or sub-area;

37 (c) Identification of water resources and the allocation of the
38 resources to meet state and local needs;

- 1 (d) Projection of water supply needs for existing and future
2 identified user groups and beneficial uses;
- 3 (e) Identification of water resource management policies and/or
4 practices that may impact the recharge of the designated area or
5 policies that may affect the safe yield and quantity of water available
6 for future appropriation;
- 7 (f) Identification of land use and other activities that may impact
8 the quality and efficient use of the ground water, including domestic,
9 industrial, solid, and other waste disposal, underground storage
10 facilities, or storm water management practices;
- 11 (g) The design of the program necessary to manage the resource to
12 assure long-term benefits to the citizens of the state;
- 13 (h) Identification of water quality objectives for the aquifer
14 system which recognize existing and future uses of the aquifer and that
15 are in accordance with department of ((ecology)) water resources and
16 department of social and health services drinking and surface water
17 quality standards;
- 18 (i) Long-term policies and construction practices necessary to
19 protect existing water rights and subsequent facilities installed in
20 accordance with the ground water area or sub-area management programs
21 and/or other water right procedures;
- 22 (j) Annual withdrawal rates and safe yield guidelines which are
23 directed by the long-term management programs that recognize annual
24 variations in aquifer recharge;
- 25 (k) A description of conditions and potential conflicts and
26 identification of a program to resolve conflicts with existing water
27 rights;
- 28 (l) Alternative management programs to meet future needs and
29 existing conditions, including water conservation plans; and
- 30 (m) A process for the periodic review of the ground water
31 management program and monitoring of the implementation of the program.
- 32 (2) The ground water area or sub-area management programs shall be
33 submitted for review in accordance with the state environmental policy
34 act.

35 **Sec. 79.** RCW 90.44.420 and 1985 c 453 s 3 are each amended to read
36 as follows:

1 The department of (~~ecology~~) water resources shall consider the
2 ground water area or sub-area management plan for adoption in
3 accordance with this chapter and chapter 90.54 RCW.

4 Upon completion of the ground water area or sub-area management
5 program, the department (~~of ecology~~) shall hold a public hearing
6 within the designated ground water management area for the purpose of
7 taking public testimony on the proposed program. Following the public
8 hearing, the department (~~of ecology~~) and affected local governments
9 shall (1) prepare findings which either provide for the subsequent
10 adoption of the program as proposed or identify the revisions necessary
11 to ensure that the program is consistent with the intent of this
12 chapter, and (2) adopt regulations, ordinances, and/or programs for
13 implementing those provisions of the ground water management program
14 which are within their respective jurisdictional authorities.

15 **Sec. 80.** RCW 90.44.430 and 1985 c 453 s 4 are each amended to read
16 as follows:

17 The department of (~~ecology~~) water resources, the department of
18 social and health services, and affected local governments shall be
19 guided by the adopted program when reviewing and considering approval
20 of all studies, plans, and facilities that may utilize or impact the
21 implementation of the program.

22 **Sec. 81.** RCW 90.44.450 and 1989 c 348 s 7 are each amended to read
23 as follows:

24 The department of (~~ecology~~) water resources may require
25 withdrawals of ground water to be metered, or measured by other
26 approved methods, as a condition for a new water right permit. The
27 department may also require, as a condition for such permits, reports
28 regarding such withdrawals as to the amount of water being withdrawn.
29 These reports shall be in a form prescribed by the department.

30 **Sec. 82.** RCW 90.46.005 and 1992 c 204 s 1 are each amended to read
31 as follows:

32 The legislature finds that by encouraging the use of reclaimed
33 water while assuring the health and safety of all Washington citizens
34 and the protection of its environment, the state of Washington will
35 continue to use water in the best interests of present and future
36 generations.

1 To facilitate the opportunity to use reclaimed water as soon as is
2 practicable, the legislature encourages the cooperative efforts of the
3 public and private sectors and the use of pilot projects to effectuate
4 the goals of this chapter. The legislature further directs the
5 department of health and the department of ((ecology)) water resources
6 to coordinate efforts towards developing an efficient and streamlined
7 process for creating and implementing processes for the use of
8 reclaimed water.

9 **Sec. 83.** RCW 90.46.020 and 1992 c 204 s 3 are each amended to read
10 as follows:

11 (1) The department of ((ecology)) water resources shall, in
12 coordination with the department of health, develop interim standards
13 for pilot projects under subsection (3) of this section on or before
14 July 1, 1992, for the use of reclaimed water in land applications.

