



1 unit responsible for administering a publicly governed water supply  
2 system on behalf of a city, town, or county.

3 NEW SECTION. **Sec. 102.** The legislature finds that the local  
4 development of watershed plans for managing water resources and for  
5 protecting existing water rights is vital to both state and local  
6 interests. The local development of these plans serves vital local  
7 interests by placing it in the hands of people: Who have the greatest  
8 knowledge of both the resources and the aspirations of those who live  
9 and work in the watershed; and who have the greatest stake in the  
10 proper, long-term management of the resources. The development of such  
11 plans serves the state's vital interests by ensuring that the state's  
12 water resources are used wisely, by protecting existing water rights,  
13 by protecting fish and other wildlife, by providing for the economic  
14 well-being of the state's citizenry and communities, and by protecting  
15 water-related fish and wildlife habitat. Therefore, the legislature  
16 highly encourages units of local government throughout the state to  
17 engage in the orderly development of these watershed plans.

18 NEW SECTION. **Sec. 103.** Once a WRIA planning unit has been  
19 organized and has established priorities under section 108 of this act,  
20 it shall notify the department and may apply to the department for  
21 funding assistance for conducting the planning. The department shall  
22 provide five hundred thousand dollars per WRIA to each such planning  
23 unit planning under this chapter and so applying. The moneys shall be:  
24 Provided from and to the extent of appropriations made by the  
25 legislature to the department expressly for this purpose; and provided  
26 on a first-come, first-served basis to the extent of the appropriations  
27 except that preference shall be given to planning units requesting  
28 funding for conducting multi-WRIA planning under section 106 of this  
29 act. Funding provided under this section shall be considered to be a  
30 contractual obligation against the moneys appropriated for this  
31 purpose.

32 NEW SECTION. **Sec. 104.** (1) This chapter shall not be construed as  
33 creating a new cause of action against the state or any county, city,  
34 town, water supply utility, conservation district, or planning unit.

35 (2) Notwithstanding RCW 4.92.090, 4.96.010, and 64.40.020, no claim  
36 for damages may be filed against the state or any county, city, town,

1 water supply utility, conservation district, or planning unit that or  
2 member of a planning unit who participates in a WRIA planning unit for  
3 performing responsibilities under this chapter. The exclusion from  
4 liability contained in this subsection does not apply to a county,  
5 city, town, or water supply utility that votes to adopt provisions in  
6 a WRIA plan that have been identified by the department as being in  
7 conflict with state or federal law with regard to those provisions if  
8 advice regarding the conflict was provided under section 110(2) of this  
9 act.

10 NEW SECTION. **Sec. 105.** Except as provided in section 106 of this  
11 act for multi-WRIA planning, the county with the largest population  
12 residing within the boundaries of a WRIA may choose to initiate water  
13 resource planning for the WRIA under this chapter. If it does so  
14 choose, it shall convene a meeting of the members of the legislative  
15 authorities of the counties with territory within a WRIA for the  
16 appointment of a WRIA planning unit. The county shall also notify the  
17 cities, water supply utilities, and conservation districts with  
18 territory within the WRIA that these groups are to meet to appoint  
19 their members of the WRIA planning unit. For the purposes of this  
20 section and sections 106 and 110 of this act, a county is considered to  
21 have territory within a WRIA only if the territory of the county  
22 located in the WRIA constitutes at least fifteen percent of the area of  
23 the WRIA. For conducting planning under this chapter for a WRIA that  
24 is located east of the crest of the Cascade mountains, the county with  
25 the largest population residing within the boundaries of the WRIA is  
26 the lead agency for the WRIA planning, except as provided in section  
27 106 of this act for multi-WRIA planning. For conducting planning under  
28 this chapter for a WRIA that is located west of the crest of the  
29 Cascade mountains, the water supply utility that is the largest water  
30 purveyor using water from the WRIA shall be the lead agency for the  
31 WRIA planning, except as provided in section 106 of this act for multi-  
32 WRIA planning.

