

2 **2SHB 2054** - S COMM AMD
3 By Committee on Ways & Means

4 NOT ADOPTED 4/18/97

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

7 "PART I
8 BASIN PLANS

9 NEW SECTION. **Sec. 101.** The purpose of this chapter is to develop
10 a more thorough and cooperative method of determining what the current
11 water resource situation is in each water resource inventory area of
12 the state and to provide local citizens with the maximum possible input
13 concerning their goals and objectives for water resource management and
14 development.

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

20 NEW SECTION. **Sec. 102.** The legislature finds that the local
21 development of watershed plans for managing water resources and for
22 protecting existing water rights is vital to both state and local
23 interests. The local development of these plans serves vital local
24 interests by placing it in the hands of people: Who have the greatest
25 knowledge of both the resources and the aspirations of those who live
26 and work in the watershed; and who have the greatest stake in the
27 proper, long-term management of the resources. The development of such
28 plans serves the state's vital interests by ensuring that the state's
29 water resources are used wisely, by protecting existing water rights,
30 by protecting fish and other wildlife, by providing for the economic
31 well-being of the state's citizenry and communities, and by protecting
32 water-related fish and wildlife habitat. Therefore, the legislature
33 believes it necessary for units of local government throughout the
34 state to engage in the orderly development of these watershed plans.

1 NEW SECTION. **Sec. 103.** When considering applications to
2 appropriate public waters or the perfection, transfer, change, or
3 cancellation of water right permits, the department shall not have
4 discretion to take any action except in a manner consistent with the
5 standards set forth in chapters 90.03, 90.44, and 90.54 RCW.

6 NEW SECTION. **Sec. 104.** Unless the context clearly requires
7 otherwise, the definitions in this section apply throughout this
8 chapter.

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

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

12 (3) "Water supply utility" means a water, combined water-sewer,
13 irrigation, reclamation, or public utility district that provides water
14 to persons or other water users within the district or a division or
15 unit responsible for administering a publicly governed water supply
16 system on behalf of a city, town, or county.

17 (4) "WRIA plan" or "plan" means the product of the planning unit
18 including any rules adopted in conjunction with the product of the
19 planning unit.

20 NEW SECTION. **Sec. 105.** (1) In order to have the best possible
21 water resource program administration for the state, the legislature
22 establishes the following principles and criteria to carry out the
23 purpose and intent of chapter . . . , Laws of 1997 (this act).

24 (2) All WRIA planning units established under this chapter shall
25 develop a process to assure that water resource user interests and
26 directly involved interest groups at the local level have the
27 opportunity, in a fair and equitable manner, to give input and
28 direction to the process. The following general principles shall guide
29 the process:

30 (a) All general categories of directly affected and closely related
31 locally based interest groups shall have an equal voice in decision
32 making;

33 (b) State agencies with major water resource management
34 responsibilities shall be available to share information on state-wide
35 statutorily designated interests and responsibilities are duly
36 considered;

1 (c) Planning activities shall receive funding from the general
2 fund;

3 (d) The program development process carries an official and legal
4 status by virtue of adoption of the plan by local governments;

5 (e) The utmost flexibility is allowed for each WRIA unit in
6 deciding the extent of the plan; and

7 (f) WRIA planning units may incorporate elements into the plan in
8 addition to those required under section 111 of this act.

9 NEW SECTION. **Sec. 106.** Once a WRIA planning unit has been
10 organized and has established priorities under section 111 of this act,
11 it shall notify the department and may apply to the department for
12 funding assistance for conducting the planning. Funds shall be
13 provided from and to the extent of appropriations made by the
14 legislature to the department expressly for this purpose. The
15 department shall allocate funds to WRIA planning units based on
16 demonstrated need and readiness to proceed. Preference shall be given
17 to planning units requesting funding for conducting multi-WRIA planning
18 under section 109 of this act. Preference shall also be given to
19 planning projects that are clearly intended to respond to endangered
20 species act listings or to attempt to resolve problems that may lead to
21 such listings or to address water availability to meet projected growth
22 based on office of financial management twenty-year population
23 projections. Funding provided under this section shall be considered
24 to be a contractual obligation against the moneys appropriated for this
25 purpose.

26 NEW SECTION. **Sec. 107.** (1) This chapter shall not be construed as
27 creating a new cause of action against the state or any county, city,
28 town, water supply utility, conservation district, or planning unit.

