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**SUBSTITUTE SENATE BILL 5486**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** Senate Committee on Senate Select Committee on Water Policy  
(originally sponsored by Senators Rasmussen, Morton, Haugen, Winsley  
and Palmer)

Read first time 03/01/95.

1 AN ACT Relating to the processing of water rights; amending RCW  
2 90.03.340, 90.03.270, 90.03.280, 90.03.290, 90.03.320, 90.03.260,  
3 90.44.060, 90.03.250, 90.03.470, 90.03.470, 89.30.001, 90.40.090,  
4 90.46.020, 90.03.380, 90.03.390, and 90.44.100; amending 1993 c 495 s  
5 3 (uncodified); adding new sections to chapter 90.03 RCW; adding new  
6 sections to chapter 43.21B RCW; creating new sections; repealing RCW  
7 90.03.471; providing effective dates; and declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** The purpose of chapter . . ., Laws of 1995  
10 (this act) is to make changes to the water right permitting process and  
11 to provide sufficient funds to catch up on the backlog of water right  
12 applications in as short a period as possible.

13 In furtherance of this purpose, the department shall expedite to  
14 the maximum extent possible the processing of water right applications,  
15 consistent with RCW 90.03.290, in areas where there are no known  
16 shortages of water. In areas where there is a known shortage of water,  
17 the department may act promptly to deny the water right applications.

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

3        In furtherance of the purpose of chapter . . . , Laws of 1995 (this  
4 act) to more expeditiously make decisions regarding water right  
5 applications as stated in section 1, chapter . . . , Laws of 1995  
6 (section 1 of this act), the legislature finds that the administering  
7 agency will be better enabled to make decisions and be better able to  
8 assure conditions placed on permits and certificates are complied with  
9 if procedures for the regulation of waters and water rights are clearly  
10 established. The purpose of this section is to set forth the powers of  
11 the department to regulate the withdrawal or diversion of public waters  
12 and water or water rights related thereto including regulation based on  
13 dates of priority or other pertinent factors. Regulatory actions taken  
14 under this section shall be based on examination and determination by  
15 the department or the court, as applicable, of the various water rights  
16 involved according to the department's records and other records and  
17 pertinent facts. The powers set forth in this section may be exercised  
18 whether or not a general adjudication relating to the water rights  
19 involved has been conducted.

20        (1) In a regulatory situation (a) where each water right proposed  
21 for regulation by the department, as well as each right of a senior  
22 priority that the proposed regulation is designed to protect, is or are  
23 embodied in a certificate or certificates issued under RCW 90.03.240,  
24 90.03.330, 90.38.040, 90.42.040, or 90.44.060 or a permit or permits  
25 issued pursuant to RCW 90.03.290 or 90.44.060; or (b) where a flow or  
26 level has been established by rule pursuant to chapter 90.22 or 90.54  
27 RCW; or (c) where it appears to the department that public waters are  
28 being withdrawn without any right or other appropriate authority  
29 whatsoever, the department in its discretion may regulate the right or  
30 rights under either RCW 43.27A.190 or subsection (2) of this section.

31        (2) The department may bring action in superior court for such  
32 remedies as it may deem necessary, including injunctive or other  
33 equitable relief, under the following situations: (a) When authorized  
34 in a regulatory situation under subsection (1) of this section; or (b)  
35 in a regulatory situation where one or more of the water rights  
36 proposed for regulation by the department, or one or more of the water  
37 rights of a senior priority that the proposed regulation is designed to  
38 protect, is not or are not embodied in a certificate or permit as  
39 described in subsection (1)(a) of this section. For purposes of

1 regulatory situations covered under (b) of this subsection, court  
2 action under this subsection constitutes the department's sole and  
3 exclusive method of regulation. Action brought under this subsection  
4 shall be initiated in the superior court of the county where the point  
5 or points of diversion of the water right or rights proposed for  
6 regulation are located. If the points of diversion are located in more  
7 than one county, the department may bring the action in a county where  
8 a point of diversion is located.

9 (3) Nothing in this section authorizes the department to accomplish  
10 a general adjudication of water rights proceeding or the substantial  
11 equivalent of a general adjudication of water rights. The exclusive  
12 procedure for accomplishing a general adjudication of water rights is  
13 under RCW 90.03.110 through 90.03.245 or 90.44.220.

14 (4) Nothing in this section shall have an impact on RCW 90.14.130  
15 or 90.14.200.

16 (5) This section does not in any way modify regulatory powers  
17 previously placed with the department except as provided in subsections  
18 (1) and (2) of this section.

19 **Sec. 3.** RCW 90.03.340 and 1987 c 109 s 90 are each amended to read  
20 as follows:

21 After January 1, 1996, the priority date of the right acquired by  
22 appropriation ((shall relate back to)) is the date ((of filing of)) the  
23 ((original)) completed application form for the right is filed with the  
24 department. For the purposes of this section and RCW 90.03.270, a  
25 completed application form is one that contains all of the information  
26 requested on the form and is accompanied by the application fee.

27 **Sec. 4.** RCW 90.03.270 and 1987 c 109 s 85 are each amended to read  
28 as follows:

29 Upon receipt of ((an)) a completed water right application form, it  
30 shall be the duty of the department to ((make an endorsement thereon of  
31 the)) date ((of its receipt,)) stamp and ((to)) keep a record of  
32 ((same)) it. If ((upon examination,)) an application form is filed  
33 with the department but the information requested on the application  
34 form is ((found to be defective,)) not complete or the form is not  
35 accompanied by the proper application fee, the form and any application  
36 fee filed with it shall be returned to the applicant ((for correction  
37 or completion,)) and the date and the reasons for the return thereof

1 shall be (~~endorsed thereon and made a record in his office. No~~  
2 ~~application shall lose its priority of filing on account of such~~  
3 ~~defects, provided acceptable maps, drawings and such data as is~~  
4 ~~required by the department shall be filed with the department within~~  
5 ~~such reasonable time as it shall require~~)) noted in the department's  
6 records and in a letter returning the form. The department may not  
7 require an applicant to provide information in support of an  
8 application for a water right permit that is not necessary for the  
9 department's investigations, determinations, or findings regarding that  
10 particular application.

11 **Sec. 5.** RCW 90.03.280 and 1994 c 264 s 83 are each amended to read  
12 as follows:

13 Upon receipt of a (~~proper~~) completed application, the department  
14 shall instruct the applicant to publish notice (~~thereof~~) in a form  
15 and within a time prescribed by the department in a newspaper of  
16 general circulation published in the county or counties in which the  
17 storage, diversion or withdrawal, and use is to be made, and in such  
18 other newspapers as the department may direct, once a week for two  
19 consecutive weeks. The notice shall include information pertinent to  
20 the proposed appropriation, including the location, the source, the  
21 purpose or purposes of use, and the quantity proposed to be diverted or  
22 withdrawn. The notice shall state that persons wishing to protest the  
23 proposed appropriation must do so in writing to the department within  
24 thirty days of the last date of publication of the notice. In order to  
25 be considered by the department, a protest must be received by the  
26 department within thirty days of the last date of publication of the  
27 notice. Upon receipt by the department of an application it shall send  
28 notice thereof containing pertinent information to the director of fish  
29 and wildlife.

30 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.21B RCW  
31 to read as follows:

32 In a proceeding before the pollution control hearings board  
33 challenging a decision of the department related to the issuance,  
34 conditioning, transfer, amendment, or denial of a water right permit  
35 under Title 90 RCW, the burden of proof is on the person filing the  
36 appeal.

1        NEW SECTION.    **Sec. 7.** A new section is added to chapter 43.21B RCW  
2 to read as follows:

3        Only a person with standing as defined in RCW 34.05.530 may appeal  
4 to the pollution control hearings board a decision of the department to  
5 issue, condition, transfer, amend, or deny a water right under Title 90  
6 RCW.

7        NEW SECTION.    **Sec. 8.** A new section is added to chapter 43.21B RCW  
8 to read as follows:

9        One member of the pollution control hearings board may hear and  
10 render a decision on an appeal from a water right applicant regarding  
11 the nature and extent of the information needed to make determinations  
12 regarding the application for or the processing of a water right  
13 permit.

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

16       A water right applicant may appeal to the pollution control  
17 hearings board a determination by the department regarding the nature  
18 and extent of the information needed to make determinations regarding  
19 the application for or the processing of a water right permit.

