

SENATE BILL 5486

State of Washington 54th Legislature 1995 Regular Session

By Senators Rasmussen, Morton, Haugen, Winsley and Palmer

Read first time 01/24/95. Referred to Committee on Senate Select
Committee on Water Policy.

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

22 (1) The department shall develop a general permit system for
23 appropriating water for nonconsumptive, nonbypass uses. These systems
24 shall be designed and used to streamline the consideration of
25 applications for nonconsumptive, nonbypass water uses that by their
26 nature do not raise issues regarding water availability or the
27 impairment of other water rights. The evaluation and report required
28 for an application under RCW 90.03.290 are not required for
29 applications processed under the general permit system. For the
30 purposes of this section:

31 (a) "Nonconsumptive, nonbypass use" means a use of water in which
32 water is diverted from a stream or withdrawn from an aquifer and
33 following its use is discharged, as determined by the department, back
34 to or very near the point of diversion or withdrawal without
35 diminishment in quantity or quality and with little or no damage to
36 fish habitat; and

1 (b) "Without diminishment of quality" means that, before being
2 discharged back to its source, the water being discharged meets state
3 water quality standards adopted under chapter 90.48 RCW.

4 (2) The department shall establish the general permit systems by
5 adopting rules in accordance with chapter 34.05 RCW. Before the
6 adoption of rules for a system, at least four public hearings must be
7 held at various locations around the state. The rules shall identify
8 criteria for proposed uses of water for which applications might be
9 processed under each system and shall establish procedures for filing
10 and processing applications under the general permit systems.

11 NEW SECTION. **Sec. 11.** A new section is added to chapter 90.03 RCW
12 to read as follows:

13 An application for appropriating water under a general permit
14 system established under section 10 of this act shall be made on a form
15 adopted and provided by the department. Within sixty days of the
16 publication of a notice for the application in accordance with RCW
17 90.03.280, the department shall determine whether the proposed use is
18 eligible to be processed under the general permit system. If the
19 department determines that the proposed use is eligible to be processed
20 under the system, the application shall be processed under it. If the
21 department determines that the proposed use is not eligible for the
22 processing, the department shall explain to the applicant in writing
23 the reasons for its determination. For a proposed use determined
24 ineligible for the processing, if the department finds that the
25 information contained on the application form substantially satisfies
26 the information requirements for an application for a use that would
27 normally be filed for processing the application outside of the general
28 permit system, the department shall notify the applicant of its finding
29 and shall process the application as if it were filed for processing
30 outside of the system. If the department finds that the information
31 does not substantially satisfy the requirements, the application shall
32 be considered to be incomplete for the processing and the applicant
33 shall be notified of this consideration.

34 **Sec. 12.** RCW 90.03.290 and 1994 c 264 s 84 are each amended to
35 read as follows:

36 (1) When ((an)) a completed application complying with the
37 provisions of this chapter and with the rules ((and regulations)) of

1 the department has been filed, the (~~same~~) application shall be placed
2 on record with the department, and it shall be (~~its~~) the department's
3 duty to (~~investigate the application, and~~) determine what water, if
4 any, is available for appropriation, and find and determine to what
5 beneficial use or uses it can be applied.

6 The department shall investigate the application. The applicant
7 shall provide a completed application form. In addition to providing
8 the information requested on the form, however, the applicant shall
9 also provide such information as may be required for the department's
10 investigation, determinations, and findings regarding the application
11 and may provide additional information. The information provided by
12 the applicant must satisfy the protocols, that is, study plans and
13 criteria, established by the department for obtaining and providing the
14 information. If an applicant provides the information and the
15 protocols set by the department for obtaining and providing it have
16 been satisfied, the department shall review the information and may
17 take actions to verify that the information is accurate, but it may
18 not, except to replace inaccurate information, take actions that would
19 constitute obtaining major portions of the information anew.

20 (2) With regard to an application:

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

25 (b) If it is proposed to appropriate water for the purpose of power
26 development, the department shall investigate, determine and find
27 whether the proposed development is likely to prove detrimental to the
28 public interest, having in mind the highest feasible use of the waters
29 belonging to the public.

30 (3) If the application does not contain, and the applicant does not
31 promptly furnish sufficient information on which to base such findings,
32 the department may issue a preliminary permit, for a period of not to
33 exceed three years, requiring the applicant to make such surveys,
34 investigations, studies, and progress reports, as in the opinion of the
35 department may be necessary. If the applicant fails to comply with the
36 conditions of the preliminary permit, it and the application or
37 applications on which it is based shall be automatically canceled and
38 the applicant so notified. If the holder of a preliminary permit
39 shall, before its expiration, file with the department a verified

1 report of expenditures made and work done under the preliminary permit,
2 which, in the opinion of the department, establishes the good faith,
3 intent and ability of the applicant to carry on the proposed
4 development, the preliminary permit may, with the approval of the
5 governor, be extended, but not to exceed a maximum period of five years
6 from the date of the issuance of the preliminary permit.