29 (2) Notwithstanding RCW 4.92.090, 4.96.010, and 64.40.020, no claim
30 for damages may be filed against the state or any county, city, town,
31 water supply utility, Indian tribes, conservation district, or planning
32 unit that or member of a planning unit who participates in a WRIA
33 planning unit for performing responsibilities under this chapter. The
34 exclusion from liability contained in this subsection does not apply to
35 a county, city, town, or water supply utility that votes to adopt
36 provisions in a WRIA plan that have been identified by the department
37 as being in conflict with state or federal law with regard to those

1 provisions if advice regarding the conflict was provided under section
2 113(2) of this act.

3 NEW SECTION. **Sec. 108.** Except as provided in section 109 of this
4 act for multi-WRIA planning, the county with the largest area within
5 the boundaries of a WRIA may choose to initiate water resource planning
6 for the WRIA under this chapter. If it does so choose, it shall make
7 application to the department of ecology to declare its intent to
8 conduct watershed planning. Upon making application to the department,
9 the county with the largest area within the WRIA shall convene a
10 meeting of the members of the legislative authorities of the counties
11 with territory within a WRIA for the appointment of a WRIA planning
12 unit. The county shall also notify the cities, water supply utilities,
13 and conservation districts with territory within the WRIA that these
14 groups are to meet to appoint their members of the WRIA planning unit.
15 For the purposes of this section and sections 109 and 113 of this act,
16 a county is considered to have territory within a WRIA only if the
17 territory of the county located in the WRIA constitutes at least
18 fifteen percent of the area of the WRIA. For conducting planning under
19 this chapter, the county with the largest area within the boundaries of
20 the WRIA is the lead agency for the WRIA planning, except as provided
21 in section 109 of this act for multi-WRIA planning. By a majority vote
22 of the county legislative authorities within the WRIA, an alternative
23 lead agency may be selected.

24 (2)(a) One WRIA planning unit shall be appointed for the WRIA as
25 provided by this section or for a multi-WRIA area as provided by
26 section 109 of this act for multi-WRIA planning. The planning unit
27 shall be composed of: One member from each county with territory in
28 the WRIA representing the county and appointed by the county; one
29 member for each county with territory in the WRIA, but not less than
30 two members, representing cities with territory in the WRIA and
31 appointed jointly by those cities and incorporated towns; two members
32 representing all water supply utilities with territory within the WRIA
33 and appointed jointly by those districts; one member representing all
34 conservation districts with territory within the WRIA and appointed
35 jointly by those districts; and nine members representing various
36 special interest groups appointed jointly by the counties with
37 territory within the WRIA. If one or more federal Indian reservations
38 are located in whole or in part within the boundaries of the WRIA, the

1 planning unit shall include one member representing each reservation
2 with territory in the WRIA, appointed by the tribes. Two members shall
3 be appointed by the governor to represent state agencies.

4 (b) In addition, for a WRIA located within Pierce, King, or
5 Snohomish county, a representative of the water supply utility that is
6 the largest water purveyor using water from the WRIA shall be an ex
7 officio member of the planning unit whether the principal offices of
8 the purveyor are or are not located within the WRIA.

9 (3) Except for a person who is an ex officio member of the planning
10 unit under subsection (2)(b) of this section, each person appointed to
11 a WRIA planning unit shall have been a resident and a property owner of
12 the WRIA for at least five years. State employees or state officials
13 may be appointed to the planning unit as ex officio, nonvoting members.
14 In appointing persons to the WRIA planning unit representing special
15 interest groups, the counties shall consider industrial water users,
16 general businesses, hydroelectric and thermal power producers, and
17 irrigated agriculture, nonirrigated agriculture, forestry, recreation,
18 environmental, and fisheries interest groups and other groups with
19 interests in the WRIA.

