
SUBSTITUTE SENATE BILL 5517

State of Washington

54th Legislature

1995 Regular Session

By Senate Committee on Senate Select Committee on Water Policy
(originally sponsored by Senators Haugen, Morton, Snyder, Sellar,
Newhouse, Rasmussen, Swecker, Franklin and Deccio)

Read first time 03/01/95.

1 AN ACT Relating to reforming water resource and water quality
2 administration; amending RCW 43.21B.110, 43.21B.300, 43.21B.310,
3 43.21A.061, 43.21A.445, 43.27A.020, 43.27A.090, 43.27A.130, 43.27A.190,
4 43.20.230, 43.21A.020, 43.21A.067, 89.16.040, 89.16.045, 89.16.050,
5 89.16.055, 89.16.060, 89.16.080, 89.30.055, 89.30.058, 89.30.070,
6 89.30.427, 90.03.005, 90.03.015, 90.03.130, 90.03.247, 90.03.345,
7 90.03.360, 90.03.383, 90.03.386, 90.03.390, 90.03.471, 90.03.600,
8 90.08.040, 90.14.041, 90.14.043, 90.14.061, 90.14.065, 90.14.091,
9 90.14.101, 90.14.111, 90.14.130, 90.14.150, 90.14.180, 90.14.190,
10 90.14.200, 90.14.230, 90.16.060, 90.16.090, 90.22.010, 90.22.020,
11 90.22.030, 90.22.040, 90.24.010, 90.24.030, 90.24.040, 90.24.050,
12 90.24.060, 90.38.010, 90.40.090, 90.42.020, 90.44.035, 90.44.130,
13 90.44.400, 90.44.410, 90.44.410, 90.44.420, 90.44.430, 90.44.450,
14 90.46.005, 90.46.020, 90.46.030, 90.46.040, 90.54.010, 90.54.020,
15 90.54.100, 90.54.110, 90.54.120, 90.54.130, 90.54.140, 90.54.150,
16 90.54.180, 90.66.040, and 90.66.080; reenacting and amending RCW
17 43.83B.200; adding new sections to chapter 43.27A RCW; adding a new
18 section to chapter 90.03 RCW; adding a new section to chapter 89.08
19 RCW; creating a new section; recodifying RCW 43.21A.067; decodifying
20 RCW 90.14.043; repealing RCW 43.21A.064; providing an effective date;
21 and declaring an emergency.

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

2 **PART I**

3 **COMMISSION CREATED**

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

13 It is the intent of the legislature to establish a state commission
14 on water resources and water quality, which consists of members
15 representing all regions of the state. Further, it is the direction of
16 the legislature that the commission develop policies and implement
17 programs that are balanced with the interests of all sectors of the
18 state's residents taken into account.

19 NEW SECTION. **Sec. 2.** There is hereby created a state commission
20 to be known as the Washington water resources and water quality
21 commission. The commission shall have fifteen members including ten
22 citizen members, four ex officio legislative members, and the director
23 of the department of ecology.

24 (1) The four legislative members shall be appointed as follows:
25 The speaker of the house of representatives shall appoint two members
26 of the house of representatives, one from the majority party and one
27 from the party with the next largest number of representatives. The
28 president of the senate shall appoint two members of the senate, one
29 from the majority party and one from the party with the next largest
30 number of senators. The legislative members shall have no vote on the
31 commission and shall serve from the date of their appointment until
32 January 15 of the next odd-numbered year or until they cease to be a
33 member of the house from which they are appointed, whichever occurs
34 first.

1 (2) The director of the department of ecology shall have no vote on
2 the commission except in the event of a tie vote, the director may cast
3 a vote to cause a motion to be approved.

4 (3) As provided in this chapter and by rules adopted by the
5 commission, the commission may divide into two divisions for certain
6 administrative, oversight, and limited rule-making purposes. One
7 division shall be the eastern division and shall have jurisdiction
8 throughout the area of the state east of the crest of the Cascade
9 mountains and including all of Skamania county. The other division
10 shall be the western division and shall have jurisdiction throughout
11 the area of the state west of the crest of the Cascade mountains,
12 exclusive of Skamania county. Each division shall consist of five
13 citizen members of the commission who reside within the jurisdiction of
14 their respective division.

15 (4) The ten citizen members shall be appointed by the governor,
16 with the consent of the senate. Five of the members shall reside
17 within the jurisdiction of the eastern division and five shall reside
18 within the jurisdiction of the western division. No more than one
19 member shall reside in any one county.

20 In making appointments to the commission, the governor shall select
21 persons with recognized expertise in water-related issues, including,
22 for example, issues regarding agriculture, tribal interests,
23 hydroelectric production, fisheries, municipal and industrial supply,
24 recreational uses, and water quality. In the eastern division, at
25 least three of the members shall have a background in rural-related
26 issues. In the western division, at least three of the members shall
27 have a background in urban-related issues. No elective state official,
28 state officer, or state employee may be appointed by the governor as a
29 citizen member of the commission.

30 (5) The citizen members of the commission shall serve four-year
31 terms except for three of the initial members from the eastern division
32 and two of the initial members from the western division as designated
33 by the governor who shall serve two-year terms. The terms of the
34 initial members shall begin September 1, 1995. At the first meeting of
35 the commission, it shall choose one of its citizen members as chair and
36 when first meeting as a division, the five division members shall
37 choose one of their members as chair.

38 (6) Each citizen commission member shall receive a salary as may be
39 fixed by the governor in accordance with the provisions of RCW

1 43.03.040. A citizen member may be dismissed by the governor prior to
2 the expiration of his or her term for cause.

3 NEW SECTION. **Sec. 3.** Any three commissioners of a division shall
4 constitute a quorum for the transaction of any business, for the
5 performance of any duty, or for the exercise of any power within the
6 authority of the division. Any six citizen commissioners of either
7 division shall constitute a quorum for the transaction of any business,
8 for the performance of any duty, or for the exercise of any power
9 within the authority of the commission as a whole.

10 NEW SECTION. **Sec. 4.** The commission, acting as a whole, has the
11 following powers and duties:

12 (1) The commission, by the adoption of rules, shall establish
13 state-wide policy and guidelines regarding water resource and water
14 quality management consistent with statutory law.

15 (2) The commission shall act as coordinator of water resource and
16 water quality rules and guidelines of other state agencies to assure
17 consistency with state-wide policies and may amend or void any rule of
18 any state agency that it finds to be inconsistent with state law, the
19 policies and guidelines of the commission, or the rule of another state
20 agency. Any avoidance or amendment of an agency rule by the commission
21 shall be done in the same manner as the adoption of a rule under the
22 administrative procedure act, chapter 34.05 RCW.

23 (3) The commission shall appoint a clerk for each division and
24 employ other staff as may be necessary to carry on the administrative
25 work of the commission and its two divisions. The division clerks
26 shall have the authority to authenticate documents and other records of
27 their division or the commission acting as a whole when required.

28 (4) The commission shall appoint the water administrator, who shall
29 serve at the pleasure of the commission. The salary of the water
30 administrator shall be established by the governor.

31 (5) The commission may appoint technical working groups and
32 advisory interest group committees to assist it in carrying out its
33 duties.

34 (6) The commission is the sole authority for approval of interbasin
35 transfers which cross the jurisdictional boundary of the two divisions.

36 (7) The commission may conduct investigations, inquiries, or
37 hearings, as appropriate. Such investigations, inquiries, or hearings

1 may be conducted by or before any commissioner or any administrative
2 law judge or other examiner designated by the commission. All
3 investigations, inquiries, and hearings of the commission and all
4 findings, orders, or decisions, made by a commissioner, when approved
5 and confirmed by the commission shall be the orders or decisions of the
6 commission.

7 (8) The commission shall have authority to transfer program
8 authority, funding, personnel, and facilities from the department of
9 ecology to the water administrator or from the water administrator to
10 the department of ecology as necessary to assure the efficient
11 administration of the policies adopted by the commission and
12 legislative mandate.

13 NEW SECTION. **Sec. 5.** Each division of the commission has the
14 following powers and duties:

15 (1) The division, by the adoption of rules, shall establish
16 division policy and guidelines regarding water resource and water
17 quality management consistent with statutory law and the rules adopted
18 by the commission acting as a whole.

19 (2) The division shall review regional plans to ensure consistency
20 between plans and to ensure consistency and adherence to state-wide and
21 division policy and statute law.

22 (3) The division may appoint technical working groups and advisory
23 interest group committees to assist it in carrying out its duties.

24 (4) The division is the sole authority for approval of interbasin
25 transfers within the jurisdiction of the division.

26 (5) The division may conduct investigations, inquiries, or
27 hearings, as appropriate. Such investigations, inquiries, or hearings
28 may be conducted by or before any commissioner of the division or any
29 administrative law judge or other examiner designated by the division.
30 All investigations, inquiries, and hearings of the division and all
31 findings, orders, or decisions, made by a commissioner, when approved
32 and confirmed by the division, shall be the orders or decisions of the
33 division.

34 (6) The division may designate persons by rule to preside and enter
35 final orders in emergency adjudication of water rights under RCW
36 34.05.479.

1 NEW SECTION. **Sec. 6.** The commission shall submit a biennial
2 report to the governor and the legislature containing a summary of the
3 transactions and proceedings of the commission acting as a whole and of
4 each division, together with a summary of any information gathered by
5 the commission, the divisions and the water administrator, and such
6 other facts, suggestions, and recommendations as the governor may
7 require or the legislature request.

8 NEW SECTION. **Sec. 7.** The attorney general shall represent and
9 appear for the people of the state of Washington and the commission or
10 its divisions in all actions and proceedings involving any question
11 under this chapter, or under or in reference to any act or order of the
12 commission or its divisions; and it is the duty of the attorney general
13 to enforce all water resource and water quality laws in general,
14 including laws and rules which the water administrator is required to
15 enforce.

16 NEW SECTION. **Sec. 8.** The water administrator has the following
17 powers and duties:

- 18 (1) Development and management of water resource data;
- 19 (2) Analysis and engineering, which may be performed by private or
20 public entity under contract;
- 21 (3) Issuance of water permits. Permit decisions shall be based on
22 technical data, local water resource plans, and water quality
23 requirements. In areas for which a regional plan is final, the water
24 administrator must approve or disapprove a permit within three months
25 of receipt of a completed application;
- 26 (4) Provision of technical assistance to regional planning groups
27 and technical committees;
- 28 (5) Establishment of in-stream flow requirements based on
29 historical flow to maintain historic fishery resources in areas where
30 no regional water resource group has been established;
- 31 (6) Establishment of technical committees;
- 32 (7) Conduct of general or individual adjudications of competing
33 claims for water resources pursuant to statute and rules adopted by the
34 commission and divisions regarding procedures and substantive
35 standards;

1 (8) Subject to the policies and guidelines adopted by the
2 commission and divisions, coordinate the development of water resource
3 and water quality data. This responsibility shall include:

4 (a) Developing uniform measures and standards;

5 (b) Convening meetings of representatives of federal, state, and
6 local agencies to minimize duplication of effort and to direct data
7 development activities where most urgently needed; and

8 (c) Enforcing commission and division rules with regard to data
9 development activities by other state agencies.

10 NEW SECTION. **Sec. 9.** The purpose of this section is to set forth
11 the powers of the water administrator to regulate the withdrawal or
12 diversion of public waters and water or water rights related thereto
13 including regulation based on dates of priority or other pertinent
14 factors. Regulatory actions taken under this section shall be based on
15 examination and determination by the water administrator or the court,
16 as applicable, of the various water rights involved according to the
17 department of ecology's, or its successor agency's, records and other
18 records and pertinent facts. The powers set forth in this section may
19 be exercised whether or not a general adjudication relating to the
20 water rights involved has been conducted.

21 (1) In a regulatory situation (a) where a water right or all water
22 rights proposed for regulation by the water administrator, as well as
23 any right or rights of a senior priority that the proposed regulation
24 is designed to protect, is or are embodied in a certificate or
25 certificates issued under RCW 90.03.240, 90.03.330, 90.38.040,
26 90.42.040, or 90.44.060 or a permit or permits issued pursuant to RCW
27 90.03.290 or 90.44.060; or (b) where a flow or level has been
28 established by rule pursuant to chapter 90.22 or 90.54 RCW; or (c)
29 where it appears to the water administrator that public waters are
30 being withdrawn without any right or other appropriate authority
31 whatsoever, the water administrator in its discretion is authorized to
32 regulate the right or rights under either RCW 43.27A.190 or subsection
33 (2) of this section.

34 (2) In a regulatory situation where one or more of the water rights
35 proposed for regulation by the water administrator, as well as any
36 right or rights of a senior priority that the proposed regulation is
37 designed to protect, is not or are not embodied in a permit or
38 certificate as described in subsection (1) of this section, the water

1 administrator, as its sole and exclusive power to regulate, is
2 authorized to bring an appropriate action at law or in equity,
3 including seeking injunctive relief, as it may deem necessary. Where
4 actions are brought in a state court, the actions shall be initiated in
5 the superior court of the county where the point or points of diversion
6 of the water right or rights proposed for regulation are located. If
7 the points of diversion are located in more than one county, the water
8 administrator may bring the action in a county where a point of
9 diversion is located.

10 (3) Nothing in this section authorizes the water administrator to
11 accomplish a general adjudication of water rights proceeding or the
12 substantial equivalent of a general adjudication of water rights. The
13 exclusive procedure for accomplishing a general adjudication of water
14 rights is under RCW 90.03.110 through 90.03.245 or 90.44.220.

15 (4) Nothing in this section shall amend, reuse, or repeal RCW
16 90.14.130 or 90.14.200.

17 (5) This section does not in any way modify regulatory powers
18 previously placed with the water administrator except as provided in
19 subsections (1) and (2) of this section.

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

22 After the effective date of this act, the appropriate division must
23 make a final determination on water rights applications within twelve
24 months for applications in areas without a regional water resource plan
25 and within three months for applications in areas with a regional water
26 resource plan.

27 **Sec. 11.** RCW 43.21B.110 and 1993 c 387 s 22 are each amended to
28 read as follows:

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

35 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
36 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and
37 90.56.330.