20       **Sec. 10.** RCW 90.03.290 and 1994 c 264 s 84 are each amended to  
21 read as follows:

22       (1) When ~~((an))~~ a completed application complying with the  
23 provisions of this chapter and with the rules ~~((and regulations))~~ of  
24 the department has been filed, the ~~((same))~~ application shall be placed  
25 on record with the department, and it shall be ~~((its))~~ the department's  
26 duty to ~~((investigate the application, and))~~ determine what water, if  
27 any, is available for appropriation, and find and determine to what  
28 beneficial use or uses it can be applied.

29       The department shall investigate the application. The applicant  
30 shall provide a completed application form. In addition to providing  
31 the information requested on the form, however, the applicant shall  
32 also provide such information as may be required for the department's  
33 investigation, determinations, and findings regarding the application  
34 and may provide additional information. The information provided by  
35 the applicant must satisfy the protocols, that is, study plans and  
36 criteria, established by the department for obtaining and providing the

1 information. If an applicant provides the information and the  
2 protocols set by the department for obtaining and providing it have  
3 been satisfied, the department shall review the information and may  
4 take actions to verify that the information is accurate, but it may  
5 not, except to replace inaccurate information, take actions that would  
6 constitute obtaining major portions of the information anew.

7 (2) With regard to an application:

8 (a) If it is proposed to appropriate water for irrigation purposes,  
9 the department shall investigate, determine and find what lands are  
10 capable of irrigation by means of water found available for  
11 appropriation.

12 (b) If it is proposed to appropriate water for the purpose of power  
13 development, the department shall investigate, determine and find  
14 whether the proposed development is likely to prove detrimental to the  
15 public interest, having in mind the highest feasible use of the waters  
16 belonging to the public.

17 (3) If the application does not contain, and the applicant does not  
18 promptly furnish sufficient information on which to base such findings,  
19 the department may issue a preliminary permit, for a period of not to  
20 exceed three years, requiring the applicant to make such surveys,  
21 investigations, studies, and progress reports, as in the opinion of the  
22 department may be necessary. If the applicant fails to comply with the  
23 conditions of the preliminary permit, it and the application or  
24 applications on which it is based shall be automatically canceled and  
25 the applicant so notified. If the holder of a preliminary permit  
26 shall, before its expiration, file with the department a verified  
27 report of expenditures made and work done under the preliminary permit,  
28 which, in the opinion of the department, establishes the good faith,  
29 intent and ability of the applicant to carry on the proposed  
30 development, the preliminary permit may, with the approval of the  
31 governor, be extended, but not to exceed a maximum period of five years  
32 from the date of the issuance of the preliminary permit.

33 (4) The department shall make and file as part of the record in the  
34 matter, written findings of fact concerning all things investigated,  
35 and if it shall find that there is water available for appropriation  
36 for a beneficial use, and the appropriation thereof as proposed in the  
37 application will not impair existing rights or be detrimental to the  
38 public welfare, it shall issue a permit stating the amount of water to  
39 which the applicant shall be entitled and the beneficial use or uses to

1 which it may be applied: PROVIDED, That where the water applied for is  
2 to be used for irrigation purposes, it shall become appurtenant only to  
3 such land as may be reclaimed thereby to the full extent of the soil  
4 for agricultural purposes. But where there is no unappropriated water  
5 in the proposed source of supply, or where the proposed use conflicts  
6 with existing rights, or threatens to prove detrimental to the public  
7 interest, having due regard to the highest feasible development of the  
8 use of the waters belonging to the public, it shall be duty of the  
9 department to reject such application and to refuse to issue the permit  
10 asked for. If the permit is refused because of conflict with existing  
11 rights and such applicant shall acquire same by purchase or  
12 condemnation under RCW 90.03.040, the department may thereupon grant  
13 such permit. Any application may be approved for a less amount of  
14 water than that applied for, if there exists substantial reason  
15 therefor, and in any event shall not be approved for more water than  
16 can be applied to beneficial use for the purposes named in the  
17 application. In determining whether or not a permit shall issue upon  
18 any application, it shall be the duty of the department to investigate  
19 all facts relevant and material to the application. After the  
20 department approves said application in whole or in part and before any  
21 permit shall be issued thereon to the applicant, such applicant shall  
22 pay the fee provided in RCW 90.03.470: PROVIDED FURTHER, That in the  
23 event a permit is issued by the department upon any application, it  
24 shall be its duty to notify the director of fish and wildlife and  
25 affected federally recognized Indian tribes of such issuance.

26 **Sec. 11.** RCW 90.03.320 and 1987 c 109 s 67 are each amended to  
27 read as follows:

28 (1) Actual construction work shall be commenced on any project for  
29 which permit has been granted within such reasonable time as shall be  
30 prescribed by the department, and shall thereafter be prosecuted with  
31 diligence and completed within the time prescribed by the department.  
32 The department, in fixing the time for the commencement of the work, or  
33 for the completion thereof and the application of the water to the  
34 beneficial use prescribed in the permit, shall take into consideration  
35 the cost and magnitude of the project and the engineering and physical  
36 features to be encountered, and shall allow such time as shall be  
37 reasonable and just under the conditions then existing, having due  
38 regard for the public welfare and public interests affected: and, for

1 good cause shown, it shall extend the time or times fixed as aforesaid,  
2 and shall grant such further period or periods as may be reasonably  
3 necessary, having due regard to the good faith of the applicant and the  
4 public interests affected.

5 (2) For the purposes of this section, "good cause" includes but is  
6 not limited to the following circumstances that prevent work completion  
7 within the prescribed period:

8 (a) Active service in the armed forces of the United States during  
9 a military crisis;

10 (b) Nonvoluntary service in the armed forces of the United States;

11 (c) The operation of legal proceedings;

12 (d) Delays in securing other permits necessary to proceed with the  
13 development;

14 (e) A single transfer in ownership of the property;

15 (f) Implementation of water efficiency measures, including  
16 conservation and reclaimed water use;

17 (g) Encountering unanticipated physical impediments to  
18 construction; and

19 (h) Encountering generally depressed economic conditions.

20 (3) If the terms of the permit or extension thereof((~~7~~)) are not  
21 complied with, the department shall give notice by ((registered))  
22 certified mail that ((such)) the permit will be canceled unless the  
23 ((holders thereof shall)) permittee shows cause within sixty days why  
24 the ((same)) permit should not be ((so)) canceled. If cause ((be)) is  
25 not shown, ((said)) the permit shall be canceled.

26 **Sec. 12.** RCW 90.03.260 and 1987 c 109 s 84 are each amended to  
27 read as follows:

28 ~~((Each application for permit to appropriate water shall set forth~~  
29 ~~the name and post office address of the applicant, the source of water~~  
30 ~~supply, the nature and amount of the proposed use, the time during~~  
31 ~~which water will be required each year, the location and description of~~  
32 ~~the proposed ditch, canal, or other work, the time within which the~~  
33 ~~completion of the construction and the time for the complete~~  
34 ~~application of the water to the proposed use. If for agricultural~~  
35 ~~purposes, it shall give the legal subdivision of the land and the~~  
36 ~~acreage to be irrigated, as near as may be, and the amount of water~~  
37 ~~expressed in acre feet to be supplied per season. If for power~~  
38 ~~purposes, it shall give the nature of the works by means of which the~~

1 power is to be developed, the head and amount of water to be utilized,  
2 and the uses to which the power is to be applied. If for construction  
3 of a reservoir, it shall give the height of the dam, the capacity of  
4 the reservoir, and the uses to be made of the impounded waters. If for  
5 municipal water supply, it shall give the present population to be  
6 served, and, as near as may be, the future requirement of the  
7 municipality. If for mining purposes, it shall give the nature of the  
8 mines to be served and the method of supplying and utilizing the water;  
9 also their location by legal subdivisions. All applications shall be  
10 accompanied by such maps and drawings, in duplicate, and such other  
11 data, as may be required by the department, and such accompanying data  
12 shall be considered as a part of the application.)) The department  
13 shall adopt rules in accordance with chapter 34.05 RCW by January 1,  
14 1996, that specify the contents of completed water right application  
15 forms. The rules shall include specific timelines for the department  
16 to follow in making a determination as to whether an application is  
17 complete and notifying the applicant of its determination. The rules  
18 shall also identify the kinds of inaccuracies that render an  
19 application incomplete.

