

2 **SHB 2514 - H AMD 985 ADOPTED**

3 By Representative

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 90.82.005 and 1997 c 442 s 101 are each amended to
8 read as follows:

9 The purpose of this chapter is to develop a ~~((more))~~ thorough and
10 cooperative method ~~((of))~~ that provides local citizens the maximum
11 possible input for: Determining what the current water resource
12 situation is in each water resource inventory area of the state and
13 ~~((to provide local citizens with the maximum possible input concerning~~
14 ~~their))~~ establishing goals and objectives for water resource management
15 and development; reviewing water quality problems and recommending
16 strategies for achieving compliance with water quality standards; and
17 coordinating with any plans for the protection and enhancement of fish
18 habitat.

19 It is necessary for the legislature to establish processes and
20 policies that will result in providing state agencies with more
21 specific guidance to manage the water resources of the state consistent
22 with current law and direction provided by local entities and citizens
23 through the process established in accordance with this chapter.

24 It is the intent of this chapter to provide locally based groups
25 with the opportunity to: Assess local water supplies and needs and
26 develop strategies to provide adequate water for economic prosperity
27 and environmental protection while protecting existing water rights;
28 ensure that adequate water supplies are available for population and
29 economic growth under the requirements of the state's growth management
30 act, chapter 36.70A RCW; review water quality problems and develop a
31 strategy for achieving compliance with water quality standards; and
32 coordinate plans for protection and enhancement of fish habitat.

33 Chapter . . . , Laws of 1998 (this act) is enacted to: Improve the
34 ability of local governments and citizens to be involved in the design
35 and implementation of solutions to water quantity, water quality, and
36 habitat needs for fish species and provide an opportunity for people in

1 all watersheds to be involved in watershed planning if they so desire;
2 provide a flexible mechanism for conducting locally initiated watershed
3 planning on either a single watershed basis or, if more appropriate, on
4 a multiple watershed basis; and allow local people to determine the
5 scope of the watershed planning process while encouraging them to
6 consider comprehensive watershed planning that includes addressing
7 water quantity, water quality, and habitat for fish species in concert
8 with one another.

9 Thus it is the intent of the legislature for integrated watershed
10 management to help produce: Adequate water quantity for the future,
11 adequate water quality to protect and promote beneficial uses, and
12 sufficient protection and enhancement of habitat so that fish resources
13 thrive to be used and enjoyed by citizens of the state.

14 It is also the intent of the legislature to encourage collaboration
15 and cooperation between the wide range of interests, and local, state,
16 federal, and tribal governments to develop solutions to watershed
17 problems. The state of Washington wishes to recognize and maintain
18 formal government-to-government relationships, and it also endeavors to
19 work cooperatively with all governmental entities and representatives
20 of citizen groups to foster effective and practical solutions that have
21 broad-based support. It is the intent of the legislature that all of
22 the citizens of the state of Washington work cooperatively to ensure
23 that the management of the state's economic destiny and environmental
24 heritage remains in the hands of Washington's citizens as much as
25 possible.

26 Nothing in this chapter may be construed as affecting or impairing
27 existing water or property rights.

28 **Sec. 2.** RCW 90.82.010 and 1997 c 442 s 102 are each amended to
29 read as follows:

30 The legislature finds that the state's vital interests are served
31 by the wise management of the state's water resources, by protecting
32 existing water rights and dependent economies, by protecting and
33 enhancing instream flows and habitat for fish, and by providing for the
34 public health and economic well-being of the state's citizenry and
35 communities. The legislature finds that many regions of the state are
36 facing challenges relating to water quantity, water quality, and
37 habitat for fish species. There are a number of bodies of water in the
38 state that do not meet federal and state water quality standards. In

1 several areas of the state, there has been a significant decrease in
2 the number of fish returning to state waters and there is a growing
3 sense of urgency to protect and enhance existing fishery resources.
4 The pressures of a growing population and expanding economy have led
5 some local communities to seek additional water supplies for present
6 and future needs and to seek certainty that the supplies will be
7 available for those needs.

8 The legislature finds that the local development of watershed plans
9 for managing water resources ((and)), for protecting existing water
10 rights and dependent economies, and for protecting and enhancing
11 habitat for fish is vital to both state and local interests. The local
12 development of these plans serves vital local interests by placing it
13 in the hands of people: Who have the greatest knowledge of both the
14 resources and the aspirations of those who live and work in the
15 watershed; and who have the greatest stake in the proper, long-term
16 management of the resources. The development of such plans serves the
17 state's vital interests by ensuring that the state's water resources
18 are used wisely, by protecting existing water rights and dependent
19 economies, by protecting instream flows for fish, by protecting or
20 enhancing fish habitat, and by providing for the economic well-being of
21 the state's citizenry and communities. Therefore, the legislature
22 believes it necessary for units of local government throughout the
23 state to engage in the orderly development of these watershed plans.

24 The legislature finds that water resource and fish habitat
25 challenges vary from region to region. The legislature also finds
26 that, in many cases, addressing one water resource or fishery habitat
27 issue can cause concerns and have effects in other areas; as a result,
28 integrated watershed management may be needed to address the variety of
29 these challenges simultaneously.

30 The legislature further recognizes that considerable effort for
31 addressing many of the challenges is represented by the work, planning,
32 projects, and activities that have already been completed by local
33 interests regarding watershed management or have been initiated and are
34 in various stages of completion. The legislature finds that, if new,
35 integrated watershed management is to be initiated, it must begin with
36 a thorough review of these completed or ongoing efforts and should
37 incorporate their products as appropriate so as not to duplicate the
38 work already performed or underway.

1 Although these challenges may require approaches that are
2 integrated and comprehensive, the legislature finds that considerable
3 authority currently exists to address these issues but that such
4 authority is spread across an array of federal, state, tribal, and
5 local governments. Integration and coordination of such authorities in
6 ways that have support of state, local, and tribal interests will be
7 needed to develop and implement multi-interest and comprehensive
8 solutions. The legislature further finds that new state and federal
9 regulatory regimes are by and large not necessary to develop good
10 watershed management and that local authorities in particular provide
11 a broad array of implementation tools to support good watershed
12 management. However, the legislature finds that the key to meeting
13 existing regulatory objectives is the involvement and support of local
14 citizens and local governments working cooperatively with state,
15 federal, and tribal governments. The legislature recognizes that it is
16 unable to provide all the funding necessary for integrated watershed
17 management to be developed throughout the entire state at once, and
18 that as a result, watershed management will be phased in across the
19 state over time, and that the state has an ongoing responsibility to
20 provide funding for the watershed management described in this chapter.

21 **Sec. 3.** RCW 90.82.020 and 1997 c 442 s 103 are each amended to
22 read as follows:

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

25 (1) "City" means an incorporated city, code city, or town.

26 (2) "Department" means the department of ecology.

27 ~~((+2))~~ (3) "Implementing rules" for ~~((a WRIA plan))~~ integrated
28 watershed management developed by a planning unit are the rules needed
29 to give force and effect to the parts of the ~~((plan))~~ integrated
30 watershed management that create rights or obligations for ~~((any party~~
31 including)) a state agency ~~((or that establish water management~~
32 policy)).

33 ~~((+3))~~ (4) "Indian tribe" means any Indian tribe, band, or nation
34 that: (a) is recognized as eligible, by the secretary of the interior,
35 for the special programs and services provided by the United States to
36 Indians because of their status as Indians; and (b) is recognized as
37 possessing powers of self-government.

