

CERTIFICATION OF ENROLLMENT

**ENGROSSED HOUSE BILL 2993**

57th Legislature  
2002 Regular Session

Passed by the House March 13, 2002  
Yeas 95 Nays 0

\_\_\_\_\_  
**Speaker of the House of Representatives**

Passed by the Senate March 13, 2002  
Yeas 46 Nays 2

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**President of the Senate**

Approved

\_\_\_\_\_  
Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 2993** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

Secretary of State  
State of Washington

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ENGROSSED HOUSE BILL 2993

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Passed Legislature - 2002 Regular Session

State of Washington

57th Legislature

2002 Regular Session

By Representatives Linville and Kirby

Read first time 02/27/2002. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to water policy; amending RCW 90.46.010, 90.46.030,  
2 90.46.130, 90.38.020, 90.42.040, 90.42.080, and 90.03.370; adding a new  
3 section to chapter 90.54 RCW; adding a new section to chapter 90.03  
4 RCW; adding a new section to chapter 90.46 RCW; adding a new section to  
5 chapter 43.155 RCW; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.54 RCW  
8 to read as follows:

9 The legislature recognizes the critical importance of providing and  
10 securing sufficient water to meet the needs of people, farms, and fish.  
11 The legislature finds that an effective way to meet the water needs of  
12 people, farms, and fish is through strategies developed and implemented  
13 at the local watershed level. The objectives of these strategies are  
14 to supply water in sufficient quantities to satisfy the following three  
15 water resource objectives:

16 (1) Providing sufficient water for residential, commercial, and  
17 industrial needs;

18 (2) Providing sufficient water for productive fish populations; and

19 (3) Providing sufficient water for productive agriculture.

1       The legislature affirms its intent to provide continued support for  
2 watershed strategies and provides the tools in this bill to assist  
3 local watersheds in meeting these objectives.

4       NEW SECTION.   **Sec. 2.** A new section is added to chapter 90.03 RCW  
5 to read as follows:

6       (1) The department shall, through a network of water masters  
7 appointed under this chapter, stream patrollers appointed under chapter  
8 90.08 RCW, and other assigned compliance staff to the extent such a  
9 network is funded, achieve compliance with the water laws and rules of  
10 the state of Washington in the following sequence:

11       (a) The department shall prepare and distribute technical and  
12 educational information to the general public to assist the public in  
13 complying with the requirements of their water rights and applicable  
14 water laws;

15       (b) When the department determines that a violation has occurred or  
16 is about to occur, it shall first attempt to achieve voluntary  
17 compliance. As part of this first response, the department shall offer  
18 information and technical assistance to the person in writing  
19 identifying one or more means to accomplish the person's purposes  
20 within the framework of the law; and

21       (c) If education and technical assistance do not achieve compliance  
22 the department shall issue a notice of violation, a formal  
23 administrative order under RCW 43.27A.190, or assess penalties under  
24 RCW 90.03.600 unless the noncompliance is corrected expeditiously or  
25 the department determines no impairment or harm.

26       (2) Nothing in the section is intended to prevent the department of  
27 ecology from taking immediate action to cause a violation to be ceased  
28 immediately if in the opinion of the department the nature of the  
29 violation is causing harm to other water rights or to public resources.

30       (3) The department of ecology shall to the extent practicable  
31 station its compliance personnel within the watershed communities they  
32 serve. To the extent practicable, compliance personnel shall be  
33 distributed evenly among the regions of the state.

34       **Sec. 3.** RCW 90.46.010 and 2001 c 69 s 2 are each amended to read  
35 as follows:

36       The definitions in this section apply throughout this chapter  
37 unless the context clearly requires otherwise.

1 (1) "Greywater" means wastewater having the consistency and  
2 strength of residential domestic type wastewater. Greywater includes  
3 wastewater from sinks, showers, and laundry fixtures, but does not  
4 include toilet or urinal waters.

5 (2) "Land application" means application of treated effluent for  
6 purposes of irrigation or landscape enhancement for residential,  
7 business, and governmental purposes.

8 (3) "Person" means any state, individual, public or private  
9 corporation, political subdivision, governmental subdivision,  
10 governmental agency, municipality, copartnership, association, firm,  
11 trust estate, or any other legal entity whatever.