20 **Sec. 13.** RCW 90.44.060 and 1987 c 109 s 109 are each amended to  
21 read as follows:

22 Applications for permits for appropriation of underground water  
23 shall be made in the same form and manner provided in RCW 90.03.250  
24 through 90.03.340, as amended, the provisions of which sections are  
25 hereby extended to govern and to apply to ground water, or ground water  
26 right certificates and to all permits that shall be issued pursuant to  
27 such applications, and the rights to the withdrawal of ground water  
28 acquired thereby shall be governed by RCW 90.03.250 through 90.03.340,  
29 inclusive(~~(: PROVIDED, That each application to withdraw public ground~~  
30 ~~water by means of a well or wells shall set forth the following~~  
31 ~~additional information: (1) the name and post office address of the~~  
32 ~~applicant; (2) the name and post office address of the owner of the~~  
33 ~~land on which such well or wells or works will be located; (3) the~~  
34 ~~location of the proposed well or wells or other works for the proposed~~  
35 ~~withdrawal; (4) the ground water area, sub-area, or zone from which~~  
36 ~~withdrawal is proposed, provided the department has designated such~~  
37 ~~area, sub-area, or zone in accord with RCW 90.44.130; (5) the amount of~~  
38 ~~water proposed to be withdrawn, in gallons a minute and in acre feet a~~

1 year, or millions of gallons a year; (6) the depth and type of  
2 construction proposed for the well or wells or other works: AND  
3 ~~PROVIDED FURTHER, That~~). The department shall adopt rules in  
4 accordance with chapter 34.05 RCW by January 1, 1996, that specify the  
5 contents of completed water right application forms. The rules shall  
6 include specific timelines for the department to follow in making a  
7 determination as to whether an application is complete and notifying  
8 the applicant of its determination. The rules shall also identify the  
9 kinds of inaccuracies that render an application incomplete. Any  
10 permit issued pursuant to an application for constructing a well or  
11 wells to withdraw public ground water may specify an approved type and  
12 manner of construction for the purposes of preventing waste of said  
13 public waters and of conserving their head.

14 **Sec. 14.** RCW 90.03.250 and 1987 c 109 s 83 are each amended to  
15 read as follows:

16 Any person, municipal corporation, firm, irrigation district,  
17 association, corporation or water users' association hereafter desiring  
18 to appropriate water for a beneficial use shall make an application to  
19 the department for a permit to make such appropriation, and shall not  
20 use or divert such waters until he has received a permit from the  
21 department as in this chapter provided. The construction of any ditch,  
22 canal or works, or performing any work in connection with said  
23 construction or appropriation, or the use of any waters, shall not be  
24 an appropriation of such water nor an act for the purpose of  
25 appropriating water unless a permit to make said appropriation has  
26 first been granted by the department: PROVIDED, That a temporary  
27 permit may be granted upon a proper showing made to the department to  
28 be valid only during the pendency of such application for a permit  
29 unless sooner revoked by the department: PROVIDED, FURTHER, That  
30 nothing in this chapter contained shall be deemed to affect RCW  
31 90.40.010 through 90.40.080 except that the notice and certificate  
32 therein provided for in RCW 90.40.030 shall be addressed to the  
33 department, and the department shall exercise the powers and perform  
34 the duties prescribed by RCW 90.40.030.

35 The department shall encourage the filing of a consolidated  
36 application for a complex project under a single ownership that  
37 proposes to divert or withdraw water from more than one source,  
38 including a combination of surface and ground water sources. The

1 filing of a consolidated application for transfer or change of one or  
2 more water rights involving multiple sources shall also be encouraged  
3 if all of the affected diversions or withdrawals are intended to serve  
4 a single project with a single ownership. The department shall adopt  
5 and provide forms for consolidated applications.

6 NEW SECTION. Sec. 15. A new section is added to chapter 90.03 RCW  
7 to read as follows:

8 (1) The department shall establish streamlined procedures for its  
9 processing of applications for de minimis appropriations of surface  
10 water, but only if the department has reserved and set aside the water  
11 for future beneficial use under RCW 90.54.050.

12 (2) Applications for appropriating water under this section shall  
13 be made on a form provided by the department. Within sixty days of the  
14 publication of a notice in accordance with RCW 90.03.280, the  
15 department shall issue or deny a permit for the requested  
16 appropriation. If the department denies the application, it shall  
17 explain its determination in writing.

18 (3) The department shall waive the evaluation and report  
19 requirements of RCW 90.03.290 if during the establishment of the  
20 reservation it was conclusively determined that water is available and  
21 that no impairment of existing water rights or the public interest will  
22 occur.

23 (4) This section may not be used in areas that are within urban  
24 growth areas as designated under RCW 36.70A.110 or within the service  
25 areas of a public water system as defined in chapter 70.119A RCW that  
26 has an available water supply.

27 (5) Unless the context clearly requires otherwise, as used in this  
28 chapter, "de minimis appropriation" means diversion and use of surface  
29 water in an amount not exceeding four hundred fifty gallons per day and  
30 not exceeding an instantaneous diversion rate of two one-hundredths  
31 cubic feet per second.

32 (6) The department shall develop, in cooperation with the  
33 department of health, informational materials regarding the risks of  
34 drinking untreated surface water. This informational material may be  
35 provided to prospective applicants. The department shall attach the  
36 informational materials to any permit that is approved under this  
37 section.

1        NEW SECTION.    **Sec. 16.**    A new section is added to chapter 90.03 RCW  
2 to read as follows:

3        (1) The department may authorize short-term uses of water without  
4 publication of the notice required under RCW 90.03.280 and without the  
5 report required under RCW 90.03.290.    However, before approving a  
6 short-term use, the department shall determine to its satisfaction that  
7 the substantive criteria in RCW 90.03.290 are met and that a stream  
8 affected by a short-term use will be retained with sufficient flows to  
9 maintain instream uses and to protect existing water rights.    The  
10 department shall adopt and provide application forms for persons  
11 applying for a short-term use and shall expedite its consideration of  
12 short-term use requests to the extent practicable.

13        (2) For the purposes of this chapter, "short-term use" means a use  
14 of water that will not exceed one year in duration. Short-term uses  
15 include but are not limited to use in construction, dust control,  
16 dewatering, and short-term planned fire suppression activities.

17        NEW SECTION.    **Sec. 17.**    A new section is added to chapter 90.03 RCW  
18 to read as follows:

19        The department shall establish a register that identifies, by water  
20 resource inventory area, applications for new water rights and  
21 applications for water right transfers and changes.    The applications  
22 appearing in the register shall be limited to those requesting a new  
23 appropriation or change or transfer of more than three cubic feet per  
24 second of water.    The register shall identify:    The location of the  
25 proposed use, change, or transfer; whether the application is for  
26 surface or ground water; and, for surface water applications, the water  
27 source.    The department shall produce the register once every two weeks  
28 and shall make the register available to interested parties for a fee  
29 that is based on the cost of producing and mailing the register.    One  
30 year after the effective date of this section, the department may cease  
31 production of the register if the number of requests for the register  
32 are not adequate to cover the costs of producing and mailing it.

33        NEW SECTION.    **Sec. 18.**    (1) The department of ecology shall in  
34 conjunction with the task force created in section 3, chapter 495, Laws  
35 of 1993 develop a budget process for its water rights administration  
36 program that accomplishes the following:

37        (a) Identifies targets for permitting activities for the biennium;

- 1 (b) Identifies workload standards;
- 2 (c) Prepares a draft budget;
- 3 (d) Provides for timely public review of the draft budget; and
- 4 (e) Circulates a final budget.

5 (2) The water rights programs review task force shall, in  
6 conjunction with the department of ecology, establish and periodically  
7 review the following:

8 (a) Workload standards and proposed incentives to improve such  
9 standards;

10 (b) Program expenditure categories to account for and track costs  
11 related to the water rights administration program; and

12 (c) Success measures based upon programmatic results designed to  
13 evaluate program effectiveness and standards for defining the measures.

14 In establishing the initial workload standards, the legislature has  
15 an expectation that the department of ecology will process a simple,  
16 basic application in six months and an application of intermediate  
17 difficulty in one year. The department of ecology shall report to the  
18 task force, within fifteen days of the end of each calendar quarter,  
19 the number of applications that were not processed within this time  
20 frame and the reasons for the delay.

21 (3) The task force shall report annually to the legislature on the  
22 success measures established, the number of water right permit  
23 decisions made, and the associated costs of administering the water  
24 rights program.

25 (4) The legislature may provide for another state entity or an  
26 independent contractor to conduct periodic performance audits or  
27 evaluations of the effectiveness and efficiency of the department of  
28 ecology in meeting its workload standards and achieving programmatic  
29 success.