20 (4)(a) In voting to appoint the members of a WRIA planning unit, to
21 select a lead agency for water resource planning under section 109 of
22 this act, to approve a WRIA plan under section 113 of this act, or to
23 request or concur with a request for multi-WRIA planning under section
24 109 of this act, each county with territory within the WRIA shall have
25 three votes, divided equally among the members of the county's
26 legislative authority and these actions shall be made by majority vote
27 based on the votes allocated under this section. In voting to appoint
28 members of a WRIA planning unit: Each city with territory within the
29 WRIA shall have one vote and appointments shall be made by majority
30 vote of such cities; each water supply utility with territory within
31 the WRIA shall have one vote and appointments shall be made by majority
32 vote of such districts; and each conservation district with territory
33 within the WRIA shall have one vote and appointments shall be made by
34 majority vote of such districts. All appointments shall be made within
35 sixty days of the date the appointing authorities other than the
36 counties are notified to convene to make appointments or the
37 appointments shall be made by the counties with territory in the WRIA
38 in the same manner the counties make other appointments.

1 (b) In selecting the membership of the planning unit in accordance
2 with this subsection (4), the local governments may choose by majority
3 vote to modify the membership of the planning unit. If the local
4 governments choose to modify the membership, such changes shall be
5 agreed to in accordance with subsection (a) of this subsection within
6 thirty days of the filing of an application to plan with the department
7 of ecology. If a modified planning unit composition cannot be agreed
8 to within thirty days of the filing of an application, the membership
9 shall be as provided in subsection (2)(a) of this section.

10 (c) A vacancy on the planning unit shall be filled by appointment
11 in the same manner prescribed for appointing the position that has
12 become vacant. The planning unit shall convene and begin work as soon
13 as two-thirds of the number of persons eligible to be members of the
14 planning unit have been appointed. All positions must be filled within
15 thirty days of the convening of the planning unit. The unit shall not
16 interrupt its work to await additional original appointments or
17 appointments to fill any vacancies that may occur in its membership.

18 NEW SECTION. **Sec. 109.** (1) The counties with territory in a WRIA
19 may elect to conduct multi-WRIA planning with the counties with
20 territory in one or more other WRIAs. If the counties with territory
21 in these other WRIAs concur, all of the counties with territory in
22 these WRIAs shall convene and shall appoint one planning unit to
23 conduct the water resource planning for the multi-WRIA area.

24 (a) The planning unit shall be composed of: Up to one member, as
25 that number is determined by the counties jointly, for each county with
26 territory in the multi-WRIA area representing the counties and
27 appointed by the counties jointly; up to one member, as that number is
28 determined by the cities jointly, for each county with territory in the
29 multi-WRIA area, representing cities with territory in the multi-WRIA
30 area and appointed jointly by those cities; up to three members, as
31 that number is determined by the districts, representing all water
32 supply utilities with territory within the multi-WRIA area and
33 appointed jointly by those districts; up to two members, as that number
34 is determined by the districts, representing all conservation districts
35 with territory within the multi-WRIA area and appointed jointly by
36 those districts; four members representing the general citizenry, of
37 which at least two shall be holders of water rights, appointed jointly
38 by the counties with territory within the multi-WRIA area; and six

1 members representing various special interest groups appointed jointly
2 by the counties with territory within the multi-WRIA area. If one or
3 more federal Indian reservations are located in whole or in part within
4 the boundaries of the multi-WRIA area, the planning unit shall include
5 one member representing each reservation with territory in the multi-
6 WRIA area, appointed by the tribes. Two members shall be appointed by
7 the governor to represent state agencies.

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

13 (c) Except for a person who is an ex officio member of the planning
14 unit under subsection (1)(b) of this section, each person appointed to
15 a multi-WRIA planning unit shall have been a resident and property
16 owner within the multi-WRIA area for at least five years. State
17 employees or state officials may be appointed to the planning unit as
18 ex officio, nonvoting members. In appointing persons to the multi-WRIA
19 planning unit representing special interest groups the counties shall
20 consider industrial water users, general businesses, hydroelectric and
21 thermal power producers, and irrigated agriculture, nonirrigated
22 agriculture, forestry, recreation, environmental, and fisheries
23 interest groups and other groups with interests in the multi-WRIA area.

24 (2)(a) The counties in the multi-WRIA area shall select, by a
25 majority vote, a governmental entity in the multi-WRIA area to act as
26 lead agency for water resource planning in the multi-WRIA area under
27 this chapter. Such an entity shall serve as the lead agency if it
28 agrees in writing to do so. All appointments shall be made within
29 sixty days of the date the lead agency in the multi-WRIA area notifies
30 the other appointing authorities to convene to make appointments or the
31 appointments shall be made by the counties with territory in the multi-
32 WRIA area in the same manner the counties make other appointments.