12 (4) "Reclaimed water" means effluent derived in any part from  
13 sewage from a wastewater treatment system that has been adequately and  
14 reliably treated, so that as a result of that treatment, it is suitable  
15 for a beneficial use or a controlled use that would not otherwise occur  
16 and is no longer considered wastewater.

17 (5) "Sewage" means water-carried human wastes from residences,  
18 buildings, industrial and commercial establishments, or other places,  
19 together with such ground water infiltration, surface waters, or  
20 industrial wastewater as may be present.

21 (6) "User" means any person who uses reclaimed water.

22 (7) "Wastewater" means water and wastes discharged from homes,  
23 businesses, and industry to the sewer system.

24 (8) "Beneficial use" means the use of reclaimed water, that has  
25 been transported from the point of production to the point of use  
26 without an intervening discharge to the waters of the state, for a  
27 beneficial purpose.

28 (9) "Direct recharge" means the controlled subsurface addition of  
29 water directly to the ground water basin that results in the  
30 replenishment of ground water.

31 (10) "Ground water recharge criteria" means the contaminant  
32 criteria found in the drinking water quality standards adopted by the  
33 state board of health pursuant to chapter 43.20 RCW and the department  
34 of health pursuant to chapter 70.119A RCW.

35 (11) "Planned ground water recharge project" means any reclaimed  
36 water project designed for the purpose of recharging ground water, via  
37 direct recharge or surface percolation.

1 (12) "Reclamation criteria" means the criteria set forth in the  
2 water reclamation and reuse interim standards and subsequent revisions  
3 adopted by the department of ecology and the department of health.

4 (13) "Streamflow augmentation" means the discharge of reclaimed  
5 water to rivers and streams of the state or other surface water bodies,  
6 but not wetlands.

7 (14) "Surface percolation" means the controlled application of  
8 water to the ground surface for the purpose of replenishing ground  
9 water.

10 (15) "Wetland or wetlands" means areas that are inundated or  
11 saturated by surface water or ground water at a frequency and duration  
12 sufficient to support, and that under normal circumstances do support,  
13 a prevalence of vegetation typically adapted to life in saturated soil  
14 conditions. Wetlands generally include swamps, marshes, bogs, and  
15 similar areas. Wetlands regulated under this chapter shall be  
16 delineated in accordance with the manual adopted by the department of  
17 ecology pursuant to RCW 90.58.380.

18 (16) "Constructed beneficial use wetlands" means those wetlands  
19 intentionally constructed on nonwetland sites to produce or replace  
20 natural wetland functions and values. Constructed beneficial use  
21 wetlands are considered "waters of the state."

22 (17) "Constructed treatment wetlands" means those wetlands  
23 intentionally constructed on nonwetland sites and managed for the  
24 primary purpose of wastewater or storm water treatment. Constructed  
25 treatment wetlands are considered part of the collection and treatment  
26 system and are not considered "waters of the state."

27 (18) "Agricultural industrial process water" means water that has  
28 been used for the purpose of (~~agriculture~~[agricultural])  
29 agricultural processing and has been adequately and reliably treated,  
30 so that as a result of that treatment, it is suitable for other  
31 agricultural water use.

32 (19) "Agricultural processing" means the processing of crops or  
33 milk to produce a product primarily for wholesale or retail sale for  
34 human or animal consumption, including but not limited to potato,  
35 fruit, vegetable, and grain processing.

36 (20) "Agricultural water use" means the use of water for irrigation  
37 and other uses related to the production of agricultural products.  
38 These uses include, but are not limited to, construction, operation,  
39 and maintenance of agricultural facilities and livestock operations at

1 farms, ranches, dairies, and nurseries. Examples of these uses  
2 include, but are not limited to, dust control, temperature control, and  
3 fire control.

4 (21) "Industrial reuse water" means water that has been used for  
5 the purpose of industrial processing and has been adequately and  
6 reliably treated so that, as a result of that treatment, it is suitable  
7 for other uses.

8 **Sec. 4.** RCW 90.46.030 and 1992 c 204 s 4 are each amended to read  
9 as follows:

10 (1) The department of health shall, in coordination with the  
11 department of ecology, adopt a single set of standards, procedures, and  
12 guidelines on or before August 1, 1993, for the industrial and  
13 commercial use of reclaimed water.