30 (5) This section shall expire June 30, 1998.

31 **Sec. 19.** 1993 c 495 s 3 (uncodified) is amended to read as  
32 follows:

33 (1) There is created a water rights (~~fees~~) programs review task  
34 force. The task force shall be comprised of (~~fourteen~~) sixteen  
35 members, who are appointed as follows:

36 (a) Two members of the Washington state house of representatives,  
37 one from each major caucus, to be appointed by the speaker of the house  
38 of representatives;

1 (b) Two members of the Washington state senate, one from each major  
2 caucus, to be appointed by the president of the senate;

3 (c) ~~((Ten))~~ Twelve members, to be appointed jointly by the speaker  
4 of the house of representatives and the president of the senate, to  
5 represent the following interests: Agriculture, aquaculture, business,  
6 cities, counties, the state department of ecology, environmentalists,  
7 water recreation interests, water utilities, federally recognized  
8 Indian tribes, rural residential interests, and hydropower interests.  
9 ~~((The task force may establish technical advisory committees as~~  
10 ~~necessary to complete its tasks.))~~

11 (2) In addition to the functions established in section 18 of this  
12 act, the task force shall conduct a ~~((comprehensive))~~ review ~~((of water~~  
13 ~~rights fees. The task force's tasks shall include)),~~ including but not  
14 ~~((be))~~ limited to the following matters:

15 (a) ~~((Identification of the costs associated with the various~~  
16 ~~activities and services provided by the water rights program and~~  
17 ~~examination of how these costs compare with the fees charged for these~~  
18 ~~activities and services;~~

19 (b) ~~Identification of appropriate accountability measures for the~~  
20 ~~department of ecology to employ in administration of the water rights~~  
21 ~~program. Recommendations of accountability requirements and~~  
22 ~~measurements shall take into account the distinctive characteristics of~~  
23 ~~the water rights program, that is, that the department receives a large~~  
24 ~~number of applications on a one-time basis and that the department of~~  
25 ~~ecology must meet its legal obligations under the doctrine of prior~~  
26 ~~appropriation;~~

27 (c) ~~Identification of which program activities should be eligible~~  
28 ~~for cost recovery from fees, as well as which direct and indirect costs~~  
29 ~~of program administration;~~

30 (d) ~~Review of the application, examination, and water rights permit~~  
31 ~~requirements for marine water users to determine if these users should~~  
32 ~~receive special fee consideration;~~

33 (e) ~~Review of the definition and treatment of nonconsumptive water~~  
34 ~~uses to determine if special fee consideration should be given to these~~  
35 ~~users;~~

36 (f) ~~Review of the fees and accounting methods for the dam safety~~  
37 ~~program;~~

1       (g) Identification of the appropriate distribution of  
2 responsibility between the applicant and the department of ecology for  
3 provision of technical information and analysis; and

4       (h) Establishment of a reasonable time framework for completion of  
5 new and pending water rights applications, and an analysis of the staff  
6 and funding levels required to meet the established time framework))

7 Implementation of the development and maintenance of the water resource  
8 data management system, monitored on an annual basis;

9       (b) The use and amount of funds available for the water right  
10 permit processing and data management programs and the transition  
11 between fiscal year 1998 and fiscal year 1999;

12       (c) The water rights programs review task force will conduct a  
13 study to determine potential savings and efficiencies attainable by  
14 integrating all water resource data management functions among natural  
15 resource management agencies into a single data management system  
16 compared with the savings and efficiencies currently realized by each  
17 natural resource management agency maintaining independent water  
18 resource information. In reviewing this matter, the task force will  
19 work with the natural resource management agencies to determine the  
20 nature and extent of each natural resource management agency's:

21       (i) Existing water resource data;

22       (ii) Existing water resource data management system or systems;

23       (iii) Dependence on water resource data to fulfill agency  
24 responsibilities;

25       (iv) Types of water resource data unique to that agency;

26       (v) Types of water resource data common to all natural resource  
27 agencies;

28       (vi) Method of managing water resources information, including an  
29 assessment of the compatibility of information management systems  
30 between natural resource management agencies, and the obstacles  
31 inhibiting integration and subsequent free exchange of water resource  
32 data between natural resource management agencies; and

33       (vii) Biennial cost of acquiring and maintaining each type of water  
34 resource data used by the agency.

35       For the purposes of this section, a "natural resource management  
36 agency" includes any of the following state agencies: Department of  
37 ecology, department of natural resources, department of fish and  
38 wildlife, local conservation districts, and department of health.

1 The report shall be presented to the legislature on or before  
2 December 1, 1995; and

3 (d) In conjunction with the review required in (a) and (b) of this  
4 subsection, the task force shall recommend, by December 1, 1995,  
5 appropriate future funding sources for data management development.

6 (3) On June 1, 1998, the task force shall be reactivated in  
7 accordance with subsection (1) of this section. Before December 1,  
8 ((1993)) 1998, the task force shall provide recommendations to the  
9 legislature regarding:

10 (a) ((Provide recommendations to the department of ecology on ways  
11 to improve the efficiency and accountability of the water rights  
12 program;

13 (b) Provide recommendations to the legislature on statutory changes  
14 necessary to make these efficiency and accountability improvements; and

15 (c) Propose a new fee schedule for the water rights program which  
16 incorporates the results of the task force's work and which funds  
17 through fees fifty percent of the cost of the activities and services  
18 provided by the program)) The efficiency and accountability of the  
19 water right permit processing program and the need for change to the  
20 level of funding in fiscal year 2000;

21 (b) The future direction of the water resource data management  
22 program and the need for changes to the level of funding in fiscal year  
23 2000; and

24 (c) Modification to the fee schedule to fund the water right permit  
25 processing program that is to go into effect on July 1, 1999.

26 (4) The department of ecology and the legislature shall jointly  
27 provide for the staff support of the task force.

28 (5) The task force shall convene as soon as possible upon the  
29 appointment of its members. Task force members shall elect a chair and  
30 adopt rules for conducting the business of the task force. The task  
31 force shall expire on June 30, ((1994)) 1999.

32 **Sec. 20.** RCW 90.03.470 and 1993 c 495 s 2 are each amended to read  
33 as follows:

34 ~~((Except as otherwise provided in subsection (15) of this section,~~  
35 ~~the following fees shall be collected by the department in advance:~~

36 (1) ~~For the examination of an application for permit to appropriate~~  
37 ~~water or on application to change point of diversion, withdrawal,~~  
38 ~~purpose or place of use, a minimum of ten dollars, to be paid with the~~

1 application. For each second foot between one and five hundred second  
2 feet, two dollars per second foot; for each second foot between five  
3 hundred and two thousand second feet, fifty cents per second foot; and  
4 for each second foot in excess thereof, twenty cents per second foot.  
5 For each acre foot of storage up to and including one hundred thousand  
6 acre feet, one cent per acre foot, and for each acre foot in excess  
7 thereof, one fifth cent per acre foot. The ten dollar fee payable with  
8 the application shall be a credit to that amount whenever the fee for  
9 direct diversion or storage totals more than ten dollars under the  
10 above schedule and in such case the further fee due shall be the total  
11 computed amount less ten dollars.

12 Within five days from receipt of an application the department  
13 shall notify the applicant by registered mail of any additional fees  
14 due under the above schedule and any additional fees shall be paid to  
15 and received by the department within thirty days from the date of  
16 filing the application, or the application shall be rejected.

17 (2) For filing and recording a permit to appropriate water for  
18 irrigation purposes, forty cents per acre for each acre to be irrigated  
19 up to and including one hundred acres, and twenty cents per acre for  
20 each acre in excess of one hundred acres up to and including one  
21 thousand acres, and ten cents for each acre in excess of one thousand  
22 acres; and also twenty cents for each theoretical horsepower up to and  
23 including one thousand horsepower, and four cents for each theoretical  
24 horsepower in excess of one thousand horsepower, but in no instance  
25 shall the minimum fee for filing and recording a permit to appropriate  
26 water be less than five dollars. For all other beneficial purposes the  
27 fee shall be twice the amount of the examination fee except that for  
28 individual household and domestic use, which may include water for  
29 irrigation of a family garden, the fee shall be five dollars.

30 (3) For filing and recording any other water right instrument, four  
31 dollars for the first hundred words and forty cents for each additional  
32 hundred words or fraction thereof.