33 (b) In selecting the membership of the planning unit in accordance
34 with this subsection (2), the local governments may choose by majority
35 vote to modify the membership of the planning unit. If the local
36 governments choose to modify the membership, such changes shall be
37 agreed to within thirty days of the filing of an application to plan
38 with the department of ecology. If a modified planning unit
39 composition cannot be agreed to within thirty days of the filing of an

1 application, the membership shall be as provided in subsection (1)(a)
2 of this section.

3 (c) A vacancy on the planning unit shall be filled by appointment
4 in the same manner prescribed for appointing the position that has
5 become vacant. The planning unit shall convene and begin work as soon
6 as two-thirds of the number of persons eligible to be members of the
7 planning unit have been appointed. All positions must be filled within
8 thirty days of the convening of the planning unit. The unit shall not
9 interrupt its work to await additional original appointments or
10 appointments to fill any vacancies that may occur in its membership.

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

15 NEW SECTION. **Sec. 110.** The lead agency shall provide staff
16 support for the work of the WRIA planning unit. Each WRIA planning
17 unit may establish its own methods of operation that are consistent
18 with this chapter and may establish methods for reviewing the
19 operations of its lead agency. No planning unit appointed or selected
20 under this chapter may possess or exercise the power of eminent domain.
21 No planning unit appointed or selected under this chapter may take any
22 action that affects in any manner a general adjudication proceeding for
23 water rights, completed or ongoing. Each WRIA planning unit is
24 encouraged to: Consider information and plans that may have been
25 previously developed by other entities in establishing water resource
26 management plans for the WRIA; consider existing data regarding water
27 resources in the WRIA; and, for a WRIA that borders another state,
28 cooperate with local government counterparts in the adjacent state
29 regarding water resource planning. Water resource plans developed
30 under this chapter for a WRIA may not interfere in any manner with a
31 general adjudication of water rights, completed or ongoing. Such a
32 WRIA plan may not in any manner impair, diminish, or interfere with a
33 water right that exists before the adoption of the plan by the
34 department under section 113 of this act.

35 All meetings of a WRIA planning unit shall be conducted as public
36 meetings as required for such meetings by the open public meetings act,
37 chapter 42.30 RCW. Some time shall be set aside at the end of each
38 meeting of a WRIA planning unit for public comments. Each planning

1 unit shall establish procedures to be followed by the unit in making
2 decisions. The objective to be sought by the planning unit in making
3 decisions is to reach consensus among its members on the decisions.
4 Decisions by majority vote will be used only after the unit has found
5 that attempts at achieving consensus have not been successful.

6 No person who is a member of a WRIA planning unit may designate
7 another to act on behalf of the person as a member or to attend as a
8 member a meeting of the unit on behalf of the person. If a member of
9 a WRIA planning unit is absent from more than five meetings of the WRIA
10 planning unit that constitute twenty percent or more of the meetings
11 that have been conducted by the planning unit while the person is a
12 member of the unit and these absences have not been excused as provided
13 by this section, the member's position on the WRIA planning unit is to
14 be considered vacant. A person's absence from a meeting may be
15 excused: By the chair of the planning unit if a written request to do
16 so is received by the chair before the meeting from which the member is
17 to be absent; or by a majority vote of the members of the planning unit
18 at the meeting during which the member is absent.

19 NEW SECTION. **Sec. 111.** (1) Each WRIA planning unit shall develop
20 a water resource plan. The plan must contain the elements listed in
21 subsection (2) of this section and may include other elements added by
22 the planning unit. Once organized, the first task of the planning unit
23 is to prioritize these elements regarding their importance in the WRIA
24 and in developing a water resource plan for the WRIA. A plan shall not
25 be developed such that its provisions are in conflict with state or
26 federal law or impair, diminish, or interfere in any manner with a
27 water right existing prior to its adoption or with the construction,
28 operation, or maintenance of a federal reclamation project. Each plan
29 shall acknowledge that the water rights of citizens are private rights
30 to real property.