1 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
2 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
3 90.14.130, and 90.48.120.

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

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

12 (e) Decisions of local health departments regarding the issuance
13 and enforcement of permits to use or dispose of biosolids under RCW
14 70.95J.080.

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

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

21 (a) The hearings board has no jurisdiction to review water
22 administrator decisions on water permits or water rights if a person
23 elects to proceed in superior court.

24 (b) The following hearings shall not be conducted by the hearings
25 board:

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

28 ((~~b~~)) (ii) Hearings conducted by the department or the water
29 administrator pursuant to RCW 70.94.332, 70.94.390, 70.94.395,
30 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

31 ((~~c~~)) (iii) Proceedings by the ((~~department~~)) water administrator
32 relating to general adjudications of water rights pursuant to chapter
33 90.03 or 90.44 RCW.

34 ((~~d~~)) (iv) Hearings conducted by the department to adopt, modify,
35 or repeal rules.

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

1 **Sec. 12.** RCW 43.21B.300 and 1993 c 387 s 23 are each amended to
2 read as follows:

3 (1) Any civil penalty provided in RCW 18.104.155, 70.94.431,
4 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and
5 90.56.330 shall be imposed by a notice in writing, either by certified
6 mail with return receipt requested or by personal service, to the
7 person incurring the penalty from the department, the state water
8 administrator, the administrator of the office of marine safety, or the
9 local air authority, describing the violation with reasonable
10 particularity. Within fifteen days after the notice is received, the
11 person incurring the penalty may apply in writing to the department,
12 the state water administrator, the administrator, or the authority for
13 the remission or mitigation of the penalty. Upon receipt of the
14 application, the department, the water administrator, the
15 administrator, or authority may remit or mitigate the penalty upon
16 whatever terms the department, the water administrator, the
17 administrator, or the authority in its discretion deems proper. The
18 department, the water administrator, or the authority may ascertain the
19 facts regarding all such applications in such reasonable manner and
20 under such rules as it may deem proper and shall remit or mitigate the
21 penalty only upon a demonstration of extraordinary circumstances such
22 as the presence of information or factors not considered in setting the
23 original penalty.

24 (2) Any penalty imposed under this section may be appealed to the
25 pollution control hearings board in accordance with this chapter if the
26 appeal is filed with the hearings board and served on the department,
27 the water administrator, the administrator, or authority or to superior
28 court thirty days after receipt by the person penalized of the notice
29 imposing the penalty or thirty days after receipt of the notice of
30 disposition of the application for relief from penalty.

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

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

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

35 (c) Thirty days after receipt of the notice of decision of the
36 hearings board or the superior court decision if the penalty is
37 appealed.

38 (4) If the amount of any penalty is not paid to the department, the
39 water administrator, or the administrator within thirty days after it

1 becomes due and payable, the attorney general, upon request of the
2 department, the water administrator, or the administrator, shall bring
3 an action in the name of the state of Washington in the superior court
4 of Thurston county, or of any county in which the violator does
5 business, to recover the penalty. If the amount of the penalty is not
6 paid to the authority within thirty days after it becomes due and
7 payable, the authority may bring an action to recover the penalty in
8 the superior court of the county of the authority's main office or of
9 any county in which the violator does business. In these actions, the
10 procedures and rules of evidence shall be the same as in an ordinary
11 civil action.

12 (5) All penalties recovered shall be paid into the state treasury
13 and credited to the general fund except those penalties imposed
14 pursuant to RCW 18.104.155, which shall be credited to the reclamation
15 account as provided in RCW 18.104.155(7), RCW 70.94.431, the
16 disposition of which shall be governed by that provision, RCW
17 70.105.080, which shall be credited to the hazardous waste control and
18 elimination account, created by RCW 70.105.180, and RCW 90.56.330,
19 which shall be credited to the coastal protection fund created by RCW
20 90.48.390.

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

23 (1) Except as provided in subsection (2) of this section, any order
24 issued by the department, the state water administrator, the
25 administrator of the office of marine safety, or authority pursuant to
26 RCW 70.94.211, 70.94.332, 70.105.095, 43.27A.190, 86.16.020, 88.46.070,
27 or 90.48.120(2) or any provision enacted after July 26, 1987, or any
28 permit, certificate, or license issued by the department may be
29 appealed to the pollution control hearings board if the appeal is filed
30 with the board and served on the department or authority within thirty
31 days after receipt of the order. Except as provided under chapter
32 70.105D RCW, this is the exclusive means of appeal of such an order.

33 ~~((2))~~ (a) The department, the water administrator, the
34 administrator, or the authority in its discretion may stay the
35 effectiveness of an order during the pendency of such an appeal.

36 ~~((3))~~ (b) At any time during the pendency of an appeal of such an
37 order to the board, the appellant may apply pursuant to RCW 43.21B.320

1 to the hearings board for a stay of the order or for the removal
2 thereof.

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

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

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

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

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

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

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

15 ~~((5))~~ (d) Upon failure to comply with any final order of the
16 department, the water administrator, or the administrator, the attorney
17 general, on request of the department, the water administrator, or the
18 administrator, may bring an action in the superior court of the county
19 where the violation occurred or the potential violation is about to
20 occur to obtain such relief as necessary, including injunctive relief,
21 to insure compliance with the order. The air authorities may bring
22 similar actions to enforce their orders.

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

27 (2) Water administrator decisions concerning water permits or water
28 rights may be appealed to the superior court in the county in which the
29 water permit would be issued if a person so elects.

30 NEW SECTION. **Sec. 14.** The regional water resource planning
31 process must be initiated by filing a petition with the appropriate
32 division. The petition must be signed by at least two local
33 governments, tribal governments, or at least one hundred persons
34 claiming the right to water in the same water resource inventory area.
35 The division shall hold a hearing on the petition within ninety days of
36 its receipt. The division shall hold the hearing within the boundaries
37 of the proposed region.

1 NEW SECTION. **Sec. 15.** The petition under section 14 of this act
2 shall include the following:

3 (1) The description of the water resource inventory area or areas
4 that are proposed to be included in the regional planning area. A
5 region may consist of one or more water resource inventory areas. If
6 more than one water resource inventory area is proposed to be included
7 in a region, the petition shall include the rationale for inclusion of
8 the additional area or areas;

9 (2) An identification of major groups, not to exceed ten groups,
10 with an interest in the basin who would serve as members of the
11 regional planning group;

12 (3) The method of choosing representatives from each major interest
13 group and the number of representatives from each interest group;

14 (4) The proposed date to start the planning process and the target
15 date that the final draft regional water resource plan will be
16 transmitted to the appropriate division. The planning period may not
17 exceed two years unless exceptional circumstances are found to exist by
18 the appropriate division and an extension is granted for a specified
19 period of time;

20 (5) A proposed budget and a specific proposed method to fund fifty
21 percent of the cost of the planning process through locally generated
22 funds; and

23 (6) A list of all local governments within the proposed regional
24 planning area.

25 NEW SECTION. **Sec. 16.** (1) The petition under section 14 of this
26 act shall be reviewed by the water administrator for completeness. The
27 water administrator shall return petitions found to be incomplete to
28 the petitioning parties within twenty working days of receipt, with a
29 list of those items that need to be completed.

30 (2) The water administrator shall send a copy of the completed
31 petition to each unit of local government within the proposed region
32 and interested tribal governments, along with a notice announcing the
33 time and date of the hearing on the proposed petition. The notice must
34 be sent at least twenty working days before the hearing. Notice of the
35 hearing shall also be published at least once a week for two
36 consecutive weeks in a daily newspaper of general circulation in the
37 region.

1 (3) The division shall hold a hearing on the petition as submitted.
2 A decision to approve or deny the petition shall be made within one
3 hundred twenty days from the date of the hearing. After the hearing,
4 the division may make changes to the proposal. The division may
5 approve the petition if it is determined that there is general local
6 support and need for initiating the planning process, and a reasonable
7 chance that the planning process will succeed in producing a draft
8 water resource plan for the region. The approval shall establish a
9 budget for the planning process, including a limitation on the amount
10 of funds to be provided by the state, which shall not exceed fifty
11 percent of the original budgeted amount.

12 NEW SECTION. **Sec. 17.** If the approved petition proposes
13 development of habitat conservation measures because there are species
14 that are endangered or threatened within the regional planning area,
15 the governor shall, within thirty days of the approval, request
16 appropriate federal agencies to endorse under the endangered species
17 act the development of a habitat conservation plan for species listed
18 or that may soon be listed as endangered or threatened. In
19 coordination with the regional planning group, the governor may request
20 the federal government to enter into a memorandum of understanding or
21 cooperative agreement for the development and implementation of habitat
22 conservation measures that will, at a minimum, satisfy the requirements
23 of the endangered species act.

24 NEW SECTION. **Sec. 18.** Upon approval of a petition in accordance
25 with section 16 of this act, the regional planning group shall convene
26 and elect its own leadership. After the group is organized, it shall
27 develop a draft final plan meeting the requirements of section 21 of
28 this act and all rules and guidelines developed by the commission and
29 appropriate division.

30 The regional planning group shall make every effort to accommodate
31 the concerns of all interests. Approval of the draft final plan shall
32 be by a majority vote prior to submission of the draft final plan to
33 the appropriate county legislative authorities under section 20 of this
34 act.

35 NEW SECTION. **Sec. 19.** The regional planning group shall submit
36 the draft final plan to the county legislative authorities with

1 jurisdiction in the regional planning area. The counties in the
2 regional planning area shall each have at least two public hearings on
3 the draft final plan within sixty days of receipt of the plan.

4 After all counties in the regional planning area have held the
5 required public hearings, the regional planning group will convene to
6 consider the public comments and potential revisions to the plan to
7 address those comments. The regional planning group must readopt the
8 revised plan by majority vote and then submit the final plan to the
9 counties in the regional planning area. The county legislative
10 authorities shall approve or reject the final plan within thirty days
11 of its submittal.

12 NEW SECTION. **Sec. 20.** Once a final draft plan has been developed
13 by the regional planning group and approved by the county pursuant to
14 section 18 of this act, the division shall, within sixty days, hold a
15 hearing on the draft plan. For regional water resource plans that have
16 been submitted to the division's predecessor agency, the division shall
17 have one hundred eighty days from the effective date of this section to
18 hold a hearing on the proposed plan.

19 The division shall evaluate the plan based on the following
20 criteria:

21 (1) The plan can be legally implemented within existing or by
22 specific changes to state law;

23 (2) The plan has the general support of the community and local
24 governments within the affected planning area and of affected tribal
25 governments;

26 (3) Funds are available or will be requested by the division to
27 provide for the state share of the cost of implementing the plan;

28 (4) The plan provides for adequate protection of fish habitat in
29 the region;

30 (5) The plan provides adequate water for the needs of the people in
31 the basin and the economies upon which they depend as viewed by the
32 people in the basin; and

33 (6) The plan is consistent with the comprehensive plans adopted by
34 any of the counties within the regional planning area pursuant to the
35 growth management act.

36 NEW SECTION. **Sec. 21.** (1) Within ninety days after the public
37 hearing on the final draft regional water resource plan, the division

1 shall either: (a) Approve the plan as submitted, or (b) make comments
2 and recommend changes to the plan. The division may meet with the
3 regional water resource planning committee to discuss the resolution of
4 issues between the division and the committee. If the division
5 recommends changes to the plan, the regional water resource planning
6 committee shall have an additional ninety days to modify the draft plan
7 and to resubmit it to the division.

8 (2) If the division declines to approve the plan as resubmitted,
9 the division shall return to the regional water resource planning
10 committee a proposed revised plan with specific changes or approval of
11 specified components of the plan. The regional planning group shall
12 have sixty days to either accept the division's revised plan or to
13 withdraw the proposed plan from consideration by the division. Any
14 plan that was revised by the division but rejected by the regional
15 planning group may not be adopted by the division, however this shall
16 not be construed to prevent the division from initiating a general
17 water right adjudication in the basin in accordance with procedures
18 contained in chapter 90.03 RCW.

19 (3) If the division approves the plan, it may do so contingent upon
20 action by the state legislature to provide adequate funding or to
21 modify state law necessary to implement the plan. The division shall
22 prepare any funding requests and proposed changes to state law
23 necessary to implement approved regional water resource plans to the
24 next session of the legislature.

25 NEW SECTION. **Sec. 22.** New regional water resource programs, in
26 existence on the effective date of this section or amendments to water
27 resource programs contained in chapters 173-501 through 173-592 WAC
28 shall be adopted as a rule under the administrative procedure act,
29 chapter 34.05 RCW.

30 NEW SECTION. **Sec. 23.** All reports, documents, surveys, books,
31 records, files, papers, or written material in the possession of the
32 department of ecology relating to functions transferred under chapter
33 . . ., Laws of 1995 (this act) shall be delivered to the custody of the
34 Washington water resources and water quality commission. All cabinets,
35 furniture, office equipment, motor vehicles, and other tangible
36 property employed by the department of ecology relating to functions
37 transferred shall be made available to the Washington water resources

1 and water quality commission. All funds, credits, or other assets held
2 by the department of ecology relating to functions transferred shall be
3 assigned to the Washington water resources and water quality
4 commission.

5 Any appropriations made to the department of ecology relating to
6 functions transferred shall, on the effective date of this section, be
7 transferred and credited to the Washington water resources and water
8 quality commission.

9 Whenever any question arises as to the transfer of any funds,
10 including unexpended balances within any accounts, books, documents,
11 records, papers, files, equipment, or any other tangible property used
12 or held in the exercise of the powers and the performance of the duties
13 and functions transferred, the director of financial management shall
14 make a determination as to the proper allocation and certify the same
15 to the entities concerned.

16 NEW SECTION. **Sec. 24.** All rules and all pending business before
17 the department of ecology relating to functions transferred shall be
18 continued and acted upon by the Washington water resources and water
19 quality commission, its divisions, or the water administrator as
20 appropriate. All existing contracts and obligations shall remain in
21 full force and effect and shall be performed by the Washington water
22 resources and water quality commission.