33 (4) For making a copy of any document recorded or filed in his  
34 office, forty cents for each hundred words or fraction thereof, but  
35 when the amount exceeds twenty dollars, only the actual cost in excess  
36 of that amount shall be charged.

37 (5) For certifying to copies, documents, records or maps, two  
38 dollars for each certification.

1       ~~(6) For blueprint copies of a map or drawing, or, for such other~~  
2 ~~work of a similar nature as may be required of the department, at~~  
3 ~~actual cost of the work.~~

4       ~~(7) For granting each extension of time for beginning construction~~  
5 ~~work under a permit to appropriate water, an amount equal to one half~~  
6 ~~of the filing and recording fee, except that the minimum fee shall be~~  
7 ~~not less than five dollars for each year that an extension is granted,~~  
8 ~~and for granting an extension of time for completion of construction~~  
9 ~~work or for completing application of water to a beneficial use, five~~  
10 ~~dollars for each year that an extension is granted.~~

11       ~~(8) For the inspection of any hydraulic works to insure safety to~~  
12 ~~life and property, the actual cost of the inspection, including the~~  
13 ~~expense incident thereto.~~

14       ~~(9) For the examination of plans and specifications as to safety of~~  
15 ~~controlling works for storage of ten acre feet or more of water, a~~  
16 ~~minimum fee of ten dollars, or the actual cost.~~

17       ~~(10) For recording an assignment either of a permit to appropriate~~  
18 ~~water or of an application for such a permit, a fee of five dollars.~~

19       ~~(11) For preparing and issuing all water right certificates, five~~  
20 ~~dollars.~~

21       ~~(12) For filing and recording a protest against granting any~~  
22 ~~application, two dollars.~~

23       ~~(13))~~ The legislature finds it necessary to assess additional fees  
24 for a four-year period in order to address the water right application  
25 backlog and data management development. For the period July 1, 1995,  
26 through June 30, 1999, the department shall collect the following fees  
27 in advance:

28       (1) Application filing fees for the following:

29       (a) Surface water and ground water applications:

30       (i) Greater than 0.0 and less than or equal to 0.2  
31       cubic feet per second \$90

32       (ii) Greater than 0.2 and less than or equal to 0.5  
33       cubic feet per second \$290

34       (iii) Greater than 0.5 and less than or equal to 3  
35       cubic feet per second \$490

36       (iv) Greater than 3 and less than or equal to 5 cubic  
37       feet per second \$660

1	(v) <u>Greater than 5 and less than or equal to 20</u>	
2	<u>cubic feet per second</u>	<u>\$820</u>
3	(vi) <u>Greater than 20 and less than or equal to 100</u>	
4	<u>cubic feet per second</u>	<u>\$990</u>
5	(vii) <u>Greater than 100 cubic feet per second</u>	<u>\$1,150</u>
6	<u>(b) Reservoir applications:</u>	
7	(i) <u>Greater than 0.0 and less than or equal to 10</u>	
8	<u>acre-feet</u>	<u>\$90</u>
9	(ii) <u>Greater than 10 and less than or equal to 100</u>	
10	<u>acre-feet</u>	<u>\$490</u>
11	(iii) <u>Greater than 100 and less than or equal to 1,000</u>	
12	<u>acre-feet</u>	<u>\$820</u>
13	(iv) <u>Greater than 1,000 acre-feet</u>	<u>\$1,150</u>
14	<u>(c) Change applications:</u>	
15	(i) <u>Changing a single element</u>	<u>\$90</u>
16	(ii) <u>Changing multiple elements</u>	<u>\$290</u>
17	<u>(2) Examination fees for the following:</u>	
18	<u>(a) Surface water applications:</u>	
19	(i) <u>Greater than 0.0 and less than or equal to 0.2</u>	
20	<u>cubic feet per second</u>	<u>\$100</u>
21	(ii) <u>Greater than 0.2 and less than or equal to 0.5</u>	
22	<u>cubic feet per second</u>	<u>\$450</u>
23	(iii) <u>Greater than 0.5 and less than or equal to 3</u>	
24	<u>cubic feet per second</u>	<u>\$820</u>
25	(iv) <u>Greater than 3 and less than or equal to 5 cubic</u>	
26	<u>feet per second</u>	<u>\$1,150</u>
27	(v) <u>Greater than 5 and less than or equal to 20</u>	
28	<u>cubic feet per second</u>	<u>\$1,480</u>
29	(vi) <u>Greater than 20 and less than or equal to 100</u>	
30	<u>cubic feet per second</u>	<u>\$1,810</u>
31	(vii) <u>Greater than 100 cubic feet per second</u>	<u>\$2,130</u>
32	<u>(b) Ground water applications:</u>	
33	(i) <u>Greater than 0.0 and less than or equal to 0.2</u>	
34	<u>cubic feet per second</u>	<u>\$120</u>
35	(ii) <u>Greater than 0.2 and less than or equal to 0.5</u>	
36	<u>cubic feet per second</u>	<u>\$540</u>
37	(iii) <u>Greater than 0.5 and less than or equal to 3</u>	
38	<u>cubic feet per second</u>	<u>\$980</u>

1	(iv) <u>Greater than 3 and less than or equal to 5 cubic</u>	
2	<u>feet per second</u>	<u>\$1,380</u>
3	(v) <u>Greater than 5 and less than or equal to 20</u>	
4	<u>cubic feet per second</u>	<u>\$1,780</u>
5	(vi) <u>Greater than 20 and less than or equal to 100</u>	
6	<u>cubic feet per second</u>	<u>\$2,170</u>
7	(vii) <u>Greater than 100 cubic feet per second</u>	<u>\$2,560</u>
8	<u>(c) Reservoir applications:</u>	
9	(i) <u>Greater than 0.0 and less than or equal to 10</u>	
10	<u>acre-feet</u>	<u>\$100</u>
11	(ii) <u>Greater than 10 and less than or equal to 100</u>	
12	<u>acre-feet</u>	<u>\$820</u>
13	(iii) <u>Greater than 100 and less than or equal to 1,000</u>	
14	<u>acre-feet</u>	<u>\$1,480</u>
15	(iv) <u>Greater than 1,000 acre-feet</u>	<u>\$2,130</u>
16	<u>(d) Changes to permits and certificates:</u>	
17	(i) <u>Changing a single element</u>	<u>\$100</u>
18	(ii) <u>Changing multiple elements</u>	<u>\$450</u>
19	<u>(3) Certificate fees:</u>	
20	<u>(a) Water appropriation applications:</u>	
21	(i) <u>Greater than 0.0 and less than or equal to 0.2</u>	
22	<u>cubic feet per second</u>	<u>\$90</u>
23	(ii) <u>Greater than 0.2 and less than or equal to 0.5</u>	
24	<u>cubic feet per second</u>	<u>\$290</u>
25	(iii) <u>Greater than 0.5 and less than or equal to 3</u>	
26	<u>cubic feet per second</u>	<u>\$490</u>
27	(iv) <u>Greater than 3 and less than or equal to 5 cubic</u>	
28	<u>feet per second</u>	<u>\$660</u>
29	(v) <u>Greater than 5 and less than or equal to 20</u>	
30	<u>cubic feet per second</u>	<u>\$820</u>
31	(vi) <u>Greater than 20 and less than or equal to 100</u>	
32	<u>cubic feet per second</u>	<u>\$990</u>
33	(vii) <u>Greater than 100 cubic feet per second</u>	<u>\$1,150</u>
34	<u>(b) Reservoir applications:</u>	
35	(i) <u>Greater than 0.0 and less than or equal to 10</u>	
36	<u>acre-feet</u>	<u>\$90</u>
37	(ii) <u>Greater than 10 and less than or equal to 100</u>	
38	<u>acre-feet</u>	<u>\$490</u>