33 (2)(a) One WRIA planning unit shall be appointed for the WRIA as  
34 provided by this section or for a multi-WRIA area as provided by  
35 section 106 of this act for multi-WRIA planning. The planning unit  
36 shall be composed of: One member from each county with territory in  
37 the WRIA representing the county and appointed by the county; one  
38 member for each county with territory in the WRIA, but not less than

1 two members, representing cities with territory in the WRIA and  
2 appointed jointly by those cities; two members representing all water  
3 supply utilities with territory within the WRIA and appointed jointly  
4 by those districts; one member representing all conservation districts  
5 with territory within the WRIA and appointed jointly by those  
6 districts; four members representing the general citizenry, of which at  
7 least two shall be holders of water rights, appointed jointly by the  
8 counties with territory within the WRIA; and six members representing  
9 various special interest groups appointed jointly by the counties with  
10 territory within the WRIA. If one or more federal Indian reservations  
11 are located in whole or in part within the boundaries of the WRIA, the  
12 planning unit shall include one member representing the tribes on those  
13 reservations collectively, appointed by the tribes. One representative  
14 of each of the following state agencies shall be an ex officio,  
15 nonvoting member of the planning unit: The department of ecology, the  
16 department of fish and wildlife, and the department of transportation.

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

22 (3) Except for a person who is an ex officio member of the planning  
23 unit under subsection (2)(b) of this section, each person appointed to  
24 a WRIA planning unit shall have been a resident of the WRIA for at  
25 least five years. No state employee or state official may be appointed  
26 to the planning unit. In appointing persons to the WRIA planning unit  
27 representing special interest groups, the counties shall consider  
28 industrial water users, general businesses, hydroelectric and thermal  
29 power producers, and irrigated agriculture, nonirrigated agriculture,  
30 forestry, recreation, environmental, and fisheries interest groups and  
31 other groups with interests in the WRIA.

32 (4) In voting to appoint the members of a WRIA planning unit, to  
33 select a lead agency for water resource planning under section 106 of  
34 this act, to approve a WRIA plan under section 110 of this act, or to  
35 request or concur with a request for multi-WRIA planning under section  
36 106 of this act, each county with territory within the WRIA shall have  
37 three votes, divided equally among the members of the county's  
38 legislative authority and these actions shall be made by majority vote  
39 based on the votes allocated under this section. In voting to appoint

1 members of a WRIA planning unit: Each city with territory within the  
2 WRIA shall have one vote and appointments shall be made by majority  
3 vote of such cities; each water supply utility with territory within  
4 the WRIA shall have one vote and appointments shall be made by majority  
5 vote of such districts; and each conservation district with territory  
6 within the WRIA shall have one vote and appointments shall be made by  
7 majority vote of such districts. All appointments shall be made within  
8 sixty days of the date the appointing authorities other than the  
9 counties are notified to convene to make appointments or the  
10 appointments shall be made by the counties with territory in the WRIA  
11 in the same manner the counties make other appointments. A vacancy on  
12 the planning unit shall be filled by appointment in the same manner  
13 prescribed for appointing the position that has become vacant. The  
14 planning unit shall convene and begin work as soon as two-thirds of the  
15 number of persons eligible to be members of the planning unit have been  
16 appointed. The unit shall not interrupt its work to await additional  
17 original appointments or appointments to fill any vacancies that may  
18 occur in its membership.

19 NEW SECTION. **Sec. 106.** (1) The counties with territory in a WRIA  
20 may elect to conduct multi-WRIA planning with the counties with  
21 territory in one or more other WRIAs. If the counties with territory  
22 in these other WRIAs concur, all of the counties with territory in  
23 these WRIAs shall convene and shall appoint one planning unit to  
24 conduct the water resource planning for the multi-WRIA area.