23 NEW SECTION. **Sec. 25.** A new section is added to chapter 89.08 RCW
24 to read as follows:

25 As part of the watershed planning process in this act, the
26 Washington state conservation commission is eligible to receive
27 planning moneys made available to conservation districts for
28 development of the habitat conservation measures and conservation plans
29 on private lands that are part of the plans adopted under sections 1
30 through 9 and 14 through 24 of this act, to assist in the development
31 of conservation plans on private lands. The plans should:

- 32 (1) Be voluntary in nature;
- 33 (2) Be economically feasible to implement;
- 34 (3) Contribute to the protection and restoration of fish and
35 wildlife habitat;
- 36 (4) Demonstrate, if appropriate, a net savings of water;

1 (5) Not be in conflict with farm plans required under other
2 programs; and

3 (6) Be consistent with the watershed plan adopted under sections 1
4 through 9 and 14 through 24 of this act.

5 **PART II**

6 **INTERNAL REFERENCE CORRECTIONS AND NOMENCLATURE**

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

9 The (~~department of ecology~~) water resources and water quality
10 commission, through the water administrator, shall exercise all the
11 powers and perform all the duties prescribed by law with respect to the
12 reclamation and development of arid, swamp, overflow, and logged-off
13 lands in the state and such other duties as may be prescribed by law.

14 **Sec. 27.** RCW 43.21A.445 and 1989 1st ex.s. c 9 s 218 are each
15 amended to read as follows:

16 The department of ecology, the water resources and water quality
17 commission, the department of natural resources, and the department of
18 health(~~, and the oil and gas conservation committee~~) are authorized
19 to participate fully in and are empowered to administer all programs of
20 Part C of the federal Safe Drinking Water Act (42 U.S.C. Sec. 300h et
21 seq.), as it exists on June 19, 1986, contemplated for state
22 participation in administration under the act.

23 The department of ecology and the water resources and water quality
24 commission, in the implementation of powers provided herein shall enter
25 into agreements of administration with the departments of health and
26 natural resources (~~and the oil and gas conservation committee~~) to
27 administer those portions of the state program, approved under the
28 federal act, over which the said departments and committee have primary
29 subject-matter authority under existing state law. The departments of
30 health and natural resources (~~and the oil and gas conservation~~
31 ~~committee~~) are empowered to enter into such agreements and perform the
32 administration contained therein.

33 **Sec. 28.** RCW 43.27A.020 and 1987 c 109 s 31 are each amended to
34 read as follows:

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

3 (1) "~~((Department))~~ Commission" means the ~~((department—of~~
4 ~~ecology;))~~ Washington water resources and water quality commission.

5 (2) "~~((Director))~~ Administrator" means ~~((the director of ecology;))~~
6 the water administrator.

7 (3) "State agency" and "state agencies" mean any branch, department
8 or unit of state government, however designated or constituted~~((;))~~.

9 (4) "Water resources" means all waters above, upon, or beneath the
10 surface of the earth, located within the state and over which the state
11 has sole or concurrent jurisdiction.

12 (5) "Beneficial use" means, but its meaning shall not be limited
13 to: Domestic water supplies; irrigation; fish, shellfish, game, and
14 other aquatic life; recreation; industrial water supplies; generation
15 of hydroelectric power; and navigation.

16 **Sec. 29.** RCW 43.27A.090 and 1988 c 127 s 25 are each amended to
17 read as follows:

18 The ~~((department))~~ commission shall be empowered as follows:

19 (1) To represent the state at, and fully participate in, the
20 activities of any basin or regional commission, interagency committee,
21 or any other joint interstate or federal-state agency, committee or
22 commission, or publicly financed entity engaged in the planning,
23 development, administration, management, conservation or preservation
24 of the water resources of the state.

25 (2) To prepare the views and recommendations of the state of
26 Washington on any project, plan, or program relating to the planning,
27 development, administration, management, conservation, and preservation
28 of any waters located in or affecting the state of Washington,
29 including any federal permit or license proposal, and appear on behalf
30 of, and present views and recommendations of the state at any
31 proceeding, negotiation or hearing conducted by the federal government,
32 interstate agency, state or other agency.

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

1 (4) To cooperate with appropriate agencies of the federal
2 government and/or agencies of other states, to enter into contracts,
3 and to make appropriate contributions to federal or interstate projects
4 and programs and governmental bodies to carry out the provisions of
5 this chapter.

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

11 (6) To develop and maintain a coordinated and comprehensive state
12 water and water resources related development plan, and adopt, with
13 regard to such plan, such policies as are necessary to insure that the
14 waters of the state are used, conserved and preserved for the best
15 interest of the state. There shall be included in the state plan a
16 description of developmental objectives and a statement of the
17 recommended means of accomplishing these objectives. To the extent the
18 (~~director~~) commission deems desirable, the plan shall integrate into
19 the state plan, the plans, programs, reports, research and studies of
20 other state agencies.

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

25 (8) To assemble and correlate state, local and federal laws,
26 regulations, plans, programs, and policies affecting the beneficial
27 use, disposal, pollution, control, or conservation of water, river
28 basin development, flood prevention, parks, reservations, forests,
29 wildlife refuges, drainage and sanitary systems, waste disposal, water
30 works, watershed protection and development, minimum in-stream flows,
31 base flows, soil conservation, power facilities and area and municipal
32 water supply needs, and recommend suitable legislation or other action
33 to the legislature, the congress of the United States, or any city,
34 municipality, or to responsible state, local or federal executive
35 departments or agencies.

36 (9) To cooperate with federal, state, regional, interstate and
37 local public and private agencies in the making of plans for drainage,
38 flood control, use, conservation, allocation and distribution of

1 existing water supplies and the development of new water resource
2 projects.

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

7 (11) To ~~((promulgate))~~ adopt such rules ~~((and regulations))~~ as are
8 necessary to carry out the purposes of this chapter.

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

11 (13) To subpoena witnesses, compel their attendance, administer
12 oaths, take the testimony of any person under oath and require the
13 production of any books or papers when the ~~((department))~~ commission
14 deems such measures necessary in the exercise of its rule-making power
15 or in determining whether or not any license, certificate, or permit
16 shall be granted or extended.

17 **Sec. 30.** RCW 43.27A.130 and 1988 c 127 s 26 are each amended to
18 read as follows:

19 The ~~((department of ecology))~~ water administrator may make complete
20 inventories of the state's water resources and enter into such
21 agreements with the director of the United States geological survey as
22 will insure that investigations and surveys are carried on in an
23 economical manner.

24 **Sec. 31.** RCW 43.27A.190 and 1987 c 109 s 11 are each amended to
25 read as follows:

26 Notwithstanding and in addition to any other powers granted to the
27 ~~((department of ecology))~~ water administrator, whenever it appears to
28 the ~~((department))~~ water administrator that a person is violating or is
29 about to violate any of the provisions of the following:

30 (1) Chapter 90.03 RCW; or

31 (2) Chapter 90.44 RCW; or

32 (3) Chapter 86.16 RCW; or

33 (4) Chapter 43.37 RCW; or

34 (5) Chapter 43.27A RCW; or

35 (6) Any other law relating to water resources administered by the
36 ~~((department))~~ water administrator; or

1 (7) A rule or regulation adopted, or a directive or order issued by
2 the ~~((department))~~ commission, division, or department of ecology
3 relating to subsections (1) through (6) of this section; the
4 ~~((department))~~ water administrator may cause a written regulatory order
5 to be served upon said person either personally, or by registered or
6 certified mail delivered to addressee only with return receipt
7 requested and acknowledged by him or her. The order shall specify the
8 provision of the statute, rule, regulation, directive, or order alleged
9 to be or about to be violated, and the facts upon which the conclusion
10 of violating or potential violation is based, and shall order the act
11 constituting the violation or the potential violation to cease and
12 desist or, in appropriate cases, shall order necessary corrective
13 action to be taken with regard to such acts within a specific and
14 reasonable time. The regulation of a headgate or controlling works as
15 provided in RCW 90.03.070, by a watermaster, stream patrolman, or other
16 person so authorized by the ~~((department))~~ water administrator shall
17 constitute a regulatory order within the meaning of this section. A
18 regulatory order issued hereunder shall become effective immediately
19 upon receipt by the person to whom the order is directed, except for
20 regulations under RCW 90.03.070 which shall become effective when a
21 written notice is attached as provided therein. Any person aggrieved
22 by such order may appeal the order pursuant to ~~((RCW 43.21B.310))~~
23 chapter 34.05 RCW.

24 **Sec. 32.** RCW 43.20.230 and 1993 sp.s. c 4 s 9 are each amended to
25 read as follows:

26 Consistent with the water resource planning process of the
27 ~~((department of ecology))~~ Washington water resources and water quality
28 commission, the department of health shall:

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

33 (2) Develop criteria, with input from technical experts, with the
34 objective of encouraging the cost-effective reuse of greywater and
35 other water recycling practices, consistent with protection of public
36 health and water quality;

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

1 (4) Provide advice and technical assistance on request for
2 development of model conservation rate structures for public water
3 systems. Subsections (1), (2), and (3) of this section are subject to
4 the availability of funding.

5 **Sec. 33.** RCW 43.21A.020 and 1970 ex.s. c 62 s 2 are each amended
6 to read as follows:

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

25 **Sec. 34.** RCW 43.21A.067 and 1987 c 109 s 27 are each amended to
26 read as follows:

27 The ~~((director of ecology))~~ water administrator may create within
28 ~~((his))~~ the ~~((department))~~ division a fund to be known as the "basic
29 data fund."

30 Into such fund shall be deposited all moneys contributed by persons
31 for stream flow, ground water, and water quality data or other
32 hydrographic information furnished by the ~~((department))~~ water
33 administrator in cooperation with the United States geological survey,
34 and the fund shall be expended on a matching basis with the United
35 States geological survey for the purpose of obtaining additional basic
36 information needed for an intelligent inventory of water resources in
37 the state.

1 Disbursements from the basic data fund shall be on vouchers
2 approved by the ((department)) water administrator and the district
3 engineer of the United States geological survey.

4 **Sec. 35.** RCW 43.83B.300 and 1988 c 47 s 1, 1988 c 46 s 2, and 1988
5 c 45 s 1 are each reenacted and amended to read as follows:

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

18 The legislature further finds that there is a continuing water
19 supply shortage in many areas of the state and that there is an urgent
20 need to assure the survival of irrigated crops and of the state's
21 fisheries.

22 The legislature further finds that in addition to water storage
23 facilities or other augmentation programs, improved efficiency of water
24 use could provide an important new supply of water in many parts of the
25 state with which to meet future water needs and that improved
26 efficiency of water use should receive greater emphasis in the
27 management of the state's water resources.

28 In order to study the fundamentals of water resource policy of the
29 state and to provide needed moneys for the planning, acquisition,
30 construction, and improvement of water supply facilities and for other
31 appropriate measures to assure the survival of irrigated crops and/or
32 the state's fisheries to alleviate emergency water supply conditions
33 arising from droughts occurring from time to time in the state of
34 Washington, and to carry out a comprehensive water use efficiency study
35 for the state of Washington, the state finance committee is authorized
36 to issue general obligation bonds of the state of Washington in the sum
37 of eighteen million dollars, or so much thereof as may be required to
38 finance such projects, and all costs incidental thereto. No bonds

1 authorized by this section and RCW 43.83B.360 through 43.83B.375 shall
2 be offered for sale without prior legislative appropriation, and these
3 bonds shall be paid and discharged within thirty years of the date of
4 issuance in accordance with Article VIII, section 1 of the state
5 Constitution.

6 **Sec. 36.** RCW 89.16.040 and 1981 c 216 s 2 are each amended to read
7 as follows:

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

23 **Sec. 37.** RCW 89.16.045 and 1972 ex.s. c 51 s 4 are each amended to
24 read as follows:

25 Notwithstanding any other provisions of this chapter, the
26 (~~director of ecology~~) water administrator may, by written contract
27 with a reclamation district, loan moneys from the reclamation account
28 to said district for use in financing a project of construction,
29 reconstruction or improvement of district facilities, or a project of
30 additions to such facilities. No such contract shall exceed fifty
31 thousand dollars per project or a term of ten years, or provide for an
32 interest rate of more than eight percent per annum. The (~~director~~)
33 water administrator shall not execute any contract as provided in this
34 section until he or she determines that the project for which the
35 moneys are furnished is within the scope of the district's powers to
36 undertake, that the project is feasible, that its construction is in
37 the best interest of the state and the district, and that the district

1 proposing the project is in a sound financial condition and capable of
2 repaying the loan with interest in not more than ten annual payments.
3 Any district is empowered to enter into a contract, as provided for in
4 this section, and to levy assessments based on the special benefits
5 accruing to lands within the district as are necessary to satisfy the
6 contract, when a resolution of the governing body of the reclamation
7 district authorizing its execution is approved by the body: PROVIDED,
8 That no district shall be empowered to execute with the ((~~director~~))
9 water administrator any such contract during the term of any previously
10 executed contract authorized by this section.