14 (2) The department of health may issue a reclaimed water permit for  
15 industrial and commercial uses of reclaimed water to the generator of  
16 reclaimed water who may then distribute the water, subject to  
17 provisions in the permit governing the location, rate, water quality,  
18 and purposes of use.

19 (3) The department of health in consultation with the advisory  
20 committee established in RCW 90.46.050, shall develop recommendations  
21 for a fee structure for permits issued under subsection (2) of this  
22 section. Fees shall be established in amounts to fully recover, and  
23 not exceed, expenses incurred by the department of health in processing  
24 permit applications and modifications, monitoring and evaluating  
25 compliance with permits, and conducting inspections and supporting the  
26 reasonable overhead expenses that are directly related to these  
27 activities. Permit fees may not be used for research or enforcement  
28 activities. The department of health shall not issue permits under  
29 this section until a fee structure has been established.

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

34 (5) The authority and duties created in this section are in  
35 addition to any authority and duties already provided in law with  
36 regard to sewage and wastewater collection, treatment, and disposal for  
37 the protection of health and safety of the state's waters. Nothing in

1 this section limits the powers of the state or any political  
2 subdivision to exercise such authority.

3 (6) The department of health may implement the requirements of this  
4 section through the department of ecology by execution of a formal  
5 agreement between the departments. Upon execution of such an  
6 agreement, the department of ecology may issue reclaimed water permits  
7 for industrial and commercial uses of reclaimed water by issuance of  
8 permits under chapter 90.48 RCW, and may establish and collect fees as  
9 required for permits issued under chapter 90.48 RCW.

10 **Sec. 5.** RCW 90.46.130 and 2001 c 69 s 4 are each amended to read  
11 as follows:

12 (1) Except as provided in subsection (2) of this section,  
13 facilities that reclaim water under this chapter shall not impair any  
14 existing water right downstream from any freshwater discharge points of  
15 such facilities unless compensation or mitigation for such impairment  
16 is agreed to by the holder of the affected water right.

17 (2) Agricultural water use of agricultural industrial process water  
18 and use of industrial reuse water under this chapter shall not impair  
19 existing water rights within the water source that is the source of  
20 supply for the agricultural processing plant or the industrial  
21 processing and, if the water source is surface water, the existing  
22 water rights are downstream from the agricultural processing plant's  
23 discharge points existing on July 22, 2001, or from the industrial  
24 processing's discharge points existing on the effective date of this  
25 section.

26 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.46 RCW  
27 to read as follows:

28 (1) The permit to use industrial reuse water shall be the permit  
29 issued under chapter 90.48 RCW to the owner of the plant that is the  
30 source of the industrial process water, who may then distribute the  
31 water according to provisions in the permit governing the location,  
32 rate, water quality, and purpose. In cases where the department of  
33 ecology determines that a proposed use may pose a significant risk to  
34 public health, the department shall refer the permit application to the  
35 department of health for review and consultation.

36 (2) The owner of the industrial plant who obtains a permit under  
37 this section has the exclusive right to the use of any industrial reuse

1 water generated from the plant and to the distribution of such water.  
2 Use and distribution of the water by the owner is exempt from the  
3 permit requirements of RCW 90.03.250, 90.03.380, 90.44.060, and  
4 90.44.100.

5 (3) Nothing in this section affects any right to reuse industrial  
6 process water in existence on or before the effective date of this  
7 section.

8 **Sec. 7.** RCW 90.38.020 and 2001 c 237 s 28 are each amended to read  
9 as follows:

10 (1)(a) The department may acquire water rights, including but not  
11 limited to storage rights, by purchase, lease, gift, or other  
12 appropriate means other than by condemnation, from any person or entity  
13 or combination of persons or entities. Once acquired, such rights are  
14 trust water rights. A water right acquired by the state that is  
15 expressly conditioned to limit its use to instream purposes shall be  
16 administered as a trust water right in compliance with that condition.

17 (b) If ~~((an aquatic species is listed as threatened or endangered  
18 under federal law for a body of water, or is listed as depressed or  
19 threatened by reason of inadequate stream flows under state law, and))~~  
20 the holder of a right to water from ~~((the))~~ a body of water chooses to  
21 donate all or a portion of the person's water right to the trust water  
22 system to assist in providing ~~((these))~~ instream flows on a temporary  
23 or permanent basis, the department shall accept the donation on such  
24 terms as the person may prescribe as long as the donation satisfies the  
25 requirements of subsection (4) of this section and the other applicable  
26 requirements of this chapter and the terms prescribed are relevant and  
27 material to protecting any interest in the water right retained by the  
28 donor. Once accepted, such rights are trust water rights within the  
29 conditions prescribed by the donor.