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

1 by the counties with territory within the multi-WRIA area; and six  
2 members representing various special interest groups appointed jointly  
3 by the counties with territory within the multi-WRIA area. If one or  
4 more federal Indian reservations are located in whole or in part within  
5 the boundaries of the multi-WRIA area, the planning unit shall include  
6 one member representing the tribes on those reservations collectively,  
7 appointed by the tribes. One representative of each of the following  
8 state agencies shall be an ex officio, nonvoting member of the planning  
9 unit: The department of ecology, the department of fish and wildlife,  
10 and the department of transportation.

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

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

27 (2) The counties in the multi-WRIA area shall select, by a majority  
28 vote, a governmental entity in the multi-WRIA area to act as lead  
29 agency for water resource planning in the multi-WRIA area under this  
30 chapter. Such an entity shall serve as the lead agency if it agrees in  
31 writing to do so. All appointments shall be made within sixty days of  
32 the date the lead agency in the multi-WRIA area notifies the other  
33 appointing authorities to convene to make appointments or the  
34 appointments shall be made by the counties with territory in the multi-  
35 WRIA area in the same manner the counties make other appointments. A  
36 vacancy on the planning unit shall be filled by appointment in the same  
37 manner prescribed for appointing the position that has become vacant.  
38 The planning unit shall convene and begin work as soon as two-thirds of  
39 the number of persons eligible to be members of the planning unit have

1 been appointed. The unit shall not interrupt its work to await  
2 additional original appointments or appointments to fill any vacancies  
3 that may occur in its membership.

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

8 NEW SECTION. **Sec. 107.** The lead agency shall provide staff  
9 support for the work of the WRIA planning unit. Each WRIA planning  
10 unit may establish its own methods of operation that are consistent  
11 with this chapter and may establish methods for reviewing the  
12 operations of its lead agency. No planning unit appointed or selected  
13 under this chapter may possess or exercise the power of eminent domain.  
14 No planning unit appointed or selected under this chapter may take any  
15 action that affects in any manner a general adjudication proceeding for  
16 water rights, completed or ongoing. Each WRIA planning unit is  
17 encouraged to: Consider information and plans that may have been  
18 previously developed by other entities in establishing water resource  
19 management plans for the WRIA; consider existing data regarding water  
20 resources in the WRIA; and, for a WRIA that borders another state,  
21 cooperate with local government counterparts in the adjacent state  
22 regarding water resource planning. Water resource plans developed  
23 under this chapter for a WRIA may not interfere in any manner with a  
24 general adjudication of water rights, completed or ongoing. Such a  
25 WRIA plan may not in any manner impair, diminish, or interfere with a  
26 water right that exists before the adoption of the plan by the  
27 department under section 110 of this act.

28 All meetings of a WRIA planning unit shall be conducted as public  
29 meetings as required for such meetings by the open public meetings act,  
30 chapter 42.30 RCW. Some time shall be set aside at the end of each  
31 meeting of a WRIA planning unit for public comments. Each planning  
32 unit shall establish procedures to be followed by the unit in making  
33 decisions. The objective to be sought by the planning unit in making  
34 decisions is to reach consensus among its members on the decisions. To  
35 this end, the procedures shall provide means or mechanisms that will  
36 assist in achieving consensus and will provide that making decisions by  
37 majority vote will be used only after the unit has found that attempts  
38 at achieving consensus have not been successful.

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

14 NEW SECTION. **Sec. 108.** (1) Each WRIA planning unit shall develop  
15 a water resource plan. The plan must contain the elements listed in  
16 subsection (2) of this section and may include other elements added by  
17 the planning unit. Once organized, the first task of the planning unit  
18 is to prioritize these elements regarding their importance in the WRIA  
19 and in developing a water resource plan for the WRIA. A plan shall not  
20 be developed such that its provisions are in conflict with state or  
21 federal law or impair, diminish, or interfere in any manner with a  
22 water right existing prior to its adoption or with the construction,  
23 operation, or maintenance of a federal reclamation project. Each plan  
24 shall acknowledge that the water rights of citizens are private rights  
25 to real property.