11 **Sec. 38.** RCW 89.16.050 and 1983 c 167 s 248 are each amended to
12 read as follows:

13 In carrying out the purposes of this chapter, the ((~~director of the~~
14 ~~department of ecology~~)) water administrator of the state of Washington
15 shall be authorized and empowered:

16 To make surveys and investigations of the wholly or partially
17 unreclaimed and undeveloped lands in this state and to determine the
18 relative agricultural values, productiveness and uses, and the
19 feasibility and cost of reclamation and development thereof;

20 To formulate and adopt a sound policy for the reclamation and
21 development of the agricultural resources of the state, and from time
22 to time select for reclamation and development such lands as may be
23 deemed advisable, and the ((~~director~~)) water administrator may in his
24 or her discretion advise as to the formation and assist in the
25 organization of reclamation districts under the laws of this state;

26 To purchase the bonds of any reclamation district whose project is
27 approved by the ((~~director~~)) water administrator and which is found to
28 be upon a sound financial basis, to contract with any such district for
29 making surveys and furnishing engineering plans and supervision for the
30 construction of its project, or for constructing or completing its
31 project and to advance money to the credit of the district for any or
32 all of such purposes, and to accept the bonds, notes or warrants of
33 such district in payment therefor, and to expend the moneys
34 appropriated from the reclamation account in the purchase of such
35 bonds, notes or warrants or in carrying out such contracts: PROVIDED,
36 That interest not to exceed the annual rate provided for in the bonds,
37 notes or warrants agreed to be purchased, shall be charged and received
38 for all moneys advanced to the district prior to the delivery of the

1 bonds, notes or warrants and the amount of such interest shall be
2 included in the purchase price of such bonds, notes or warrants:
3 PROVIDED FURTHER, That no district, the bonds, notes or warrants of
4 which have been purchased by the state under the provisions of the
5 state reclamation act, shall thereafter during the life of said bonds,
6 notes or warrants make expenditures of any kind from the bond or
7 warrant funds of the district or incur obligations chargeable against
8 such funds or issue any additional notes without previous written
9 approval of the (~~director of ecology~~) water administrator of the
10 state of Washington, and any obligations incurred without such approval
11 shall be void;

12 To sell and dispose of any reclamation district bonds acquired by
13 the (~~director~~) water resources and water quality commission, at
14 public or private sale, and to pay the proceeds of such sale into the
15 reclamation account: PROVIDED, That such bonds shall not be sold for
16 less than the purchase price plus accrued interest, except in case of
17 a sale to an agency supplied with money by the United States of
18 America, or to the United States of America in furtherance of refunding
19 operations of any irrigation district, diking or drainage district, or
20 diking or drainage improvement district, now pending or hereafter
21 carried on by such district, in which case the (~~director~~) water
22 resources and water quality commission shall have authority to sell any
23 bonds of such district owned by the state of Washington under the
24 provisions of the state reclamation act, to the United States of
25 America, or other federal agency on such terms as said United States of
26 America, or other federal agency shall prescribe for bonds of the same
27 issue of such district as that held by the state of Washington in
28 connection with such refunding operations;

29 To borrow money upon the security of any bonds, including refunding
30 bonds, of any reclamation district, acquired by the (~~director~~) water
31 resources and water quality commission, on such terms and rate of
32 interest and over such period of time as the (~~director~~) water
33 resources and water quality commission may see fit, and to hypothecate
34 and pledge reclamation district bonds or refunding bonds acquired by
35 the (~~director~~) water resources and water quality commission as
36 security for such loan. Such loans shall have, as their sole security,
37 the bonds so pledged and the revenues therefrom, and the (~~director~~)
38 water resources and water quality commission shall not have authority
39 to pledge the general credit of the state of Washington: PROVIDED,

1 That in reloaning any money so borrowed, or obtained from a sale of
2 bonds it shall be the duty of the ((director)) water resources and
3 water quality commission to fix such rates of interest as will prevent
4 impairment of the reclamation revolving account;

5 To purchase delinquent general tax or delinquent special assessment
6 certificates chargeable against lands included within any reclamation
7 district obligated to the state under the provisions of the state
8 reclamation act, and to purchase lands included in such districts and
9 placed on sale on account of delinquent taxes or delinquent assessments
10 with the same rights, privileges and powers with respect thereto as a
11 private holder and owner of said certificates, or as a private
12 purchaser of said lands: PROVIDED, That the ((director)) water
13 administrator shall be entitled to a delinquent tax certificate upon
14 application to the proper county treasurer therefor without the
15 necessity of a resolution of the county legislative authority
16 authorizing the issuance of certificates of delinquency required by law
17 in the case of the sale of such certificates to private purchasers;

18 To sell said delinquent certificates or the lands acquired at sale
19 on account of delinquent taxes or delinquent assessments at public or
20 private sale, and on such conditions as the ((director)) water
21 administrator shall determine;

22 To, whenever the ((director)) water administrator shall deem it
23 advisable, require any district with which he or she may contract, to
24 provide such safeguards as he or she may deem necessary to assure bona
25 fide settlement and development of the lands within such district, by
26 securing from the owners of lands therein agreements to limit the
27 amount of their holdings to such acreage as they can properly farm and
28 to sell their excess land holdings at reasonable prices;

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

32 To have the assistance, cooperation and services of, and the use of
33 the records and files in, all the departments and institutions of the
34 state, particularly the office of the commissioner of public lands, the
35 state department of agriculture, Washington State University, and the
36 University of Washington; and all state officers and the governing
37 authorities of all state institutions are hereby authorized and
38 directed to cooperate with the ((director)) water administrator in
39 furthering the purpose of this chapter;

1 To cooperate with the United States in any plan of land
2 reclamation, land settlement or agricultural development which the
3 congress of the United States may provide and which may effect the
4 development of agricultural resources within the state of Washington,
5 and the ((~~director~~)) water administrator shall have full power to carry
6 out the provisions of any cooperative land settlement act that may be
7 enacted by the United States.

8 **Sec. 39.** RCW 89.16.055 and 1993 c 387 s 27 are each amended to
9 read as follows:

10 In addition to the powers provided in RCW 89.16.050, the
11 ((~~department of ecology~~)) water administrator is authorized and
12 empowered to:

13 (1) Conduct surveys, studies, investigations, and water right
14 examinations for proposed reclamation projects or the rehabilitation of
15 existing reclamation projects that may be funded fully or partially
16 from the receipts of the sale of bonds issued by the state of
17 Washington.

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

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

24 Funds of the account established by RCW 89.16.020 may, as
25 appropriated by the legislature, be used in relation to the powers
26 provided in this section, notwithstanding any other provisions of
27 chapter 89.16 RCW that may be to the contrary.

28 **Sec. 40.** RCW 89.16.060 and 1972 ex.s. c 51 s 6 are each amended to
29 read as follows:

30 The ((~~department of ecology~~)) water resources and water quality
31 commission shall have the power to cooperate and to contract with the
32 United States for the reclamation of lands in this state by the United
33 States, and shall have the power to contract with the United States for
34 the handling of such reclamation work by the United States and for the
35 repayment of such moneys as the ((~~department of ecology~~)) water
36 resources and water quality commission shall invest from the
37 reclamation account, under such terms and conditions as the United

1 States laws and the regulations of the interior department shall
2 provide for the repayment of reclamation costs by the lands reclaimed.

3 **Sec. 41.** RCW 89.16.080 and 1972 ex.s. c 51 s 7 are each amended to
4 read as follows:

5 Whenever in the judgment of the department of natural resources any
6 state, school, granted, or other public lands of the state will be
7 specially benefited by any proposed reclamation project approved by the
8 (~~department of ecology~~) water administrator, it may consent that such
9 lands be included in any reclamation district organized for the purpose
10 of carrying out such reclamation project, and in that event the
11 department of natural resources shall be authorized to pay, out of
12 current appropriations, the district assessments levied as provided by
13 law against such lands, and any such assessments paid shall be made a
14 charge against the lands upon which they were levied, and the amount
15 thereof, but without interest, shall be included in the appraised value
16 of such lands when sold or leased.

17 **Sec. 42.** RCW 89.30.055 and 1988 c 127 s 70 are each amended to
18 read as follows:

19 Upon the giving of notice of hearing on the petition by the clerk
20 of the county board aforesaid, there is hereby authorized and created
21 a commission composed of the chairman of the board of county
22 commissioners of each of the counties in which any of the lands to be
23 included in the proposed reclamation district are situated, and of the
24 (~~state director of ecology~~) water administrator, which commission
25 shall consider and determine said petition.

26 **Sec. 43.** RCW 89.30.058 and 1988 c 127 s 71 are each amended to
27 read as follows:

28 The (~~state director of ecology~~) water administrator shall be ex
29 officio chairman of said commission, and the clerk of the county board
30 of the county in which the petition is filed, shall be ex officio clerk
31 of said commission. A majority of the members of said commission shall
32 constitute a quorum for the transaction or exercise of any of its
33 powers, functions, duties and business.

34 **Sec. 44.** RCW 89.30.070 and 1988 c 127 s 72 are each amended to
35 read as follows:

1 Except as otherwise herein provided the necessary expenses of the
2 commission and of the members thereof in performing the duties and
3 functions of said commission shall be borne by the respective counties
4 concerned in proportion to the taxable value of the acreage of each
5 included in the proposed reclamation district and said respective
6 counties are hereby made liable for such expenses. The individual
7 expenses of the ((~~state director of ecology~~)) water administrator shall
8 be borne by the state.

9 **Sec. 45.** RCW 89.30.427 and 1983 c 167 s 254 are each amended to
10 read as follows:

11 (1) In any instance where the district, general improvement or
12 divisional district is selling, renting or leasing water or electric
13 energy under the provisions of this chapter and there is reasonable
14 certainty of a permanent fixed income from this source, the district
15 board shall have authority to create a special fund derived from a
16 fixed proportion of the gross income thus obtained and to issue bonds
17 of the district payable from such special fund and to sell the same to
18 raise revenue for the payment or amortization of the cost of the
19 construction and/or the operation and maintenance of the reclamation
20 district or general improvement or divisional district works and for
21 such other purposes as the state of Washington and/or the United States
22 may require: PROVIDED, That the state of Washington may, through the
23 ((~~director of ecology~~)) water administrator, enter into a contract with
24 the reclamation district, improvement or divisional district or
25 districts or the United States to purchase, rent or lease and to sell
26 or resell and/or distribute all or any part of the electric energy
27 developed or to be developed at the reclamation, improvement or
28 divisional district works at a price sufficient to amortize the cost of
29 power development over a period of fifty years after the completion of
30 such power development and to provide a surplus sufficient to reduce
31 the cost of reclaiming the lands of the district or districts within
32 economic limits: AND PROVIDED FURTHER, That no contract or contracts
33 as in this section provided shall be finally consummated or become
34 binding in any way whatsoever until the legislature of the state of
35 Washington in special or regular session shall approve the same, and
36 provided further in such sale and/or distribution of power by the
37 ((~~director of ecology~~)) water administrator preference in the purchase
38 and/or distribution thereof shall be given to municipal corporations

1 and cooperative associations: AND PROVIDED FURTHER, That general
2 improvement and divisional districts shall have (in addition to the
3 powers granted them in chapter 254 of the Session Laws of 1927 and in
4 this act) the same powers as are given to the reclamation districts
5 under RCW 89.30.007.

6 (2) Such bonds may be issued and sold in accordance with chapter
7 39.46 RCW.

8 **Sec. 46.** RCW 90.03.005 and 1989 c 348 s 2 are each amended to read
9 as follows:

10 It is the policy of the state to promote the use of the public
11 waters in a fashion which provides for obtaining maximum net benefits
12 arising from both diversionary uses of the state's public waters and
13 the retention of waters within streams and lakes in sufficient quantity
14 and quality to protect instream and natural values and rights.
15 Consistent with this policy, the state supports economically feasible
16 and environmentally sound development of physical facilities through
17 the concerted efforts of the state with the United States, public
18 corporations, Indian tribes, or other public or private entities.
19 Further, based on the tenet of water law which precludes wasteful
20 practices in the exercise of rights to the use of waters, the
21 (~~department of ecology~~) water administrator shall reduce these
22 practices to the maximum extent practicable, taking into account sound
23 principles of water management, the benefits and costs of improved
24 water use efficiency, and the most effective use of public and private
25 funds, and, when appropriate, to work to that end in concert with the
26 agencies of the United States and other public and private entities.

27 **Sec. 47.** RCW 90.03.015 and 1987 c 109 s 65 are each amended to
28 read as follows:

29 As used in this chapter:

30 (1) (~~"Department"~~) "Commission" means the (~~department of~~
31 ~~ecology~~) water resources and water quality commission;

32 (2) (~~"Director"~~) "Administrator" means the (~~director of~~
33 ~~ecology~~) water administrator; and

34 (3) "Person" means any firm, association, water users' association,
35 corporation, irrigation district, or municipal corporation, as well as
36 an individual.

1 **Sec. 48.** RCW 90.03.130 and 1987 c 109 s 74 are each amended to
2 read as follows:

3 Service of said summons shall be made in the same manner and with
4 the same force and effect as service of summons in civil actions
5 commenced in the superior courts of the state: PROVIDED, That for good
6 cause, the court, at the request of the ~~((department))~~ water
7 administrator, as an alternative to personal service, may authorize
8 service of summons to be made by certified mail, with return receipt
9 signed by defendant, a spouse of a defendant, or another person
10 authorized to accept service. If the defendants, or either of them,
11 cannot be found within the state of Washington, of which the return of
12 the sheriff of the county in which the proceeding is pending shall be
13 prima facie evidence, upon the filing of an affidavit by the
14 ~~((department))~~ water administrator, or its attorney, in conformity with
15 the statute relative to the service of summons by publication in civil
16 actions, such service may be made by publication in a newspaper of
17 general circulation in the county in which such proceeding is pending,
18 and also publication of said summons in a newspaper of general
19 circulation in each county in which any portion of the water is
20 situated, once a week for six consecutive weeks (six publications). In
21 cases where personal service can be had, such summons shall be served
22 at least twenty days before the return day thereof. The summons by
23 publication shall state that statements of claim must be filed within
24 twenty days after the last publication or before the return date,
25 whichever is later.

26 Personal service of summons may be made by ~~((department—of~~
27 ~~ecology))~~ water administrator employees for actions pertaining to water
28 rights.

29 **Sec. 49.** RCW 90.03.247 and 1994 c 264 s 82 are each amended to
30 read as follows:

31 Whenever an application for a permit to make beneficial use of
32 public waters is approved relating to a stream or other water body for
33 which minimum flows or levels have been adopted and are in effect at
34 the time of approval, the permit shall be conditioned to protect the
35 levels or flows. ~~((No agency may establish minimum flows and levels or~~
36 ~~similar water flow or level restrictions for any stream or lake of the~~
37 ~~state other than the department of ecology whose authority to establish~~
38 ~~is exclusive, as provided in chapter 90.03 RCW and RCW 90.22.010 and~~

1 90.54.040. The provisions of other statutes, including but not limited
2 to RCW 75.20.100 and chapter 43.21C RCW, may not be interpreted in a
3 manner that is inconsistent with this section. In establishing such
4 minimum flows, levels, or similar restrictions, the department shall,
5 during all stages of development by the department of ecology of
6 minimum flow proposals, consult with, and carefully consider the
7 recommendations of, the department of fish and wildlife, the state
8 energy office, the department of agriculture, and representatives of
9 the affected Indian tribes. Nothing herein shall preclude the
10 department of fish and wildlife, the energy office, or the department
11 of agriculture from presenting its views on minimum flow needs at any
12 public hearing or to any person or agency, and the department of fish
13 and wildlife, the energy office, and the department of agriculture are
14 each empowered to participate in proceedings of the federal energy
15 regulatory commission and other agencies to present its views on
16 minimum flow needs.))