7 (4) The department shall make and file as part of the record in the
8 matter, written findings of fact concerning all things investigated,
9 and if it shall find that there is water available for appropriation
10 for a beneficial use, and the appropriation thereof as proposed in the
11 application will not impair existing rights or be detrimental to the
12 public welfare, it shall issue a permit stating the amount of water to
13 which the applicant shall be entitled and the beneficial use or uses to
14 which it may be applied: PROVIDED, That where the water applied for is
15 to be used for irrigation purposes, it shall become appurtenant only to
16 such land as may be reclaimed thereby to the full extent of the soil
17 for agricultural purposes. But where there is no unappropriated water
18 in the proposed source of supply, or where the proposed use conflicts
19 with existing rights, or threatens to prove detrimental to the public
20 interest, having due regard to the highest feasible development of the
21 use of the waters belonging to the public, it shall be duty of the
22 department to reject such application and to refuse to issue the permit
23 asked for. If the permit is refused because of conflict with existing
24 rights and such applicant shall acquire same by purchase or
25 condemnation under RCW 90.03.040, the department may thereupon grant
26 such permit. Any application may be approved for a less amount of
27 water than that applied for, if there exists substantial reason
28 therefor, and in any event shall not be approved for more water than
29 can be applied to beneficial use for the purposes named in the
30 application. In determining whether or not a permit shall issue upon
31 any application, it shall be the duty of the department to investigate
32 all facts relevant and material to the application. After the
33 department approves said application in whole or in part and before any
34 permit shall be issued thereon to the applicant, such applicant shall
35 pay the fee provided in RCW 90.03.470: PROVIDED FURTHER, That in the
36 event a permit is issued by the department upon any application, it
37 shall be its duty to notify the director of fish and wildlife and
38 affected federally recognized Indian tribes of such issuance.

1 **Sec. 13.** RCW 90.03.320 and 1987 c 109 s 67 are each amended to
2 read as follows:

3 (1) Actual construction work shall be commenced on any project for
4 which permit has been granted within such reasonable time as shall be
5 prescribed by the department, and shall thereafter be prosecuted with
6 diligence and completed within the time prescribed by the department.
7 The department, in fixing the time for the commencement of the work, or
8 for the completion thereof and the application of the water to the
9 beneficial use prescribed in the permit, shall take into consideration
10 the cost and magnitude of the project and the engineering and physical
11 features to be encountered, and shall allow such time as shall be
12 reasonable and just under the conditions then existing, having due
13 regard for the public welfare and public interests affected: and, for
14 good cause shown, it shall extend the time or times fixed as aforesaid,
15 and shall grant such further period or periods as may be reasonably
16 necessary, having due regard to the good faith of the applicant and the
17 public interests affected.

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

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

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

24 (c) The operation of legal proceedings;

25 (d) Delays in securing other permits necessary to proceed with the
26 development;

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

28 (f) Implementation of water efficiency measures, including
29 conservation and reclaimed water use;

30 (g) Encountering unanticipated physical impediments to
31 construction; and

32 (h) Encountering generally depressed economic conditions.

33 (3) If the terms of the permit or extension thereof((~~7~~)) are not
34 complied with, the department shall give notice by ((registered))
35 certified mail that ((such)) the permit will be canceled unless the
36 ((holders thereof shall)) permittee shows cause within sixty days why
37 the ((same)) permit should not be ((se)) canceled. If cause ((be)) is
38 not shown, ((said)) the permit shall be canceled.

1 **Sec. 14.** RCW 90.03.260 and 1987 c 109 s 84 are each amended to
2 read as follows:

3 (~~Each application for permit to appropriate water shall set forth~~
4 ~~the name and post office address of the applicant, the source of water~~
5 ~~supply, the nature and amount of the proposed use, the time during~~
6 ~~which water will be required each year, the location and description of~~
7 ~~the proposed ditch, canal, or other work, the time within which the~~
8 ~~completion of the construction and the time for the complete~~
9 ~~application of the water to the proposed use. If for agricultural~~
10 ~~purposes, it shall give the legal subdivision of the land and the~~
11 ~~acreage to be irrigated, as near as may be, and the amount of water~~
12 ~~expressed in acre feet to be supplied per season. If for power~~
13 ~~purposes, it shall give the nature of the works by means of which the~~
14 ~~power is to be developed, the head and amount of water to be utilized,~~
15 ~~and the uses to which the power is to be applied. If for construction~~
16 ~~of a reservoir, it shall give the height of the dam, the capacity of~~
17 ~~the reservoir, and the uses to be made of the impounded waters. If for~~
18 ~~municipal water supply, it shall give the present population to be~~
19 ~~served, and, as near as may be, the future requirement of the~~
20 ~~municipality. If for mining purposes, it shall give the nature of the~~
21 ~~mines to be served and the method of supplying and utilizing the water;~~
22 ~~also their location by legal subdivisions. All applications shall be~~
23 ~~accompanied by such maps and drawings, in duplicate, and such other~~
24 ~~data, as may be required by the department, and such accompanying data~~
25 ~~shall be considered as a part of the application.)) The department
26 shall adopt rules in accordance with chapter 34.05 RCW by January 1,
27 1996, that specify the contents of completed water right application
28 forms. The rules shall include specific timelines for the department
29 to follow in making a determination as to whether an application is
30 complete and notifying the applicant of its determination. The rules
31 shall also identify the kinds of inaccuracies that render an
32 application incomplete.~~