30 (2) The department may make such other arrangements, including  
31 entry into contracts with other persons or entities as appropriate to  
32 ensure that trust water rights acquired in accordance with this chapter  
33 can be exercised to the fullest possible extent.

34 (3) The trust water rights may be acquired on a temporary or  
35 permanent basis.

36 (4) A water right donated under subsection (1)(b) of this section  
37 shall not exceed the extent to which the water right was exercised  
38 during the five years before the donation nor may the total of any



1 portion of the water right remaining with the donor plus the donated  
2 portion of the water right exceed the extent to which the water right  
3 was exercised during the five years before the donation. A water right  
4 holder who believes his or her water right has been impaired by a trust  
5 water right donated under subsection (1)(b) of this section may request  
6 that the department review the impairment claim. If the department  
7 determines that exercising the trust water right resulting from the  
8 donation or exercising a portion of that trust water right donated  
9 under subsection (1)(b) of this section is impairing existing water  
10 rights in violation of RCW 90.38.902, the trust water right shall be  
11 altered by the department to eliminate the impairment. Any decision of  
12 the department to alter or not alter a trust water right donated under  
13 subsection (1)(b) of this section is appealable to the pollution  
14 control hearings board under RCW 43.21B.230. A donated water right's  
15 status as a trust water right under this subsection is not evidence of  
16 the validity or quantity of the water right.

17 (5) Any water right conveyed to the trust water right system as a  
18 gift that is expressly conditioned to limit its use to instream  
19 purposes shall be managed by the department for public purposes to  
20 ensure that it qualifies as a gift that is deductible for federal  
21 income taxation purposes for the person or entity conveying the water  
22 right.

23 (6) If the department acquires a trust water right by lease (~~(in an~~  
24 ~~area in which a drought order has been issued under RCW 43.83B.405 and~~  
25 ~~is in effect at the time the department leases the water right)), the  
26 amount of the trust water right shall not exceed the extent to which  
27 the water right was exercised during the five years before the  
28 acquisition was made nor may the total of any portion of the water  
29 right remaining with the original water right holder plus the portion  
30 of the water right leased by the department exceed the extent to which  
31 the water right was exercised during the five years before the  
32 acquisition. A water right holder who believes his or her water right  
33 has been impaired by a trust water right leased under this subsection  
34 may request that the department review the impairment claim. If the  
35 department determines that exercising the trust water right resulting  
36 from the leasing or exercising (~~{of}~~) of a portion of that trust  
37 water right leased under this subsection is impairing existing water  
38 rights in violation of RCW 90.38.902, the trust water right shall be  
39 altered by the department to eliminate the impairment. Any decision of~~

1 the department to alter or not to alter a trust water right leased  
2 under this subsection is appealable to the pollution control hearings  
3 board under RCW 43.21B.230. The department's leasing of a trust water  
4 right under this subsection is not evidence of the validity or quantity  
5 of the water right.

6 (7) For a water right donated to or acquired by the trust water  
7 rights program on a temporary basis, the full quantity of water  
8 diverted or withdrawn to exercise the right before the donation or  
9 acquisition shall be placed in the trust water rights program and shall  
10 revert to the donor or person from whom it was acquired when the trust  
11 period ends.

12 **Sec. 8.** RCW 90.42.040 and 2001 c 237 s 30 are each amended to read  
13 as follows:

14 (1) All trust water rights acquired by the state shall be placed in  
15 the state trust water rights program to be managed by the department.  
16 Trust water rights acquired by the state shall be held or authorized  
17 for use by the department for instream flows, irrigation, municipal, or  
18 other beneficial uses consistent with applicable regional plans for  
19 pilot planning areas, or to resolve critical water supply problems. To  
20 the extent practicable and subject to legislative appropriation, trust  
21 water rights acquired in an area with an approved watershed plan  
22 developed under chapter 90.82 RCW shall be consistent with that plan if  
23 the plan calls for such acquisition.