1 (5) "Lead agency" means the entity identified under section 9 of
2 this act that makes provision for administrative staff support for and
3 receives grants for a planning unit developing integrated watershed
4 management under this chapter.

5 (6) "Management area" means the WRIA or the multiple WRIA area for
6 which integrated watershed management is developed by a planning unit
7 under this chapter.

8 (7) "Minimum instream flows" means ((a minimum)) flows that meet
9 the requirements of minimum flows under chapter 90.03 or 90.22 RCW ((or
10 a)) and base flows under chapter 90.54 RCW as adopted by rule.

11 ((+4)) (8) "Planning unit" means a planning unit established under
12 section 10 of this act.

13 (9) "WRIA" means a water resource inventory area established in
14 chapter 173-500 WAC as it existed on January 1, 1997.

15 ((+5)) (10) "Water supply utility" means a ((water, combined))
16 water-sewer district, irrigation district, reclamation district, or
17 public utility district that provides water to persons or other water
18 users within the district or a division or unit responsible for
19 administering a publicly governed water supply system on behalf of a
20 county.

21 ((+6) "WRIA plan" or "plan") (11) "Integrated watershed management"
22 means the product of the planning unit ((including)) and includes the
23 plan of the planning unit approved under section 11 of this act, any
24 rules adopted in conjunction with the ((product)) plan of the planning
25 unit, and strategies of the planning unit for implementing its plan.

26 NEW SECTION. Sec. 4. ELEMENTS OF MANAGEMENT--PRIORITY PROJECTS.

27 (1) Counties, cities, and water supply utilities may, at their option,
28 provide for the development of integrated watershed management for
29 watersheds under this chapter. If initiated, such management shall be
30 developed for water quantity components of water resource management
31 under section 5 of this act, water quality components of water resource
32 management under section 7 of this act, and the coordination of
33 protection or enhancement of fish habitat under section 8 of this act.
34 If integrated watershed management is initiated under this chapter,
35 minimum instream flows shall be established for streams in the
36 management area as provided in section 6 of this act. It is
37 anticipated that a planning unit will not await the development of
38 proposals for minimum instream flows under section 6 of this act to

1 begin developing other components of its integrated watershed
2 management for a management area; rather, work on these developments
3 will be undertaken concurrently.

4 (2) Under this chapter, integrated watershed management may be
5 developed by a planning unit for one or more WRIAs, but may not be
6 developed by a planning unit for less than one WRIA except for those
7 watersheds planned as pilot projects in the Methow and
8 Dungeness/Quilcene areas before the effective date of this section.
9 This chapter may not be construed to prevent or delay any planning,
10 projects, or activities that are commenced under other laws or that are
11 authorized.

12 (3) Integrated watershed management developed and approved under
13 this chapter shall not contain provisions that (a) are in conflict with
14 state statutes, federal laws, or tribal treaty rights, existing on the
15 effective date of this section; (b) impair or diminish in any manner an
16 existing water right evidenced by a claim filed in the water rights
17 claims registry or a water right certificate or permit; (c) require a
18 modification in the basic operations of a federal reclamation project
19 with a water right the priority date of which is before the effective
20 date of this section or alter in any manner whatsoever the quantity of
21 water available under the water right for the reclamation project,
22 whether the project has or has not been completed before the effective
23 date of this section; (d) affect or interfere with an ongoing general
24 adjudication of water rights; (e) modify or require the modification of
25 any waste discharge permit issued under chapter 90.48 RCW; or (f)
26 modify or require the modification of activities or actions taken to
27 protect or enhance fish habitat if the activities or actions are: (i)
28 Part of a habitat conservation plan and permit, an incidental take
29 permit or statement, a management or recovery plan, or other
30 cooperative or conservation agreement entered into with a federal or
31 state fish and wildlife protection agency under its statutory authority
32 for fish and wildlife protection that addresses the affected habitat;
33 or (ii) part of an agreement regulating forest practices, which is
34 adopted by rule by the forest practices board under the forest
35 practices act, chapter 76.09 RCW, for the affected habitat. This
36 subsection (3)(f) applies as long as the activities or actions continue
37 to be taken in accordance with the plan, agreement, permit, statement,
38 or rules. Any assessment conducted under section 5, 7, or 8 of this
39 act shall take into consideration such activities and actions.

1 (4) Integrated watershed management developed and approved under
2 this chapter shall not change existing local ordinances or existing
3 state rules, but it may contain recommendations for changing such
4 ordinances or rules.

5 (5) Once a planning unit has begun developing integrated watershed
6 management under this chapter, the unit shall, as a matter of high
7 priority:

8 (a) Review the historical geographic characteristics of the
9 management area, and also review the planning, projects, and activities
10 that have already been completed regarding natural resource management
11 or enhancement in the management area and the products or status of
12 those that have been initiated but not completed for such management in
13 the management area, and incorporate their products as appropriate so
14 as not to duplicate the work already performed or underway; and

15 (b) Identify projects and activities in the management area that
16 the unit believes will likely serve short-term or long-term management
17 goals and that warrant immediate financial assistance from state,
18 federal, or local government. The planning unit shall prioritize these
19 projects and activities in a manner that reflects the degree to which
20 they serve the unit's goals and the costs and the benefits of
21 undertaking them. The unit shall submit its prioritized list to the
22 local governments with jurisdiction and, through the lead state
23 representative on the planning unit designated under section 10(5)(j)
24 of this act, to the legislature and the appropriate state agencies.

25 (6) Integrated watershed management planning conducted under
26 sections 5, 7, and 8 of this act shall identify within the management
27 area the actions and activities that are necessary to: Implement the
28 provisions of the integrated watershed management, monitor the
29 effectiveness of the implementation, and provide any needed
30 modifications. It shall also identify the entities responsible for
31 conducting these actions and activities. It shall also identify any
32 entity responsible for the coordinated oversight of these
33 responsibilities.

34 NEW SECTION. **Sec. 5.** WATER QUANTITY. Integrated watershed
35 management established for water quantity in the management area shall
36 include an assessment of water supply and use in the management area,
37 including:

1 (1) An estimate of the surface and ground water present in the
2 management area;

3 (2) An estimate of the surface and ground water available in the
4 management area, taking into account seasonal and other variations;

5 (3) An estimate of the water in the management area represented by
6 claims in the water rights claims registry, water use permits,
7 certificated rights, existing minimum instream flow rules, federally
8 reserved rights, and any other rights to water;

9 (4) An estimate of the surface and ground water actually being used
10 in the management area;

11 (5) An estimate of the water needed in the future for use in the
12 management area;

13 (6) An identification of the location areas where aquifers are
14 known to recharge surface bodies of water and areas known to provide
15 for the recharge of aquifers from the surface;

16 (7) An estimate of the surface and ground water available for
17 further appropriation, taking into account the minimum instream flows
18 adopted by rule or to be adopted by rule for streams in the management
19 area; and

20 (8) Strategies for increasing water supplies in the management
21 area, which may include, but are not limited to, increasing water
22 supplies through water conservation, water reuse, the use of reclaimed
23 water, voluntary water transfers, aquifer recharge and recovery,
24 additional water allocations, or water storage enhancements. The
25 objective of these strategies is to supply water in sufficient
26 quantities to satisfy the minimum instream flows and to provide water
27 for future out-of-stream uses for water identified in subsection (5) of
28 this section and to ensure that adequate water supplies are available
29 for population and economic growth under the requirements of the
30 state's growth management act, chapter 36.70A RCW. These strategies
31 shall not be construed to be an allocation of water. If integrated
32 watershed management is established by a planning unit under this
33 section for water quantity components of water resource management in
34 a management area and that management is approved by the counties under
35 section 11 of this act but does not contain the strategies required
36 under this subsection, all components of integrated watershed
37 management established by the planning unit under this chapter are
38 void.

