
SENATE BILL 6091

State of Washington

65th Legislature

2018 Regular Session

By Senators Van De Wege, Rolfes, and Frockt

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1 AN ACT Relating to ensuring that water is available to support
2 development; amending RCW 19.27.097, 58.17.110, and 90.54.010;
3 reenacting and amending RCW 36.70A.070; adding new sections to
4 chapter 90.54 RCW; adding a new chapter to Title 43 RCW; creating new
5 sections; providing an expiration date; and declaring an emergency.

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

7 **PART 1**

8 **Sec. 101.** RCW 19.27.097 and 2015 c 225 s 17 are each amended to
9 read as follows:

10 (1)(a) Each applicant for a building permit of a building
11 necessitating potable water shall provide evidence of an adequate
12 water supply for the intended use of the building. Evidence may be in
13 the form of a water right permit from the department of ecology, a
14 letter from an approved water purveyor stating the ability to provide
15 water, or another form sufficient to verify the existence of an
16 adequate water supply. (~~In addition to other authorities, the county
17 or city may impose conditions on building permits requiring
18 connection to an existing public water system where the existing
19 system is willing and able to provide safe and reliable potable water
20 to the applicant with reasonable economy and efficiency.~~) An

1 application for a water right shall not be sufficient proof of an
2 adequate water supply.

3 (b) In areas where rules have been adopted under chapter 90.22 or
4 90.54 RCW that explicitly regulate permit-exempt groundwater
5 withdrawals, evidence of an adequate water supply must be consistent
6 with and may rely on the specific rule requirements.

7 (c) In areas where rules have been adopted under chapter 90.22 or
8 90.54 RCW that do not explicitly regulate permit-exempt groundwater
9 withdrawals, evidence of an adequate water supply must be consistent
10 with and may rely on the requirements established in section 105 of
11 this act, unless an applicant provides other evidence of an adequate
12 water supply that complies with chapters 90.03 and 90.44 RCW.

13 (d) In other areas of the state, physical and legal evidence of
14 an adequate water supply may be demonstrated by the submission of a
15 water well report consistent with the requirements of chapter 18.104
16 RCW, except that additional requirements may apply to demonstrate the
17 physical and legal existence of an adequate water supply, as
18 determined by the department of ecology, if the application is
19 within:

20 (i) An area where water rights have been adjudicated in
21 accordance with chapter 90.03 RCW and is subject to federal flow
22 regulation, including the entire Yakima river basin (water resource
23 inventory areas 37, 38, or 39);

24 (ii) An area where water rights have been adjudicated in a
25 federal court action and is subject to federal flow regulation; or

26 (iii) Water resource inventory areas 3 or 4, which were subject
27 to the supreme court of Washington's October 3, 2013, opinion in
28 *Swinomish Indian Tribal Community v. Washington State Department of*
29 *Ecology*, 178 Wn.2d 571, 311 P.3d 6 (2013).

30 (2) In addition to other authorities, the county or city may
31 impose additional requirements, including conditions on building
32 permits requiring connection to an existing public water system where
33 the existing system is willing and able to provide safe and reliable
34 potable water to the applicant with reasonable economy and
35 efficiency.

36 (3) Within counties not required or not choosing to plan pursuant
37 to RCW 36.70A.040, the county and the state may mutually determine
38 those areas in the county in which the requirements of subsection (1)
39 of this section shall not apply. The departments of health and
40 ecology shall coordinate on the implementation of this section.

1 Should the county and the state fail to mutually determine those
2 areas to be designated pursuant to this subsection, the county may
3 petition the department of enterprise services to mediate or, if
4 necessary, make the determination.

5 ~~((+3+))~~ (4) Buildings that do not need potable water facilities
6 are exempt from the provisions of this section. The department of
7 ecology, after consultation with local governments, may adopt rules
8 to implement this section, which may recognize differences between
9 high-growth and low-growth counties.

10 **Sec. 102.** RCW 36.70A.070 and 2017 3rd sp.s. c 18 s 4 and 2017
11 3rd sp.s. c 16 s 4 are each reenacted and amended to read as follows:

12 The comprehensive plan of a county or city that is required or
13 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
14 and descriptive text covering objectives, principles, and standards
15 used to develop the comprehensive plan. The plan shall be an
16 internally consistent document and all elements shall be consistent
17 with the future land use map. A comprehensive plan shall be adopted
18 and amended with public participation as provided in RCW 36.70A.140.
19 Each comprehensive plan shall include a plan, scheme, or design for
20 each of the following:

21 (1) A land use element designating the proposed general
22 distribution and general location and extent of the uses of land,
23 where appropriate, for agriculture, timber production, housing,
24 commerce, industry, recreation, open spaces, general aviation
25 airports, public utilities, public facilities, and other land uses.
26 The land use element shall include population densities, building
27 intensities, and estimates of future population growth. The land use
28 element shall provide for protection of the quality and quantity of
29 groundwater used for public water supplies. In providing for the
30 protection of the quantity of groundwater used for public water
31 supplies under this chapter, a county or city must be consistent with
32 and may rely on chapters 90.03, 90.22, 90.44, and 90.54 RCW and
33 applicable rules adopted pursuant to those statutes. A comprehensive
34 plan must incorporate projected uses of water over the subsequent
35 twenty years as developed under section 105 of this act. Wherever
36 possible, the land use element should consider utilizing urban
37 planning approaches that promote physical activity. Where applicable,
38 the land use element shall review drainage, flooding, and storm water
39 run-off in the area and nearby jurisdictions and provide guidance for

1 corrective actions to mitigate or cleanse those discharges that
2 pollute waters of the state, including Puget Sound or waters entering
3 Puget Sound.