17 **Sec. 50.** RCW 90.03.345 and 1979 ex.s. c 216 s 7 are each amended
18 to read as follows:

19 Subject to sections 8 and 14 of this act, the establishment of
20 reservations of water for agriculture, hydroelectric energy, municipal,
21 industrial, and other beneficial uses under RCW 90.54.050(1) or minimum
22 flows or levels under RCW 90.22.010 or 90.54.040 shall constitute
23 appropriations within the meaning of this chapter with priority dates
24 as of the effective dates of their establishment. Whenever an
25 application for a permit to make beneficial use of public waters
26 embodied in a reservation, established after September 1, 1979, is
27 filed with the ((department of ecology)) water administrator after the
28 effective date of such reservation, the priority date for a permit
29 issued pursuant to an approval by the ((department of ecology)) water
30 administrator of the application shall be the effective date of the
31 reservation.

32 **Sec. 51.** RCW 90.03.360 and 1994 c 264 s 85 are each amended to
33 read as follows:

34 (1) The owner or owners of any water diversion shall maintain, to
35 the satisfaction of the ((department of ecology)) water administrator,
36 substantial controlling works and a measuring device constructed and
37 maintained to permit accurate measurement and practical regulation of

1 the flow of water diverted. Every owner or manager of a reservoir for
2 the storage of water shall construct and maintain, when required by the
3 ((department)) water administrator, any measuring device necessary to
4 ascertain the natural flow into and out of said reservoir.

5 Metering of diversions or measurement by other approved methods
6 shall be required as a condition for all new surface water right
7 permits, and except as provided in subsection (2) of this section, may
8 be required as a condition for all previously existing surface water
9 rights. The ((department)) water administrator may also require, as a
10 condition for all water rights, metering of diversions, and reports
11 regarding such metered diversions as to the amount of water being
12 diverted. Such reports shall be in a form prescribed by the
13 ((department)) water administrator.

14 (2) Where water diversions are from waters in which the salmonid
15 stock status is depressed or critical, as determined by the
16 ((department)) water administrator of fish and wildlife, or where the
17 volume of water being diverted exceeds one cubic foot per second, the
18 ((department)) water administrator shall require metering or
19 measurement by other approved methods as a condition for all new and
20 previously existing water rights or claims. The ((department)) water
21 administrator shall attempt to integrate the requirements of this
22 subsection into its existing compliance workload priorities, but shall
23 prioritize the requirements of this subsection ahead of the existing
24 compliance workload where a delay may cause the decline of wild
25 salmonids. The ((department)) water administrator shall notify the
26 department of fish and wildlife of the status of fish screens
27 associated with these diversions.

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

31 **Sec. 52.** RCW 90.03.383 and 1991 c 350 s 1 are each amended to read
32 as follows:

33 (1) The legislature recognizes the value of interties for improving
34 the reliability of public water systems, enhancing their management,
35 and more efficiently utilizing the increasingly limited resource.
36 Given the continued growth in the most populous areas of the state, the
37 increased complexity of public water supply management, and the trend
38 toward regional planning and regional solutions to resource issues,

1 interconnections of public water systems through interties provide a
2 valuable tool to ensure reliable public water supplies for the citizens
3 of the state. Public water systems have been encouraged in the past to
4 utilize interties to achieve public health and resource management
5 objectives. The legislature finds that it is in the public interest to
6 recognize interties existing and in use as of January 1, 1991, and to
7 have associated water rights modified by the ((department of ecology))
8 water administrator to reflect current use of water through those
9 interties, pursuant to subsection (3) of this section. The legislature
10 further finds it in the public interest to develop a coordinated
11 process to review proposals for interties commencing use after January
12 1, 1991.

13 (2) For the purposes of this section, the following definitions
14 shall apply:

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

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

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

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

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

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

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

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

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

1 ((~~department of ecology~~)) water administrator exceed one hundred eighty
2 days.

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

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

29 **Sec. 53.** RCW 90.03.386 and 1991 c 350 s 2 are each amended to read
30 as follows:

31 Within service areas established pursuant to chapters 43.20 and
32 70.116 RCW, the ((~~department of ecology~~)) water administrator and the
33 department of health shall coordinate approval procedures to ensure
34 compliance and consistency with the approved water system plan.

35 **Sec. 54.** RCW 90.03.390 and 1991 c 350 s 3 are each amended to read
36 as follows:

1 RCW 90.03.380 shall not be construed to prevent water users from
2 making a seasonal or temporary change of point of diversion or place of
3 use of water when such change can be made without detriment to existing
4 rights, but in no case shall such change be made without the permission
5 of the water master of the district in which such proposed change is
6 located, or of the (~~department~~) water administrator. Nor shall RCW
7 90.03.380 be construed to prevent construction of emergency interties
8 between public water systems to permit exchange of water during short-
9 term emergency situations, or rotation in the use of water for bringing
10 about a more economical use of the available supply, provided however,
11 that the department of health in consultation with the (~~department of~~
12 ~~ecology~~) water administrator shall adopt rules or develop written
13 guidelines setting forth standards for determining when a short-term
14 emergency exists and the circumstances in which emergency interties are
15 permitted. The rules or guidelines shall be consistent with the
16 procedures established in RCW 43.83B.400 through 43.83B.420. Water
17 users owning lands to which water rights are attached may rotate in the
18 use of water to which they are collectively entitled, or an individual
19 water user having lands to which are attached water rights of a
20 different priority, may in like manner rotate in use when such rotation
21 can be made without detriment to other existing water rights, and has
22 the approval of the water master or (~~department~~) water administrator.

23 **Sec. 55.** RCW 90.03.471 and 1987 c 109 s 99 are each amended to
24 read as follows:

25 All fees, collections and revenues derived under RCW 90.03.470 or
26 by virtue of RCW 90.03.180, shall be used exclusively for the purpose
27 of carrying out the work and performing the functions of the (~~division~~
28 ~~of water resources of the department~~) water administrator.

29 **Sec. 56.** RCW 90.03.600 and 1987 c 109 s 157 are each amended to
30 read as follows:

31 The power is granted to the (~~department of ecology~~) water
32 administrator to levy civil penalties of up to one hundred dollars per
33 day for violation of any of the provisions of this chapter and chapters
34 43.83B, 90.22, and 90.44 RCW, and rules, permits, and similar documents
35 and regulatory orders of the (~~department of ecology~~) water
36 administrator adopted or issued pursuant to such chapters. The

1 procedures of RCW 90.48.144 shall be applicable to all phases of the
2 levying of a penalty as well as review and appeal of the same.

3 **Sec. 57.** RCW 90.08.040 and 1977 c 22 s 1 are each amended to read
4 as follows:

5 Where water rights of a stream have been adjudicated a stream
6 patrolman shall be appointed by the (~~director of the department of~~
7 ~~ecology~~) water administrator upon application of water users having
8 adjudicated water rights in each particular water resource making a
9 reasonable showing of the necessity therefor, which application shall
10 have been approved by the district water master if one has been
11 appointed, at such time, for such stream, and for such periods of
12 service as local conditions may indicate to be necessary to provide the
13 most practical supervision and to secure to water users and owners the
14 best protection in their rights.

15 The stream patrolman shall have the same powers as a water master
16 appointed under RCW 90.03.060, but his or her district shall be
17 confined to the regulation of waters of a designated stream or streams.
18 Such patrolman shall be under the supervision of the (~~director~~) water
19 administrator or his or her designated representative. He or she shall
20 also enforce such special rules and regulations as the (~~director~~)
21 water administrator may prescribe from time to time.

22 **Sec. 58.** RCW 90.14.041 and 1988 c 127 s 73 are each amended to
23 read as follows:

24 All persons using or claiming the right to withdraw or divert and
25 make beneficial use of public surface or ground waters of the state,
26 except as hereinafter provided in this section, shall file with the
27 department of ecology not later than June 30, 1974, a statement of
28 claim for each water right asserted on a form provided by the
29 department. This section shall not apply to any water rights which are
30 based on the authority of a permit or certificate issued by the
31 department of ecology or one of its predecessors. The authority under
32 this section is transferred to the water administrator.

33 **Sec. 59.** RCW 90.14.043 and 1985 c 435 s 1 are each amended to read
34 as follows:

35 (1) Notwithstanding any time restrictions imposed by the provisions
36 of chapter 90.14 RCW, a person may file a claim pursuant to RCW

1 90.14.041 if such person obtains a certification from the pollution
2 control hearings board or superior court if a person so elects as
3 provided in this section.

4 (2) A certification shall be issued by the pollution control
5 hearings board court, if a person so elects, if, upon petition to the
6 board or court, it is shown to the satisfaction of the board or court
7 that:

8 (a) Waters of the state have been applied to beneficial use
9 continuously (with no period of nonuse exceeding five consecutive
10 years) in the case of surface water beginning not later than June 7,
11 1917, and in the case of ground water beginning not later than June 7,
12 1945, or

13 (b) Waters of the state have been applied to beneficial use
14 continuously (with no period of nonuse exceeding five consecutive
15 years) from the date of entry of a court decree confirming a water
16 right and any failure to register a claim resulted from a reasonable
17 misinterpretation of the requirements as they related to such court
18 decreed rights.

19 (3) The board or court shall have jurisdiction to accept petitions
20 for certification from any person through September 1, 1985, and not
21 thereafter.

22 (4) A petition for certification shall include complete information
23 on the claim pursuant to RCW 90.14.051 (1) through (8), and any such
24 information as the board or court may require.

25 (5) The (~~department of ecology~~) water administrator is directed
26 to accept for filing any claim certified by the board or court as
27 provided in subsection (2) of this section. The (~~department of~~
28 ~~ecology~~) water administrator, upon request of the board or court, may
29 provide assistance to the board or court pertinent to any certification
30 petition.

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

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

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

1 **Sec. 60.** RCW 90.14.061 and 1988 c 127 s 74 are each amended to
2 read as follows:

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

25 **Sec. 61.** RCW 90.14.065 and 1987 c 93 s 1 are each amended to read
26 as follows:

27 Any person or entity, or successor to such person or entity, having
28 a statement of claim on file with the water rights claims registry on
29 April 20, 1987, may submit to the (~~department of ecology~~) water
30 administrator for filing, an amendment to such a statement of claim if
31 the submitted amendment is based on:

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

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

1 (3) The amendment is ministerial in nature.

2 The ((department)) water administrator shall accept any such
3 submission and file the same in the registry unless the ((department))
4 water administrator by written determination concludes that the
5 requirements of subsection (1), (2), or (3) of this section have not
6 been satisfied. Any person aggrieved by a determination of the
7 ((department)) water administrator may obtain a review thereof by
8 filing a petition for review with the pollution control hearings board
9 or superior court, if a person so elects, within thirty days of the
10 date of the determination by the ((department)) water administrator.
11 The provisions of RCW 90.14.081 shall apply to any amendment filed
12 under this section.

13 **Sec. 62.** RCW 90.14.091 and 1988 c 127 s 75 are each amended to
14 read as follows:

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

17 (1) "Statement of taxes due" means the statement required under RCW
18 84.56.050.

19 (2) "Notice in writing" means a notice substantially in the
20 following form:

21 WATER RIGHTS NOTICE

22 Every person, including but not limited to an individual,
23 partnership, association, public or private corporation, city or other
24 municipality, county, state agency and the state of Washington, and the
25 United States of America, when claiming water rights established under
26 the laws of the state of Washington, are hereby notified that all water
27 rights or claimed water rights relating to the withdrawal or diversion
28 of public surface or ground waters of the state, except those water
29 rights based upon authority of a permit or certificate issued by the
30 department of ecology or one of its predecessors, must be registered
31 with the department of ecology, Olympia, Washington not later than June
32 30, 1974. FAILURE TO REGISTER AS REQUIRED BY LAW WILL RESULT IN A
33 WAIVER AND RELINQUISHMENT OF SAID WATER RIGHT OR CLAIMED WATER RIGHT.
34 For further information contact the Department of Ecology, Olympia,
35 Washington, for a copy of the act and an explanation thereof.

36 The water administrator shall administer this section after the
37 effective date of this section.

1 **Sec. 63.** RCW 90.14.101 and 1988 c 127 s 76 are each amended to
2 read as follows:

3 To insure that all persons referred to in RCW 90.14.031 and
4 90.14.041 are notified of the registration provisions of this chapter,
5 the department of ecology is directed to give notice of the
6 registration provisions of this chapter as follows:

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

12 (2) It shall cause a notice substantially the same as a notice in
13 writing to be broadcast by each commercial television station operating
14 in the United States and viewed in the state, and by at least one
15 commercial radio station operating from each county of the state having
16 such a station regularly at six month intervals for five consecutive
17 years.

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

20 (4) The county treasurer of each county shall enclose with each
21 mailing of one or more statements of taxes due issued in 1972 a copy of
22 a notice in writing and a declaration that it shall be the duty of the
23 recipient of the statement of taxes due to forward the notice to the
24 beneficial owner of the property. A sufficient number of copies of the
25 notice and declaration shall be supplied to each county treasurer by
26 the director of ecology before the fifteenth day of January, 1972. In
27 the implementation of this subsection the department of ecology shall
28 provide reimbursement to the county treasurer for the reasonable
29 additional costs, if any there may be, incurred by said treasurer
30 arising from the inclusion of a notice in writing as required herein.