26 (2) The plan must include the following:

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

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

31 (ii) A quantitative estimation using existing sources of  
32 information, of the amount of surface and ground water available, using  
33 currently available or likely available technologies, collectively for  
34 both current and future water uses, including for instream and for  
35 withdrawal;

36 (iii) A quantitative estimation using existing sources of  
37 information, of the amount of surface and ground water actually being  
38 used, both in-stream and by withdrawal, for agricultural, industrial,



1 fisheries, recreational, environmental, municipal, and residential  
2 purposes, and including amounts claimed, permitted, or certificated for  
3 future municipal needs; and

4 (iv) A quantitative estimation of the amount of water,  
5 approximately, that is represented by amounts in claims in the water  
6 rights claims registry, in water use permits, in certificated rights,  
7 and in rules establishing instream flows;

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

17 (c) Instream flow requirements.

18 (i) A planning unit shall not establish instream flow requirements  
19 for the main stem of the Columbia river or the main stem of the Snake  
20 river. A planning unit has the authority to establish instream flow  
21 requirements as part of its plan for other rivers and streams in its  
22 WRIA or multi-WRIA area if all of the perennial, nonintermittent  
23 streams and rivers in the WRIA or the multi-WRIA area for which it is  
24 conducting planning under this chapter: Empty into the Columbia river,  
25 the Snake river, or marine water within or at the boundaries of the  
26 WRIA or multi-WRIA area for which the unit is planning under this  
27 chapter; or are tributaries to streams or rivers that empty into the  
28 Columbia river, the Snake river, or marine water and do so within or at  
29 the boundaries of the WRIA or multi-WRIA area for which the unit is  
30 planning under this chapter.

31 (ii) If a planning unit has authority to set instream flow  
32 requirements under this subsection (2)(c)(ii), the planning unit may  
33 make adjustments to instream flows that have been set by the state  
34 before the adoption of the planning unit's plan and will set instream  
35 flows as part of the plan for the other rivers, streams, and lakes in  
36 the WRIA, or in the multi-WRIA area for multi-WRIA planning under  
37 section 106 of this act, for which flows have not been set. An  
38 instream flow or base flow or level set for a body of water in a WRIA  
39 plan adopted by the department under section 110 of this act supersedes

1 any other such flow or level previously established for the body of  
2 water. Planning units are encouraged to set the flow levels as soon as  
3 is practicable;

4 (d) A quantitative description of the ground water and of the  
5 surface water available for further appropriation. As used in this  
6 subsection (2)(d), "available" means available on the date the plan  
7 takes effect as a rule under section 110 of this act;

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

11 (f) Strategies for increasing water supplies in the WRIA,  
12 including:

13 (i) Conservation measures; and

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

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

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

37 NEW SECTION. **Sec. 109.** (1) Water resource management plans  
38 developed pursuant to the process in this chapter and subsequently

1 adopted by the department under section 110 of this act are presumed  
2 valid. This presumption shall apply in any petition or action filed  
3 against a plan.

4 (2) Any action taken by a state agency regarding or affecting water  
5 resources within a WRIA for which a plan has been adopted under section  
6 110 of this act and any planning conducted by a state agency regarding  
7 or affecting water resources within a WRIA for which a plan has been  
8 adopted under section 110 of this act shall be taken or conducted in a  
9 manner that is consistent with the plan. All actions and decisions of  
10 the department regarding water resources in the WRIA shall be  
11 consistent with and based upon such an adopted plan for the WRIA. Any  
12 other authority of the department exercised within the WRIA regarding  
13 or affecting water resources shall be exercised in a manner that is  
14 consistent with such an adopted plan.

15 NEW SECTION. **Sec. 110.** (1) Upon completing a proposed water  
16 resource plan for the WRIA, the WRIA planning unit shall publish notice  
17 of and conduct at least one public hearing in the WRIA on the proposed  
18 plan. The planning unit shall take care to provide notice of the  
19 hearing throughout the WRIA or multi-WRIA area. As a minimum, it shall  
20 publish a notice of the hearing in one or more newspapers of general  
21 circulation in the WRIA or multi-WRIA area. After considering the  
22 public comments presented at the hearing or hearings, the planning unit  
23 shall submit a copy of its proposed plan to the department. A proposed  
24 plan may be submitted to the department only if the unit has provided  
25 interim approval of the plan for this purpose by a majority vote of the  
26 members of the planning unit.