4 (2) A housing element ensuring the vitality and character of
5 established residential neighborhoods that: (a) Includes an inventory
6 and analysis of existing and projected housing needs that identifies
7 the number of housing units necessary to manage projected growth; (b)
8 includes a statement of goals, policies, objectives, and mandatory
9 provisions for the preservation, improvement, and development of
10 housing, including single-family residences; (c) identifies
11 sufficient land for housing, including, but not limited to,
12 government-assisted housing, housing for low-income families,
13 manufactured housing, multifamily housing, and group homes and foster
14 care facilities; and (d) makes adequate provisions for existing and
15 projected needs of all economic segments of the community. In
16 counties and cities subject to the review and evaluation requirements
17 of RCW 36.70A.215, any revision to the housing element shall include
18 consideration of prior review and evaluation reports and any
19 reasonable measures identified.

20 (3) A capital facilities plan element consisting of: (a) An
21 inventory of existing capital facilities owned by public entities,
22 showing the locations and capacities of the capital facilities; (b) a
23 forecast of the future needs for such capital facilities; (c) the
24 proposed locations and capacities of expanded or new capital
25 facilities; (d) at least a six-year plan that will finance such
26 capital facilities within projected funding capacities and clearly
27 identifies sources of public money for such purposes; and (e) a
28 requirement to reassess the land use element if probable funding
29 falls short of meeting existing needs and to ensure that the land use
30 element, capital facilities plan element, and financing plan within
31 the capital facilities plan element are coordinated and consistent.
32 Park and recreation facilities shall be included in the capital
33 facilities plan element.

34 (4) A utilities element consisting of the general location,
35 proposed location, and capacity of all existing and proposed
36 utilities, including, but not limited to, electrical lines,
37 telecommunication lines, and natural gas lines.

38 (5) Rural element. Counties shall include a rural element
39 including lands that are not designated for urban growth,

1 agriculture, forest, or mineral resources. The following provisions
2 shall apply to the rural element:

3 (a) Growth management act goals and local circumstances. Because
4 circumstances vary from county to county, in establishing patterns of
5 rural densities and uses, a county may consider local circumstances,
6 but shall develop a written record explaining how the rural element
7 harmonizes the planning goals in RCW 36.70A.020 and meets the
8 requirements of this chapter.

9 (b) Rural development. The rural element shall permit rural
10 development, forestry, and agriculture in rural areas. The rural
11 element shall provide for a variety of rural densities, uses,
12 essential public facilities, and rural governmental services needed
13 to serve the permitted densities and uses. To achieve a variety of
14 rural densities and uses, counties may provide for clustering,
15 density transfer, design guidelines, conservation easements, and
16 other innovative techniques that will accommodate appropriate rural
17 economic advancement, densities, and uses that are not characterized
18 by urban growth and that are consistent with rural character.

19 (c) Measures governing rural development. The rural element shall
20 include measures that apply to rural development and protect the
21 rural character of the area, as established by the county, by:

22 (i) Containing or otherwise controlling rural development;

23 (ii) Assuring visual compatibility of rural development with the
24 surrounding rural area;

25 (iii) Reducing the inappropriate conversion of undeveloped land
26 into sprawling, low-density development in the rural area;

27 (iv) Protecting critical areas, as provided in RCW 36.70A.060,
28 and surface water and groundwater resources, which must be consistent
29 with and may rely on applicable rules adopted pursuant to chapters
30 90.03, 90.22, 90.44, and 90.54 RCW; and

31 (v) Protecting against conflicts with the use of agricultural,
32 forest, and mineral resource lands designated under RCW 36.70A.170.

33 (d) Limited areas of more intensive rural development. Subject to
34 the requirements of this subsection and except as otherwise
35 specifically provided in this subsection (5)(d), the rural element
36 may allow for limited areas of more intensive rural development,
37 including necessary public facilities and public services to serve
38 the limited area as follows:

39 (i) Rural development consisting of the infill, development, or
40 redevelopment of existing commercial, industrial, residential, or

1 mixed-use areas, whether characterized as shoreline development,
2 villages, hamlets, rural activity centers, or crossroads
3 developments.

4 (A) A commercial, industrial, residential, shoreline, or mixed-
5 use area are subject to the requirements of (d)(iv) of this
6 subsection, but are not subject to the requirements of (c)(ii) and
7 (iii) of this subsection.

8 (B) Any development or redevelopment other than an industrial
9 area or an industrial use within a mixed-use area or an industrial
10 area under this subsection (5)(d)(i) must be principally designed to
11 serve the existing and projected rural population.

12 (C) Any development or redevelopment in terms of building size,
13 scale, use, or intensity shall be consistent with the character of
14 the existing areas. Development and redevelopment may include changes
15 in use from vacant land or a previously existing use so long as the
16 new use conforms to the requirements of this subsection (5);

17 (ii) The intensification of development on lots containing, or
18 new development of, small-scale recreational or tourist uses,
19 including commercial facilities to serve those recreational or
20 tourist uses, that rely on a rural location and setting, but that do
21 not include new residential development. A small-scale recreation or
22 tourist use is not required to be principally designed to serve the
23 existing and projected rural population. Public services and public
24 facilities shall be limited to those necessary to serve the
25 recreation or tourist use and shall be provided in a manner that does
26 not permit low-density sprawl;

27 (iii) The intensification of development on lots containing
28 isolated nonresidential uses or new development of isolated cottage
29 industries and isolated small-scale businesses that are not
30 principally designed to serve the existing and projected rural
31 population and nonresidential uses, but do provide job opportunities
32 for rural residents. Rural counties may allow the expansion of small-
33 scale businesses as long as those small-scale businesses conform with
34 the rural character of the area as defined by the local government
35 according to RCW 36.70A.030(16). Rural counties may also allow new
36 small-scale businesses to utilize a site previously occupied by an
37 existing business as long as the new small-scale business conforms to
38 the rural character of the area as defined by the local government
39 according to RCW 36.70A.030(16). Public services and public
40 facilities shall be limited to those necessary to serve the isolated

1 nonresidential use and shall be provided in a manner that does not
2 permit low-density sprawl;