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

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

1 The water administrator shall administer this section after the
2 effective date of this section.

3 **Sec. 64.** RCW 90.14.111 and 1988 c 127 s 77 are each amended to
4 read as follows:

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

10 The water administrator shall administer this section after the
11 effective date of this section.

12 **Sec. 65.** RCW 90.14.130 and 1987 c 109 s 13 are each amended to
13 read as follows:

14 When it appears to the ((~~department of ecology~~)) water
15 administrator that a person entitled to the use of water has not
16 beneficially used his or her water right or some portion thereof, and
17 it appears that said right has or may have reverted to the state
18 because of such nonuse, as provided by RCW 90.14.160, 90.14.170, or
19 90.14.180, the ((~~department of ecology~~)) water administrator shall
20 notify such person by order: PROVIDED, That where a company,
21 association, district, or the United States has filed a blanket claim
22 under the provisions of RCW 90.14.060 for the total benefits of those
23 served by it, the notice shall be served on such company, association,
24 district or the United States and not upon any of its individual water
25 users who may not have used the water or some portion thereof which
26 they were entitled to use. The order shall contain: (1) A description
27 of the water right, including the approximate location of the point of
28 diversion, the general description of the lands or places where such
29 waters were used, the water source, the amount involved, the purpose of
30 use, and the apparent authority upon which the right is based; (2) a
31 statement that unless sufficient cause be shown on appeal the water
32 right will be declared relinquished; and (3) a statement that such
33 order may be appealed to the pollution control hearings board or
34 superior court if a person so elects. Any person aggrieved by such an
35 order may appeal it to the pollution control hearings board or superior
36 court, if a person so elects, pursuant to RCW 43.21B.310. The order
37 shall be served by registered or certified mail to the last known

1 address of the person and be posted at the point of division or
2 withdrawal. The order by itself shall not alter the recipient's right
3 to use water, if any.

4 **Sec. 66.** RCW 90.14.150 and 1987 c 109 s 100 are each amended to
5 read as follows:

6 Nothing in this chapter shall be construed to affect any rights or
7 privileges arising from any permit to withdraw public waters or any
8 application for such permit, but the (~~department of ecology~~) water
9 administrator shall grant extensions of time to the holder of a
10 preliminary permit only as provided by RCW 90.03.290.

11 **Sec. 67.** RCW 90.14.180 and 1987 c 109 s 101 are each amended to
12 read as follows:

13 Any person hereafter entitled to divert or withdraw waters of the
14 state through an appropriation authorized under RCW 90.03.330,
15 90.44.080, or 90.44.090 who abandons the same, or who voluntarily
16 fails, without sufficient cause, to beneficially use all or any part of
17 said right to withdraw for any period of five successive years shall
18 relinquish such right or portion thereof, and such right or portion
19 thereof shall revert to the state, and the waters affected by said
20 right shall become available for appropriation in accordance with RCW
21 90.03.250. All certificates hereafter issued by the (~~department of~~
22 ~~ecology~~) water administrator pursuant to RCW 90.03.330 shall expressly
23 incorporate this section by reference.

24 **Sec. 68.** RCW 90.14.190 and 1987 c 109 s 14 are each amended to
25 read as follows:

26 Any person feeling aggrieved by any decision of the (~~department of~~
27 ~~ecology~~) water administrator may have the same reviewed pursuant to
28 RCW 43.21B.310. In any such review, the findings of fact as set forth
29 in the report of the (~~department of ecology~~) water administrator
30 shall be prima facie evidence of the fact of any waiver or
31 relinquishment of a water right or portion thereof. If the hearings
32 board affirms the decision of the (~~department~~) water administrator,
33 a party seeks review in superior court of that hearings board decision
34 pursuant to chapter 34.05 RCW, and the court determines that the party
35 was injured by an arbitrary, capricious, or erroneous order of the

1 ((department)) water administrator, the court may award reasonable
2 attorneys' fees.

3 **Sec. 69.** RCW 90.14.200 and 1989 c 175 s 180 are each amended to
4 read as follows:

5 (1) All matters relating to the implementation and enforcement of
6 this chapter by the ((department of ecology)) water administrator shall
7 be carried out in accordance with chapter 34.05 RCW, the Administrative
8 Procedure Act, except where the provisions of this chapter expressly
9 conflict with chapter 34.05 RCW. Proceedings held pursuant to RCW
10 90.14.130 are adjudicative proceedings within the meaning of chapter
11 34.05 RCW. Final decisions of the ((department of ecology)) water
12 administrator in these proceedings are subject to review in accordance
13 with chapter 43.21B RCW.

14 (2) RCW 90.14.130 provides nonexclusive procedures for determining
15 a relinquishment of water rights under RCW 90.14.160, 90.14.170, and
16 90.14.180. RCW 90.14.160, 90.14.170, and 90.14.180 may be applied in,
17 among other proceedings, general adjudication proceedings initiated
18 under RCW 90.03.110 or 90.44.220: PROVIDED, That nothing herein shall
19 apply to litigation involving determinations of the ((department of
20 ecology)) water administrator under RCW 90.03.290 relating to the
21 impairment of existing rights.

22 **Sec. 70.** RCW 90.14.230 and 1987 c 109 s 102 are each amended to
23 read as follows:

24 The ((department of ecology)) water administrator, through the
25 water resources and water quality commission, is authorized to
26 promulgate such rules ((and regulations)) as are necessary to carry out
27 the provisions of this chapter.

28 **Sec. 71.** RCW 90.16.060 and 1988 c 127 s 78 are each amended to
29 read as follows:

30 The license fee herein required shall be paid in advance to the
31 state ((department of ecology)) water administrator and shall be
32 accompanied by written statement, showing the extent of the claim.
33 Said statement shall set forth the name and address of the claimant,
34 the name of the stream from which the water is appropriated or claimed
35 for power development, a description of the forty acres or smallest
36 legal subdivision in which the point of diversion and point of return

1 are located, the date of the right as claimed, the maximum amount of
2 water claimed, expressed in cubic feet per second of time, the total
3 average fall utilized under such claim, the manner of developing power
4 and the use to which the power is applied. If the regular flow is
5 supplemented by water stored in a reservoir, the location of such
6 reservoir, its capacity in acre feet, and the stream from which it is
7 filled and fed, should be given, also the date of the right as claimed
8 for storage purposes.

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

22 The filing of a claim to water in excess of the amount to which the
23 claimant is legally entitled shall not operate to vest in such claimant
24 any right to the use of such excess water, nor shall the payment of the
25 annual license fees, provided for herein, operate to vest in any
26 claimant any right to the use of such water beyond the amount to which
27 claimant is legally entitled. The filing of such claim, or claims to
28 water shall be conclusive evidence of abandonment by the claimant of
29 all right to water for power purposes not covered by the claim, or
30 claims, as filed; and the failure to file statement and pay the fees,
31 as herein required, for any power site or claim of power rights on
32 account of riparian ownership within two years after June 12, 1929,
33 shall be conclusive evidence of abandonment. The amount of the
34 theoretical horsepower upon which fees shall be paid shall be computed
35 by multiplying the maximum amount of water claimed, expressed in cubic
36 feet per second of time, by the average fall utilized, expressed in
37 feet, and dividing the product by 8.8.

1 **Sec. 72.** RCW 90.16.090 and 1988 c 127 s 79 are each amended to
2 read as follows:

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

17 **Sec. 73.** RCW 90.22.010 and 1994 c 264 s 86 are each amended to
18 read as follows:

19 The (~~department of ecology~~) water administrator may establish
20 minimum water flows or levels for streams, lakes or other public waters
21 for the purposes of protecting fish, game, birds or other wildlife
22 resources, or recreational or aesthetic values of said public waters
23 whenever it appears to be in the public interest to establish the same.
24 In addition, the (~~department of ecology~~) water administrator shall,
25 when requested by the department of fish and wildlife to protect fish,
26 game or other wildlife resources under the jurisdiction of the
27 requesting state agency, or if the (~~department of ecology~~) water
28 administrator finds it necessary to preserve water quality, establish
29 such minimum flows or levels as are required to protect the resource or
30 preserve the water quality described in the request or determination.
31 Any request submitted by the department of fish and wildlife shall
32 include a statement setting forth the need for establishing a minimum
33 flow or level. When the (~~department~~) water administrator acts to
34 preserve water quality, it shall include a similar statement with the
35 proposed rule filed with the code reviser. This section shall not
36 apply to waters artificially stored in reservoirs, provided that in the
37 granting of storage permits by the (~~department of ecology~~) water
38 administrator in the future, full recognition shall be given to

1 downstream minimum flows, if any there may be, which have theretofore
2 been established hereunder.

3 The current guidelines, standards, or criteria governing the
4 instream flow programs established pursuant to this chapter shall not
5 be altered or amended after March 15, 1988, in accordance with RCW
6 90.54.022(5).

7 **Sec. 74.** RCW 90.22.020 and 1994 c 264 s 87 are each amended to
8 read as follows:

9 Flows or levels authorized for establishment under RCW 90.22.010,
10 or subsequent modification thereof by the ((department)) water
11 administrator shall be provided for through the adoption of rules.
12 Before the establishment or modification of a water flow or level for
13 any stream or lake or other public water, the ((department)) water
14 administrator shall hold a public hearing in the county in which the
15 stream, lake, or other public water is located. If it is located in
16 more than one county the ((department)) water administrator shall
17 determine the location or locations therein and the number of hearings
18 to be conducted. Notice of the hearings shall be given by publication
19 in a newspaper of general circulation in the county or counties in
20 which the stream, lake, or other public waters is located, once a week
21 for two consecutive weeks before the hearing. The notice shall include
22 the following:

23 (1) The name of each stream, lake, or other water source under
24 consideration;

25 (2) The place and time of the hearing;

26 (3) A statement that any person, including any private citizen or
27 public official, may present his or her views either orally or in
28 writing.

29 Notice of the hearing shall also be served upon the administrators
30 of the departments of social and health services, natural resources,
31 fish and wildlife, and transportation.

32 **Sec. 75.** RCW 90.22.030 and 1988 c 127 s 81 are each amended to
33 read as follows:

34 The establishment of levels and flows pursuant to RCW 90.22.010
35 shall in no way affect existing water and storage rights and the use
36 thereof, including but not limited to rights relating to the operation
37 of any hydroelectric or water storage reservoir or related facility.

1 No right to divert or store public waters shall be granted by the
2 (~~department of ecology~~) water administrator which shall conflict with
3 regulations adopted pursuant to RCW 90.22.010 and 90.22.020
4 establishing flows or levels. All regulations establishing flows or
5 levels shall be filed in a "Minimum Water Level and Flow Register" of
6 the (~~department of ecology~~) water administrator.

7 **Sec. 76.** RCW 90.22.040 and 1987 c 109 s 104 are each amended to
8 read as follows:

9 It shall be the policy of the state, and the (~~department of~~
10 ~~ecology~~) water administrator shall be so guided in the implementation
11 of RCW 90.22.010 and 90.22.020, to retain sufficient minimum flows or
12 levels in streams, lakes or other public waters to provide adequate
13 waters in such water sources to satisfy stockwatering requirements for
14 stock on riparian grazing lands which drink directly therefrom where
15 such retention shall not result in an unconscionable waste of public
16 waters. The policy hereof shall not apply to stockwatering relating to
17 feed lots and other activities which are not related to normal
18 stockgrazing land uses.

19 **Sec. 77.** RCW 90.24.010 and 1985 c 398 s 28 are each amended to
20 read as follows:

21 Ten or more owners of real property abutting on a meandered lake
22 may petition the superior court of the county in which the lake is
23 situated, for an order to provide for the regulation of the outflow of
24 the lake in order to maintain a certain water level therein. The
25 court, after hearing, is authorized to make an order fixing the water
26 level thereof and directing the (~~department of ecology~~) water
27 administrator to regulate the outflow therefrom in accordance with the
28 purposes described in the petition. This section shall not apply to
29 any meandered lake or reservoir used for the storage of water for
30 irrigation or other beneficial purposes, or to lakes navigable from the
31 sea.

32 **Sec. 78.** RCW 90.24.030 and 1994 c 264 s 88 are each amended to
33 read as follows:

34 The petition shall be entitled "In the matter of fixing the level
35 of Lake in county, Washington", and shall be
36 filed with the clerk of the court and a copy thereof, together with a

1 copy of the order fixing the time for hearing the petition, shall be
2 served on each owner of property abutting on the lake, not less than
3 ten days before the hearing. Like copies shall also be served upon the
4 director of fish and wildlife and the ((~~director of ecology~~)) water
5 administrator. The copy of the petition and of the order fixing time
6 for hearing shall be served in the manner provided by law for the
7 service of summons in civil actions, or in such other manner as may be
8 prescribed by order of the court. For the benefit of every riparian
9 owner abutting on a stream or river flowing from such lake, a copy of
10 the notice of hearing shall be published at least once a week for two
11 consecutive weeks before the time set for hearing in a newspaper in
12 each county or counties wherein located, said notice to contain a brief
13 statement of the reasons and necessity for such application.

14 **Sec. 79.** RCW 90.24.040 and 1985 c 398 s 29 are each amended to
15 read as follows:

16 At the hearing evidence shall be introduced in support of the
17 petition and all interested parties may be heard for or against it.
18 The court shall make findings and conclusions and enter an order
19 granting or refusing the petition, and if the petition is granted,
20 shall fix the water level to be maintained and direct the ((~~department~~
21 ~~of ecology~~)) water administrator to regulate and control the outflow of
22 the lake so as to properly maintain the water level so far as
23 practicable within maximum and minimum limits when the proper control
24 devices are installed: PROVIDED, That the court shall have continuing
25 jurisdiction after a petition is once granted and shall, upon
26 subsequent petition filed and heard in accordance with the preceding
27 sections, make such further findings and conclusions and enter such
28 further orders as are necessary to accomplish fully the objectives
29 sought in the initial petition: AND PROVIDED FURTHER, That shall the
30 court find any such riparian owners abutting on a stream or river
31 flowing from such lake be adversely affected in any way by the granting
32 of such a petition, such petition shall be refused.