15 (2) The department of health shall, in coordination with the
16 department of ((ecology)) water resources, develop interim standards
17 for pilot projects under subsection (3) of this section on or before
18 November 15, 1992, for the use of reclaimed water in commercial and
19 industrial activities.

20 (3) The department of ((ecology)) water resources and the
21 department of health shall assist interested parties in the development
22 of pilot projects to aid in achieving the purposes of this chapter.

23 **Sec. 84.** RCW 90.46.030 and 1992 c 204 s 4 are each amended to read
24 as follows:

25 (1) The department of health shall, in coordination with the
26 department of ((ecology)) water resources, adopt a single set of
27 standards, procedures, and guidelines on or before August 1, 1993, for
28 the industrial and commercial use of reclaimed water.

29 (2) The department of health may issue a reclaimed water permit for
30 industrial and commercial uses of reclaimed water to the generator of
31 reclaimed water who may then distribute the water, subject to
32 provisions in the permit governing the location, rate, water quality,
33 and purposes of use.

34 (3) The department of health in consultation with the advisory
35 committee established in RCW 90.46.050, shall develop recommendations
36 for a fee structure for permits issued under subsection (2) of this
37 section. Fees shall be established in amounts to fully recover, and

1 not exceed, expenses incurred by the department of health in processing
2 permit applications and modifications, monitoring and evaluating
3 compliance with permits, and conducting inspections and supporting the
4 reasonable overhead expenses that are directly related to these
5 activities. Permit fees may not be used for research or enforcement
6 activities. The department of health shall not issue permits under
7 this section until a fee structure has been established.

8 (4) A permit under this section for use of reclaimed water may be
9 issued only to a municipal, quasi-municipal, or other governmental
10 entity or to the holder of a waste discharge permit issued under
11 chapter 90.48 RCW.

12 (5) The authority and duties created in this section are in
13 addition to any authority and duties already provided in law with
14 regard to sewage and wastewater collection, treatment, and disposal for
15 the protection of health and safety of the state's waters. Nothing in
16 this section limits the powers of the state or any political
17 subdivision to exercise such authority.

18 **Sec. 85.** RCW 90.46.040 and 1992 c 204 s 5 are each amended to read
19 as follows:

20 (1) The department of (~~ecology~~) water resources shall, in
21 coordination with the department of health, adopt a single set of
22 standards, procedures, and guidelines, on or before August 1, 1993, for
23 land applications of reclaimed water.

24 (2) A permit is required for any land application of reclaimed
25 water. The department of (~~ecology~~) water resources may issue a
26 reclaimed water permit under chapter 90.48 RCW to the generator of
27 reclaimed water who may then distribute the water, subject to
28 provisions in the permit governing the location, rate, water quality,
29 and purpose of use. The department (~~of ecology~~) shall not issue more
30 than one permit for any individual land application of reclaimed water
31 to a single generator.

32 (3) In cases where the department of (~~ecology~~) water resources
33 determines, in land applications of reclaimed water, that a significant
34 risk to the public health exists, the department shall refer the
35 application to the department of health for review and consultation and
36 the department of health may require fees appropriate for review and
37 consultation from the applicant pursuant to RCW 43.70.250.

1 (4) A permit under this section for use of reclaimed water may be
2 issued only to a municipal, quasi-municipal, or other governmental
3 entity or to the holder of a waste discharge permit issued under
4 chapter 90.48 RCW.

5 (5) The authority and duties created in this section are in
6 addition to any authority and duties already provided in law. Nothing
7 in this section limits the powers of the state or any political
8 subdivision to exercise such authority.

9 **Sec. 86.** RCW 90.54.010 and 1990 c 295 s 1 are each amended to read
10 as follows:

11 (1) The legislature finds that:

12 (a) Proper utilization of the water resources of this state is
13 necessary to the promotion of public health and the economic well-being
14 of the state and the preservation of its natural resources and
15 aesthetic values. Although water is a renewable resource, its supply
16 and availability are becoming increasingly limited, particularly during
17 summer and fall months and dry years when demand is greatest. Growth
18 and prosperity have significantly increased the competition for this
19 limited resource. Adequate water supplies are essential to meet the
20 needs of the state's growing population and economy. At the same time
21 instream resources and values must be preserved and protected so that
22 future generations can continue to enjoy them.