1 NEW SECTION. **Sec. 6.** INSTREAM FLOWS. (1)(a) Except as provided
2 in subsection (5) of this section, minimum instream flows shall be
3 established by rule for the principal stream or streams in the WRIA or
4 multiple WRIA area for which integrated watershed management is
5 developed by a planning unit under this chapter. At the time a
6 planning unit is chosen or created under section 10 of this act or
7 initial appointments are made by cities and counties under section 10
8 of this act, the cities and counties in a management area may decide,
9 as described in section 9(9) of this act, that the planning unit will
10 not participate in identifying such flows in the management area, in
11 which case they shall request the department to adopt rules
12 establishing the minimum instream flows for the principle stream or
13 streams in the management area.

14 (b) In all other management areas after considering in detail the
15 assessment provided in section 5 of this act, identifying the flow
16 regimes that make up the minimum instream flows shall be a
17 collaborative effort between the department and the members of the
18 planning unit developing the integrated watershed management. As these
19 flows are developed, it shall be the duty of the department to attempt
20 to achieve consensus among all of the members of the planning unit
21 regarding the minimum flows to be adopted by rule by the department.
22 Approval is achieved if:

23 (i) The members of the planning unit present for a recorded vote on
24 the proposed minimum instream flows who have been appointed to
25 represent the state through the shared ballot process described in
26 section 10 (6) and (9) of this act, each appointed to represent tribal
27 governments with federal Indian reservations or federally recognized
28 ceded lands located in whole or in part within the management area or
29 fishing rights recognized under federal case law on lands within the
30 management area, each appointed to represent directly counties, each
31 appointed to represent directly cities, each appointed to represent
32 directly conservation districts, and each appointed to represent
33 directly water supply utilities records his or her support for the
34 proposed minimum instream flows as part of the recorded vote or
35 abstains from voting on the proposal; and

36 (ii) A majority of the members of the planning unit, other than
37 those who have been appointed to represent the entities identified in
38 (b)(i) of this subsection, who are present for a recorded vote on

1 proposed minimum instream flows, records support for the proposed
2 minimum instream flows as part of the recorded vote on the proposal.

3 That such a recorded vote will be taken on proposed minimum
4 instream flows shall be announced at the official meeting of the
5 planning unit immediately preceding the official meeting of the unit at
6 which the vote is recorded and a notice regarding voting on proposed
7 minimum instream flows shall be sent to each member appointed to the
8 planning unit as soon as possible following the meeting at which such
9 an announcement is made.

10 (2) If approval of the planning unit is achieved on minimum
11 instream flows proposed for a management area under subsection (1) of
12 this section, the department shall establish those flows by rule as
13 described in RCW 90.82.040(8).

14 (3) If approval is not achieved under subsection (1) of this
15 section within four years of the date the planning unit first receives
16 funding from the department under RCW 90.82.040, the department may
17 promptly initiate rule making under chapter 34.05 RCW to establish
18 minimum instream flows for these streams. If the planning unit did not
19 achieve approval on establishing minimum instream flows, the planning
20 unit may submit the vote on instream flows to the department for its
21 consideration. Minimum flows established under this section shall have
22 a priority date of two years after the planning unit first received
23 funding from the department under RCW 90.82.040.

24 (4) If minimum instream flows have been adopted by rule for a
25 stream in the management area and the cities and counties do not, under
26 section 9 of this act, request the planning unit or the department to
27 modify those flows, minimum instream flows for the stream shall not be
28 modified for the stream under this chapter. If the cities and counties
29 request, under section 9 of this act, that the planning unit modify the
30 minimum instream flows for the stream but approval is not achieved
31 under this section for modifying those flows, minimum instream flows
32 shall not be modified for the stream under this chapter.

33 (5) Nothing in this chapter either: (a) Affects the department's
34 authority to establish flow requirements or other conditions under RCW
35 90.48.260 or the federal clean water act (33 U.S.C. Sec. 1251 et seq.)
36 for the licensing or relicensing of a hydroelectric power project under
37 the federal power act (16 U.S.C. Sec. 791 et seq.); or (b) affects or
38 impairs existing instream flow requirements and other conditions in a

1 current license for a hydroelectric power project licensed under the
2 federal power act.

3 (6) Minimum instream flows shall not be proposed or adopted for the
4 main stem of the Columbia river or the main stem of the Snake river
5 under this chapter.

6 (7) A planning unit may consider identifying how minimum instream
7 flows could be modified in response to the successful implementation of
8 other elements of the integrated watershed management.

9 (8) As used in this section, the "principal stream or streams" are,
10 in a management area for which the department is requested by cities
11 and counties to adopt minimum instream flows under subsection (1)(a) of
12 this section, the streams determined by the department to be the
13 principal stream or streams. In any other management area, the
14 "principal stream or streams" are the main stem of the stream with the
15 largest annual average flow in each WRIA in the management area; and
16 the major tributaries to such a main stem and any other streams in the
17 management area that are determined to be principal streams by the
18 planning unit by a majority vote of the planning unit. "Principal
19 stream or streams" does not include streambeds that are used as
20 laterals for irrigation and are nonfish-bearing.

21 (9) Nothing in this chapter may be construed as affecting or
22 impairing in any manner whatsoever water rights existing before the
23 effective date of this section.

24 NEW SECTION. **Sec. 7.** WATER QUALITY. Integrated watershed
25 management established for water quality in the management area shall
26 include the following components:

27 (1) An examination based on existing studies conducted by federal,
28 state, and local agencies of the degree to which legally established
29 water quality standards are being met in the management area;

30 (2) An examination based on existing studies conducted by federal,
31 state, and local agencies of the causes of water quality violations in
32 the management area, including an examination of information regarding
33 pollutants, point and nonpoint sources of pollution, and pollution-
34 carrying capacities of water bodies in the management area. The
35 analysis shall take into account seasonal stream flow or level
36 variations, natural events, and pollution from natural sources that
37 occurs independent of human activities;

1 (3) An examination of the uses of each of the nonmarine bodies of
2 water in the management area and an identification of the beneficial
3 uses of each for water quality classification purposes;

4 (4) An identification of the class of use for nonmarine bodies of
5 water and for basin-specific water quality standards that may be
6 adopted by rule by the department and recommendations for the water
7 quality standards to be adopted for those bodies of water;

8 (5) A recommended strategy for achieving compliance with water
9 quality standards for the nonmarine bodies of water in the management
10 area; and

11 (6) Recommended means of monitoring by appropriate government
12 agencies whether actions taken to implement the strategy bring about
13 improvements in water quality that are sufficient to achieve compliance
14 with water quality standards.

15 This chapter does not obligate the state to undertake analysis or
16 to develop strategies required under the federal clean water act (33
17 U.S.C. Sec. 1251 et seq.).