33 **Sec. 15.** RCW 90.44.060 and 1987 c 109 s 109 are each amended to
34 read as follows:

35 Applications for permits for appropriation of underground water
36 shall be made in the same form and manner provided in RCW 90.03.250
37 through 90.03.340, as amended, the provisions of which sections are
38 hereby extended to govern and to apply to ground water, or ground water

1 right certificates and to all permits that shall be issued pursuant to
2 such applications, and the rights to the withdrawal of ground water
3 acquired thereby shall be governed by RCW 90.03.250 through 90.03.340,
4 inclusive(~~(: PROVIDED, That each application to withdraw public ground~~
5 ~~water by means of a well or wells shall set forth the following~~
6 ~~additional information: (1) the name and post office address of the~~
7 ~~applicant; (2) the name and post office address of the owner of the~~
8 ~~land on which such well or wells or works will be located; (3) the~~
9 ~~location of the proposed well or wells or other works for the proposed~~
10 ~~withdrawal; (4) the ground water area, sub-area, or zone from which~~
11 ~~withdrawal is proposed, provided the department has designated such~~
12 ~~area, sub-area, or zone in accord with RCW 90.44.130; (5) the amount of~~
13 ~~water proposed to be withdrawn, in gallons a minute and in acre feet a~~
14 ~~year, or millions of gallons a year; (6) the depth and type of~~
15 ~~construction proposed for the well or wells or other works: AND~~
16 ~~PROVIDED FURTHER, That)).~~ The department shall adopt rules in
17 accordance with chapter 34.05 RCW by January 1, 1996, that specify the
18 contents of completed water right application forms. The rules shall
19 include specific timelines for the department to follow in making a
20 determination as to whether an application is complete and notifying
21 the applicant of its determination. The rules shall also identify the
22 kinds of inaccuracies that render an application incomplete. Any
23 permit issued pursuant to an application for constructing a well or
24 wells to withdraw public ground water may specify an approved type and
25 manner of construction for the purposes of preventing waste of said
26 public waters and of conserving their head.

27 **Sec. 16.** RCW 90.03.250 and 1987 c 109 s 83 are each amended to
28 read as follows:

29 Any person, municipal corporation, firm, irrigation district,
30 association, corporation or water users' association hereafter desiring
31 to appropriate water for a beneficial use shall make an application to
32 the department for a permit to make such appropriation, and shall not
33 use or divert such waters until he has received a permit from the
34 department as in this chapter provided. The construction of any ditch,
35 canal or works, or performing any work in connection with said
36 construction or appropriation, or the use of any waters, shall not be
37 an appropriation of such water nor an act for the purpose of
38 appropriating water unless a permit to make said appropriation has

1 first been granted by the department: PROVIDED, That a temporary
2 permit may be granted upon a proper showing made to the department to
3 be valid only during the pendency of such application for a permit
4 unless sooner revoked by the department: PROVIDED, FURTHER, That
5 nothing in this chapter contained shall be deemed to affect RCW
6 90.40.010 through 90.40.080 except that the notice and certificate
7 therein provided for in RCW 90.40.030 shall be addressed to the
8 department, and the department shall exercise the powers and perform
9 the duties prescribed by RCW 90.40.030.

10 The department shall encourage the filing of a consolidated
11 application for a complex project under a single ownership that
12 proposes to divert or withdraw water from more than one source,
13 including a combination of surface and ground water sources. The
14 filing of a consolidated application for transfer or change of one or
15 more water rights involving multiple sources shall also be encouraged
16 if all of the affected diversions or withdrawals are intended to serve
17 a single project with a single ownership. The department shall adopt
18 and provide forms for consolidated applications.

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

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

25 (2) Applications for appropriating water under this section shall
26 be made on a form provided by the department. Within sixty days of the
27 publication of a notice in accordance with RCW 90.03.280, the
28 department shall issue or deny a permit for the requested
29 appropriation. If the department denies the application, it shall
30 explain its determination in writing.

31 (3) The department shall waive the evaluation and report
32 requirements of RCW 90.03.290 if during the establishment of the
33 reservation it was conclusively determined that water is available and
34 that no impairment of existing water rights or the public interest will
35 occur.

36 (4) This section may not be used in areas that are within urban
37 growth areas as designated under RCW 36.70A.110 or within the service

1 areas of a public water system as defined in chapter 70.119A RCW that
2 has an available water supply.

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

8 (6) The department shall develop, in cooperation with the
9 department of health, informational materials regarding the risks of
10 drinking untreated surface water. This informational material may be
11 provided to prospective applicants. The department shall attach the
12 informational materials to any permit that is approved under this
13 section.