24 (2) The department shall issue a water right certificate in the  
25 name of the state of Washington for each permanent trust water right  
26 conveyed to the state indicating the reach or reaches of the stream,  
27 the quantity, and the use or uses to which it may be applied. A  
28 superseding certificate shall be issued that specifies the amount of  
29 water the water right holder would continue to be entitled to as a  
30 result of the water conservation project. The superseding certificate  
31 shall retain the same priority date as the original right. For  
32 nonpermanent conveyances, the department shall issue certificates or  
33 such other instruments as are necessary to reflect the changes in  
34 purpose or place of use or point of diversion or withdrawal.

35 (3) A trust water right retains the same priority date as the water  
36 right from which it originated, but as between them the trust right  
37 shall be deemed to be inferior in priority unless otherwise specified

1 by an agreement between the state and the party holding the original  
2 right.

3 (4) Exercise of a trust water right may be authorized only if the  
4 department first determines that neither water rights existing at the  
5 time the trust water right is established, nor the public interest will  
6 be impaired. If impairment becomes apparent during the time a trust  
7 water right is being exercised, the department shall cease or modify  
8 the use of the trust water right to eliminate the impairment.

9 (5) Before any trust water right is created or modified, the  
10 department shall, at a minimum, require that a notice be published in  
11 a newspaper of general circulation published in the county or counties  
12 in which the storage, diversion, and use are to be made, and in other  
13 newspapers as the department determines is necessary, once a week for  
14 two consecutive weeks. At the same time the department shall send a  
15 notice containing pertinent information to all appropriate state  
16 agencies, potentially affected local governments and federally  
17 recognized tribal governments, and other interested parties.

18 (6) RCW 90.14.140 through 90.14.230 have no applicability to trust  
19 water rights held by the department under this chapter or exercised  
20 under this section.

21 (7) RCW 90.03.380 has no applicability to trust water rights  
22 acquired by the state through the funding of water conservation  
23 projects.

24 (8) Subsections (4) and (5) of this section do not apply to a trust  
25 water right resulting from a donation for instream flows described in  
26 RCW 90.42.080(1)(b) or to a trust water right leased under RCW  
27 90.42.080(8) if the period of the lease does not exceed five years.  
28 However, the department shall provide the notice described in  
29 subsection (5) of this section the first time the trust water right  
30 resulting from the donation is exercised.

31 (9) Where a portion of an existing water right that is acquired or  
32 donated to the trust water rights program will assist in achieving  
33 established instream flows, the department shall process the change or  
34 amendment of the existing right without conducting a review of the  
35 extent and validity of the portion of the water right that will remain  
36 with the water right holder.

37 **Sec. 9.** RCW 90.42.080 and 2001 c 237 s 31 are each amended to read  
38 as follows:

1 (1)(a) The state may acquire all or portions of existing water  
2 rights, by purchase, gift, or other appropriate means other than by  
3 condemnation, from any person or entity or combination of persons or  
4 entities. Once acquired, such rights are trust water rights. A water  
5 right acquired by the state that is expressly conditioned to limit its  
6 use to instream purposes shall be administered as a trust water right  
7 in compliance with that condition.

8 (b) If ~~((an aquatic species is listed as threatened or endangered  
9 under federal law for a body of water, or is listed as depressed or  
10 threatened by reason of inadequate stream flow under state law, and))~~  
11 the holder of a right to water from ~~((the))~~ a body of water chooses to  
12 donate all or a portion of the person's water right to the trust water  
13 system to assist in providing ~~((those))~~ instream flows on a temporary  
14 or permanent basis, the department shall accept the donation on such  
15 terms as the person may prescribe as long as the donation satisfies the  
16 requirements of subsection (4) of this section and the other applicable  
17 requirements of this chapter and the terms prescribed are relevant and  
18 material to protecting any interest in the water right retained by the  
19 donor. Once accepted, such rights are trust water rights within the  
20 conditions prescribed by the donor.

21 (2) The department may enter into leases, contracts, or such other  
22 arrangements with other persons or entities as appropriate, to ensure  
23 that trust water rights acquired in accordance with this chapter may be  
24 exercised to the fullest possible extent.

25 (3) Trust water rights may be acquired by the state on a temporary  
26 or permanent basis.