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

36 (3) The WRIA planning unit shall vote on each recommendation  
37 provided by the department and on the department's advice regarding any  
38 subsections or sections of the proposed WRIA plan the department

1 believed to be in conflict with state or federal law. The planning  
2 unit may adopt such a recommendation or provide changes to respond to  
3 the advice of the department by a majority vote of the members of the  
4 planning unit.

5 The WRIA planning unit shall approve a water resource plan for the  
6 WRIA by a two-thirds majority vote of the members of the planning unit.  
7 An approved plan shall be submitted to the counties with territory  
8 within the WRIA for adoption. If a WRIA planning unit receives funding  
9 for WRIA or multi-WRIA planning under section 103 of this act and does  
10 not approve a plan for submission to the counties within four years of  
11 the date the planning unit receives the first of that funding from the  
12 department for the planning, the department shall develop and adopt a  
13 water resource plan for the WRIA or multi-WRIA area.

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

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

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

1 (6) If the department advises a planning unit that an element of  
2 its WRIA plan is in conflict with state or federal law and the unit  
3 does not remove the conflict created by the element from its plan, the  
4 state is not liable for any judgment that may be awarded regarding the  
5 conflict. The department may file a petition for declaratory judgment  
6 in the superior court to determine whether the element is or is not in  
7 conflict with state or federal law. The petition shall be filed in the  
8 superior court in the county with the largest population residing in  
9 the WRIA or multi-WRIA area governed by the plan. The counties that  
10 approved the plan shall be named as parties to the proceeding. The  
11 superior court shall review the potential conflict under the error of  
12 law standard. If the superior court finds that an element of the plan  
13 is in conflict with state or federal law, that element of the plan  
14 shall be invalid. Decisions on such petitions are reviewable as in  
15 other civil cases. This subsection shall not be construed as  
16 establishing such state liability for any other element of the plan  
17 adopted as rules.

18 NEW SECTION. **Sec. 111.** 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. 112.** 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 applications  
25 to appropriate public surface and ground water. For applications that  
26 seek to appropriate water from within a WRIA for which a WRIA plan has  
27 been adopted, the department shall grant or deny the application within  
28 one hundred eighty days of the date the properly completed application  
29 is filed with the department, except as provided in subsection (2) of  
30 this section. For applications that seek to appropriate water from  
31 within a WRIA for which no WRIA plan has been adopted, the department  
32 shall grant or deny the application within one year of the date the  
33 properly completed application is filed with the department, except as  
34 provided in subsection (2) of this section. The times allowed in this  
35 section to rule upon an application shall not include the time it takes  
36 the applicant to respond to an explicit request for additional  
37 information reasonably required to make a determination on the

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

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

12 NEW SECTION. **Sec. 113.** A new section is added to chapter 34.05  
13 RCW to read as follows:

14 (1) Once the department of ecology receives a water resource plan  
15 submitted by a WRIA planning unit for advice and recommendations under  
16 section 110 of this act, the department shall conduct at least one  
17 public hearing on the plan and shall provide notice of the hearing and  
18 proposed plan as provided in RCW 34.05.320 for the proposal of a rule.  
19 The department shall maintain a file for the plan. Once the plan has  
20 been adopted by the counties in the WRIA under section 110 of this act  
21 and the plan has been submitted to the department of ecology, the  
22 department shall file the plan with the code reviser along with an  
23 order adopting the plan as rules. The code reviser shall cause the  
24 order and the water resource plan to be published in the Washington  
25 state register in the manner provided for the adoption of final rules  
26 and shall incorporate the plan into the Washington Administrative Code.  
27 No other aspect of this chapter that establishes procedures for the  
28 adoption of rules applies to the adoption of the plan by the  
29 department.

30 (2) For the purposes of this section, "WRIA" has the meaning  
31 established in section 101 of this act.