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

16 (1) The department may authorize short-term uses of water without
17 publication of the notice required under RCW 90.03.280 and without the
18 report required under RCW 90.03.290. However, before approving a
19 short-term use, the department shall determine to its satisfaction that
20 the substantive criteria in RCW 90.03.290 are met and that a stream
21 affected by a short-term use will be retained with sufficient flows to
22 maintain instream uses and to protect existing water rights. The
23 department shall adopt and provide application forms for persons
24 applying for a short-term use and shall expedite its consideration of
25 short-term use requests to the extent practicable.

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

30 NEW SECTION. Sec. 19. A new section is added to chapter 90.03 RCW
31 to read as follows:

32 The department shall establish a register that identifies, by water
33 resource inventory area, applications for new water rights and
34 applications for water right transfers and changes. The applications
35 appearing in the register shall be limited to those requesting a new
36 appropriation or change or transfer of more than three cubic feet per
37 second of water. The register shall identify: The location of the

1 proposed use, change, or transfer; whether the application is for
2 surface or ground water; and, for surface water applications, the water
3 source. The department shall produce the register once every two weeks
4 and shall make the register available to interested parties for a fee
5 that is based on the cost of producing and mailing the register. One
6 year after the effective date of this section, the department may cease
7 production of the register if the number of requests for the register
8 are not adequate to cover the costs of producing and mailing it.

9 NEW SECTION. **Sec. 20.** (1) The department of ecology shall in
10 conjunction with the task force created in section 3, chapter 495, Laws
11 of 1993 develop a budget process for its water rights administration
12 program that accomplishes the following:

- 13 (a) Identifies targets for permitting activities for the biennium;
- 14 (b) Identifies workload standards;
- 15 (c) Prepares a draft budget;
- 16 (d) Provides for timely public review of the draft budget; and
- 17 (e) Circulates a final budget.

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

- 21 (a) Workload standards and proposed incentives to improve such
22 standards;
- 23 (b) Program expenditure categories to account for and track costs
24 related to the water rights administration program; and
- 25 (c) Success measures based upon programmatic results designed to
26 evaluate program effectiveness and standards for defining the measures.

27 In establishing the initial workload standards, the legislature has
28 an expectation that the department of ecology will process a simple,
29 basic application in six months and an application of intermediate
30 difficulty in one year. The department of ecology shall report to the
31 task force, within fifteen days of the end of each calendar quarter,
32 the number of applications that were not processed within this time
33 frame and the reasons for the delay.

34 (3) The task force shall report annually to the legislature on the
35 success measures established, the number of water right permit
36 decisions made, and the associated costs of administering the water
37 rights program.

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

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

7 **Sec. 21.** 1993 c 495 s 3 (uncodified) is amended to read as
8 follows:

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

12 (a) Two members of the Washington state house of representatives,
13 one from each major caucus, to be appointed by the speaker of the house
14 of representatives;

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

17 (c) ~~((Ten))~~ Twelve members, to be appointed jointly by the speaker
18 of the house of representatives and the president of the senate, to
19 represent the following interests: Agriculture, aquaculture, business,
20 cities, counties, the state department of ecology, environmentalists,
21 water recreation interests, water utilities, federally recognized
22 Indian tribes, rural residential interests, and hydropower interests.
23 ~~((The task force may establish technical advisory committees as~~
24 ~~necessary to complete its tasks.))~~

25 (2) In addition to the functions established in section 20 of this
26 act, the task force shall conduct a ~~((comprehensive))~~ review ~~((of water~~
27 ~~rights fees. The task force's tasks shall include))~~, including but not
28 ~~((be))~~ limited to the following matters:

29 (a) ~~((Identification of the costs associated with the various~~
30 ~~activities and services provided by the water rights program and~~
31 ~~examination of how these costs compare with the fees charged for these~~
32 ~~activities and services;~~

33 (b) ~~Identification of appropriate accountability measures for the~~
34 ~~department of ecology to employ in administration of the water rights~~
35 ~~program. Recommendations of accountability requirements and~~
36 ~~measurements shall take into account the distinctive characteristics of~~
37 ~~the water rights program, that is, that the department receives a large~~
38 ~~number of applications on a one-time basis and that the department of~~

1 ecology must meet its legal obligations under the doctrine of prior
2 appropriation;

3 (c) Identification of which program activities should be eligible
4 for cost recovery from fees, as well as which direct and indirect costs
5 of program administration;

6 (d) Review of the application, examination, and water rights permit
7 requirements for marine water users to determine if these users should
8 receive special fee consideration;

9 (e) Review of the definition and treatment of nonconsumptive water
10 uses to determine if special fee consideration should be given to these
11 users;

12 (f) Review of the fees and accounting methods for the dam safety
13 program;

14 (g) Identification of the appropriate distribution of
15 responsibility between the applicant and the department of ecology for
16 provision of technical information and analysis; and

17 (h) Establishment of a reasonable time framework for completion of
18 new and pending water rights applications, and an analysis of the staff
19 and funding levels required to meet the established time framework))
20 Implementation of the development and maintenance of the water resource
21 data management system, monitored on an annual basis;