1	<u>(iii) Greater than 100 and less than or equal to 1,000</u>	
2	<u>acre-feet</u>	\$820
3	<u>(iv) Greater than 1,000 acre-feet</u>	\$1,150
4	<u>(c) Changes to permits and certificates:</u>	
5	<u>(i) Changing a single element</u>	\$90
6	<u>(ii) Changing multiple elements</u>	\$290
7	<u>(4) Water right permit extensions</u>	\$100
8	<u>(5) Protests to applications</u>	\$50
9	<u>(6) Appealing a water right decision</u>	\$200
10	<u>(7) Assignment of an application or permit</u>	\$100
11	<u>(8) General permits:</u>	
12	<u>(a) Application fee</u>	\$100
13	<u>(b) Examination fee</u>	\$0
14	<u>(c) Certificate fee</u>	\$100
15	<u>(9) Seasonal change or rotation</u>	\$100
16	<u>(10) Temporary or short-term water use</u>	\$100
17	<u>(11) De minimis appropriations developed under a reservation of</u>	
18	<u>water adopted by rule:</u>	
19	<u>(a) Application fee</u>	\$100
20	<u>(b) Examination fee</u>	\$0
21	<u>(c) Certificate fee</u>	\$100
22	<u>(12) Issuance of a preliminary permit</u>	\$100
23	<u>(13) For the examination of plans and specifications as to safety</u>	
24	<u>of controlling works for storage of ten acre feet or more of water, and</u>	
25	<u>for the inspection of any hydraulic works to insure safety to life and</u>	
26	<u>property, the actual cost of the examination and inspection.</u>	
27	<u>(14) For a consolidated application covering multiple sources or</u>	
28	<u>changes:</u>	
29	<u>(a) The application fee must be based upon either the total amount</u>	
30	<u>of water or the total number of changes requested, or both;</u>	
31	<u>(b) The examination fee is the total of the examination fees</u>	
32	<u>calculated for the individual applications and changes; and</u>	
33	<u>(c) The certificate fee is as is appropriate for the individual</u>	
34	<u>certificates, since separate permits would issue and, therefore,</u>	
35	<u>separate certificates would result.</u>	
36	<u>The combined application, examination, and certificate fee for</u>	
37	<u>transfers and changes of water into the trust water right program under</u>	
38	<u>chapter 90.42 RCW shall be one hundred dollars.</u>	

1       The water right processing account is created in the state  
2 treasury. All receipts collected under this section shall be deposited  
3 into the account. Moneys in the account may be spent only after  
4 appropriation. Expenditures from the account may be used only for  
5 functions of the department of ecology related to: Filing,  
6 examination, and certification of water right permits, changes to water  
7 rights, and transfers of water rights; and a proportionate share of  
8 indirect costs allocated to these functions necessary to fund the  
9 general administrative functions of the department. Except for the  
10 biennium ending June 30, 1996, the department may expend funds from the  
11 account in an amount that is equal to the amount expended of funds  
12 appropriated from the general fund for each biennium.

13       The department shall provide timely notification by certified mail  
14 with return receipt requested to applicants that fees are due. No  
15 action may be taken until the fee is paid in full. Failure to remit  
16 fees within sixty days of the department's notification shall be  
17 grounds for rejecting the application or canceling the permit. Cash  
18 shall not be accepted. Fees must be paid by check or money order and  
19 are nonrefundable.

20       (~~(14)~~) For purposes of calculating fees for ground water filings,  
21 one cubic foot per second shall be regarded as equivalent to four  
22 hundred fifty gallons per minute.

23       (~~(15)~~) For the period beginning July 1, 1993, and ending June 30,  
24 1994, there is imposed and the department shall collect a one hundred  
25 dollar surcharge on all water rights applications or changes filed  
26 under this section, and upon all water rights applications or changes  
27 pending as of July 1, 1993. This charge shall be in addition to any  
28 other fees imposed under this section.

29       **Sec. 21.** RCW 90.03.470 and 1995 c . . . s 20 (section 20 of this  
30 act) are each amended to read as follows:

31       (~~The legislature finds it necessary to assess additional fees for~~  
32 ~~a four year period in order to address the water right application~~  
33 ~~backlog and data management development. For the period July 1, 1995,~~  
34 ~~through June 30, 1999,)) The department shall collect the following  
35 fees in advance:~~

- 36       (1) Application filing fees for the following:  
37       (a) Surface water and ground water applications:

1	(i)	Greater than 0.0 and less than or equal to 0.2	
2		cubic feet per second	(( <del>\$90</del> ) <u>\$100</u> )
3	(ii)	Greater than 0.2 and less than or equal to 0.5	
4		cubic feet per second	(( <del>\$290</del> ) <u>\$210</u> )
5	(iii)	Greater than 0.5 and less than or equal to 3	
6		cubic feet per second	(( <del>\$490</del> ) <u>\$320</u> )
7	(iv)	Greater than 3 and less than or equal to 5 cubic	
8		feet per second	(( <del>\$660</del> ) <u>\$420</u> )
9	(v)	Greater than 5 and less than or equal to 20	
10		cubic feet per second	(( <del>\$820</del> ) <u>\$530</u> )
11	(vi)	Greater than 20 and less than or equal to 100	
12		cubic feet per second	(( <del>\$990</del> ) <u>\$640</u> )
13	(vii)	Greater than 100 cubic feet per second	(( <del>\$1,150</del> ) <u>\$740</u> )
14	(b) Reservoir applications:		
15	(i)	Greater than 0.0 and less than or equal to 10	
16		acre-feet	(( <del>\$90</del> ) <u>\$100</u> )
17	(ii)	Greater than 10 and less than or equal to 100	
18		acre-feet	(( <del>\$490</del> ) <u>\$320</u> )
19	(iii)	Greater than 100 and less than or equal to 1,000	
20		acre-feet	(( <del>\$820</del> ) <u>\$530</u> )
21	(iv)	Greater than 1,000 acre-feet	(( <del>\$1,150</del> ) <u>\$740</u> )
22	(c) Change applications:		
23	(i)	Changing a single element	(( <del>\$90</del> ) <u>\$100</u> )
24	(ii)	Changing multiple elements	(( <del>\$290</del> ) <u>\$210</u> )
25	(2) Examination fees for the following:		
26	(a) Surface water applications:		
27	(i)	Greater than 0.0 and less than or equal to 0.2	
28		cubic feet per second	\$100
29	(ii)	Greater than 0.2 and less than or equal to 0.5	
30		cubic feet per second	(( <del>\$450</del> ) <u>\$320</u> )
31	(iii)	Greater than 0.5 and less than or equal to 3	
32		cubic feet per second	(( <del>\$820</del> ) <u>\$530</u> )
33	(iv)	Greater than 3 and less than or equal to 5 cubic	
34		feet per second	(( <del>\$1,150</del> ) <u>\$740</u> )
35	(v)	Greater than 5 and less than or equal to 20	
36		cubic feet per second	(( <del>\$1,480</del> ) <u>\$960</u> )
37	(vi)	Greater than 20 and less than or equal to 100	
38		cubic feet per second	(( <del>\$1,810</del> ) <u>\$1,170</u> )
39	(vii)	Greater than 100 cubic feet per second	(( <del>\$2,130</del> ) <u>\$1,380</u> )

1	(b) Ground water applications:	
2	(i) Greater than 0.0 and less than or equal to 0.2	
3	cubic feet per second	\$120
4	(ii) Greater than 0.2 and less than or equal to 0.5	
5	cubic feet per second	<del>(\$540)</del> <u>\$380</u>
6	(iii) Greater than 0.5 and less than or equal to 3	
7	cubic feet per second	<del>(\$980)</del> <u>\$640</u>
8	(iv) Greater than 3 and less than or equal to 5 cubic	
9	feet per second	<del>(\$1,380)</del> <u>\$890</u>
10	(v) Greater than 5 and less than or equal to 20	
11	cubic feet per second	<del>(\$1,780)</del> <u>\$1,150</u>
12	(vi) Greater than 20 and less than or equal to 100	
13	cubic feet per second	<del>(\$2,170)</del> <u>\$1,400</u>
14	(vii) Greater than 100 cubic feet per second	<del>(\$2,560)</del> <u>\$1,660</u>
15	(c) Reservoir applications:	
16	(i) Greater than 0.0 and less than or equal to 10	
17	acre-feet	\$100
18	(ii) Greater than 10 and less than or equal to 100	
19	acre-feet	<del>(\$820)</del> <u>\$530</u>
20	(iii) Greater than 100 and less than or equal to 1,000	
21	acre-feet	<del>(\$1,480)</del> <u>\$960</u>
22	(iv) Greater than 1,000 acre-feet	<del>(\$2,130)</del> <u>\$1,380</u>
23	(d) Changes to permits and certificates:	
24	(i) Changing a single element	\$100
25	(ii) Changing multiple elements	<del>(\$450)</del> <u>\$320</u>
26	(3) Certificate fees:	
27	(a) Water appropriation applications:	
28	(i) Greater than 0.0 and less than or equal to 0.2	
29	cubic feet per second	<del>(\$90)</del> <u>\$100</u>
30	(ii) Greater than 0.2 and less than or equal to 0.5	
31	cubic feet per second	<del>(\$290)</del> <u>\$210</u>
32	(iii) Greater than 0.5 and less than or equal to 3	
33	cubic feet per second	<del>(\$490)</del> <u>\$320</u>
34	(iv) Greater than 3 and less than or equal to 5 cubic	
35	feet per second	<del>(\$660)</del> <u>\$420</u>
36	(v) Greater than 5 and less than or equal to 20	
37	cubic feet per second	<del>(\$820)</del> <u>\$530</u>
38	(vi) Greater than 20 and less than or equal to 100	
39	cubic feet per second	<del>(\$990)</del> <u>\$640</u>