3 (iv) A county shall adopt measures to minimize and contain the
4 existing areas or uses of more intensive rural development, as
5 appropriate, authorized under this subsection. Lands included in such
6 existing areas or uses shall not extend beyond the logical outer
7 boundary of the existing area or use, thereby allowing a new pattern
8 of low-density sprawl. Existing areas are those that are clearly
9 identifiable and contained and where there is a logical boundary
10 delineated predominately by the built environment, but that may also
11 include undeveloped lands if limited as provided in this subsection.
12 The county shall establish the logical outer boundary of an area of
13 more intensive rural development. In establishing the logical outer
14 boundary, the county shall address (A) the need to preserve the
15 character of existing natural neighborhoods and communities, (B)
16 physical boundaries, such as bodies of water, streets and highways,
17 and land forms and contours, (C) the prevention of abnormally
18 irregular boundaries, and (D) the ability to provide public
19 facilities and public services in a manner that does not permit low-
20 density sprawl;

21 (v) For purposes of (d) of this subsection, an existing area or
22 existing use is one that was in existence:

23 (A) On July 1, 1990, in a county that was initially required to
24 plan under all of the provisions of this chapter;

25 (B) On the date the county adopted a resolution under RCW
26 36.70A.040(2), in a county that is planning under all of the
27 provisions of this chapter under RCW 36.70A.040(2); or

28 (C) On the date the office of financial management certifies the
29 county's population as provided in RCW 36.70A.040(5), in a county
30 that is planning under all of the provisions of this chapter pursuant
31 to RCW 36.70A.040(5).

32 (e) Exception. This subsection shall not be interpreted to permit
33 in the rural area a major industrial development or a master planned
34 resort unless otherwise specifically permitted under RCW 36.70A.360
35 and 36.70A.365.

36 (6) A transportation element that implements, and is consistent
37 with, the land use element.

38 (a) The transportation element shall include the following
39 subelements:

40 (i) Land use assumptions used in estimating travel;

1 (ii) Estimated traffic impacts to state-owned transportation
2 facilities resulting from land use assumptions to assist the
3 department of transportation in monitoring the performance of state
4 facilities, to plan improvements for the facilities, and to assess
5 the impact of land-use decisions on state-owned transportation
6 facilities;

7 (iii) Facilities and services needs, including:

8 (A) An inventory of air, water, and ground transportation
9 facilities and services, including transit alignments and general
10 aviation airport facilities, to define existing capital facilities
11 and travel levels as a basis for future planning. This inventory must
12 include state-owned transportation facilities within the city or
13 county's jurisdictional boundaries;

14 (B) Level of service standards for all locally owned arterials
15 and transit routes to serve as a gauge to judge performance of the
16 system. These standards should be regionally coordinated;

17 (C) For state-owned transportation facilities, level of service
18 standards for highways, as prescribed in chapters 47.06 and 47.80
19 RCW, to gauge the performance of the system. The purposes of
20 reflecting level of service standards for state highways in the local
21 comprehensive plan are to monitor the performance of the system, to
22 evaluate improvement strategies, and to facilitate coordination
23 between the county's or city's six-year street, road, or transit
24 program and the office of financial management's ten-year investment
25 program. The concurrency requirements of (b) of this subsection do
26 not apply to transportation facilities and services of statewide
27 significance except for counties consisting of islands whose only
28 connection to the mainland are state highways or ferry routes. In
29 these island counties, state highways and ferry route capacity must
30 be a factor in meeting the concurrency requirements in (b) of this
31 subsection;

32 (D) Specific actions and requirements for bringing into
33 compliance locally owned transportation facilities or services that
34 are below an established level of service standard;

35 (E) Forecasts of traffic for at least ten years based on the
36 adopted land use plan to provide information on the location, timing,
37 and capacity needs of future growth;

38 (F) Identification of state and local system needs to meet
39 current and future demands. Identified needs on state-owned

1 transportation facilities must be consistent with the statewide
2 multimodal transportation plan required under chapter 47.06 RCW;

3 (iv) Finance, including:

4 (A) An analysis of funding capability to judge needs against
5 probable funding resources;

6 (B) A multiyear financing plan based on the needs identified in
7 the comprehensive plan, the appropriate parts of which shall serve as
8 the basis for the six-year street, road, or transit program required
9 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
10 35.58.2795 for public transportation systems. The multiyear financing
11 plan should be coordinated with the ten-year investment program
12 developed by the office of financial management as required by RCW
13 47.05.030;

14 (C) If probable funding falls short of meeting identified needs,
15 a discussion of how additional funding will be raised, or how land
16 use assumptions will be reassessed to ensure that level of service
17 standards will be met;

18 (v) Intergovernmental coordination efforts, including an
19 assessment of the impacts of the transportation plan and land use
20 assumptions on the transportation systems of adjacent jurisdictions;

21 (vi) Demand-management strategies;

22 (vii) Pedestrian and bicycle component to include collaborative
23 efforts to identify and designate planned improvements for pedestrian
24 and bicycle facilities and corridors that address and encourage
25 enhanced community access and promote healthy lifestyles.

26 (b) After adoption of the comprehensive plan by jurisdictions
27 required to plan or who choose to plan under RCW 36.70A.040, local
28 jurisdictions must adopt and enforce ordinances which prohibit
29 development approval if the development causes the level of service
30 on a locally owned transportation facility to decline below the
31 standards adopted in the transportation element of the comprehensive
32 plan, unless transportation improvements or strategies to accommodate
33 the impacts of development are made concurrent with the development.
34 These strategies may include increased public transportation service,
35 ride-sharing programs, demand management, and other transportation
36 systems management strategies. For the purposes of this subsection
37 (6), "concurrent with the development" means that improvements or
38 strategies are in place at the time of development, or that a
39 financial commitment is in place to complete the improvements or
40 strategies within six years. If the collection of impact fees is

1 delayed under RCW 82.02.050(3), the six-year period required by this
2 subsection (6)(b) must begin after full payment of all impact fees is
3 due to the county or city.

4 (c) The transportation element described in this subsection (6),
5 the six-year plans required by RCW 35.77.010 for cities, RCW
6 36.81.121 for counties, and RCW 35.58.2795 for public transportation
7 systems, and the ten-year investment program required by RCW
8 47.05.030 for the state, must be consistent.