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

25 (c) The water rights programs review task force will conduct a
26 study to determine potential savings and efficiencies attainable by
27 integrating all water resource data management functions among natural
28 resource management agencies into a single data management system
29 compared with the savings and efficiencies currently realized by each
30 natural resource management agency maintaining independent water
31 resource information. In reviewing this matter, the task force will
32 work with the natural resource management agencies to determine the
33 nature and extent of each natural resource management agency's:

34 (i) Existing water resource data;

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

36 (iii) Dependence on water resource data to fulfill agency
37 responsibilities;

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

1 (v) Types of water resource data common to all natural resource
2 agencies;

3 (vi) Method of managing water resources information, including an
4 assessment of the compatibility of information management systems
5 between natural resource management agencies, and the obstacles
6 inhibiting integration and subsequent free exchange of water resource
7 data between natural resource management agencies; and

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

10 For the purposes of this section, a "natural resource management
11 agency" includes any of the following state agencies: Department of
12 ecology, department of natural resources, department of fish and
13 wildlife, local conservation districts, and department of health.

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

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

19 (3) On June 1, 1998, the task force shall be reactivated in
20 accordance with subsection (1) of this section. Before December 1,
21 ((1993)) 1998, the task force shall provide recommendations to the
22 legislature regarding:

23 (a) ((Provide recommendations to the department of ecology on ways
24 to improve the efficiency and accountability of the water rights
25 program;

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

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

34 (b) The future direction of the water resource data management
35 program and the need for changes to the level of funding in fiscal year
36 2000; and

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

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

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

7 **Sec. 22.** RCW 90.03.470 and 1993 c 495 s 2 are each amended to read
8 as follows:

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

11 (1) ~~For the examination of an application for permit to appropriate~~
12 ~~water or on application to change point of diversion, withdrawal,~~
13 ~~purpose or place of use, a minimum of ten dollars, to be paid with the~~
14 ~~application. For each second foot between one and five hundred second~~
15 ~~feet, two dollars per second foot; for each second foot between five~~
16 ~~hundred and two thousand second feet, fifty cents per second foot; and~~
17 ~~for each second foot in excess thereof, twenty cents per second foot.~~
18 ~~For each acre foot of storage up to and including one hundred thousand~~
19 ~~acre feet, one cent per acre foot, and for each acre foot in excess~~
20 ~~thereof, one fifth cent per acre foot. The ten dollar fee payable with~~
21 ~~the application shall be a credit to that amount whenever the fee for~~
22 ~~direct diversion or storage totals more than ten dollars under the~~
23 ~~above schedule and in such case the further fee due shall be the total~~
24 ~~computed amount less ten dollars.~~

25 ~~Within five days from receipt of an application the department~~
26 ~~shall notify the applicant by registered mail of any additional fees~~
27 ~~due under the above schedule and any additional fees shall be paid to~~
28 ~~and received by the department within thirty days from the date of~~
29 ~~filing the application, or the application shall be rejected.~~

30 (2) ~~For filing and recording a permit to appropriate water for~~
31 ~~irrigation purposes, forty cents per acre for each acre to be irrigated~~
32 ~~up to and including one hundred acres, and twenty cents per acre for~~
33 ~~each acre in excess of one hundred acres up to and including one~~
34 ~~thousand acres, and ten cents for each acre in excess of one thousand~~
35 ~~acres; and also twenty cents for each theoretical horsepower up to and~~
36 ~~including one thousand horsepower, and four cents for each theoretical~~
37 ~~horsepower in excess of one thousand horsepower, but in no instance~~
38 ~~shall the minimum fee for filing and recording a permit to appropriate~~

1 water be less than five dollars. For all other beneficial purposes the
2 fee shall be twice the amount of the examination fee except that for
3 individual household and domestic use, which may include water for
4 irrigation of a family garden, the fee shall be five dollars.

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

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

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

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

17 (7) For granting each extension of time for beginning construction
18 work under a permit to appropriate water, an amount equal to one half
19 of the filing and recording fee, except that the minimum fee shall be
20 not less than five dollars for each year that an extension is granted,
21 and for granting an extension of time for completion of construction
22 work or for completing application of water to a beneficial use, five
23 dollars for each year that an extension is granted.

24 (8) For the inspection of any hydraulic works to insure safety to
25 life and property, the actual cost of the inspection, including the
26 expense incident thereto.

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

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

32 (11) For preparing and issuing all water right certificates, five
33 dollars.

34 (12) For filing and recording a protest against granting any
35 application, two dollars.