33 **Sec. 80.** RCW 90.24.050 and 1988 c 127 s 82 are each amended to
34 read as follows:

35 In the event the court shall find that to protect fish and game
36 fish in said lake that fish ladders or other devices should be
37 constructed therein or that other construction shall be necessary in

1 order to maintain the determined lake level, the court shall find the
2 proper device to be constructed, the probable cost thereof and by its
3 order and judgment shall apportion the cost thereof among the persons
4 whose property abuts on said lake in proportion to the lineal feet of
5 waterfront owned by each, which sum so found shall constitute a lien
6 against said real property and shall be paid to the county treasurer
7 and by him or her placed in a special fund to be known as "Lake
8 Improvement Fund." The ~~((director of ecology))~~ water
9 administrator shall appoint a suitable person to be compensated by the
10 property owners to regulate the determined level as decreed by the
11 court.

12 **Sec. 81.** RCW 90.24.060 and 1994 c 264 s 89 are each amended to
13 read as follows:

14 Such improvement or device in said lake for the protection of the
15 fish and game fish therein shall be installed by and under the
16 direction of the board of county commissioners of said county with the
17 approval of the respective director~~((s))~~ of the department of fish and
18 wildlife and the ~~((department of ecology))~~ water administrator of the
19 state of Washington and paid for out of the special fund provided for
20 in RCW 90.24.050.

21 **Sec. 82.** RCW 90.38.010 and 1989 c 429 s 2 are each amended to read
22 as follows:

23 Unless the context clearly requires otherwise, the definitions in
24 this section apply throughout this chapter.

25 (1) ~~(("Department"))~~ "Commission" means the ~~((department of~~
26 ecology)) water resources and water quality commission.

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

32 (3) "Trust water right" means that portion of an existing water
33 right, constituting net water savings, that is no longer required to be
34 diverted for beneficial use due to the installation of a water
35 conservation project that improves an existing system. The term "trust
36 water right" also applies to any other water right acquired by the

1 ((department)) water administrator under this chapter for management in
2 the Yakima river basin trust water rights program.

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

8 **Sec. 83.** RCW 90.40.090 and 1988 c 127 s 83 are each amended to
9 read as follows:

10 An application filed by the ((department of ecology)) water
11 administrator or its assignee, the United States Bureau of Reclamation,
12 for a permit to appropriate waters of the Columbia River under chapter
13 90.03 RCW, for the development of the Grand Coulee project shall be
14 perfected in the same manner and to the same extent as though such
15 appropriation had been made by a private person, corporation or
16 association, but no fees, as provided for in RCW 90.03.470, shall be
17 required.

18 **Sec. 84.** RCW 90.42.020 and 1991 c 347 s 6 are each amended to read
19 as follows:

20 Unless the context clearly requires otherwise, the definitions in
21 this section apply throughout this chapter.

22 (1) (("Department")) "Commission" means the ((department of
23 ecology)) water resources and water quality commission.

24 (2) "Net water savings" means the amount of water that is
25 determined to be conserved and usable within a specified stream reach
26 or reaches for other purposes without impairment or detriment to water
27 rights existing at the time that a water conservation project is
28 undertaken, reducing the ability to deliver water, or reducing the
29 supply of water that otherwise would have been available to other
30 existing water uses.

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

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

36 (5) "Water conservation project" means any project or program that
37 achieves physical or operational improvements that provide for

1 increased water use efficiency in existing systems of diversion,
2 conveyance, application, or use of water under water rights existing on
3 July 28, 1991.

4 **Sec. 85.** RCW 90.44.035 and 1987 c 109 s 107 are each amended to
5 read as follows:

6 For purposes of this chapter:

7 (1) (~~("Department")~~) "Commission" means the (~~(department of~~
8 ~~ecology)~~) water resources and water quality commission;

9 (2) (~~("Director" means the director of ecology;~~

10 ~~(3))~~) "Ground waters" means all waters that exist beneath the land
11 surface or beneath the bed of any stream, lake or reservoir, or other
12 body of surface water within the boundaries of this state, whatever may
13 be the geological formation or structure in which such water stands or
14 flows, percolates or otherwise moves. There is a recognized
15 distinction between natural ground water and artificially stored ground
16 water;

17 (~~(4))~~) (3) "Natural ground water" means water that exists in
18 underground storage owing wholly to natural processes; and

19 (~~(5))~~) (4) "Artificially stored ground water" means water that is
20 made available in underground storage artificially, either
21 intentionally, or incidentally to irrigation and that otherwise would
22 have been dissipated by natural waste.

23 **Sec. 86.** RCW 90.44.130 and 1987 c 109 s 116 are each amended to
24 read as follows:

25 As between appropriators of public ground water, the prior
26 appropriator shall as against subsequent appropriators from the same
27 ground water body be entitled to the preferred use of such ground water
28 to the extent of his or her appropriation and beneficial use, and shall
29 enjoy the right to have any withdrawals by a subsequent appropriator of
30 ground water limited to an amount that will maintain and provide a safe
31 sustaining yield in the amount of the prior appropriation. The
32 (~~(department)~~) water administrator shall have jurisdiction over the
33 withdrawals of ground water and shall administer the ground water
34 rights under the principle just set forth, and it shall have the
35 jurisdiction to limit withdrawals by appropriators of ground water so
36 as to enforce the maintenance of a safe sustaining yield from the
37 ground water body. For this purpose, the (~~(department)~~) water

1 administrator shall have authority and it shall be its duty from time
2 to time, as adequate factual data become available, to designate ground
3 water areas or sub-areas, to designate separate depth zones within any
4 such area or sub-area, or to modify the boundaries of such existing
5 area, or sub-area, or zones to the end that the withdrawals therefrom
6 may be administratively controlled as prescribed in RCW 90.44.180 in
7 order that overdraft of public ground waters may be prevented so far as
8 is feasible. Each such area or zone shall, as nearly as known facts
9 permit, be so designated as to enclose a single and distinct body of
10 public ground water. Each such sub-area may be so designated as to
11 enclose all or any part of a distinct body of public ground water, as
12 the ((department)) water administrator deems will most effectively
13 accomplish the purposes of this chapter.

14 Designation of, or modification of the boundaries of such a ground
15 water area, sub-area, or zone may be proposed by the ((department))
16 water administrator on its own motion or by petition to the
17 ((department)) water administrator signed by at least fifty or one-
18 fourth, whichever is the lesser number, of the users of ground water in
19 a proposed ground water area, sub-area, or zone. Before any proposed
20 ground water area, sub-area, or zone shall be designated, or before the
21 boundaries or any existing ground water area, sub-area, or zone shall
22 be modified the ((department)) water administrator shall publish a
23 notice setting forth: (1) In terms of the appropriate legal
24 subdivisions a description of all lands enclosed within the proposed
25 area, sub-area, or zone, or within the area, sub-area, or zone whose
26 boundaries are proposed to be modified; (2) the object of the proposed
27 designation or modification of boundaries; and (3) the day and hour,
28 and the place where written objections may be submitted and heard.
29 Such notice shall be published in three consecutive weekly issues of a
30 newspaper of general circulation in the county or counties containing
31 all or the greater portion of the lands involved, and the newspaper of
32 publication shall be selected by the ((department)) water
33 administrator. Publication as just prescribed shall be construed as
34 sufficient notice to the landowners and water users concerned.

35 Objections having been heard as herein provided, the ((department))
36 water administrator shall make and file in its office written findings
37 of fact with respect to the proposed designation or modification and,
38 if the findings are in the affirmative, shall also enter a written
39 order designating the ground water area, or sub-area, or zone or

1 modifying the boundaries of the existing area, sub-area, or zone. Such
2 findings and order shall also be published substantially in the manner
3 herein prescribed for notice of hearing, and when so published shall be
4 final and conclusive unless an appeal therefrom is taken within the
5 period and in the manner prescribed by RCW 43.21B.310. Publication of
6 such findings and order shall give force and effect to the remaining
7 provisions of this section and to the provisions of RCW 90.44.180, with
8 respect to the particular area, sub-area, or zone.

9 Priorities of right to withdraw public ground water shall be
10 established separately for each ground water area, sub-area, or zone
11 and, as between such rights, the first in time shall be the superior in
12 right. The priority of the right acquired under a certificate of
13 ground water right shall be the date of filing of the original
14 application for a withdrawal with the ((department)) water
15 administrator, or the date or approximate date of the earliest
16 beneficial use of water as set forth in a certificate of a vested
17 ground water right, under the provisions of RCW 90.44.090.

18 Within ninety days after the designation of a ground water area,
19 sub-area or zone as herein provided, any person, firm or corporation
20 then claiming to be the owner of artificially stored ground water
21 within such area, sub-area, or zone shall file a certified declaration
22 to that effect with the ((department)) water administrator on a form
23 prescribed by the ((department)) water administrator. Such declaration
24 shall cover: (1) The location and description of the works by whose
25 operation such artificial ground water storage is purported to have
26 been created, and the name or names of the owner or owners thereof; (2)
27 a description of the lands purported to be underlain by such
28 artificially stored ground water, and the name or names of the owner or
29 owners thereof; (3) the amount of such water claimed; (4) the date or
30 approximate date of the earliest artificial storage; (5) evidence
31 competent to show that the water claimed is in fact water that would
32 have been dissipated naturally except for artificial improvements by
33 the claimant; and (6) such additional factual information as reasonably
34 may be required by the ((department)) water administrator. If any of
35 the purported artificially stored ground water has been or then is
36 being withdrawn, the claimant also shall file (1) the declarations
37 which this chapter requires of claimants to a vested right to withdraw
38 public ground waters, and (2) evidence competent to show that none of
39 the water withdrawn under those declarations is in fact public ground

1 water from the area, sub-area, or zone concerned: PROVIDED, HOWEVER,
2 That in case of failure to file a declaration within the ninety-day
3 period herein provided, the claimant may apply to the ((department))
4 water administrator for a reasonable extension of time, which shall not
5 exceed two additional years and which shall be granted only upon a
6 showing of good cause for such failure.

7 Following publication of the declaration and findings--as in the
8 case of an original application, permit, or certificate of right to
9 appropriate public ground waters--the ((department)) water
10 administrator shall accept or reject such declaration or declarations
11 with respect to ownership or withdrawal of artificially stored ground
12 water. Acceptance of such declaration or declarations by the
13 ((department)) water administrator shall convey to the declarant no
14 right to withdraw public ground waters from the particular area, sub-
15 area, or zone, nor to impair existing or subsequent rights to such
16 public waters.

17 Any person, firm or corporation hereafter claiming to be the owner
18 of ground water within a designated ground water area, sub-area, or
19 zone by virtue of its artificial storage subsequent to such designation
20 shall, within three years following the earliest artificial storage
21 file a declaration of claim with the ((department)) water
22 administrator, as herein prescribed for claims based on artificial
23 storage prior to such designation: PROVIDED, HOWEVER, That in case of
24 such failure the claimant may apply to the ((department)) water
25 administrator for a reasonable extension of time, which shall not
26 exceed two additional years and which shall be granted upon a showing
27 of good cause for such failure.

28 Any person, firm or corporation hereafter withdrawing ground water
29 claimed to be owned by virtue of artificial storage subsequent to
30 designation of the relevant ground water area, sub-area, or zone shall,
31 within ninety days following the earliest such withdrawal, file with
32 the ((department)) water administrator the declarations required by
33 this chapter with respect to withdrawals of public ground water.

34 **Sec. 87.** RCW 90.44.400 and 1985 c 453 s 1 are each amended to read
35 as follows:

36 (1) This legislation is enacted for the purpose of identifying
37 ground water management procedures that are consistent with both local
38 needs and state water resource policies and management objectives;

1 including the protection of water quality, assurance of quantity, and
2 efficient management of water resources to meet future needs.

3 In recognition of existing water rights and the need to manage
4 ground water aquifers for future use, the (~~department of ecology~~)
5 water administrator, through the water resources and water quality
6 commission, shall, by rule, establish standards, criteria, and a
7 process for the designation of specific ground water areas or sub-
8 areas, or separate depth zones within such area or sub-area, and
9 provide for either the (~~department of ecology~~) water administrator,
10 local governments, or ground water users of the area to initiate
11 development of a ground water management program for each area or sub-
12 area, consistent with state and local government objectives, policies,
13 and authorities. The (~~department~~) water administrator, through the
14 water resources and water quality commission, shall develop and adopt
15 these rules by January 1, 1986.

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

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

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

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

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

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

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

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

6 **Sec. 88.** RCW 90.44.410 and 1985 c 453 s 2 are each amended to read
7 as follows:

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

16 (2) The ground water area or sub-area management programs shall
17 include:

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

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

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

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

28 (e) Identification of water resource management policies and/or
29 practices that may impact the recharge of the designated area or
30 policies that may affect the safe yield and quantity of water available
31 for future appropriation;

32 (f) Identification of land use and other activities that may impact
33 the quality and efficient use of the ground water, including domestic,
34 industrial, solid, and other waste disposal, underground storage
35 facilities, or storm water management practices;

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

1 (h) Identification of water quality objectives for the aquifer
2 system which recognize existing and future uses of the aquifer and that
3 are in accordance with ((department of ecology)) water administrator
4 and department of social and health services drinking and surface water
5 quality standards;

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

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

13 (k) A description of conditions and potential conflicts and
14 identification of a program to resolve conflicts with existing water
15 rights;

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

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

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

23 **Sec. 89.** RCW 90.44.410 and 1988 c 186 s 1 are each amended to read
24 as follows:

25 (1) The ground water area or sub-area management programs shall
26 include:

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

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

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

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

37 (e) Identification of water resource management policies and/or
38 practices that may impact the recharge of the designated area or

1 policies that may affect the safe yield and quantity of water available
2 for future appropriation;

3 (f) Identification of land use and other activities that may impact
4 the quality and efficient use of the ground water, including domestic,
5 industrial, solid, and other waste disposal, underground storage
6 facilities, or storm water management practices;

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

9 (h) Identification of water quality objectives for the aquifer
10 system which recognize existing and future uses of the aquifer and that
11 are in accordance with (~~department of ecology~~) water administrator
12 and department of social and health services drinking and surface water
13 quality standards;

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

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

21 (k) A description of conditions and potential conflicts and
22 identification of a program to resolve conflicts with existing water
23 rights;

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

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

28 (2) The ground water area or sub-area management programs shall be
29 submitted for review in accordance with the state environmental policy
30 act.