23 (b) All citizens of Washington share an interest in the proper
24 stewardship of our invaluable water resources. To ensure that
25 available water supplies are managed to best meet both instream and
26 offstream needs, a comprehensive planning process is essential. The
27 people of the state have the unique opportunity to work together to
28 plan and manage our water. Through a comprehensive planning process
29 that includes the state, Indian tribes, local governments, and
30 interested parties, it is possible to make better use of available
31 water supplies and achieve better management of water resources.
32 Through comprehensive planning, conflicts among water users and
33 interests can be reduced or resolved. It is in the best interests of
34 the state that comprehensive water resource planning be given a high
35 priority so that water resources and associated values can be utilized
36 and enjoyed today and protected for tomorrow.

37 (c) Diverse hydrologic, climatic, cultural, and socioeconomic
38 conditions exist throughout the regions of the state. Water resource

1 issues vary significantly across regions. Comprehensive water resource
2 planning is best accomplished through a regional planning process
3 sensitive to the unique characteristics and issues of each region.

4 (d) Comprehensive water resource planning must provide interested
5 parties adequate opportunity to participate. Water resource issues are
6 best addressed through cooperation and coordination among the state,
7 Indian tribes, local governments, and interested parties.

8 (e) The long-term needs of the state require ongoing assessment of
9 water availability, use, and demand. A thorough inventory of available
10 resources is essential to water resource management. Current state
11 water resource data and data management is inadequate to meet changing
12 needs and respond to competing water demands. Therefore, a state water
13 resource data program is needed to support an effective water resource
14 management program. Efforts should be made to coordinate and
15 consolidate into one resource data system all relevant information
16 developed by the department of ((ecology)) water resources and other
17 agencies relating to the use, protection, and management of the state's
18 water resources.

19 (2) It is the purpose of this chapter to set forth fundamentals of
20 water resource policy for the state to insure that waters of the state
21 are protected and fully utilized for the greatest benefit to the people
22 of the state of Washington and, in relation thereto, to provide
23 direction to the department of ((ecology)) water resources, other state
24 agencies and officials, and local government in carrying out water and
25 related resources programs. It is the intent of the legislature to
26 work closely with the executive branch, Indian tribes, local
27 government, and interested parties to ensure that water resources of
28 the state are wisely managed.

29 **Sec. 87.** RCW 90.54.100 and 1971 ex.s. c 225 s 11 are each amended
30 to read as follows:

31 The department of ((ecology)) water resources shall as a matter of
32 high priority evaluate the needs for water resource development
33 projects and the alternative methods of financing of the same by public
34 and private agencies, including financing by federal, state and local
35 governments and combinations thereof. Such evaluations shall be
36 broadly based and be included as a part of the comprehensive state
37 water resources program relating to uses and management as defined in
38 RCW 90.54.030. A report of the department relating to such

1 evaluations, including any recommendations, shall be submitted to the
2 legislature in accordance with RCW 90.54.070.

3 **Sec. 88.** RCW 90.54.110 and 1971 ex.s. c 225 s 12 are each amended
4 to read as follows:

5 The department of ((ecology)) water resources is authorized to
6 obtain the benefits including acceptance of grants, of any program of
7 the federal government or any other source to carry out the provisions
8 of this chapter and is empowered to take such actions as are necessary
9 and appropriate to secure such benefits.

10 **Sec. 89.** RCW 90.54.120 and 1971 ex.s. c 225 s 13 are each amended
11 to read as follows:

12 For the purposes of this chapter, unless the context is clearly to
13 the contrary, the following definitions shall be used:

14 (1) "Department" means department of ((ecology)) water resources.

15 (2) "Utilize" or "utilization" shall not only mean use of water for
16 such long recognized consumptive or nonconsumptive beneficial purposes
17 as domestic, stock watering, industrial, commercial, agricultural,
18 irrigation, hydroelectric power production, thermal power production,
19 mining, recreational, maintenance of wildlife and fishlife purposes,
20 but includes the retention of water in lakes and streams for the
21 protection of environmental, scenic, aesthetic and related purposes,
22 upon which economic values have not been placed historically and are
23 difficult to quantify.

24 **Sec. 90.** RCW 90.54.130 and 1984 c 253 s 4 are each amended to read
25 as follows:

26 The department of ((ecology)) water resources may recommend land
27 use management policy modifications it finds appropriate for the
28 further protection of ground and surface water resources in this state.
29 Such advisory recommendations may be made to other state regulatory
30 agencies, local governments, water systems, and other appropriate
31 bodies.