36 (13)) The legislature finds it necessary to assess additional fees
37 for a four-year period in order to address the water right application
38 backlog and data management development. For the period July 1, 1995,

1 through June 30, 1999, the department shall collect the following fees
2 in advance:

3 (1) Application filing fees for the following:

4 (a) Surface water and ground water applications:

- 5 (i) Greater than 0.0 and less than or equal to 0.2
6 cubic feet per second \$90
- 7 (ii) Greater than 0.2 and less than or equal to 0.5
8 cubic feet per second \$290
- 9 (iii) Greater than 0.5 and less than or equal to 3
10 cubic feet per second \$490
- 11 (iv) Greater than 3 and less than or equal to 5 cubic
12 feet per second \$660
- 13 (v) Greater than 5 and less than or equal to 20
14 cubic feet per second \$820
- 15 (vi) Greater than 20 and less than or equal to 100
16 cubic feet per second \$990
- 17 (vii) Greater than 100 cubic feet per second \$1,150

18 (b) Reservoir applications:

- 19 (i) Greater than 0.0 and less than or equal to 10
20 acre-feet \$90
- 21 (ii) Greater than 10 and less than or equal to 100
22 acre-feet \$490
- 23 (iii) Greater than 100 and less than or equal to 1,000
24 acre-feet \$820
- 25 (iv) Greater than 1,000 acre-feet \$1,150

26 (c) Change applications:

- 27 (i) Changing a single element \$90
- 28 (ii) Changing multiple elements \$290

29 (2) Examination fees for the following:

30 (a) Surface water applications:

- 31 (i) Greater than 0.0 and less than or equal to 0.2
32 cubic feet per second \$100
- 33 (ii) Greater than 0.2 and less than or equal to 0.5
34 cubic feet per second \$450
- 35 (iii) Greater than 0.5 and less than or equal to 3
36 cubic feet per second \$820
- 37 (iv) Greater than 3 and less than or equal to 5 cubic
38 feet per second \$1,150

1	(v) <u>Greater than 5 and less than or equal to 20</u>	
2	<u>cubic feet per second</u>	<u>\$1,480</u>
3	(vi) <u>Greater than 20 and less than or equal to 100</u>	
4	<u>cubic feet per second</u>	<u>\$1,810</u>
5	(vii) <u>Greater than 100 cubic feet per second</u>	<u>\$2,130</u>
6	<u>(b) Ground water applications:</u>	
7	(i) <u>Greater than 0.0 and less than or equal to 0.2</u>	
8	<u>cubic feet per second</u>	<u>\$120</u>
9	(ii) <u>Greater than 0.2 and less than or equal to 0.5</u>	
10	<u>cubic feet per second</u>	<u>\$540</u>
11	(iii) <u>Greater than 0.5 and less than or equal to 3</u>	
12	<u>cubic feet per second</u>	<u>\$980</u>
13	(iv) <u>Greater than 3 and less than or equal to 5 cubic</u>	
14	<u>feet per second</u>	<u>\$1,380</u>
15	(v) <u>Greater than 5 and less than or equal to 20</u>	
16	<u>cubic feet per second</u>	<u>\$1,780</u>
17	(vi) <u>Greater than 20 and less than or equal to 100</u>	
18	<u>cubic feet per second</u>	<u>\$2,170</u>
19	(vii) <u>Greater than 100 cubic feet per second</u>	<u>\$2,560</u>
20	<u>(c) Reservoir applications:</u>	
21	(i) <u>Greater than 0.0 and less than or equal to 10</u>	
22	<u>acre-feet</u>	<u>\$100</u>
23	(ii) <u>Greater than 10 and less than or equal to 100</u>	
24	<u>acre-feet</u>	<u>\$820</u>
25	(iii) <u>Greater than 100 and less than or equal to 1,000</u>	
26	<u>acre-feet</u>	<u>\$1,480</u>
27	(iv) <u>Greater than 1,000 acre-feet</u>	<u>\$2,130</u>
28	<u>(d) Changes to permits and certificates:</u>	
29	(i) <u>Changing a single element</u>	<u>\$100</u>
30	(ii) <u>Changing multiple elements</u>	<u>\$450</u>
31	<u>(3) Certificate fees:</u>	
32	<u>(a) Water appropriation 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>\$90</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>\$290</u>
37	(iii) <u>Greater than 0.5 and less than or equal to 3</u>	
38	<u>cubic feet per second</u>	<u>\$490</u>