32 **PART II**

33 **STORAGE**

34 **Sec. 201.** RCW 90.54.020 and 1989 c 348 s 1 are each amended to  
35 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 106  
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 111 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 **WATER PURVEYORS**

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

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

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

8 (2) For the purposes of this section, the following definitions  
9 shall apply:

10 (a) "Interties" are interconnections between public water systems  
11 permitting exchange, acquisition, or delivery of wholesale and/or  
12 retail water between those systems for other than emergency supply  
13 purposes, where such exchange, acquisition, or delivery is within  
14 established instantaneous and annual withdrawal rates specified in the  
15 systems' existing water right permits or certificates, or contained in  
16 claims filed pursuant to chapter 90.14 RCW, and which results in better  
17 management of public water supply consistent with existing rights and  
18 obligations. Interties include interconnections between public water  
19 systems permitting exchange, acquisition, or delivery of water to serve  
20 as primary or secondary sources of supply(~~(, but do not include~~  
21 ~~development of new sources of supply to meet future demand)) and the  
22 development of new sources of supply to meet future demands if the  
23 water system or systems receiving water through such an intertie make  
24 efficient use of existing sources of water supply and the provision of  
25 water through such an intertie is consistent with local land use plans.  
26 For this purpose, a system's full compliance with the state department  
27 of health's conservation guidelines for such systems is deemed  
28 efficient use.~~

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

37 (3)(a) Public water systems with interties existing and in use as  
38 of January 1, 1991, or that have received written approval from the  
39 department of health prior to that date, shall file written notice of

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

26 (b) An intertie meeting the requirements of this subsection (3) for  
27 modifying the place of use description in a water right permit,  
28 certificate, or claim may be used to its full design or built capacity  
29 within the most recently approved retail or wholesale or retail and  
30 wholesale service area, without further approval under this section and  
31 without regard to the capacity actually used before January 1, 1991.

32 (4) Notwithstanding the provisions of RCW 90.03.380 and 90.44.100,  
33 exchange, acquisition, or delivery of water through interties approved  
34 by the department of health commencing use after January 1, 1991, shall  
35 be permitted when the intertie improves overall system reliability,  
36 enhances the manageability of the systems, provides opportunities for  
37 conjunctive use, or delays or avoids the need to develop new water  
38 sources, and otherwise meets the requirements of this section, provided  
39 that each public water system's water use shall not exceed the

1 instantaneous or annual withdrawal rate specified in its water right  
2 authorization, shall not adversely affect existing water rights, and  
3 shall not be inconsistent with state-approved plans such as water  
4 system plans or other plans which include specific proposals for  
5 construction of interties. Interties approved and commencing use after  
6 January 1, 1991, shall not be inconsistent with regional water resource  
7 plans developed pursuant to chapter 90.54 RCW or chapter 90.-- RCW  
8 (sections 101 through 111 of this act).

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

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

28 (7) If the intertie is determined by the department of health to be  
29 necessary to address emergent public health or safety concerns  
30 associated with public water supply, the public water system shall  
31 amend its water system plan as required and shall file an application  
32 with the department of ecology to change its existing water right to  
33 reflect the proposed use of the water as described in the approved  
34 water system plan. The department of ecology shall process the  
35 application for change pursuant to RCW 90.03.380 or 90.44.100 as  
36 appropriate, except that, notwithstanding the requirements of those  
37 sections regarding notice and protest periods, applicants shall be  
38 required to publish notice one time, and the comment period shall be  
39 fifteen days from the date of publication of the notice. Within sixty

1 days of receiving the application, the department of ecology shall  
2 issue findings and advise the department of health if existing water  
3 rights are determined to be adversely affected. If no determination is  
4 provided by the department of ecology within the sixty-day period, the  
5 department of health shall proceed as if existing rights are not  
6 adversely affected by the proposed intertie. The department of ecology  
7 may obtain an extension of the sixty-day period by submitting written  
8 notice to the department of health and to the applicant indicating a  
9 definite date by which its determination will be made. No additional  
10 extensions shall be granted, and in no event shall the total review  
11 period for the department of ecology exceed one hundred eighty days.