31 **Sec. 90.** RCW 90.44.420 and 1985 c 453 s 3 are each amended to read
32 as follows:

33 The (~~department of ecology~~) water administrator shall consider
34 the ground water area or sub-area management plan for adoption in
35 accordance with this chapter and chapter 90.54 RCW.

36 Upon completion of the ground water area or sub-area management
37 program, the (~~department of ecology~~) water administrator shall hold
38 a public hearing within the designated ground water management area for

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

10 **Sec. 91.** RCW 90.44.430 and 1985 c 453 s 4 are each amended to read
11 as follows:

12 The ((~~department of ecology~~)) water administrator, the department
13 of social and health services, and affected local governments shall be
14 guided by the adopted program when reviewing and considering approval
15 of all studies, plans, and facilities that may utilize or impact the
16 implementation of the program.

17 **Sec. 92.** RCW 90.44.450 and 1989 c 348 s 7 are each amended to read
18 as follows:

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

26 **Sec. 93.** RCW 90.46.005 and 1992 c 204 s 1 are each amended to read
27 as follows:

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

33 To facilitate the opportunity to use reclaimed water as soon as is
34 practicable, the legislature encourages the cooperative efforts of the
35 public and private sectors and the use of pilot projects to effectuate
36 the goals of this chapter. The legislature further directs the

1 department of health and the (~~department of ecology~~) water
2 administrator to coordinate efforts towards developing an efficient and
3 streamlined process for creating and implementing processes for the use
4 of reclaimed water.

5 **Sec. 94.** RCW 90.46.020 and 1992 c 204 s 3 are each amended to read
6 as follows:

7 (1) The (~~department of ecology~~) water administrator shall, in
8 coordination with the department of health, develop interim standards
9 for pilot projects under subsection (3) of this section on or before
10 July 1, 1992, for the use of reclaimed water in land applications.

11 (2) The department of health shall, in coordination with the
12 (~~department of ecology~~) water administrator, develop interim
13 standards for pilot projects under subsection (3) of this section on or
14 before November 15, 1992, for the use of reclaimed water in commercial
15 and industrial activities.

16 (3) The (~~department of ecology~~) water administrator and the
17 department of health shall assist interested parties in the development
18 of pilot projects to aid in achieving the purposes of this chapter.

19 **Sec. 95.** RCW 90.46.030 and 1992 c 204 s 4 are each amended to read
20 as follows:

21 (1) The department of health shall, in coordination with the
22 (~~department of ecology~~) water administrator, adopt a single set of
23 standards, procedures, and guidelines on or before August 1, 1993, for
24 the industrial and commercial use of reclaimed water.

25 (2) The department of health may issue a reclaimed water permit for
26 industrial and commercial uses of reclaimed water 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 purposes of use.

30 (3) The department of health in consultation with the advisory
31 committee established in RCW 90.46.050, shall develop recommendations
32 for a fee structure for permits issued under subsection (2) of this
33 section. Fees shall be established in amounts to fully recover, and
34 not exceed, expenses incurred by the department of health in processing
35 permit applications and modifications, monitoring and evaluating
36 compliance with permits, and conducting inspections and supporting the
37 reasonable overhead expenses that are directly related to these

1 activities. Permit fees may not be used for research or enforcement
2 activities. The department of health shall not issue permits under
3 this section until a fee structure has been established.

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

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

14 **Sec. 96.** RCW 90.46.040 and 1992 c 204 s 5 are each amended to read
15 as follows:

16 (1) The ~~((department of ecology))~~ water administrator shall, in
17 coordination with the department of health, adopt a single set of
18 standards, procedures, and guidelines, on or before August 1, 1993, for
19 land applications of reclaimed water.

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

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

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

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

5 **Sec. 97.** RCW 90.54.010 and 1990 c 295 s 1 are each amended to read
6 as follows:

7 (1) The legislature finds that:

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

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

33 (c) Diverse hydrologic, climatic, cultural, and socioeconomic
34 conditions exist throughout the regions of the state. Water resource
35 issues vary significantly across regions. Comprehensive water resource
36 planning is best accomplished through a regional planning process
37 sensitive to the unique characteristics and issues of each region.

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

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

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

26 **Sec. 98.** RCW 90.54.020 and 1989 c 348 s 1 are each amended to read
27 as follows:

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

30 (1) Uses of water for domestic, stock watering, industrial,
31 commercial, agricultural, irrigation, hydroelectric power production,
32 mining, fish and wildlife maintenance and enhancement, recreational,
33 and thermal power production purposes, and preservation of
34 environmental and aesthetic values, and all other uses compatible with
35 the enjoyment of the public waters of the state, are declared to be
36 beneficial.

37 (2) Allocation of waters among potential uses and users shall be
38 based generally on the securing of the maximum net benefits for the

1 people of the state. Maximum net benefits shall constitute total
2 benefits less costs including opportunities lost.

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

5 (a) Perennial rivers and streams of the state shall be retained
6 with base flows necessary to provide for preservation of wildlife,
7 fish, scenic, aesthetic and other environmental values, and
8 navigational values. Lakes and ponds shall be retained substantially
9 in their natural condition. Withdrawals of water which would conflict
10 therewith shall be authorized only in those situations where it is
11 clear that overriding considerations of the public interest will be
12 served.

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

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

29 (ii) The municipality demonstrates that no violation of receiving
30 water quality standards or appreciable environmental degradation will
31 result.

32 (4) Development of multipurpose storage facilities shall be a high
33 priority for programs of water allocation, planning, management, and
34 efficiency. Federal, state, and local governments, individuals,
35 corporations, regional planning groups formed pursuant to sections 14
36 through 18 of this act, and other entities shall evaluate the potential
37 for development of new storage projects and the benefits of storage
38 that can reduce the damage to stream banks and property, increase the
39 utilization of land, provide water for municipal, industrial,

1 agricultural, and other beneficial uses, provide for the generation of
2 electric power from renewable resources, and improve stream flow
3 regimes for fishery and other instream uses.

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

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

11 ((+6)) (7) Federal, state, and local governments, individuals,
12 corporations, groups and other entities shall be encouraged to carry
13 out practices of conservation as they relate to the use of the waters
14 of the state. In addition to traditional development approaches,
15 improved water use efficiency and conservation shall be emphasized in
16 the management of the state's water resources and in some cases will be
17 a potential new source of water with which to meet future needs
18 throughout the state.

19 ((+7)) (8) Development of water supply systems, whether publicly
20 or privately owned, which provide water to the public generally in
21 regional areas within the state shall be encouraged. Development of
22 water supply systems for multiple domestic use which will not serve the
23 public generally shall be discouraged where water supplies are
24 available from water systems serving the public.

25 ((+8)) (9) Full recognition shall be given in the administration
26 of water allocation and use programs to the natural interrelationships
27 of surface and ground waters.

28 ((+9)) (10) Expressions of the public interest will be sought at
29 all stages of water planning and allocation discussions.

30 ((+10)) (11) Water management programs, including but not limited
31 to, water quality, flood control, drainage, erosion control and storm
32 runoff are deemed to be in the public interest.

33 **Sec. 99.** RCW 90.54.100 and 1971 ex.s. c 225 s 11 are each amended
34 to read as follows:

35 The ((department of ecology)) water resources and water quality
36 commission shall as a matter of high priority evaluate the needs for
37 water resource development projects and the alternative methods of
38 financing of the same by public and private agencies, including

1 financing by federal, state and local governments and combinations
2 thereof. Such evaluations shall be broadly based and be included as a
3 part of the comprehensive state water resources program relating to
4 uses and management as defined in RCW 90.54.030. A report of the
5 ((department)) commission relating to such evaluations, including any
6 recommendations, shall be submitted to the legislature in accordance
7 with RCW 90.54.070.

8 **Sec. 100.** RCW 90.54.110 and 1971 ex.s. c 225 s 12 are each amended
9 to read as follows:

10 The ((department of ecology)) water resources and water quality
11 commission is authorized to obtain the benefits including acceptance of
12 grants, of any program of the federal government or any other source to
13 carry out the provisions of this chapter and is empowered to take such
14 actions as are necessary and appropriate to secure such benefits.

15 **Sec. 101.** RCW 90.54.120 and 1971 ex.s. c 225 s 13 are each amended
16 to read as follows:

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

19 (1) "((Department)) Commission" means ((department of ecology))
20 water resources and water quality commission.

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

30 **Sec. 102.** RCW 90.54.130 and 1984 c 253 s 4 are each amended to
31 read as follows:

32 The ((department of ecology)) water resources and water quality
33 commission may recommend land use management policy modifications it
34 finds appropriate for the further protection of ground and surface
35 water resources in this state. Such advisory recommendations may be

1 made to other state regulatory agencies, local governments, water
2 systems, and other appropriate bodies.

3 **Sec. 103.** RCW 90.54.140 and 1984 c 253 s 5 are each amended to
4 read as follows:

5 The legislature hereby declares that the protection of ground water
6 aquifers which are the sole drinking water source for a given
7 jurisdiction shall be of the uppermost priority of the state
8 (~~department of ecology~~) water resources and water quality commission,
9 department of social and health services, and all local government
10 agencies with jurisdiction over such areas. In administration of
11 programs related to the disposal of wastes and other practices which
12 may impact such water quality, the (~~department of ecology~~) water
13 resources and water quality commission, department of social and health
14 services, and such affected local agencies shall explore all possible
15 measures for the protection of the aquifer, including any appropriate
16 incentives, penalties, or other measures designed to bring about
17 practices which provide for the least impact on the quality of the
18 ground water.

19 **Sec. 104.** RCW 90.54.150 and 1979 ex.s. c 216 s 9 are each amended
20 to read as follows:

21 When feasible, the (~~department of ecology~~) water resources and
22 water quality commission shall cooperate with the United States and
23 other public entities, including Indian tribes, in the planning,
24 development, and operation of comprehensive water supply projects
25 designed primarily to resolve controversies and conflicts over water
26 use by increasing water quantity and improving water quality within a
27 stream or river system, or other bodies of water, as well as to enhance
28 opportunities for both instream and diversionary water uses within the
29 system, and, in relation thereto, the (~~department~~) water resources
30 and water quality commission may:

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

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

1 (3) Provide financial assistance through grants and loans for
2 projects when moneys are made available to the ((department)) water
3 resources and water quality commission for this assistance by other
4 provisions of this code.

5 **Sec. 105.** RCW 90.54.180 and 1989 c 348 s 5 are each amended to
6 read as follows:

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

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

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

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

28 (4) Entities receiving state financial assistance for construction
29 of water source expansion or acquisition of new sources shall develop,
30 and implement if cost-effective, a water use efficiency and
31 conservation element of a water supply plan pursuant to RCW
32 43.20.230(1).

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

1 (6) Existing and future generations of citizens of the state of
2 Washington should be made aware of the importance of the state's water
3 resources and the need for wise and efficient use and development of
4 this vital resource. In order to increase this awareness, state
5 agencies should integrate public education on increasing water use
6 efficiency into existing public information efforts. This effort shall
7 be coordinated with other levels of government, including local
8 governments and Indian tribes.

9 **Sec. 106.** RCW 90.66.040 and 1979 c 3 s 4 are each amended to read
10 as follows:

11 For the purposes of this chapter, the following definitions shall
12 be applicable:

13 (1) "Family farm" means a geographic area including not more than
14 two thousand acres of irrigated agricultural lands, whether contiguous
15 or noncontiguous, the controlling interest in which is held by a person
16 having a controlling interest in no more than two thousand acres of
17 irrigated agricultural lands in the state of Washington which are
18 irrigated under rights acquired after December 8, 1977.

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

24 (3) "Controlling interest" means a property interest that can be
25 transferred to another person, the percentage interest so transferred
26 being sufficient to effect a change in control of the landlord's rights
27 and benefits. Ownership of property held in trust shall not be deemed
28 a controlling interest where no part of the trust has been established
29 through expenditure or assignment of assets of the beneficiary of the
30 trust and where the rights of the family farm permit which is a part of
31 the trust cannot be transferred to another by the beneficiary of the
32 trust under terms of the trust. Each trust of a separate donor origin
33 shall be treated as a separate entity and the administration of
34 property under trust shall not represent a controlling interest on the
35 part of the trust officer.

36 (4) (~~("Department")~~) "Commission" means the (~~(department of~~
37 ~~ecology)~~) water resources and water quality commission of the state of
38 Washington.

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

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

6 **Sec. 107.** RCW 90.66.080 and 1979 c 3 s 8 are each amended to read
7 as follows:

8 The ((department)) commission is hereby empowered to promulgate
9 such rules as may be necessary to carry out the provisions of this
10 chapter. Decisions of the ((department)) commission, other than rule
11 making, shall be subject to review in accordance with chapter 43.21B
12 RCW or in superior court if a person so elects.

13 **PART III**
14 **CODIFICATION**

15 NEW SECTION. **Sec. 108.** Sections 1 through 9 and 14 through 24 of
16 this act are each added to chapter 43.27A RCW.

17 NEW SECTION. **Sec. 109.** RCW 43.21A.067 as amended by this act
18 shall be recodified as a section in chapter 43.27A RCW.

19 NEW SECTION. **Sec. 110.** RCW 90.14.043 is decodified.

20 **PART IV**
21 **REPEALERS**

22 NEW SECTION. **Sec. 111.** RCW 43.21A.064 and 1977 c 75 s 46 & 1965
23 c 8 s 43.21.130 are each repealed.

24 **PART V**
25 **PART HEADINGS**

26 NEW SECTION. **Sec. 112.** Part headings as used in this act
27 constitute no part of the law.

28 **PART VI**
29 **EFFECTIVE DATE**

1 NEW SECTION. **Sec. 113.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and shall take
4 effect July 1, 1995.

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