9 (7) An economic development element establishing local goals,
10 policies, objectives, and provisions for economic growth and vitality
11 and a high quality of life. A city that has chosen to be a
12 residential community is exempt from the economic development element
13 requirement of this subsection.

14 (8) A park and recreation element that implements, and is
15 consistent with, the capital facilities plan element as it relates to
16 park and recreation facilities. The element shall include: (a)
17 Estimates of park and recreation demand for at least a ten-year
18 period; (b) an evaluation of facilities and service needs; and (c) an
19 evaluation of intergovernmental coordination opportunities to provide
20 regional approaches for meeting park and recreational demand.

21 (9) It is the intent that new or amended elements required after
22 January 1, 2002, be adopted concurrent with the scheduled update
23 provided in RCW 36.70A.130. Requirements to incorporate any such new
24 or amended elements shall be null and void until funds sufficient to
25 cover applicable local government costs are appropriated and
26 distributed by the state at least two years before local government
27 must update comprehensive plans as required in RCW 36.70A.130.

28 **Sec. 103.** RCW 58.17.110 and 1995 c 32 s 3 are each amended to
29 read as follows:

30 (1) The city, town, or county legislative body shall inquire into
31 the public use and interest proposed to be served by the
32 establishment of the subdivision and dedication. It shall determine:
33 (a) If appropriate provisions are made for, but not limited to, the
34 public health, safety, and general welfare, for open spaces, drainage
35 ways, streets or roads, alleys, other public ways, transit stops,
36 potable water supplies, sanitary wastes, parks and recreation,
37 playgrounds, schools and schoolgrounds, and shall consider all other
38 relevant facts, including sidewalks and other planning features that
39 assure safe walking conditions for students who only walk to and from

1 school; and (b) whether the public interest will be served by the
2 subdivision and dedication.

3 (2) A proposed subdivision and dedication shall not be approved
4 unless the city, town, or county legislative body makes written
5 findings that: (a) Appropriate provisions are made for the public
6 health, safety, and general welfare and for such open spaces,
7 drainage ways, streets or roads, alleys, other public ways, transit
8 stops, potable water supplies, sanitary wastes, parks and recreation,
9 playgrounds, schools and schoolgrounds and all other relevant facts,
10 including sidewalks and other planning features that assure safe
11 walking conditions for students who only walk to and from school; and
12 (b) the public use and interest will be served by the platting of
13 such subdivision and dedication. If it finds that the proposed
14 subdivision and dedication make such appropriate provisions and that
15 the public use and interest will be served, then the legislative body
16 shall approve the proposed subdivision and dedication. Dedication of
17 land to any public body, provision of public improvements to serve
18 the subdivision, and/or impact fees imposed under RCW 82.02.050
19 through 82.02.090 may be required as a condition of subdivision
20 approval. Dedications shall be clearly shown on the final plat. No
21 dedication, provision of public improvements, or impact fees imposed
22 under RCW 82.02.050 through 82.02.090 shall be allowed that
23 constitutes an unconstitutional taking of private property. The
24 legislative body shall not as a condition to the approval of any
25 subdivision require a release from damages to be procured from other
26 property owners.

27 (3) If the preliminary plat includes a dedication of a public
28 park with an area of less than two acres and the donor has designated
29 that the park be named in honor of a deceased individual of good
30 character, the city, town, or county legislative body must adopt the
31 designated name.

32 (4) A county or city must be consistent with and may rely on
33 chapters 90.03, 90.22, 90.44, and 90.54 RCW and applicable rules
34 adopted pursuant to those statutes in determining appropriate
35 provisions for water supply for a subdivision, dedication, or short
36 subdivision under this chapter.

37 **Sec. 104.** RCW 90.54.010 and 1990 c 295 s 1 are each amended to
38 read as follows:

1 (1) It is the intent of the legislature to protect and restore
2 healthy stream flows for instream resources, which will aid in
3 recovery of depleted salmonid populations, support properly
4 functioning ecosystems, and provide for the general welfare of the
5 citizens of the state. The legislature also intends to ensure that a
6 legal and reliable domestic water supply is available for its
7 citizens, which is essential to support the vitality of our state,
8 including rural communities.

9 (a) Healthy watersheds and stream flows ensure preservation of
10 instream resources, which include fish, wildlife, scenic, aesthetic,
11 environmental, recreational, and navigational values. These resources
12 are central to our state's identity, culture, and economy and must be
13 preserved and where possible enhanced for future generations.

14 (b) Inadequate stream flows adversely impact instream resources.
15 Out-of-stream water use, loss of wetlands and floodplains, loss of
16 vegetated cover, increase in impervious surfaces, loss of snowpack,
17 and other factors combined with naturally low flows that occur in
18 late summer and fall contribute to stream flow limitations that are
19 becoming an increasingly significant barrier to recovery of
20 threatened and endangered species, especially salmonids.

21 (2) The legislature finds that:

22 (a) Proper utilization of the water resources of this state is
23 necessary to the promotion of public health and the economic well-
24 being of the state and the preservation of its natural resources and
25 aesthetic values. Although water is a renewable resource, its supply
26 and availability are becoming increasingly limited, particularly
27 during summer and fall months and dry years when demand is greatest.
28 Growth and prosperity have significantly increased the competition
29 for this limited resource. Adequate water supplies are essential to
30 meet the needs of the state's growing population and economy. At the
31 same time instream resources and values must be preserved and
32 protected so that future generations can continue to enjoy them.

33 (b) All citizens of Washington share an interest in the proper
34 stewardship of our invaluable water resources. To ensure that
35 available water supplies are managed to best meet both instream and
36 ~~((offstream needs, a comprehensive planning process))~~ out-of-stream
37 needs, a comprehensive watershed restoration and enhancement program
38 is essential. The people of the state have the unique opportunity to
39 work together to ~~((plan and manage our water))~~ restore and enhance
40 instream resources. Through a comprehensive planning and watershed

1 restoration process that includes the state, Indian tribes, local
2 governments, and interested parties, it is possible to make better
3 use of available water supplies and achieve better management of
4 water resources. Through comprehensive planning and implementation of
5 watershed restoration and enhancement projects, conflicts among water
6 users and interests can be reduced or resolved and instream resources
7 can be improved. It is in the best interests of the state that
8 comprehensive water resource planning and restoration be given a high
9 priority so that water resources and associated values can be
10 utilized and enjoyed today and protected for tomorrow.