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

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



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

5 (a) Drought, or other unavailability of water;

6 (b) Active service in the armed forces of the United States during  
7 military crisis;

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

9 (d) The operation of legal proceedings;

10 (e) Federal laws imposing land or water use restrictions either  
11 directly or through the voluntary enrollment of a landowner in a  
12 federal program implementing those laws, or acreage limitations, or  
13 production quotas;

14 (f) An elapse of time occurring while a request or application is  
15 processed for transferring or changing a water right to use by a public  
16 water supplier for municipal purposes;

17 (g) The implementation of practices or technologies or the  
18 installation or repair of facilities, including but not limited to  
19 water conveyance practices, technologies, or facilities, that are more  
20 efficient or more water use efficient than practices, technologies, or  
21 facilities previously used under the water right.

22 (2) Notwithstanding any other provisions of RCW 90.14.130 through  
23 90.14.180, there shall be no relinquishment of any water right:

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

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

31 (c) If such right is claimed for a determined future development to  
32 take place ((either)) at any time within fifteen years of either July  
33 1, 1967, or the most recent beneficial use of the water right,  
34 whichever date is later, or

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

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





1 government; surface mining; and the environmental community. At least  
2 four public hearings must be held at various locations around the  
3 state, not less than two of which shall be east of the crest of the  
4 Cascade mountains. The rules must identify criteria for proposed uses  
5 of water for which applications might be processed under the system and  
6 must establish procedures for filing and processing applications and  
7 issuing water rights certificates under the general permit system.

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

10 An application for registration as a nonconsumptive, nonbypass  
11 water user under the general permit system established under section  
12 602 of this act must be made on a form adopted and provided by the  
13 department. Within sixty days of receipt of a properly completed  
14 application, the department shall determine whether the proposed use is  
15 eligible to be processed under the general permit system. If the  
16 department determines that the proposed use is eligible to be processed  
17 under the system, the application must be processed under the system  
18 within the next sixty days. The priority date of the water right  
19 established pursuant to this section shall be the date that the  
20 properly completed application is submitted. If the department  
21 determines that the proposed use is not eligible for the processing,  
22 the department shall explain to the applicant in writing the reasons  
23 for its determination. For a proposed use determined ineligible for  
24 the processing, if the department finds that the information contained  
25 on the application form substantially satisfies the information  
26 requirements for an application for a use that would normally be filed  
27 for processing the application outside of the general permit system,  
28 the department shall notify the applicant of its finding and shall  
29 process the application as if it were filed for processing outside of  
30 the system. If the department finds that the information does not  
31 substantially satisfy the requirements, the application must be  
32 considered to be incomplete for the processing and the applicant must  
33 be notified of this consideration.

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

36 Nothing in sections 602 and 603 of this act authorizes the  
37 impairment or operates to impair any existing water rights. A water

1 right holder under sections 602 and 603 of this act shall not make  
2 withdrawals that impair a senior water right. A holder of a senior  
3 water right who believes his or her water right is impaired may file a  
4 complaint with the department of ecology. Where such complaints of  
5 impairment have been received, the department of ecology shall make all  
6 reasonable efforts to resolve them in a timely manner through agreement  
7 of the parties. Nothing in section 602 or 603 of this act may be  
8 construed as waiving any requirement established under chapter 90.48  
9 RCW or federal law that a permittee secure a discharge permit regarding  
10 water quality.

11 NEW SECTION. **Sec. 605.** If specific funding for the purposes of  
12 this act, referencing this act by bill or chapter number, is not  
13 provided by June 30, 1997, in the omnibus appropriations act, this act  
14 is null and void.

15 **PART VII**  
16 **MISCELLANEOUS**

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

19 NEW SECTION. **Sec. 702.** Sections 101 through 111 of this act shall  
20 constitute a new chapter in Title 90 RCW.

--- END ---