27 (4) A water right donated under subsection (1)(b) of this section  
28 shall not exceed the extent to which the water right was exercised  
29 during the five years before the donation nor may the total of any  
30 portion of the water right remaining with the donor plus the donated  
31 portion of the water right exceed the extent to which the water right  
32 was exercised during the five years before the donation. A water right  
33 holder who believes his or her water right has been impaired by a trust  
34 water right donated under subsection (1)(b) of this section may request  
35 that the department review the impairment claim. If the department  
36 determines that exercising the trust water right resulting from the  
37 donation or exercising a portion of that trust water right donated  
38 under subsection (1)(b) of this section is impairing existing water  
39 rights in violation of RCW 90.42.070, the trust water right shall be

1 altered by the department to eliminate the impairment. Any decision of  
2 the department to alter or not to alter a trust water right donated  
3 under subsection (1)(b) of this section is appealable to the pollution  
4 control hearings board under RCW 43.21B.230. A donated water right's  
5 status as a trust water right under this subsection is not evidence of  
6 the validity or quantity of the water right.

7 (5) The provisions of RCW 90.03.380 and 90.03.390 do not apply to  
8 donations for instream flows described in subsection (1)(b) of this  
9 section, but do apply to other transfers of water rights under this  
10 section.

11 (6) No funds may be expended for the purchase of water rights by  
12 the state pursuant to this section unless specifically appropriated for  
13 this purpose by the legislature.

14 (7) Any water right conveyed to the trust water right system as a  
15 gift that is expressly conditioned to limit its use to instream  
16 purposes shall be managed by the department for public purposes to  
17 ensure that it qualifies as a gift that is deductible for federal  
18 income taxation purposes for the person or entity conveying the water  
19 right.

20 (8) If the department acquires a trust water right by lease (~~((in an~~  
21 ~~area in which a drought order has been issued under RCW 43.83B.405 and~~  
22 ~~is in effect at the time the department leases the water right))), the  
23 amount of the trust water right shall not exceed the extent to which  
24 the water right was exercised during the five years before the  
25 acquisition was made nor may the total of any portion of the water  
26 right remaining with the original water right holder plus the portion  
27 of the water right leased by the department exceed the extent to which  
28 the water right was exercised during the five years before the  
29 acquisition. A water right holder who believes his or her water right  
30 has been impaired by a trust water right leased under this subsection  
31 may request that the department review the impairment claim. If the  
32 department determines that exercising the trust water right resulting  
33 from the leasing or exercising (~~{ef}~~) of a portion of that trust  
34 water right leased under this subsection is impairing existing water  
35 rights in violation of RCW 90.42.070, the trust water right shall be  
36 altered by the department to eliminate the impairment. Any decision of  
37 the department to alter or not to alter a trust water right leased  
38 under this subsection is appealable to the pollution control hearings  
39 board under RCW 43.21B.230. The department's leasing of a trust water~~

1 right under this subsection is not evidence of the validity or quantity  
2 of the water right.

3 (9) For a water right donated to or acquired by the trust water  
4 rights program on a temporary basis, the full quantity of water  
5 diverted or withdrawn to exercise the right before the donation or  
6 acquisition shall be placed in the trust water rights program and shall  
7 revert to the donor or person from whom it was acquired when the trust  
8 period ends.

9 **Sec. 10.** RCW 90.03.370 and 2000 c 98 s 3 are each amended to read  
10 as follows:

11 (1)(a) All applications for reservoir permits (~~shall be~~) are  
12 subject to the provisions of RCW 90.03.250 through 90.03.320. But the  
13 party or parties proposing to apply to a beneficial use the water  
14 stored in any such reservoir shall also file an application for a  
15 permit, to be known as the secondary permit, which shall be in  
16 compliance with the provisions of RCW 90.03.250 through 90.03.320.  
17 Such secondary application shall refer to such reservoir as its source  
18 of water supply and shall show documentary evidence that an agreement  
19 has been entered into with the owners of the reservoir for a permanent  
20 and sufficient interest in said reservoir to impound enough water for  
21 the purposes set forth in said application. When the beneficial use  
22 has been completed and perfected under the secondary permit, the  
23 department shall take the proof of the water users under such permit  
24 and the final certificate of appropriation shall refer to both the  
25 ditch and works described in the secondary permit and the reservoir  
26 described in the primary permit. The department may accept for  
27 processing a single application form covering both a proposed reservoir  
28 and a proposed secondary permit or permits for use of water from that  
29 reservoir.