11 (c) Diverse hydrologic, climatic, cultural, and socioeconomic
12 conditions exist throughout the regions of the state. Water resource
13 issues vary significantly across regions. Comprehensive water
14 resource planning is best accomplished through a regional planning
15 process sensitive to the unique characteristics and issues of each
16 region.

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

21 (e) The long-term needs of the state require ongoing assessment
22 of water availability, use, and demand. A thorough inventory of
23 available resources is essential to water resource management.
24 Current state water resource data and data management is inadequate
25 to meet changing needs and respond to competing water demands.
26 Therefore, a state water resource data program is needed to support
27 an effective water resource management program. Efforts should be
28 made to coordinate and consolidate into one resource data system all
29 relevant information developed by the department of ecology and other
30 agencies relating to the use, protection, and management of the
31 state's water resources.

32 ((+2)) (3) It is the purpose of this chapter to set forth
33 fundamentals of water resource policy for the state to ((insure))
34 ensure that waters of the state are protected and fully utilized for
35 the greatest benefit to the people of the state of Washington and, in
36 relation thereto, to provide direction to the department of ecology,
37 other state agencies and officials, and local government in carrying
38 out water and related resources programs. It is the intent of the
39 legislature to work closely with the executive branch, Indian tribes,

1 local government, and interested parties to ensure that water
2 resources of the state are wisely managed.

3 (4) To achieve the goals of this act, significant legislative
4 action is needed to address both the impact of new development on
5 stream flows and to restore and enhance properly functioning
6 watersheds to preserve and enhance instream resources. The department
7 is directed to implement a program to restore and enhance stream
8 flows by establishing watershed restoration and enhancement
9 committees, as specified in section 105 of this act, to develop and
10 implement plans for stream flow restoration to support vibrant fish
11 and wildlife, including restoring threatened and endangered
12 salmonids.

13 NEW SECTION. Sec. 105. A new section is added to chapter 90.54
14 RCW to read as follows:

15 (1) Unless requirements are otherwise specified in the applicable
16 rules adopted under this chapter or chapter 90.22 RCW, potential
17 impacts on a closed water body and potential impairment to an
18 instream flow are authorized for a new domestic or commercial
19 groundwater withdrawal exempt from permitting under RCW 90.44.050
20 through compliance with the requirements established in this act.

21 (2)(a) The department shall establish watershed restoration and
22 enhancement committees in each watershed with an instream flow rule
23 adopted or amended before 2000 under this chapter or chapter 90.22
24 RCW.

25 (b) The department shall chair the watershed restoration and
26 enhancement committee and invite the following entities to
27 participate:

28 (i) A representative from each federally recognized Indian tribe
29 that has reservation land within the water resource inventory area;

30 (ii) A representative from each federally recognized Indian tribe
31 that has a usual and accustomed harvest area within the water
32 resource inventory area;

33 (iii) A representative from the department of fish and wildlife,
34 appointed by the director of the department of fish and wildlife;

35 (iv) A representative designated by each county within the water
36 resource inventory area; and

37 (v) A representative designated by each city within the water
38 resource inventory area.

1 (3) By June 30, 2023, the department shall prepare and adopt a
2 watershed restoration and enhancement plan for each watershed with an
3 instream flow rule adopted or amended before 2000 under this chapter
4 or chapter 90.22 RCW, in collaboration with the watershed restoration
5 and enhancement committee. Except as described in (h) of this
6 subsection, all members of a watershed restoration and enhancement
7 committee must approve the plan prior to adoption.

8 (a) The watershed restoration and enhancement plan should include
9 recommendations for projects and actions that will measure, protect,
10 and enhance instream resources and improve watershed functions that
11 support the recovery of threatened and endangered salmonids. Plan
12 recommendations may include, but are not limited to, acquiring senior
13 water rights, water conservation, water reuse, stream gaging,
14 groundwater monitoring, and developing natural and constructed
15 infrastructure, which includes such projects as surface water
16 impoundment, floodplain restoration, off-channel storage, and aquifer
17 recharge. Qualifying projects must be specifically designed to
18 enhance stream flows and not result in negative impacts to ecological
19 functions or critical habitat. The plan may also include projects
20 that improve watershed functions and instream resources without
21 specifically replacing the consumptive quantity from projected future
22 water users.

23 (b) At a minimum, the plan must include those actions that the
24 committee determines to be necessary to offset potential impacts to
25 instream flows associated with permit-exempt domestic and commercial
26 water use. The highest priority recommendations must include
27 replacing the quantity of consumptive water use during the same time
28 as the impact and in the same basin or tributary. Lower priority
29 projects include projects not in the same basin or tributary,
30 projects that replace consumptive water supply impacts only during
31 critical flow periods, and projects that protect or improve instream
32 resources without replacing the consumptive quantity of water.

33 (c) Prior to adoption of the watershed restoration and
34 enhancement plan, the department must determine that actions
35 identified in the plan, after accounting for new projected uses of
36 water over the subsequent twenty years, will result in a net
37 ecological benefit to instream resources within the water resource
38 inventory area.

39 (d) The watershed restoration and enhancement plan must include
40 an evaluation or estimation of the cost of offsetting new domestic

1 and commercial water uses over the subsequent twenty years, including
2 withdrawals exempt from permitting under RCW 90.44.050.

3 (e) The watershed restoration and enhancement plan must include
4 estimates of the cumulative consumptive water use impacts over the
5 subsequent twenty years, including withdrawals exempt from permitting
6 under RCW 90.44.050.