31 (2) The plan must include the following:

32 (a) An assessment of water supply and use in the WRIA, including:

33 (i) A quantitative estimation of the amount of surface and ground
34 water present in the planning unit, using United States geological
35 survey information and other existing sources of information;

36 (ii) A quantitative estimation using existing sources of
37 information, of the amount of precipitation and surface and ground
38 water available, using currently available or likely available

1 technologies, collectively for both current and future water uses,
2 including for instream purposes and for withdrawal or diversion;

3 (iii) A quantitative estimation using existing sources of
4 information, of the amount of surface and ground water actually being
5 used, and the months of peak and minimum use, both in-stream and by
6 withdrawal, for agricultural, industrial, fisheries, recreational,
7 environmental, municipal, and residential purposes, and including
8 amounts claimed, permitted, or certificated for future municipal needs;
9 and

10 (iv) A quantitative estimation of the amount of water,
11 approximately, that is represented by amounts in claims in the water
12 rights claims registry, in water use permits, in certificated rights,
13 and in rules establishing instream flows;

14 (b) A quantitative description of future water-based instream and
15 out-of-stream needs in the planning unit, based on projected population
16 and agricultural and other economic growth. That is, an identification
17 of the water needed collectively for use for agricultural, fisheries,
18 recreational, environmental, industrial, municipal, and residential
19 purposes. If a federal reclamation project is providing water for
20 reclamation purposes within the WRIA or multi-WRIA area, federal
21 reclamation water use requirements shall be those for project lands
22 within the WRIA or multi-WRIA area;

23 (c) Instream flows.

24 (i) Except for the main stem of the Columbia river or the main stem
25 of the Snake river, a planning unit may propose instream flow levels as
26 part of its plan for other rivers and streams in its WRIA or multi-WRIA
27 area.

28 (ii) The planning unit may propose adjustments to instream flow
29 levels that have been set by the state before the adoption of the
30 planning unit's plan and will propose instream flow levels as part of
31 the plan for the other rivers, streams, and lakes for which it
32 determines the establishment of flows or levels to be appropriate in
33 the WRIA, or in the multi-WRIA area for multi-WRIA planning under
34 section 109 of this act, and for which flows have not been previously
35 set. An instream flow or base flow or level set for a body of water in
36 a WRIA plan adopted by the department under section 113 of this act
37 supersedes any other such flow or level previously established for the
38 body of water;

1 (d) A quantitative description of the ground water and of the
2 surface water available for further appropriation including water that
3 may be obtained through reuse. As used in this subsection (2)(d),
4 "available" means available on the date the plan takes effect as a rule
5 under section 113 of this act;

6 (e) An identification of known areas that provide for the recharge
7 of aquifers from the surface and areas where aquifers recharge surface
8 bodies of water;

9 (f) Strategies for increasing water supplies in the WRIA,
10 including:

11 (i) Water conservation measures; and

12 (ii) Storage enhancements, including modifications to existing
13 reservoirs, new reservoirs, and underground storage. Any quantity of
14 water made available under these strategies is a quantity that is in
15 addition to the water declared available for appropriation under (d) of
16 this subsection; and

17 (g) An identification of areas where voluntary water-related
18 habitat improvement projects or voluntary transactions providing for
19 the purchase of water-related habitat or water-related habitat
20 easements would provide the greatest benefit to habitat in the WRIA,
21 and a prioritization of the areas based on their potential for
22 providing such benefits. The purpose of this element of the plan is to
23 provide a means of coordinating nonregulatory, voluntary efforts for
24 improving water-related habitat in the WRIA. No aspect of the plan may
25 establish standards for water quality or regulate water quality in any
26 manner whatsoever.

27 (3) The department shall assist the planning unit in drafting
28 proposed implementing rules for the elements of the plan over which the
29 department has authority. The draft rules shall accompany the plan as
30 it is reviewed under the provisions of this chapter.

31 (4) A plan shall not be developed under this chapter to require
32 directly or indirectly the implementation of laws, rules, or programs
33 that are designed primarily to control water pollution or discharges of
34 pollutants to water, to regulate effluent discharges or wastewater
35 treatment systems or facilities, or to establish or require the
36 achievement of water quality standards, including but not limited to
37 chapter 90.48 RCW and rules adopted under chapter 90.48 RCW, the
38 national pollutant discharge elimination system permit program, and the
39 state waste discharge permit program.

1 NEW SECTION. **Sec. 112.** (1) Water resource management plans
2 developed pursuant to the process in this chapter and subsequently
3 adopted by the department under section 113 of this act are presumed
4 valid. This presumption shall apply in any petition or action filed
5 against a plan.