18 NEW SECTION. **Sec. 8.** HABITAT. Integrated watershed management
19 shall be coordinated, or as needed, developed to protect or enhance
20 fish habitat in the management area by relying on existing laws and
21 rules adopted under habitat planning processes such as the habitat work
22 plans prepared under chapter . . . , Laws of 1998 (Substitute House Bill
23 No. 2496) and other existing plans created for the purpose of
24 protecting, restoring, or enhancing fish habitat, the shoreline
25 management act, chapter 90.58 RCW, the growth management act, chapter
26 36.70A RCW, and the forest practices act, chapter 76.09 RCW.
27 Management established under this section shall be integrated with
28 strategies developed under other processes to respond to potential and
29 actual listings of salmon and other fish species as being threatened or
30 endangered under the federal endangered species act, 16 U.S.C. Sec.
31 1531 et seq. Integrated watershed management developed for such
32 purposes shall include the following components:

33 (1) An analysis of the potential for protecting or enhancing fish
34 habitat in the management area;

35 (2) An identification of fish habitat protection or enhancement
36 activities and projects and voluntary transactions, including but not
37 limited to those providing for the purchase of fish habitat or fish
38 habitat easements, that would provide the greatest benefit to such

1 habitat in the management area. Where habitat work plans developed
2 under chapter . . . , Laws of 1998 (Substitute House Bill No. 2496) are
3 available or are intended to be developed, the planning shall rely on
4 those plans;

5 (3) Recommended means of ensuring that the activities, projects,
6 and transactions identified under subsection (2) of this section will
7 be undertaken. Where habitat work plans developed under chapter . . . ,
8 Laws of 1998 (Substitute House Bill No. 2496) are available or are
9 intended to be developed, the planning shall rely on those plans; and

10 (4) Recommended means of monitoring the effect of undertaking the
11 activities, projects, and transactions identified under subsection (2)
12 of this section on protecting or enhancing fish habitat in the
13 management area.

14 NEW SECTION. **Sec. 9.** INITIATING INTEGRATED WATERSHED MANAGEMENT.
15 The following is the procedure by which the development of integrated
16 watershed management may be initiated under this chapter.

17 (1) The following entities may decide that integrated watershed
18 management should be considered: (a) The county with the largest area
19 within the boundaries of a single WRIA or multi-WRIA proposed
20 management area; (b) the city, if there is one, within the proposed
21 management area using the largest amount of water from within the
22 proposed management area; (c) the city, if there is one, cumulatively
23 diverting and withdrawing the largest amount of water from within the
24 proposed management area; and (d) the water supply utility, if there is
25 one, that provides the largest quantity of water in the proposed
26 management area. However, the county with the largest area bordering
27 on the main stem of the stream with the largest annual flow, not
28 including the Columbia or Snake rivers, within the boundaries of a
29 WRIA, the city obtaining the largest amount of water from the WRIA, and
30 the largest water supply utility in the WRIA may jointly and
31 unanimously choose to initiate watershed management for the WRIA under
32 this chapter.

33 (2) If entities in subsection (1) of this section decide jointly an
34 unanimously to proceed, they shall invite the Indian tribe, if there is
35 one, with the largest reservation within the proposed management area
36 to participate in integrated watershed management.

1 (3) The entities in subsection (1) of this section, including the
2 tribe if it affirmatively accepts the invitation, constitute the
3 initiating governments for the purposes of this section.

4 (4) On behalf of the initiating governments, the county with the
5 largest area within the boundaries of the proposed management area
6 shall convene a public meeting in the affected area to discuss the
7 appointment of a planning unit for developing integrated watershed
8 management under this chapter. Notices of the meeting shall be sent
9 to:

10 (a) County governments with territory in the proposed management
11 area;

12 (b) The cities of each county located in and cities that receive
13 water from the proposed management area;

14 (c) Tribal governments of federal Indian reservations or federally
15 recognized ceded lands located in whole or in part within the
16 boundaries of the proposed management area;

17 (d) Water supply utilities located in and water supply utilities
18 that receive water from the proposed management area;

19 (e) Conservation districts with territory in the proposed
20 management area;

21 (f) Groups and entities that have been or are currently engaged in
22 public planning processes within the proposed management area that
23 involve water quantity, water quality, or habitat restoration
24 activities. In providing this notice, the county shall make a
25 reasonable attempt to identify and notify groups and entities that
26 within the last five years have been or are currently engaged in such
27 planning; and

28 (g) The department, which shall notify other appropriate state
29 agencies, appropriate Indian tribes, and appropriate federal agencies.

30 The notice shall contain the purpose, time, and location of the
31 meeting. The notice shall also be published at least once a week for
32 two consecutive weeks in a newspaper of general circulation in the
33 proposed management area. The notice that is published in the
34 newspaper shall invite members of the general public to participate.

35 (5) The purpose of the public meeting is to obtain comments
36 regarding initiating the development of integrated watershed management
37 under this chapter, the coordination of that process with ongoing
38 planning processes and activities in the watershed, and the creation of
39 a planning unit to prepare the integrated watershed management.

1 (6) For developing integrated watershed management under this
2 chapter, the county with the largest area within the boundaries of the
3 proposed management area is the lead agency for the development of the
4 integrated watershed management, unless the cities, counties, and
5 Indian tribes described in subsection (8) of this section approve the
6 designation of another governmental agency as the lead agency. Such a
7 governmental agency shall act as the lead agency for this purpose if it
8 agrees in writing to accept the designation.

9 (7) At or following the public meeting, the county that convened
10 the meeting shall call for a vote of the cities, counties, and Indian
11 tribes described in subsection (8) of this section as to whether to
12 proceed with the development of integrated watershed management under
13 this chapter in the proposed management area. If these cities,
14 counties, and Indian tribes approve proceeding with the development of
15 such management, the lead agency shall make application to the
16 department for funding to develop integrated watershed management under
17 this chapter.

18 (8) The cities, counties, and Indian tribes that may make decisions
19 under subsections (6) and (7) of this section may choose the type of
20 planning unit to be used for developing integrated watershed management
21 under this chapter in the proposed management area under section 10 of
22 this act.

23 (9) At the time a planning unit is chosen or created under section
24 10 of this act or initial appointments are made by cities and counties
25 under section 10 of this act, the cities and counties in a management
26 area may: (a) Decide that the planning unit will not participate in
27 identifying such flows in the management area, in which case they shall
28 request the department to adopt rules establishing the minimum instream
29 flows for the principal stream or streams in the management area; or
30 (b) if minimum instream flows have been adopted by rule for a stream in
31 the management area, request either the planning unit or the department
32 to modify those flows. To approve an action for these purposes, the
33 cities must approve the action by majority vote, with each city having
34 one vote, and the counties must approve the action by unanimous vote,
35 with each county having one vote. The vote of each city and each
36 county shall be the vote assigned directly, in person or in writing, by
37 the elected officials of the city and directly, in person or in
38 writing, by the members of the legislative authority of the county.

1 For this purpose, the "elected officials" of a city are the members of
2 the city's legislative authority and, if applicable, its elected mayor.