7 (f) The watershed restoration and enhancement plan may include:

8 (i) Recommendations for modification to fees established under
9 this subsection;

10 (ii) Standards for water use quantities that are less than
11 authorized under RCW 90.44.050 for withdrawals exempt from
12 permitting;

13 (iii) Specific conservation requirements for new water users to
14 be adopted by local or state permitting authorities; or

15 (iv) Other approaches to manage water resources for a water
16 resource inventory area or a portion thereof.

17 (g) After adoption of a watershed restoration and enhancement
18 plan, the department shall evaluate the plan recommendations and
19 initiate rule making, if necessary, to incorporate recommendations
20 into rules adopted under this chapter or under chapter 90.22 RCW.

21 (h) If the watershed restoration and enhancement committee fails
22 to approve a plan by June 30, 2023, the director of the department
23 shall submit the final draft plan to the salmon recovery funding
24 board established under RCW 77.85.110 and request that the salmon
25 recovery funding board provide a technical review and provide
26 recommendations to the director to amend the final draft plan, if
27 necessary, so that actions identified in the plan, after accounting
28 for new projected uses of water over the subsequent twenty years,
29 will result in a net ecological benefit to instream resources within
30 the water resource inventory area. The director of the department
31 shall consider the recommendations and may amend the plan without
32 committee approval prior to adoption. After plan adoption, the
33 director of the department shall initiate rule making within six
34 months to incorporate recommendations into rules adopted under this
35 chapter, and shall adopt amended rules within two years of initiation
36 of rule making.

37 (4)(a) To rely on the provisions of this act, a city or county
38 issuing a building permit under RCW 19.27.097, or approving a
39 subdivision under chapter 58.17 RCW must:

1 (i) Record relevant restrictions or limitations associated with
2 water supply with the property title;

3 (ii) Collect applicable fees, as described under this section;

4 (iii) Record the number of building permits issued under chapter
5 19.27 RCW or subdivision approvals issued under chapter 58.17 RCW
6 subject to the provisions of this act;

7 (iv) Annually remit an accounting of building permits and
8 subdivision approvals subject to the provisions of this act;

9 (v) Until rules have been adopted that specify otherwise, require
10 the following measures for each new domestic and commercial use that
11 relies on a withdrawal exempt from permitting under RCW 90.44.050:

12 (A) An applicant shall pay a fee of one thousand five hundred
13 dollars to the permitting authority;

14 (B) Except as provided in (b) of this subsection, an applicant
15 may obtain approval for a withdrawal exempt from permitting under RCW
16 90.44.050 for a single domestic or commercial indoor use only, with a
17 maximum annual average withdrawal of four hundred gallons per day;
18 and

19 (C) An applicant shall manage stormwater runoff on-site to the
20 extent practicable by maximizing infiltration using green
21 infrastructure including low-impact development techniques, or
22 pursuant to stormwater management requirements adopted by the local
23 permitting authority, if locally adopted requirements are more
24 stringent.

25 (b) The department and the city or county issuing a building
26 permit under RCW 19.27.097 may allow an applicant to obtain approval
27 for a withdrawal of groundwater exempt from permitting under RCW
28 90.44.050 for a single domestic or commercial outdoor use for a
29 specified period of time, after the department has reviewed and
30 determined that water is available in the watershed for these
31 purposes.

32 (5) The department shall initiate rule making under this chapter
33 in at least one water resource inventory area every four years in a
34 basin in which instream flow rules do not exist, and when
35 prioritizing a water resource inventory area, must consider:

36 (a) Population growth rates over the past ten years;

37 (b) Presence of threatened or endangered species;

38 (c) Vulnerability of instream resources to impacts from low
39 flows; and

1 (d) Whether the water resource inventory area is identified as a
2 salmon critical basin by the department.

3 (6) Rules adopted under this chapter may:

4 (a) Rely on watershed restoration and enhancement plan
5 recommendations and procedures established in this act to authorize
6 new withdrawals exempt from permitting under RCW 90.44.050 that would
7 potentially impact a closed waterbody or a minimum flow or level;

8 (b) Rely on projects identified in the watershed restoration and
9 enhancement plan to offset consumptive water use; and

10 (c) Include updates to fees based on the watershed restoration
11 and enhancement committee's determination of the costs for offsetting
12 consumptive water use.

13 (7) The department shall submit a report to the legislature by
14 December 31, 2022, and December 31, 2027, in compliance with RCW
15 43.01.036, that includes the following elements:

16 (a) Progress in completing and adopting watershed restoration and
17 enhancement plans;

18 (b) A description of program projects and expenditures;

19 (c) An assessment of the streamflow restoration and enhancement
20 benefits from program projects;

21 (d) A listing of other efforts or actions taken associated with
22 streamflow restoration and enhancement, projects to benefit instream
23 resources, and other directly related watershed improvements
24 conducted in coordination with the restoration and enhancement
25 planning process;

26 (e) The total number of new withdrawals exempt from permitting
27 under RCW 90.44.050 authorized in each water resource inventory area
28 under provisions of this act, and estimates of consumptive water use
29 impacts associated with the new withdrawals; and

30 (f) A description of potential or planned projects, including
31 projected costs and anticipated streamflow, water supply, and
32 watershed health benefits.

33 NEW SECTION. **Sec. 106.** A new section is added to chapter 90.54
34 RCW to read as follows:

35 (1) The department shall initiate a pilot project to measure
36 water use from all new groundwater withdrawals, including withdrawals
37 exempt from permitting under RCW 90.44.050. The pilot project must be
38 conducted to determine the overall feasibility of measuring water use
39 for all new groundwater withdrawals. The pilot project must be

1 conducted in a priority water resource inventory area, as determined
2 by the director of the department. At a minimum, the pilot project
3 must address the following:

4 (a) Initial and on-going costs, including costs to individual
5 property owners, local government, and the department;

6 (b) Technical, practical, and legal considerations that must be
7 addressed;

8 (c) The costs and benefits of a water use measurement program
9 relying on individual meters versus a water management program that
10 estimates permit-exempt groundwater withdrawals; and

11 (d) Measures to protect the privacy of individual property owners
12 and ensure accurate data collection.