6 (2) All actions and decisions of the department regarding water
7 resources in the WRIA shall be consistent with and based upon such an
8 adopted plan for the WRIA.

9 NEW SECTION. **Sec. 113.** (1) Upon completing a proposed water
10 resource plan for the WRIA, the WRIA planning unit shall publish notice
11 of and conduct at least one public hearing in the WRIA on the proposed
12 plan. The planning unit shall take care to provide notice of the
13 hearing throughout the WRIA or multi-WRIA area. As a minimum, it shall
14 publish a notice of the hearing in one or more newspapers of general
15 circulation in the WRIA or multi-WRIA area. After considering the
16 public comments presented at the hearing or hearings, the planning unit
17 shall submit a copy of its proposed plan to the department. A proposed
18 plan may be submitted to the department only if the unit has provided
19 interim approval of the plan for this purpose by a majority vote of the
20 members of the planning unit.

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

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

37 The WRIA planning unit shall approve a water resource plan for the
38 WRIA by a two-thirds majority vote of the members of the planning unit.

1 An approved plan shall be submitted to the counties with territory
2 within the WRIA for adoption. If a WRIA planning unit receives funding
3 for WRIA or multi-WRIA planning under section 106 of this act and does
4 not approve a plan for submission to the counties within four years of
5 the date the planning unit receives the first of that funding from the
6 department for the planning, the department shall develop and adopt a
7 water resource plan for the WRIA or multi-WRIA area.

8 (4) Upon receipt of the completed plan by the county, the county
9 shall submit for review a copy of the plan to the tribal council of
10 each reservation with territory within the WRIA. The tribal council
11 may review and provide comments and recommendations to the county
12 within thirty days of the receipt of the plan. Public hearings
13 required under subsection (5) of this section may not commence before
14 the thirty-day period provided in this subsection for comments from
15 tribal councils.

16 (5) The legislative authority of each of the counties with
17 territory within the WRIA shall provide public notice for and conduct
18 at least one public hearing on the WRIA plan submitted to the county
19 under this section. The counties shall take care to provide notice of
20 the hearings throughout the WRIA or multi-WRIA area. As a minimum,
21 they shall publish a notice of the hearings in one or more newspapers
22 of general circulation in the WRIA or multi-WRIA area. After the
23 public hearings, the legislative authorities of these counties shall
24 convene in joint session to consider the plan. The counties may
25 approve or reject the plan, but may not amend the plan. Approval of a
26 plan, or of recommendations for a plan that is not approved, shall be
27 made by a majority vote of the members of the various legislative
28 authorities of the counties with territory in the WRIA based on the
29 votes allocated under section 102 of this act.

30 If the plan is not approved, it shall be returned to the WRIA
31 planning unit with recommendations for revisions. Any revised plan and
32 implementing rules prepared by the planning unit shall be submitted to
33 the department and to the counties as provided by this section for WRIA
34 water resource plans generally.

35 (6) If the plan is approved by the members of the legislative
36 authorities, the plan shall be transmitted to the department for
37 adoption. The department shall adopt such an approved WRIA water
38 resource plan by rule. The department has no discretion to amend or
39 reject the plan. A copy of the plan and notice of its adoption as

1 rules shall be published in the state register under chapter 34.05 RCW.
2 The public hearing required by chapter 34.05 RCW shall be deemed to
3 have been satisfied by public hearings held by county legislative
4 authorities.

5 (7) If the department finds that an element of its WRIA plan is in
6 conflict with state or federal law, the planning unit may either
7 redraft the plan to be consistent with state and federal law, or if it
8 believes the department's findings are in error, may petition the
9 superior court for an order to require performance by the department
10 under RCW 34.05.570(3). If the superior court finds that an element of
11 the plan is in conflict with state or federal law, that element of the
12 plan shall be invalid. Decisions on such petitions are reviewable as
13 in other civil cases. This subsection shall not be construed as
14 establishing such state liability for any other element of the plan
15 adopted as rules. The planning unit may request that the legislature
16 modify a state law in order to implement a portion of a plan found to
17 be in conflict with the law.

18 NEW SECTION. **Sec. 114.** The WRIA planning units may accept grants,
19 funds, and other financing, as well as enter into cooperative
20 agreements with private and public entities for planning assistance and
21 funding.