1	(vii) Greater than 100 cubic feet per second	(( <del>\$1,150</del> ))	<u>\$740</u>
2	(b) Reservoir applications:		
3	(i) Greater than 0.0 and less than or equal to 10		
4	acre-feet	(( <del>\$90</del> ))	<u>\$100</u>
5	(ii) Greater than 10 and less than or equal to 100		
6	acre-feet	(( <del>\$490</del> ))	<u>\$320</u>
7	(iii) Greater than 100 and less than or equal to 1,000		
8	acre-feet	(( <del>\$820</del> ))	<u>\$530</u>
9	(iv) Greater than 1,000 acre-feet	(( <del>\$1,150</del> ))	<u>\$740</u>
10	(c) Changes to permits and certificates:		
11	(i) Changing a single element	(( <del>\$90</del> ))	<u>\$100</u>
12	(ii) Changing multiple elements	(( <del>\$290</del> ))	<u>\$210</u>
13	(4) Water right permit extensions		\$100
14	(5) Protests to applications		\$50
15	(6) Appealing a water right decision		\$200
16	(7) Assignment of an application or permit		\$100
17	(8) General permits:		
18	(a) Application fee		\$100
19	(b) Examination fee		\$0
20	(c) Certificate fee		\$100
21	(9) Seasonal change or rotation		\$100
22	(10) Temporary or short-term water use		\$100
23	(11) De minimis appropriations developed under a reservation of		
24	water adopted by rule:		
25	(a) Application fee		\$100
26	(b) Examination fee		\$0
27	(c) Certificate fee		\$100
28	(12) Issuance of a preliminary permit		\$100
29	(13) For the examination of plans and specifications as to safety		
30	of controlling works for storage of ten acre feet or more of water, and		
31	for the inspection of any hydraulic works to insure safety to life and		
32	property, the actual cost of the examination and inspection.		
33	(14) For a consolidated application covering multiple sources or		
34	changes:		
35	(a) The application fee must be based upon either the total amount		
36	of water or the total number of changes requested, or both;		
37	(b) The examination fee is the total of the examination fees		
38	calculated for the individual applications and changes; and		

1 (c) The certificate fee is as is appropriate for the individual  
2 certificates, since separate permits would issue and, therefore,  
3 separate certificates would result.

4 The combined application, examination, and certificate fee for  
5 transfers and changes of water into the trust water right program under  
6 chapter 90.42 RCW will be one hundred dollars.

7 The water right processing account is created in the state  
8 treasury. All receipts collected under this section shall be deposited  
9 into the account. Moneys in the account may be spent only after  
10 appropriation. Expenditures from the account may be used only for  
11 functions of the department of ecology related to: Filing,  
12 examination, and certification of water right permits, changes to water  
13 rights, and transfers of water rights; and a proportionate share of  
14 indirect costs allocated to these functions necessary to fund the  
15 general administrative functions of the department. (~~Except for the~~  
16 ~~biennium ending June 30, 1996,~~) The department may expend funds from  
17 the account in an amount that is equal to the amount expended of funds  
18 appropriated from the general fund for each biennium.

19 The department shall provide timely notification by certified mail  
20 with return receipt requested to applicants that fees are due. No  
21 action may be taken until the fee is paid in full. Failure to remit  
22 fees within sixty days of the department's notification shall be  
23 grounds for rejecting the application or canceling the permit. Cash  
24 shall not be accepted. Fees must be paid by check or money order and  
25 are nonrefundable.

26 For purposes of calculating fees for ground water filings, one  
27 cubic foot per second shall be regarded as equivalent to four hundred  
28 fifty gallons per minute.

29 (~~For the period beginning July 1, 1993, and ending June 30, 1994,~~  
30 ~~there is imposed and the department shall collect a one hundred dollar~~  
31 ~~surcharge on all water rights applications or changes filed under this~~  
32 ~~section, and upon all water rights applications or changes pending as~~  
33 ~~of July 1, 1993. This charge shall be in addition to any other fees~~  
34 ~~imposed under this section.))~~

35 **Sec. 22.** RCW 89.30.001 and 1933 c 149 s 1 are each amended to read  
36 as follows:

37 Reclamation districts including an area of not less than one  
38 million acres of land may be created and maintained in this state, as

1 herein provided, for the reclamation and improvement of arid and  
2 semiarid lands situated in such districts, and for the generation  
3 and/or sale of hydroelectric energy(~~(:—PROVIDED, That no~~  
4 ~~appropriation, license, filing, recording, examination or other fee or~~  
5 ~~fees, as provided in RCW 90.16.050 through 90.16.090 or in RCW~~  
6 ~~90.03.470 shall be applicable to a district or districts created under~~  
7 ~~this chapter)).~~

8       **Sec. 23.** RCW 90.40.090 and 1988 c 127 s 83 are each amended to  
9 read as follows:

10       An application filed by the department of ecology or its assignee,  
11 the United States Bureau of Reclamation, for a permit to appropriate  
12 waters of the Columbia River under chapter 90.03 RCW, for the  
13 development of the Grand Coulee project shall be perfected in the same  
14 manner and to the same extent as though such appropriation had been  
15 made by a private person, corporation or association(~~(, but no fees, as~~  
16 ~~provided for in RCW 90.03.470, shall be required)).~~

17       **Sec. 24.** RCW 90.46.020 and 1992 c 204 s 3 are each amended to read  
18 as follows:

19       (1) The department of ecology shall, in coordination with the  
20 department of health, develop ~~((interim))~~ standards for ~~((pilot~~  
21 ~~projects under subsection (3) of this section on or before July 1,~~  
22 ~~1992, for))~~ the use of reclaimed water in land applications.

23       (2) The department of health shall, in coordination with the  
24 department of ecology, develop ~~((interim))~~ standards for ~~((pilot~~  
25 ~~projects under subsection (3) of this section on or before November 15,~~  
26 ~~1992, for))~~ the use of reclaimed water in commercial and industrial  
27 activities.

28       (3) The department of ecology and the department of health shall  
29 assist interested parties in the development of ~~((pilot))~~ projects to  
30 aid in achieving the purposes of this chapter.

31       **Sec. 25.** RCW 90.03.380 and 1991 c 347 s 15 are each amended to  
32 read as follows:

33       (1) The right to the use of water which has been applied to a  
34 beneficial use in the state shall be and remain appurtenant to the land  
35 or place upon which the same is used(~~(:—PROVIDED, HOWEVER, That~~  
36 ~~said)).~~ However, all or a portion of a water right may be transferred

1 to another (~~(or to others)~~) person or persons and become appurtenant to  
2 any other land or place of use without loss of priority of right  
3 (~~(theretofore established)~~) if (~~(such change)~~) the transfer can be made  
4 without detriment or injury to existing rights.

5 (2) The point of diversion or withdrawal of water for beneficial  
6 use or the purpose of use under an existing water right or permit may  
7 be changed(~~(7)~~) if (~~(such)~~) the change or changes can be made without  
8 detriment or injury to existing water rights.

9 The season of use under an existing water right or permit may be  
10 changed if the change involves the same general category of water use  
11 and the change can be made without detriment or injury to existing  
12 water rights. The season of use may be changed to another general  
13 category if such changes are specifically authorized by a watershed  
14 plan adopted under chapter . . . , Laws of 1995 (Senate Bill No. 5494)  
15 or a regional water resource plan adopted under RCW 90.54.045. An  
16 example of a general category of water use for the purposes of this  
17 subsection, but not a limit to the categories, is an agricultural use  
18 of water.

19 (3) The source of water for an existing water right or permit may  
20 be changed from a surface water diversion to a ground water withdrawal  
21 or vice versa if the two sources are in direct hydraulic continuity and  
22 if the change can be made without detriment or injury to existing water  
23 rights.