13 (2) The department shall report on the pilot project results in
14 the report to the legislature submitted under section 105 of this
15 act. The department shall include recommendations to the legislature,
16 including estimated program costs for expanding the pilot project to
17 other basins.

18 NEW SECTION. **Sec. 107.** A new section is added to chapter 90.54
19 RCW to read as follows:

20 Nothing in this chapter affects the ability of any person to
21 pursue a cause of action for the protection of any water right that
22 is not a base flow, minimum flow, minimum level, or other similar
23 standard or policy, established by the department under this chapter
24 or chapter 90.22 RCW.

25 NEW SECTION. **Sec. 108.** A new section is added to chapter 90.54
26 RCW to read as follows:

27 The watershed restoration and enhancement account is created in
28 the custody of the state treasurer. The account may receive those
29 moneys as may be appropriated by the legislature for the purpose of
30 funding restoration and enhancement projects as identified in section
31 105 of this act. Expenditures from the account may be used only for
32 the costs of administering this act, including implementing watershed
33 restoration and enhancement projects under section 105 of this act,
34 and collecting data and completing studies necessary to develop,
35 implement, and evaluate watershed restoration and enhancement
36 projects under this act. Only the director of the department or the
37 director's designee may authorize expenditures from the account.

1 NEW SECTION. **Sec. 109.** A new section is added to chapter 90.54
2 RCW to read as follows:

3 (1) The watershed restoration and enhancement taxable bond
4 account is created in the state treasury. All receipts from direct
5 appropriations from the legislature or moneys directed to the account
6 from any other source must be deposited in the account. Moneys in the
7 account may be spent only after appropriation. The account is
8 intended to fund projects using taxable bonds. Expenditures from the
9 account may be used only as provided for in this section.

10 (2) Expenditures from the watershed restoration and enhancement
11 taxable bond account may be used to assess, plan, and develop
12 projects that include acquiring senior water rights, water
13 conservation, water reuse, stream gaging, groundwater monitoring, and
14 developing natural and constructed infrastructure, which includes
15 projects such as surface water impoundment, floodplain restoration,
16 off-channel storage, and aquifer recharge, or other actions designed
17 to provide access to new water supplies within watersheds developing
18 plans as directed by section 105 of this act.

19 NEW SECTION. **Sec. 110.** A new section is added to chapter 90.54
20 RCW to read as follows:

21 (1) The watershed restoration and enhancement bond account is
22 created in the state treasury. All receipts from direct
23 appropriations from the legislature or moneys directed to the account
24 from any other source must be deposited in the account. Moneys in the
25 account may be spent only after appropriation. The account is
26 intended to fund projects using tax exempt bonds. Expenditures from
27 the account may be used only as provided for in this section.

28 (2) Expenditures from the watershed restoration and enhancement
29 bond account may be used to assess, plan, and develop projects that
30 include acquiring senior water rights, water conservation, water
31 reuse, stream gaging, groundwater monitoring, and developing natural
32 and constructed infrastructure, which includes projects such as
33 surface water impoundment, floodplain restoration, off-channel
34 storage, and aquifer recharge, or other actions designed to provide
35 access to new water supplies within watersheds developing plans as
36 directed by section 105 of this act.

37 NEW SECTION. **Sec. 111.** (1) A joint legislative task force on
38 water resource mitigation is established to make recommendations to

1 the legislature on the necessary authority in Title 90 RCW for the
2 department of ecology to authorize mitigation for impacts to instream
3 flows, fish, or aquatic habitat from appropriations of water in areas
4 where instream flows have been adopted by rule. These recommendations
5 must address the authority of the department of ecology to authorize
6 water resource mitigation in the following sequence:

7 (a) Avoiding impacts by: (i) Complying with applicable mitigation
8 requirements established in the rule setting forth minimum flows,
9 levels, or closures; or (ii) making the water diversion or withdrawal
10 subject to the applicable minimum flows or levels;

11 (b) Where avoidance is not reasonably attainable, minimizing
12 impacts by providing replacement water supply resulting in no net
13 annual increase in the quantity of water diverted or withdrawn from
14 the stream or surface water body and no net detrimental impacts to
15 fish and related aquatic resources; and

16 (c) Where avoidance and minimization are not reasonably
17 attainable, compensating for impacts by providing net ecological
18 benefits to fish and related aquatic resources in the water resource
19 inventory area through out-of-kind mitigation, which may include
20 instream or out-of-stream measures that improve or enhance existing
21 water quality, riparian habitat, and other stream conditions, or any
22 other measures that improve the function and productivity of affected
23 fish populations and related aquatic habitat.

24 (2) The task force must consist of the following members:

25 (a) Two members from each of the two largest caucuses of the
26 senate, appointed by the president of the senate;

27 (b) Two members from each of the two largest caucuses of the
28 house of representatives, appointed by the speaker of the house of
29 representatives;

30 (c) A representative from the department of ecology, appointed by
31 the director of the department of ecology;

32 (d) A representative from the department of fish and wildlife,
33 appointed by the director of the department of fish and wildlife;

34 (e) A representative from the department of agriculture,
35 appointed by the director of the department of agriculture;

36 (f) One representative from each of the following groups,
37 appointed by the consensus of the cochairs of the task force:

38 (i) An organization representing the farming industry in
39 Washington;

40 (ii) An organization representing Washington cities;

1 (iii) Two representatives from an environmental advocacy
2 organization or organizations;

3 (iv) An organization representing municipal water purveyors;

4 (v) An organization representing business interests;

5 (vi) Representatives of two federally recognized Indian tribes,
6 one invited by recommendation of the Northwest Indian fisheries
7 commission, and one invited by recommendation of the Columbia river
8 intertribal fish commission.

9 (3) One cochair of the task force must be a member of the largest
10 caucus of the house of representatives, and one cochair must be a
11 member of the largest caucus of the senate, as those caucuses existed
12 as of the effective date of this section.

13 (4) The first meeting of the task force must occur by June 30,
14 2018.

15 (5) Staff support for the task force must be provided by the
16 office of program research and senate committee services. The
17 department of ecology and the department of fish and wildlife shall
18 cooperate with the task force and provide information as the cochairs
19 reasonably request.