22 NEW SECTION. **Sec. 115.** A new section is added to chapter 90.03
23 RCW to read as follows:

24 (1) The department shall rule in a timely manner upon complete
25 applications to appropriate public surface and ground water. For
26 complete applications that seek to appropriate water from within a WRIA
27 for which a WRIA plan has been adopted, the department shall grant or
28 deny the application within one hundred eighty days of the date the
29 properly completed application is filed with the department, except as
30 provided in subsection (2) of this section. For applications that seek
31 to appropriate water from within a WRIA for which no WRIA plan has been
32 adopted, the department shall grant or deny the application within two
33 years of the date the properly completed application is filed with the
34 department, except as provided in subsection (2) of this section. The
35 times allowed in this section to rule upon an application shall not
36 include the time it takes the applicant to respond to an explicit
37 request for additional information reasonably required to make a

1 determination on the application. The department shall be allowed only
2 one such request for additional information. The cost of obtaining
3 such information shall be reasonable in relation to the quantity and
4 value of the water right applied for. Once the applicant responds to
5 an information request, the stay of the time allowed for the permit
6 decision shall end.

7 (2) If a detailed statement, generally referred to as an
8 environmental impact statement, must be prepared under chapter 43.21C
9 RCW for or in regard to an application to appropriate water, the
10 department shall grant or deny the application within ninety days of
11 the date the final environmental impact statement is available from the
12 official responsible for it under chapter 43.21C RCW.

13 NEW SECTION. **Sec. 116.** A new section is added to chapter 34.05
14 RCW to read as follows:

15 (1) Once the department of ecology receives a water resource plan
16 submitted by a WRIA planning unit for advice and recommendations under
17 section 113 of this act, the department shall conduct at least one
18 public hearing on the plan and shall provide notice of the hearing and
19 proposed plan as provided in RCW 34.05.320 for the proposal of a rule.
20 The department shall maintain a file for the plan. Once the plan has
21 been adopted by the counties in the WRIA under section 113 of this act
22 and the plan has been submitted to the department of ecology, the
23 department shall file the plan with the code reviser along with an
24 order adopting the plan as rules. The code reviser shall cause the
25 order and the water resource plan to be published in the Washington
26 state register in the manner provided for the adoption of final rules
27 and shall incorporate the plan into the Washington Administrative Code.
28 No other aspect of this chapter that establishes procedures for the
29 adoption of rules applies to the adoption of the plan by the
30 department.

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

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

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

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

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

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

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

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

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

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

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

4 (4) The development of multipurpose water storage facilities shall
5 be a high priority for programs of water allocation, planning,
6 management, and efficiency. The department, other state agencies,
7 local governments, and planning units formed under section 102 or 109
8 of this act shall evaluate the potential for the development of new
9 storage projects and the benefits of storage in reducing damage to
10 stream banks and property, increasing the use of land, providing water
11 for municipal, industrial, agricultural, power generation, and other
12 beneficial uses, and improving stream flow regimes for fisheries and
13 other instream uses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 **PART III**

8 **GENERAL ADJUDICATIONS**

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

11 The legislature finds that the lack of certainty regarding water
12 rights within a water resource basin may impede management and planning
13 for water resources. The legislature further finds that planning units
14 conducting water resource planning under chapter 90.-- RCW (sections
15 101 through 114 of this act) may find that the certainty provided by a
16 general adjudication of water rights under this chapter is required for
17 water planning or water management in a water resource inventory area
18 or in a portion of the area. Therefore, such planning units may
19 petition the department to conduct such a general adjudication and the
20 department shall give high priority to such a request in initiating any
21 such general adjudications under this chapter.

22 **PART IV**

23 **MISCELLANEOUS**

24 NEW SECTION. **Sec. 401.** As used in this act, part headings
25 constitute no part of the law.

26 NEW SECTION. **Sec. 402.** Sections 101 through 114 of this act
27 constitute a new chapter in Title 90 RCW.

28 NEW SECTION. **Sec. 403.** This act takes effect July 1, 1998."

1 **2SHB 2054** - S COMM AMD
2 By Committee on Ways & Means

3

4 On page 1, line 1 of the title, after "management;" strike the
5 remainder of the title and insert "amending RCW 90.54.020 and
6 90.54.180; adding new sections to chapter 90.03 RCW; adding a new
7 section to chapter 34.05 RCW; adding a new chapter to Title 90 RCW;
8 creating a new section; and providing an effective date."

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