30 (b) The department shall expedite processing applications for the  
31 following types of storage proposals:

32 (i) Development of storage facilities that will not require a new  
33 water right for diversion or withdrawal of the water to be stored;

34 (ii) Adding or changing one or more purposes of use of stored  
35 water;

36 (iii) Adding to the storage capacity of an existing storage  
37 facility; and

1        (iv) Applications for secondary permits to secure use from existing  
2 storage facilities.

3        (c) A secondary permit for the beneficial use of water shall not be  
4 required for use of water stored in a reservoir where the water right  
5 for the source of the stored water authorizes the beneficial use.

6        (2)(a) For the purposes of this section, "reservoir" includes, in  
7 addition to any surface reservoir, any naturally occurring underground  
8 geological formation where water is collected and stored for subsequent  
9 use as part of an underground artificial storage and recovery project.  
10 To qualify for issuance of a reservoir permit an underground geological  
11 formation must meet standards for review and mitigation of adverse  
12 impacts identified, for the following issues:

13        (i) Aquifer vulnerability and hydraulic continuity;

14        (ii) Potential impairment of existing water rights;

15        (iii) Geotechnical impacts and aquifer boundaries and  
16 characteristics;

17        (iv) Chemical compatibility of surface waters and ground water;

18        (v) Recharge and recovery treatment requirements;

19        (vi) System operation;

20        (vii) Water rights and ownership of water stored for recovery; and

21        (viii) Environmental impacts.

22        (b) Standards for review and standards for mitigation of adverse  
23 impacts for an underground artificial storage and recovery project  
24 shall be established by the department by rule. Notwithstanding the  
25 provisions of RCW 90.03.250 through 90.03.320, analysis of each  
26 underground artificial storage and recovery project and each  
27 underground geological formation for which an applicant seeks the  
28 status of a reservoir shall be through applicant-initiated studies  
29 reviewed by the department.

30        (3) For the purposes of this section, "underground artificial  
31 storage and recovery project" means any project in which it is intended  
32 to artificially store water in the ground through injection, surface  
33 spreading and infiltration, or other department-approved method, and to  
34 make subsequent use of the stored water. However, (a) this subsection  
35 does not apply to irrigation return flow, or to operational and seepage  
36 losses that occur during the irrigation of land, or to water that is  
37 artificially stored due to the construction, operation, or maintenance  
38 of an irrigation district project, or to projects involving water  
39 reclaimed in accordance with chapter 90.46 RCW; and (b) RCW 90.44.130

1 applies to those instances of claimed artificial recharge occurring due  
2 to the construction, operation, or maintenance of an irrigation  
3 district project or operational and seepage losses that occur during  
4 the irrigation of land, as well as other forms of claimed artificial  
5 recharge already existing at the time a ground water subarea is  
6 established.

7 (4) Nothing in chapter 98, Laws of 2000 changes the requirements of  
8 existing law governing issuance of permits to appropriate or withdraw  
9 the waters of the state.

10 (5) The department shall report to the legislature by December 31,  
11 2001, on the standards for review and standards for mitigation  
12 developed under subsection (3) of this section and on the status of any  
13 applications that have been filed with the department for underground  
14 artificial storage and recovery projects by that date.

15 (6) Where needed to ensure that existing storage capacity is  
16 effectively and efficiently used to meet multiple purposes, the  
17 department may authorize reservoirs to be filled more than once per  
18 year or more than once per season of use.

19 NEW SECTION. Sec. 11. A new section is added to chapter 43.155  
20 RCW to read as follows:

21 The water conservation account is created in the custody of the  
22 state treasurer. All receipts from federal funding dedicated to water  
23 conservation under 16 U.S.C. Sec. 3831 shall be deposited in the  
24 account. In addition, the legislature may appropriate money to the  
25 account. The account is subject to allotment procedures under chapter  
26 43.88 RCW, but an appropriation is not required for expenditures.  
27 Expenditures from the account shall be used for the development and  
28 support of water conservation as defined by 16 U.S.C. Sec. 3831. Only  
29 the public works board or its designee may make expenditures from the  
30 account.

31 NEW SECTION. Sec. 12. Section 11 of this act is necessary for the  
32 immediate preservation of the public peace, health, or safety, or  
33 support of the state government and its existing public institutions,  
34 and takes effect immediately.

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