1	(iv) <u>Greater than 3 and less than or equal to 5 cubic</u>	
2	<u>feet per second</u>	\$660
3	(v) <u>Greater than 5 and less than or equal to 20</u>	
4	<u>cubic feet per second</u>	\$820
5	(vi) <u>Greater than 20 and less than or equal to 100</u>	
6	<u>cubic feet per second</u>	\$990
7	(vii) <u>Greater than 100 cubic feet per second</u>	\$1,150
8	<u>(b) Reservoir applications:</u>	
9	(i) <u>Greater than 0.0 and less than or equal to 10</u>	
10	<u>acre-feet</u>	\$90
11	(ii) <u>Greater than 10 and less than or equal to 100</u>	
12	<u>acre-feet</u>	\$490
13	(iii) <u>Greater than 100 and less than or equal to 1,000</u>	
14	<u>acre-feet</u>	\$820
15	(iv) <u>Greater than 1,000 acre-feet</u>	\$1,150
16	<u>(c) Changes to permits and certificates:</u>	
17	(i) <u>Changing a single element</u>	\$90
18	(ii) <u>Changing multiple elements</u>	\$290
19	(4) <u>Water right permit extensions</u>	\$100
20	(5) <u>Protests to applications</u>	\$50
21	(6) <u>Appealing a water right decision</u>	\$200
22	(7) <u>Assignment of an application or permit</u>	\$100
23	<u>(8) General permits:</u>	
24	(a) <u>Application fee</u>	\$100
25	(b) <u>Examination fee</u>	\$0
26	(c) <u>Certificate fee</u>	\$100
27	(9) <u>Seasonal change or rotation</u>	\$100
28	(10) <u>Temporary or short-term water use</u>	\$100
29	(11) <u>De minimis appropriations developed under a reservation of</u>	
30	<u>water adopted by rule:</u>	
31	(a) <u>Application fee</u>	\$100
32	(b) <u>Examination fee</u>	\$0
33	(c) <u>Certificate fee</u>	\$100
34	(12) <u>Issuance of a preliminary permit</u>	\$100
35	(13) <u>For the examination of plans and specifications as to safety</u>	
36	<u>of controlling works for storage of ten acre feet or more of water, and</u>	
37	<u>for the inspection of any hydraulic works to insure safety to life and</u>	
38	<u>property, the actual cost of the examination and inspection.</u>	

1 (14) For a consolidated application covering multiple sources or
2 changes:

3 (a) The application fee must be based upon either the total amount
4 of water or the total number of changes requested, or both;

5 (b) The examination fee is the total of the examination fees
6 calculated for the individual applications and changes; and

7 (c) The certificate fee is as is appropriate for the individual
8 certificates, since separate permits would issue and, therefore,
9 separate certificates would result.

10 The combined application, examination, and certificate fee for
11 transfers and changes of water into the trust water right program under
12 chapter 90.42 RCW shall be one hundred dollars.

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

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

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

35 ~~((15))~~ For the period beginning July 1, 1993, and ending June 30,
36 1994, there is imposed and the department shall collect a one hundred
37 dollar surcharge on all water rights applications or changes filed
38 under this section, and upon all water rights applications or changes

1 pending as of July 1, 1993. This charge shall be in addition to any
2 other fees imposed under this section.

3 **Sec. 23.** RCW 90.03.470 and 1995 c . . . s 22 (section 22 of this
4 act) are each amended to read as follows:

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

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

1	(i)	Greater than 0.0 and less than or equal to 0.2	
2		cubic feet per second	\$100
3	(ii)	Greater than 0.2 and less than or equal to 0.5	
4		cubic feet per second	((\$450) <u>\$320</u>)
5	(iii)	Greater than 0.5 and less than or equal to 3	
6		cubic feet per second	((\$820) <u>\$530</u>)
7	(iv)	Greater than 3 and less than or equal to 5 cubic	
8		feet per second	((\$1,150) <u>\$740</u>)
9	(v)	Greater than 5 and less than or equal to 20	
10		cubic feet per second	((\$1,480) <u>\$960</u>)
11	(vi)	Greater than 20 and less than or equal to 100	
12		cubic feet per second	((\$1,810) <u>\$1,170</u>)
13	(vii)	Greater than 100 cubic feet per second	((\$2,130) <u>\$1,380</u>)
14	(b)	Ground water applications:	
15	(i)	Greater than 0.0 and less than or equal to 0.2	
16		cubic feet per second	\$120
17	(ii)	Greater than 0.2 and less than or equal to 0.5	
18		cubic feet per second	((\$540) <u>\$380</u>)
19	(iii)	Greater than 0.5 and less than or equal to 3	
20		cubic feet per second	((\$980) <u>\$640</u>)
21	(iv)	Greater than 3 and less than or equal to 5 cubic	
22		feet per second	((\$1,380) <u>\$890</u>)
23	(v)	Greater than 5 and less than or equal to 20	
24		cubic feet per second	((\$1,780) <u>\$1,150</u>)
25	(vi)	Greater than 20 and less than or equal to 100	
26		cubic feet per second	((\$2,170) <u>\$1,400</u>)
27	(vii)	Greater than 100 cubic feet per second	((\$2,560) <u>\$1,660</u>)
28	(c)	Reservoir applications:	
29	(i)	Greater than 0.0 and less than or equal to 10	
30		acre-feet	\$100
31	(ii)	Greater than 10 and less than or equal to 100	
32		acre-feet	((\$820) <u>\$530</u>)
33	(iii)	Greater than 100 and less than or equal to 1,000	
34		acre-feet	((\$1,480) <u>\$960</u>)
35	(iv)	Greater than 1,000 acre-feet	((\$2,130) <u>\$1,380</u>)
36	(d)	Changes to permits and certificates:	
37	(i)	Changing a single element	\$100
38	(ii)	Changing multiple elements	((\$450) <u>\$320</u>)
39	(3)	Certificate fees:	