24 (4) The right embodied in a permit for water that has not yet been  
25 put to beneficial use may be transferred or changed. For a  
26 certificate, only the amount of water that has been beneficially used  
27 in accordance with the laws of the state may be transferred or changed.  
28 Excess quantities must be relinquished as provided under chapter 90.14  
29 RCW. If a water right permit or certificate is transferred or changed,  
30 the amount diverted or withdrawn for beneficial use may not be enlarged  
31 as to annual quantity. This subsection shall not apply to municipal  
32 water uses.

33 (5) Before any transfer of (~~(such)~~) a water right (~~(to use water or~~  
34 change of the point of diversion of water or change of purpose of use)  
35 or permit can be made, any person having an interest in the transfer or  
36 change(~~(7)~~) shall file a written application (~~(therefor)~~) with the  
37 department(~~(7 and said application)~~) on a form adopted and provided by  
38 the department.

1       (6) A person proposing to relocate a point of diversion of surface  
2 water is not required to file an application if the diversion point is  
3 moved no more than one-quarter mile from its original location, no  
4 diversions exist between the original point of diversion and the new  
5 point of diversion, and no other water rights will be impaired. At  
6 least fifteen days before construction of a replacement diversion  
7 point, the water right holder shall inform the department in writing of  
8 the intention to move the diversion point and shall submit  
9 documentation that the change is in compliance with RCW 75.20.100 or  
10 75.20.103.

11       (7) Authorization for the requested transfer or change shall not be  
12 granted until notice of ((said)) the application ((shall be)) has been  
13 published as provided in RCW 90.03.280.

14       (8) If it ((shall)) appears that ((such)) the transfer or ((such))  
15 change may be made without injury or detriment to existing rights, the  
16 department shall issue to the applicant an authorization to proceed  
17 with the transfer or change. The department may include in its  
18 authorization necessary conditions or limitations under which the  
19 transfer or change may be made, including a reasonable time for  
20 completion. The time may be extended upon request and a showing of  
21 good cause in accordance with RCW 90.03.320 and 90.03.470. If the  
22 person authorized to make a transfer or change of right fails to do so  
23 within the time allowed, including extensions granted for good cause,  
24 the department shall cancel the authorization and the water right or  
25 permit reverts to its original form and substance.

26       (9) If the department determines that the proposed transfer or  
27 change may periodically operate to impair an existing right, the  
28 department's authorization may be made contingent on the proponent's  
29 willingness to subordinate the use to the potentially impaired right or  
30 rights and the authorization must be so conditioned.

31       (10) The person authorized to make the transfer or change shall  
32 notify the department upon completion of the transfer or change. After  
33 verifying that the transfer or change has been completed in accordance  
34 with the authorization, the department shall issue to those persons  
35 having an interest in the resulting water right or rights a  
36 certificate, certificate of change, or superseding certificate, as  
37 appropriate, in duplicate ((granting)) that reflects the nature of the  
38 water right ((for such transfer)) or rights as transferred or ((for  
39 such change of point of diversion or of use)) changed. The certificate

1 or certificates so issued (~~shall~~) must be filed and be made a record  
2 with the department and the duplicate certificate issued to the  
3 applicant (~~may~~) must be filed with the county auditor in like manner  
4 and with the same effect as provided in the original certificate or  
5 permit to divert water.

6 If an application for change proposes to transfer water rights from  
7 one irrigation district to another, the department shall, before  
8 publication of notice, receive concurrence from each of the irrigation  
9 districts that such transfer or change will not adversely affect the  
10 ability to deliver water to other landowners or impair the financial  
11 integrity of either of the districts.

12 A change in place of use by an individual water user or users of  
13 water provided by an irrigation district need only receive approval for  
14 the change from the board of directors of the district if the use of  
15 water continues within the irrigation district.

16 This section shall not apply to trust water rights acquired by the  
17 state through the funding of water conservation projects under chapter  
18 90.38 RCW or RCW 90.42.010 through 90.42.070.

19 **Sec. 26.** RCW 90.03.390 and 1991 c 350 s 3 are each amended to read  
20 as follows:

21 (~~RCW 90.03.380 shall not be construed to prevent~~) (1) A water  
22 (users from making) right holder may make a seasonal or temporary  
23 change of (point of diversion or place of use of water) a water right  
24 when (such) the change can be made without detriment to existing  
25 rights, but in no case shall such change be made without the permission  
26 of (the water master of the district in which such proposed change is  
27 located, or of) the department. Nor shall RCW 90.03.380 be construed  
28 to prevent construction of emergency interties between public water  
29 systems to permit exchange of water during short-term emergency  
30 situations, or rotation in the use of water for bringing about a more  
31 economical use of the available supply, provided however, that the  
32 department of health in consultation with the department of ecology  
33 shall adopt rules or develop written guidelines setting forth standards  
34 for determining when a short-term emergency exists and the  
35 circumstances in which emergency interties are permitted. The rules or  
36 guidelines shall be consistent with the procedures established in RCW  
37 43.83B.400 through 43.83B.420. Water users owning lands to which water  
38 rights are attached may rotate in the use of water to which they are

1 collectively entitled, or an individual water user having lands to  
2 which are attached water rights of a different priority, may in like  
3 manner rotate in use when (~~(such)~~) rotation can be made without  
4 detriment to other existing water rights, and has the approval of the  
5 (~~(water master or)~~) department.

6 (2) A person or persons wishing to make a seasonal or temporary  
7 change or to rotate use in the manner provided in this section must  
8 file an application with the department on a form adopted and provided  
9 by the department. The department shall waive the notice provisions of  
10 RCW 90.03.280 unless it has reason to believe that fish habitat or the  
11 water rights of other persons are likely to be affected by the proposed  
12 change. The department shall respond to the request by letter setting  
13 forth its approval or denial, including the reason for denial. The  
14 department shall retain a record of its decision as part of the records  
15 of the water right or rights being changed. To the extent practicable,  
16 the department shall expedite its consideration of requests under this  
17 section.

18 **Sec. 27.** RCW 90.44.100 and 1987 c 109 s 113 are each amended to  
19 read as follows:

20 (~~((After an application to, and upon the issuance by the department~~  
21 ~~of an amendment to the appropriate permit or certificate of ground~~  
22 ~~water right, the holder of a valid right to withdraw public ground~~  
23 ~~waters may, without losing his priority of right, construct wells or~~  
24 ~~other means of withdrawal at a new location in substitution for or in~~  
25 ~~addition to those at the original location, or he may change the manner~~  
26 ~~or the place of use of the water: PROVIDED, HOWEVER, That such~~  
27 ~~amendment shall be issued only after publication of notice of the~~  
28 ~~application and findings as prescribed in the case of an original~~  
29 ~~application. Such amendment shall be issued by the department only on~~  
30 ~~the conditions that:)) (1) ((The)) A ground water permit or~~  
31 certificate may be transferred or changed in the manner provided in RCW  
32 90.03.380 if: (a) Any additional or substitute well or wells shall tap  
33 the same body of public ground water as the original well or wells;  
34 ((+2)) (b) use of the original well or wells shall be discontinued  
35 upon construction of the substitute well or wells; ((+3)) (c) the  
36 construction of an additional well or wells shall not enlarge the right  
37 conveyed by the original permit or certificate; and ((+4)) (d) other  
38 existing rights shall not be impaired. The department may specify an

1 approved manner of construction and shall require a showing of  
2 compliance with the terms of the amendment, as provided in RCW  
3 90.44.080 in the case of an original permit.

4 (2) Authorization from the department is not required for  
5 construction of a replacement well of the same size, depth, and  
6 capacity that will tap the same aquifer as the original well if the new  
7 well is within one-quarter mile of the original well and if the well  
8 being replaced is properly decommissioned in accordance with chapter  
9 18.104 RCW. The well owner shall notify the department in writing of  
10 the intent to replace the original well and to describe the change in  
11 location.

12 NEW SECTION. Sec. 28. RCW 90.03.471 and 1987 c 109 s 99 & 1925  
13 ex.s. c 161 s 3 are each repealed.

14 NEW SECTION. Sec. 29. Section 3 of this act shall take effect  
15 January 2, 1996.

16 NEW SECTION. Sec. 30. Sections 20 and 28 of this act are  
17 necessary for the immediate preservation of the public peace, health,  
18 or safety, or support of the state government and its existing public  
19 institutions, and shall take effect July 1, 1995.

20 NEW SECTION. Sec. 31. Section 21 of this act shall take effect  
21 July 1, 1999.

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