3 NEW SECTION. **Sec. 10.** PLANNING UNIT--APPOINTMENT--OPTIONS. (1)

4 If the initiating governments approve proceeding with the development
5 of integrated watershed management for a management area as described
6 in section 9(7) of this act, the development of such management will be
7 conducted under this chapter in the single WRIA or multiple WRIA
8 management area by one planning unit. As provided in subsections (2)
9 and (3) of this section, the cities, counties, and tribe may choose an
10 existing planning group as the basis for local representation on the
11 planning unit or they may identify the composition of a new group as
12 the basis for local representation on the planning unit. Such a choice
13 shall be made as described in section 9(9) of this act. If the cities,
14 counties, and tribe do not choose such an existing or new group in this
15 manner, the planning unit to be used for developing the integrated
16 watershed management for the management area is the planning unit
17 specified in subsection (5) of this section.

18 (2) If the cities, counties, and tribe choose an existing planning
19 group as the basis for local representation on a planning unit, the
20 planning group shall have been in existence for at least one year
21 before being so chosen. To be considered, the representation of
22 governmental entities and interest groups on such a planning group must
23 be generally similar to the representation identified in subsections
24 (5)(a) through (g) and (12) of this section, or the planning group
25 shall have a statutorily specified membership. If the cities,
26 counties, and tribe find that the existing group has the required
27 composition and find that the scope of the group's work is or has been
28 appropriate considering the tasks to be given the planning unit under
29 this chapter, the cities, counties, and tribe may designate the group
30 as the basis for local participation on the planning unit. The
31 existing group chosen in this manner plus the membership specified in
32 subsection (5)(j) of this section and any membership provided under
33 subsection (5)(i) of this section, which provide for representation by
34 state and tribal governments, constitute the planning unit for
35 developing integrated watershed management under this chapter in the
36 management area.

37 (3) The cities, counties, and tribe may choose as the basis for
38 local participation on the planning unit under this chapter a new

1 planning group tailored to the specific geographic area for which
2 integrated watershed management will be developed. The cities,
3 counties, and tribe shall ensure that the members of the planning unit
4 represent diverse interests, and shall include the interests
5 represented by a planning unit that would be appointed under
6 subsections (5)(a) through (g) and (12) of this section. If the
7 cities, counties, and tribe designate a new planning group as the basis
8 for local participation on the planning unit, the new group plus the
9 membership specified in subsection (5)(j) of this section and any
10 membership provided under subsection (5)(i) of this section, which
11 provide for representation by state and tribal governments, constitute
12 the planning unit for developing integrated watershed management under
13 this chapter in the management area.

14 (4) If an existing or new group is designated under subsection (2)
15 or (3) of this section as the basis for local participation on the
16 planning unit, the group and therefore the planning unit it is a part
17 of: Shall have membership positions that directly represent cities in
18 whole or in part in the management area and these positions shall be
19 clearly identified as such; and shall have membership positions that
20 directly represent counties with territory in the WRIAs that make up
21 the management area and these positions shall be clearly identified as
22 such. The cities, counties, and tribe designating a new group as the
23 basis for local participation on the planning unit may identify a
24 subcommittee structure for the planning unit, but the authorities
25 granted to a planning unit by this chapter may only be exercised by the
26 full planning unit. Any of the cities or counties that are entitled to
27 have a membership position on the planning unit may choose not to
28 participate in the planning unit.

29 (5) Unless a planning unit is created as provided in subsection (2)
30 or (3) of this section, the planning unit that develops integrated
31 watershed management in a single WRIA management area under this
32 chapter shall be composed of the following:

33 (a) One member representing each county with territory in the WRIA
34 appointed by the county;

35 (b) One member representing cities for each county with territory
36 in the WRIA appointed by the cities within that county;

37 (c) One member representing water supply utilities for each county
38 with territory within the WRIA, appointed jointly by the three largest
39 water supply utilities in the county;

1 (d) One member representing all conservation districts with
2 territory within the WRIA appointed jointly by those districts;

3 (e) Three members representing major interests in the WRIA
4 appointed jointly by the cities with territory within the WRIA; three
5 members representing major interests in the WRIA appointed jointly by
6 the counties with territory within the WRIA; and three members
7 representing major interests in the WRIA, appointed jointly by the
8 cities and counties with territory within the WRIA;

9 (f) One member representing the general citizenry appointed jointly
10 by the cities with territory within the WRIA;

11 (g) One member representing the general citizenry appointed jointly
12 by the counties with territory in the WRIA;

13 (h) Two members representing the general citizenry appointed
14 jointly by the cities and counties, one of whom shall be a holder of a
15 water right certificate and one of whom shall be a holder of a water
16 right for which a statement of claim was in the state's water rights
17 claims registry before January 1, 1997;

18 (i) If one or more federal Indian reservations, other than the
19 initiating tribe, if there is one, are located in whole or in part
20 within the boundaries of the management area, or if one or more Indian
21 tribes located in this state have federally recognized ceded land
22 within the management area or fishing rights recognized under federal
23 case law on lands within the management area, the planning unit shall
24 promptly extend an invitation to the tribal government of each such
25 reservation to appoint one member representing that tribal government
26 and to the tribal government of each such Indian tribe to appoint one
27 member representing that tribe; and

28 (j) One member representing each of the following state agencies:
29 The department of transportation, the department of fish and wildlife,
30 the department of ecology, and the department of natural resources.

31 (6) The four members representing state agencies under subsection
32 (5)(j) of this section shall have a total of two votes in any voting
33 done by the planning unit. One of these votes shall be shared by the
34 department of natural resources and the department of fish and
35 wildlife; the other vote shall be shared by the department of ecology
36 and the department of transportation. Of these members, the governor
37 shall appoint one lead state representative whose duty it is to ensure
38 that state government ultimately speaks with one voice in developing
39 integrated watershed management under this chapter, to coordinate the

1 state's participation on the planning unit, and to secure and
2 coordinate under section 15 of this act the technical assistance
3 provided by the state to the planning unit.

4 (7) In addition, for a WRIA located within Pierce, King, Snohomish,
5 or Spokane county, one representative of the water purveyor using the
6 largest amount of water from the WRIA shall be a voting member of the
7 planning unit whether the principal offices of the purveyor are or are
8 not located within the WRIA.

9 (8) Unless a planning unit is created as provided in subsection (2)
10 or (3) of this section, the planning unit that develops integrated
11 watershed management in a multi-WRIA management area under this chapter
12 shall be composed of the following:

13 (a) One member representing each county with territory in the
14 multi-WRIA area appointed by that county;

15 (b) One member representing cities for each county with territory
16 in the multi-WRIA area appointed by the cities within that county;

17 (c) One member representing water supply utilities for each county
18 with territory within the multi-WRIA area appointed jointly by the
19 three largest water supply utilities in each county;

20 (d) Up to two members, as that number is determined by the
21 districts, representing all conservation districts with territory
22 within the multi-WRIA area and appointed jointly by those districts;

23 (e) Three members representing major interests in the management
24 area appointed jointly by the cities with territory within the multi-
25 WRIA area; three members representing major interests in the management
26 area appointed jointly by the counties with territory within the multi-
27 WRIA area; and three members representing major interests in the
28 management area appointed jointly by the cities and counties with
29 territory within the multi-WRIA area;

30 (f) One member representing the general citizenry appointed jointly
31 by the cities with territory within the multi-WRIA area;

32 (g) One member representing the general citizenry appointed jointly
33 by the counties with territory in the multi-WRIA area;

34 (h) Two members representing the general citizenry appointed
35 jointly by the cities and the counties, one of whom shall be a holder
36 of a water right certificate and one of whom shall be a holder of a
37 water right for which a statement of claim was in the state's water
38 rights claims registry before January 1, 1997;

1 (i) If one or more federal Indian reservations, other than the
2 initiating tribe if there is one, are located in whole or in part
3 within the boundaries of the management area, or if one or more Indian
4 tribes located in this state have federally recognized ceded land
5 within the management area or fishing rights recognized under federal
6 case law on lands within the management area, the planning unit shall
7 promptly extend an invitation to the tribal government of each such
8 reservation to appoint one member representing that tribal government
9 and to the tribal government of each such Indian tribe to appoint one
10 member representing that tribe; and

11 (j) One member representing each of the following state agencies:
12 The department of transportation, the department of fish and wildlife,
13 the department of ecology, and the department of natural resources.