32 **Sec. 91.** RCW 90.54.140 and 1984 c 253 s 5 are each amended to read
33 as follows:

34 The legislature hereby declares that the protection of ground water
35 aquifers which are the sole drinking water source for a given

1 jurisdiction shall be of the uppermost priority of the state department
2 of ((ecology)) water resources, department of social and health
3 services, and all local government agencies with jurisdiction over such
4 areas. In administration of programs related to the disposal of wastes
5 and other practices which may impact such water quality, the department
6 of ((ecology)) water resources, department of social and health
7 services, and such affected local agencies shall explore all possible
8 measures for the protection of the aquifer, including any appropriate
9 incentives, penalties, or other measures designed to bring about
10 practices which provide for the least impact on the quality of the
11 ground water.

12 **Sec. 92.** RCW 90.54.150 and 1979 ex.s. c 216 s 9 are each amended
13 to read as follows:

14 When feasible, the department of ((ecology)) water resources shall
15 cooperate with the United States and other public entities, including
16 Indian tribes, in the planning, development, and operation of
17 comprehensive water supply projects designed primarily to resolve
18 controversies and conflicts over water use by increasing water quantity
19 and improving water quality within a stream or river system, or other
20 bodies of water, as well as to enhance opportunities for both instream
21 and diversionary water uses within the system, and, in relation
22 thereto, the department may:

23 (1) Participate with the federal government and other public
24 entities in the planning, development, operation, and management of
25 various phases of water projects hereafter authorized by congress;

26 (2) Provide rights to the use of public waters under the state's
27 surface and ground water codes for these projects when the waters are
28 available for allocation; and

29 (3) Provide financial assistance through grants and loans for
30 projects when moneys are made available to the department for this
31 assistance by other provisions of this code.

32 **Sec. 93.** RCW 90.66.040 and 1979 c 3 s 4 are each amended to read
33 as follows:

34 For the purposes of this chapter, the following definitions shall
35 be applicable:

36 (1) "Family farm" means a geographic area including not more than
37 two thousand acres of irrigated agricultural lands, whether contiguous

1 or noncontiguous, the controlling interest in which is held by a person
2 having a controlling interest in no more than two thousand acres of
3 irrigated agricultural lands in the state of Washington which are
4 irrigated under rights acquired after December 8, 1977.

5 (2) "Person" means any individual, corporation, partnership,
6 limited partnership, organization, or other entity whatsoever, whether
7 public or private. The term "person" shall include as one person all
8 corporate or partnership entities with a common ownership of more than
9 one-half of the assets of each of any number of such entities.

10 (3) "Controlling interest" means a property interest that can be
11 transferred to another person, the percentage interest so transferred
12 being sufficient to effect a change in control of the landlord's rights
13 and benefits. Ownership of property held in trust shall not be deemed
14 a controlling interest where no part of the trust has been established
15 through expenditure or assignment of assets of the beneficiary of the
16 trust and where the rights of the family farm permit which is a part of
17 the trust cannot be transferred to another by the beneficiary of the
18 trust under terms of the trust. Each trust of a separate donor origin
19 shall be treated as a separate entity and the administration of
20 property under trust shall not represent a controlling interest on the
21 part of the trust officer.

22 (4) "Department" means the department of (~~ecology~~) water
23 resources of the state of Washington.

24 (5) "Application", "permit" and "public waters" shall have the
25 meanings attributed to these terms in chapters 90.03 and 90.44 RCW.

26 (6) "Public water entity" means any public or governmental entity
27 with authority to administer and operate a system to supply water for
28 irrigation of agricultural lands.

29 **Sec. 94.** RCW 90.66.080 and 1979 c 3 s 8 are each amended to read
30 as follows:

31 The department is hereby empowered to promulgate such rules as may
32 be necessary to carry out the provisions of this chapter. Decisions of
33 the department, other than rule making, shall be subject to review (~~in~~
34 ~~accordance with chapter 43.21B RCW~~) by superior court.

35 NEW SECTION. **Sec. 95.** A new section is added to chapter 90.03 RCW
36 to read as follows:

1 After the effective date of this act, the water resources board
2 must make a final determination on water rights applications within
3 twelve months for applications in areas without a regional water
4 resource plan and within three months for applications in areas with a
5 regional water resource plan.

6 NEW SECTION. **Sec. 96.** Sections 4 through 8, 23, and 24 of this
7 act shall constitute a new chapter in Title 43 RCW.

8 NEW SECTION. **Sec. 97.** This act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of the
10 state government and its existing public institutions, and shall take
11 effect July 1, 1995, except section 78 of this act shall take effect
12 June 30, 1998.

13 NEW SECTION. **Sec. 98.** Section 77 of this act shall expire June
14 30, 1998.

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