20 (6) Within existing appropriations, the expenses of the
21 operations of the task force, including the expenses associated with
22 the task force's meetings, must be paid jointly and in equal amounts
23 by the senate and the house of representatives. Task force
24 expenditures are subject to approval by the house executive rules
25 committee and the senate facility and operations committee.
26 Legislative members of the task force are reimbursed for travel
27 expenses in accordance with RCW 44.04.120. Nonlegislative members are
28 not entitled to be reimbursed for travel expenses if they are elected
29 officials or are participating on behalf of an employer, governmental
30 entity, or other organization. Any reimbursement for other
31 nonlegislative members is subject to chapter 43.03 RCW.

32 (7)(a) By November 15, 2019, the joint legislative task force
33 must make recommendations to the legislature in compliance with RCW
34 43.01.036.

35 (b) Recommendations of the joint legislative task force must be
36 made by a three-fourths majority of the members of the committee. The
37 representatives of the departments of fish and wildlife, ecology, and
38 agriculture are not eligible to vote on the recommendations. Minority
39 recommendations that achieve the support of at least five of the

1 named voting members of the task force may also be submitted to the
2 legislature.

3 (8) The joint legislative task force expires December 31, 2019.

4 (9) This section expires January 1, 2020.

5 NEW SECTION. **Sec. 112.** The legislature intends to appropriate
6 two hundred million dollars for projects to achieve the goals of this
7 act until January 1, 2028. The department of ecology is directed to
8 implement a program to restore and enhance stream flows by fulfilling
9 obligations under this act to develop and implement plans to restore
10 stream flows to levels necessary to support robust, healthy, and
11 sustainable salmon populations.

12 **PART 2**

13 NEW SECTION. **Sec. 201.** For the purpose of providing funds for
14 the watershed restoration and enhancement program created in this
15 act, the state finance committee is authorized to issue general
16 obligation bonds of the state of Washington in the sum of two hundred
17 million dollars, or as much thereof as may be required, to finance
18 the projects and all costs incidental thereto. Bonds authorized in
19 this section may be sold at such price as the state finance committee
20 shall determine. No bonds authorized in this section may be offered
21 for sale without prior legislative appropriation of the net proceeds
22 of the sale of the bonds.

23 NEW SECTION. **Sec. 202.** It is the intent of the legislature that
24 the proceeds of the new bonds authorized in section 201 of this act
25 will be appropriated in phases over five biennia, beginning with the
26 2017-2019 biennium. This is not intended to limit the legislature's
27 ability to appropriate bond proceeds if the full amount authorized in
28 section 201 of this act has not been appropriated after five biennia.
29 The authorization to issue bonds contained in section 201 of this act
30 does not expire until the full authorization has been appropriated
31 and issued.

32 NEW SECTION. **Sec. 203.** The proceeds from the sale of the bonds
33 authorized in section 201 of this act must be deposited in the
34 watershed restoration and enhancement bond account created in section
35 110 of this act. If the state finance committee deems it necessary to

1 issue the bonds authorized in section 201 of this act as taxable
2 bonds in order to comply with federal internal revenue service rules
3 and regulations pertaining to the use of nontaxable bond proceeds,
4 the proceeds of such taxable bonds must be deposited into the
5 watershed restoration and enhancement taxable bond account created in
6 section 109 of this act. The state treasurer shall submit written
7 notice to the director of financial management if it is determined
8 that any such transfer to the state taxable building construction
9 account is necessary. Moneys in the account may be spent only after
10 appropriation. The proceeds shall be used exclusively for the
11 purposes specified in section 201 of this act and for the payment of
12 expenses incurred in the issuance and sale of the bonds. These
13 proceeds shall be administered by the office of financial management,
14 subject to legislative appropriation.

15 NEW SECTION. **Sec. 204.** The debt-limit general fund bond
16 retirement account shall be used for the payment of the principal of
17 and interest on the bonds authorized in section 201 of this act. The
18 state finance committee shall, on or before June 30th of each year,
19 certify to the state treasurer the amount needed in the ensuing
20 twelve months to meet the bond retirement and interest requirements.
21 On each date on which any interest or principal and interest payment
22 is due, the state treasurer shall withdraw from any general state
23 revenues received in the state treasury and deposit in the debt-limit
24 general fund bond retirement account an amount equal to the amount
25 certified by the state finance committee to be due on the payment
26 date. Bonds issued under section 201 of this act shall state that
27 they are a general obligation of the state of Washington, shall
28 pledge the full faith and credit of the state to the payment of the
29 principal thereof and the interest thereon, and shall contain an
30 unconditional promise to pay the principal and interest as the same
31 shall become due.

32 The owner and holder of each of the bonds or the trustee for the
33 owner and holder of any of the bonds may by mandamus or other
34 appropriate proceeding require the transfer and payment of funds as
35 directed in this section.

36 NEW SECTION. **Sec. 205.** The legislature may provide additional
37 means for raising moneys for the payment of the principal of and
38 interest on the bonds authorized in section 201 of this act, and

1 section 204 of this act shall not be deemed to provide an exclusive
2 method for the payment.

3 NEW SECTION. **Sec. 206.** The bonds authorized in section 201 of
4 this act shall be a legal investment for all state funds or funds
5 under state control and for all funds of any other public body.

6 NEW SECTION. **Sec. 207.** Sections 201 through 206 of this act
7 constitute a new chapter in Title 43 RCW.

8 **PART 3**

9 NEW SECTION. **Sec. 301.** If specific authority to issue general
10 obligation bonds of at least two hundred million dollars for the
11 purposes of this act, referencing this act by bill or chapter number,
12 is not provided by June 30, 2018, in a bond authorization act, this
13 act is null and void.

14 NEW SECTION. **Sec. 302.** If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

18 NEW SECTION. **Sec. 303.** This act is necessary for the immediate
19 preservation of the public peace, health, or safety, or support of
20 the state government and its existing public institutions, and takes
21 effect immediately.

--- END ---