14 (9) The four members representing state agencies under subsection
15 (8)(j) of this section shall have a total of two votes in any voting
16 done by the planning unit. One of these votes shall be shared by the
17 department of natural resources and the department of fish and
18 wildlife; the other vote shall be shared by the department of ecology
19 and the department of transportation. Of these members, the governor
20 shall appoint one lead state representative whose duty it is to ensure
21 that state government ultimately speaks with one voice in developing
22 integrated watershed management under this chapter, to coordinate the
23 state's participation on the planning unit, and to secure and
24 coordinate under section 15 of this act the technical assistance
25 provided by the state to the planning unit.

26 (10) In addition, for a multi-WRIA planning unit located within
27 Pierce, King, Snohomish, or Spokane county, one representative of the
28 water purveyor using the largest amount of water from the multi-WRIA
29 area shall be a voting member of the planning unit whether the
30 principal offices of the purveyor are or are not located within the
31 multi-WRIA area.

32 (11) Each planning unit may invite representatives of federal
33 agencies with jurisdiction over the subject matter for which integrated
34 watershed management is being developed by the unit and the managers of
35 major federal lands located within the management area to assist the
36 planning unit by participating in the development of integrated
37 watershed management by the unit under this chapter. Such
38 representatives shall not be considered to be voting members of the
39 planning unit.

1 (12) In appointing persons to a planning unit representing major
2 interests in the management area, the cities and counties shall ensure
3 that economic and environmental interests and instream and out-of-
4 stream interests in water, in the management area are represented. In
5 doing so, the cities and counties shall consult with each other
6 regarding the representation each is providing and may consider
7 industrial water users, general businesses, hydroelectric and thermal
8 power producers, and irrigated agriculture, nonirrigated agriculture,
9 forestry, recreation, environmental, and recreational and commercial
10 fisheries interest groups, and other groups with interests in the
11 management area.

12 (13) If a single WRIA or multi-WRIA management area does not
13 contain a city within its boundaries, the county shall make all the
14 appointments that a city would make under this section.

15 NEW SECTION. **Sec. 11.** DECISIONS--HEARINGS--APPROVAL. (1) The
16 planning unit shall attempt to achieve consensus among the members of
17 the planning unit in developing the components of its proposed
18 integrated watershed management under section 5, 7, or 8 of this act.

19 (2) Decisions regarding setting minimum instream flows shall be
20 made as described in section 6 of this act. Whether the minimum
21 instream flows set for streams in the management area are or are not
22 added as an express component of the planning unit's integrated
23 watershed management for the management area may be determined by the
24 planning unit, but adding or not adding the component does not affect
25 the decisions made under section 6 of this act regarding minimum
26 instream flows.

27 (3) As part of its integrated watershed management, the planning
28 unit may choose to develop drafts of state administrative rules and
29 local ordinances that would be needed to give force and effect to the
30 parts of its integrated watershed management that would create rights
31 or obligations for any party. If it so chooses, it may also request
32 the appropriate state agencies, units of tribal government, and units
33 of local government to assist it in drafting the rules and ordinances.
34 If the planning unit requests a state agency to provide such
35 assistance, the state agency shall provide the assistance.

36 (4)(a) Upon completing its proposed integrated watershed management
37 for the management area, the planning unit shall publish notice of and
38 conduct at least one public hearing in each county in the management

1 area on the proposal. The planning unit shall take care to provide
2 notice of the hearing throughout the management area. As a minimum,
3 the notice shall be published in one or more newspapers of general
4 circulation in the management area. After considering the public
5 comments and making any changes in its proposal, the planning unit may
6 approve the proposal by the process provided for in (b) and (c) of this
7 subsection.

8 (b)(i) The department and the tribal government with federal Indian
9 reservation land located within the management area shall provide
10 advice as to any specific subsections or sections of the watershed
11 management that the department or tribe believes to be in conflict with
12 state or federal law, and may provide other recommendations regarding
13 the watershed management. The department or tribe shall transmit its
14 advice and recommendations within forty-five days of receiving it for
15 review. The planning unit shall consider each recommendation provided
16 by the department under this subsection. The planning unit may adopt
17 the recommendation or provide changes to respond to the advice of the
18 department or tribe by achieving approval by a vote of the members of
19 the planning unit.

20 (ii) If the planning unit fails to adopt the department's or tribal
21 council's recommendations regarding provisions of the watershed
22 management that conflict with state or federal law, the department and
23 the planning unit shall submit the dispute to mediation. If mediation
24 does not resolve the dispute within forty-five days, the department
25 shall file a petition for declaratory judgment in the superior court of
26 the county with the largest area in the WRIA or multi-WRIA governed by
27 the watershed management. The superior court shall review the dispute
28 under the error of law standard. If the superior court finds that a
29 component of the plan conflicts with state or federal law, that
30 component of the plan is invalid. Decisions on such petitions are
31 reviewable as in other civil cases. This subsection shall not be
32 construed to establish state liability for any other element of the
33 watershed management adopted as rules.

34 (c) Approval among the members of the planning unit is achieved if
35 the members of the planning unit present for a recorded vote on the
36 proposal appointed to represent the state through the shared ballot
37 process described in section 10 (6) and (9) of this act, each appointed
38 to represent tribal government with federal Indian reservation land
39 located in the WRIA, each appointed to represent directly counties,

1 each appointed to represent water supply utilities, each appointed to
2 represent conservation districts, and each appointed to represent
3 directly cities records his or her support for the proposed integrated
4 watershed management as part of a recorded vote on the proposal.

5 (d) Approval among the members of the planning unit appointed to
6 represent major interests in the management area and general citizenry
7 components of the planning unit is achieved if a majority of the
8 members of the planning unit, other than those described in (b) of this
9 subsection, present at the recorded vote on the proposal records
10 support for the integrated watershed management as a part of the
11 recorded vote.

12 (e) If the watershed management is approved by the planning unit,
13 the unit shall submit the watershed management to the counties with
14 territory within the management area.

15 (f) If the watershed management is not approved by the planning
16 unit following a vote, then the planning unit shall submit the
17 watershed management to mediation in an attempt to achieve agreement
18 between the members of the planning unit. If the unit is unable to
19 reach an agreement that will achieve approval within forty-five days
20 after submitting the dispute to mediation, the planning unit may either
21 submit the components of the watershed management in which agreement
22 was achieved to the county for approval or terminate the process.

23 (5) The legislative authority of each of the counties with
24 territory within the management area shall provide public notice for
25 and conduct at least one public hearing in each county on the approved
26 watershed management submitted to the county under this section. The
27 counties shall take care to provide notice of the hearings throughout
28 the management area. As a minimum, the notice shall be published in
29 one or more newspapers of general circulation in the management area.
30 After the public hearings, the legislative authorities of these
31 counties shall convene in joint session to consider the watershed
32 management. The counties may approve or reject the watershed
33 management, but may not amend it. Approval of a watershed management
34 or of recommendations for a watershed management that are not approved
35 shall be made by a majority vote of the members of the legislative
36 authorities of each of the counties with territory in the management
37 area.

38 (6) If the watershed management is not approved by the counties, it
39 shall be returned to the planning unit with recommendations for

1 revisions. If the revisions are approved by the planning unit, the
2 watershed management shall be returned to the county for adoption.
3 Approval of such a revised proposal shall be made in the same manner
4 provided for the original integrated watershed management. If the
5 revisions are not approved by the planning unit, the planning unit and
6 the counties shall submit the revisions to mediation in an attempt to
7 reach an agreement that will achieve approval by the planning unit and
8 the counties. If approval of the planning unit is achieved after
9 mediation, the watershed management shall be returned to the county for
10 adoption. If the planning unit is unable to achieve agreement
11 following mediation, it may either submit the components of the
12 watershed management in which agreement was achieved to the county for
13 approval or terminate the process. The department shall proceed with
14 adopting the approved watershed management through a rules adoption
15 process described in RCW 90.82.040(8).

16 (7) Before the adoption of the watershed management by the county
17 legislative authority, the county shall transmit a copy of the
18 watershed management to each city located in the WRIA. The cities
19 shall hold a public hearing on the watershed management. The city
20 shall publish notice of the hearing in a newspaper of general
21 circulation in the city at least three days before the hearing. The
22 city has forty-five days after receiving the watershed management from
23 the county to consider passage of a resolution that expresses agreement
24 with the watershed management or express any concerns with the
25 watershed management with the county.

26 (8) At a minimum, the planning unit shall not add a component to
27 its integrated watershed management that creates an obligation for
28 state government unless the members of the planning unit appointed to
29 represent state government agree to adding the component; it shall not
30 add a component that creates an obligation for a tribal government
31 unless the member or members of the planning unit appointed to
32 represent that tribal government agree to adding the component; it
33 shall not add a component that creates an obligation for a county,
34 city, conservation district, or water supply utility unless the members
35 of the planning unit appointed to represent the county, city,
36 conservation district, or water supply utility agree to adding the
37 component. A member's agreeing to add a component shall be evidenced
38 by a recorded vote of all members of the planning unit in which the
39 members record support for adding the component. If integrated

1 watershed management is approved by the planning unit and the counties
2 for a management area under this section and that management creates
3 obligations for agencies of state government, the obligations are
4 binding on the state agencies and the agencies shall adopt implementing
5 rules and take other actions to fulfill their obligations as soon as
6 possible.

7 NEW SECTION. **Sec. 12.** MEMBERSHIP--OTHER RULES. (1) A vacancy on
8 a planning unit shall be filled by appointment in the same manner
9 prescribed for appointing the position that has become vacant. The
10 planning unit shall not interrupt its work to await additional original
11 appointments or appointments to fill any vacancies that may occur in
12 its membership.

13 (2) No person who is a member of a planning unit for a management
14 area under this chapter may designate another to act on behalf of the
15 person as a member or to attend as a member a meeting of the unit on
16 behalf of the person. If a member of such a planning unit is absent
17 from more than five meetings of the planning unit that constitute
18 twenty percent or more of the meetings that have been conducted by the
19 planning unit while the person is a member of the unit.

20 (3) For the purposes of this chapter, a county or conservation
21 district is considered to have territory within a management area only
22 if the territory of the county or district located in one of the WRIA's
23 in the management area constitutes at least fifteen percent of the area
24 of the WRIA.

25 **Sec. 13.** RCW 90.82.040 and 1997 c 442 s 105 are each amended to
26 read as follows:

27 ~~(1) ((Once a WRIA planning unit has been organized and designated~~
28 ~~a lead agency, it shall notify the department and may apply to the~~
29 ~~department for funding assistance for conducting the planning. Funds~~
30 ~~shall be provided from and to the extent of appropriations made by the~~
31 ~~legislature to the department expressly for this purpose.~~

32 ~~(2) Each planning unit that has complied with subsection (1) of~~
33 ~~this section is eligible to receive fifty thousand dollars for each~~
34 ~~WRIA to initiate the planning process. The department shall allocate~~
35 ~~additional funds to WRIA planning units based on need demonstrated by~~
36 ~~a detailed proposed budget submitted by the planning unit for carrying~~
37 ~~out the duties of the planning unit. Each WRIA planning unit may~~

1 ~~receive up to two hundred fifty thousand dollars for each WRIA during~~
2 ~~the first two year period of planning, with a maximum allocation of~~
3 ~~five hundred thousand dollars for each WRIA.)~~) The department shall
4 develop and administer a grant program to provide direct financial
5 assistance to planning units for the preparation of integrated
6 watershed management under this chapter. Three separate grants may be
7 awarded pursuant to this section. These grants are initial organizing
8 grants, grants for watershed assessments and establishment of instream
9 flows, and grants for the development of integrated watershed
10 management and implementation. The total amount of the grants may not
11 exceed five hundred thousand dollars for each WRIA. The department may
12 not impose any local matching fund requirement as a condition for grant
13 eligibility or as a preference for receiving a grant.

14 (2) An initial organizing grant of up to fifty thousand dollars may
15 be awarded to a lead agency that applies to the department and
16 indicates that integrated watershed management is to be developed under
17 this chapter. Organizing grants may be expended for any purpose
18 authorized by the department, including but not limited to determining
19 the scope of work to be addressed by the integrated watershed
20 management for the management area; collecting and reviewing relevant
21 studies and plans that already exist for the watershed, including
22 growth management related plans in which critical areas have been
23 designated pursuant to chapter 36.70A RCW; determining how the
24 integrated watershed management for a management area can be
25 coordinated with existing studies and plans; and baseline monitoring of
26 water within the watershed.

27 (3)(a) A watershed assessment grant of up to two hundred thousand
28 dollars for each WRIA may be awarded to a planning unit that certifies
29 to the department that it adequately represents a broad range of
30 interests within the watershed, and that it is willing to undertake the
31 following as part of its integrated watershed management for its
32 management area: Integrated watershed management for the protection or
33 enhancement of habitat, integrated watershed management for water
34 quantity, or integrated watershed management for water quality. The
35 planning unit must submit a detailed proposed budget that demonstrates
36 the need for the grant.

37 (b) Grants awarded pursuant to this subsection (3) shall be awarded
38 for a four-year period. The four-year time period shall begin to run
39 when the lead agency for the planning unit first received the initial

1 organizing grant under subsection (2) of this section. For a planning
2 unit that did not submit an application for an initial organizing
3 grant, the four-year time period shall begin to run when the planning
4 unit receives a grant under this subsection (3).

5 (4) A management development, instream flow, and implementation
6 grant in an amount of up to two hundred fifty thousand dollars for each
7 WRIA may be awarded to a planning unit that submits evidence that an
8 assessment of the watershed has been adequately prepared in sufficient
9 detail for the purposes for which the watershed assessment grant was
10 awarded; the integrated watershed management that will be developed for
11 the management area will not be in conflict with federal laws, state
12 statutes, or tribal treaty rights; and its development will be
13 coordinated with adjacent jurisdictions for purposes of minimum
14 instream flows and water quality, if water quality was addressed as
15 part of the watershed assessment. The planning unit must submit a
16 detailed proposed budget that demonstrates the need for the grant. Any
17 moneys awarded from the remaining grant balance for implementation in
18 a management area under this section are available only for
19 implementation that commences after integrated watershed management has
20 been adopted for the area under section 11 of this act.

21 (5)(a) The department shall use the following eligibility criteria
22 instead of rules when evaluating grant applications at each stage of
23 the grants program:

24 (i) The application has documented that the planning unit meets all
25 of the requirements of this chapter;

26 (ii) The application demonstrates a need for state planning funds
27 to accomplish the objectives of the planning process; and

28 (iii) The application and supporting information evidences a
29 readiness to proceed.

30 (b) In ranking grant applications submitted at each stage of the
31 grants program except for the initial organizing grant under subsection
32 (2) of this section, the department shall give preference to
33 applications in the following order of priority:

34 (i) Applications from existing planning groups that have been in
35 existence for at least one year;

36 (ii) Applications from multi-WRIAs that propose to address
37 protection and enhancement of fish habitat in watersheds that have
38 aquatic species listed as endangered or threatened under the federal
39 endangered species act, 16 U.S.C. Sec. 1531 et seq. and for which there

1 is evidence of an inability to supply adequate water for population and
2 economic growth;

3 (iii) Applications from single WRIAs that propose to address
4 protection and enhancement of fish habitat in watersheds that have
5 aquatic species listed as endangered or threatened under the federal
6 endangered species act, and for which there is evidence of an inability
7 to supply adequate water for population and economic growth;

8 (iv) Applications from multi-WRIAs that propose to address
9 protection and enhancement of fish habitat in watersheds that have
10 aquatic species listed as endangered or threatened under the federal
11 endangered species act; and

12 (v) Applications from single WRIAs that propose to address
13 protection and enhancement of fish habitat in watersheds that have
14 aquatic species listed under the federal endangered species act.

15 (6) Funding provided under this section shall be considered a
16 contractual obligation against the moneys appropriated for this
17 purpose.

18 ~~((3) Preference shall be given to planning units requesting~~
19 ~~funding for conducting multi-WRIA planning under section 108 of this~~
20 ~~act.~~

21 ~~(4))~~ (7) The department may retain up to one percent of funds
22 allocated under this section to defray administrative costs.

23 (8) The department may adopt its implementing rules for an
24 integrated watershed management that have been approved by counties as
25 part of integrated watershed management and may adopt rules when
26 necessary to implement this section or section 6(2) of this act either
27 by the regular rules adoption process provided in chapter 34.05 RCW,
28 the expedited rules adoption process as set forth in RCW 34.05.230, or
29 through a rules adoption process that uses the public hearings and
30 notice provided by the planning unit and the county legislative
31 authority as a substitute for the rules adoption requirements of
32 chapter 34.05 RCW. If the planning unit and county legislative
33 authority hearings and notice are used as a substitute for the regular
34 rules adoption process, the rules do not take effect until they are
35 published in the Washington state register as provided in chapter 34.05
36 RCW. Such rules do not constitute significant legislative rules as
37 defined in RCW 34.05.328, and do not require the preparation of small
38 business economic impact statements.

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

3 Rules adopted by the department of ecology pursuant to RCW
4 90.82.040(8) are exempt from the requirements of this chapter to the
5 extent provided in RCW 90.82.040(8).

6 NEW SECTION. **Sec. 15.** TECHNICAL ASSISTANCE. (1) The lead state
7 representative on a planning unit designated under section 10(5)(j) of
8 this act shall establish a program to provide technical assistance to
9 planning units and local governments to encourage and facilitate the
10 adoption and implementation of integrated watershed management for
11 management areas developed under this chapter. The program shall use
12 existing requirements or standards that must be satisfied by the
13 integrated watershed management developed under this chapter and no
14 part of the program may have the effect of a rule adopted under chapter
15 34.05 RCW.

16 (2) The program shall use any staff assigned by the governor for
17 this task, the staff of state agencies, and staff from institutions of
18 higher education to assist in the development of integrated watershed
19 management under this chapter, including but not limited to assistance
20 in determining and explaining how best available science will be
21 incorporated into integrated watershed management for a management
22 area, developing methods for effectively monitoring performance,
23 providing the criteria that represents acceptable performance for key
24 elements of the integrated watershed management for a management area,
25 and the method of reporting performance to the public, local
26 communities, and the state. In providing assistance under this
27 section, the lead state representative shall recognize regional and
28 local variations that exist in different parts of the state.

29 (3) The lead state representative on a planning unit shall assist
30 planning units in ensuring that integrated watershed management
31 developed under this chapter is coordinated with, and consistent with,
32 the integrated watershed management of other planning units that share
33 common borders or major stream basins. The state shall provide
34 mediation services to resolve disputes between planning units.

35 (4) The department may contract out technical assistance if the
36 lead state representative finds that it is cost-effective and will
37 assist in implementing the intent of this chapter.

1 (5) The department shall conduct an annual workshop for planning
2 units to share successful approaches, as well as difficulties, in
3 addressing specific problems within watersheds.

4 (6) All state agencies with rule-making authority for programs that
5 affect the development and implementation of integrated watershed
6 management developed under this chapter shall review those rules and
7 programs for consistency with this chapter and make recommendations to
8 the legislature for any necessary statutory changes.

9 **Sec. 16.** RCW 90.03.345 and 1979 ex.s. c 216 s 7 are each amended
10 to read as follows:

11 (1) The establishment of reservations of water for agriculture,
12 hydroelectric energy, municipal, industrial, and other beneficial uses
13 under RCW 90.54.050(1) or minimum flows or levels under RCW 90.22.010
14 or 90.54.040 shall constitute appropriations within the meaning of this
15 chapter with priority dates as of the effective dates of their
16 establishment. Whenever an application for a permit to make beneficial
17 use of public waters embodied in a reservation, established after
18 September 1, 1979, is filed with the department of ecology after the
19 effective date of such reservation, the priority date for a permit
20 issued pursuant to an approval by the department of ecology of the
21 application shall be the effective date of the reservation.

22 (2) Minimum flows established under section 6 of this act shall
23 have a priority date as specified in that section.

24 NEW SECTION. **Sec. 17.** Captions used in this act are not part of
25 the law.

26 NEW SECTION. **Sec. 18.** Sections 4 through 12, and 15 of this act
27 are each added to chapter 90.82 RCW.

28 NEW SECTION. **Sec. 19.** This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of the
30 state government and its existing public institutions, and takes effect
31 immediately."

1 **SHB 2514** - H AMD
2 By Representative

3
4 On page 1, line 1 of the title, after "management;" strike the
5 remainder of the title and insert "amending RCW 90.82.005, 90.82.010,
6 90.82.020, 90.82.040, and 90.03.345; adding a new section to chapter
7 34.05 RCW; adding new sections to chapter 90.82 RCW; creating a new
8 section; and declaring an emergency."

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