1	(a) Water appropriation applications:	
2	(i) Greater than 0.0 and less than or equal to 0.2	
3	cubic feet per second	((\$90) <u>\$100</u>)
4	(ii) Greater than 0.2 and less than or equal to 0.5	
5	cubic feet per second	((\$290) <u>\$210</u>)
6	(iii) Greater than 0.5 and less than or equal to 3	
7	cubic feet per second	((\$490) <u>\$320</u>)
8	(iv) Greater than 3 and less than or equal to 5 cubic	
9	feet per second	((\$660) <u>\$420</u>)
10	(v) Greater than 5 and less than or equal to 20	
11	cubic feet per second	((\$820) <u>\$530</u>)
12	(vi) Greater than 20 and less than or equal to 100	
13	cubic feet per second	((\$990) <u>\$640</u>)
14	(vii) Greater than 100 cubic feet per second	((\$1,150) <u>\$740</u>)
15	(b) Reservoir applications:	
16	(i) Greater than 0.0 and less than or equal to 10	
17	acre-feet	((\$90) <u>\$100</u>)
18	(ii) Greater than 10 and less than or equal to 100	
19	acre-feet	((\$490) <u>\$320</u>)
20	(iii) Greater than 100 and less than or equal to 1,000	
21	acre-feet	((\$820) <u>\$530</u>)
22	(iv) Greater than 1,000 acre-feet	((\$1,150) <u>\$740</u>)
23	(c) Changes to permits and certificates:	
24	(i) Changing a single element	((\$90) <u>\$100</u>)
25	(ii) Changing multiple elements	((\$290) <u>\$210</u>)
26	(4) Water right permit extensions	\$100
27	(5) Protests to applications	\$50
28	(6) Appealing a water right decision	\$200
29	(7) Assignment of an application or permit	\$100
30	(8) General permits:	
31	(a) Application fee	\$100
32	(b) Examination fee	\$0
33	(c) Certificate fee	\$100
34	(9) Seasonal change or rotation	\$100
35	(10) Temporary or short-term water use	\$100
36	(11) De minimis appropriations developed under a reservation of	
37	water adopted by rule:	
38	(a) Application fee	\$100
39	(b) Examination fee	\$0

1 (c) Certificate fee \$100

2 (12) Issuance of a preliminary permit \$100

3 (13) For the examination of plans and specifications as to safety
4 of controlling works for storage of ten acre feet or more of water, and
5 for the inspection of any hydraulic works to insure safety to life and
6 property, the actual cost of the examination and inspection.

7 (14) For a consolidated application covering multiple sources or
8 changes:

9 (a) The application fee must be based upon either the total amount
10 of water or the total number of changes requested, or both;

11 (b) The examination fee is the total of the examination fees
12 calculated for the individual applications and changes; and

13 (c) The certificate fee is as is appropriate for the individual
14 certificates, since separate permits would issue and, therefore,
15 separate certificates would result.

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

19 The water right processing account is created in the state
20 treasury. All receipts collected under this section shall be deposited
21 into the account. Moneys in the account may be spent only after
22 appropriation. Expenditures from the account may be used only for
23 functions of the department of ecology related to: Filing,
24 examination, and certification of water right permits, changes to water
25 rights, and transfers of water rights; and a proportionate share of
26 indirect costs allocated to these functions necessary to fund the
27 general administrative functions of the department. (~~Except for the~~
28 ~~biennium ending June 30, 1996,~~) The department may expend funds from
29 the account in an amount that is equal to the amount expended of funds
30 appropriated from the general fund for each biennium.

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

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

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

10 **Sec. 24.** RCW 89.30.001 and 1933 c 149 s 1 are each amended to read
11 as follows:

12 Reclamation districts including an area of not less than one
13 million acres of land may be created and maintained in this state, as
14 herein provided, for the reclamation and improvement of arid and
15 semiarid lands situated in such districts, and for the generation
16 and/or sale of hydroelectric energy(~~(:—PROVIDED, That no~~
17 ~~appropriation, license, filing, recording, examination or other fee or~~
18 ~~fees, as provided in RCW 90.16.050 through 90.16.090 or in RCW~~
19 ~~90.03.470 shall be applicable to a district or districts created under~~
20 ~~this chapter)).~~

21 **Sec. 25.** RCW 90.40.090 and 1988 c 127 s 83 are each amended to
22 read as follows:

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

30 **Sec. 26.** RCW 90.46.020 and 1992 c 204 s 3 are each amended to read
31 as follows:

32 (1) The department of ecology shall, in coordination with the
33 department of health, develop ~~((interim))~~ standards for ~~((pilot~~
34 ~~projects under subsection (3) of this section on or before July 1,~~
35 ~~1992, for))~~ the use of reclaimed water in land applications.

1 (2) The department of health shall, in coordination with the
2 department of ecology, develop ~~((interim))~~ standards for ~~((pilot
3 projects under subsection (3) of this section on or before November 15,
4 1992, for))~~ the use of reclaimed water in commercial and industrial
5 activities.

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

9 **Sec. 27.** RCW 90.03.380 and 1991 c 347 s 15 are each amended to
10 read as follows:

11 (1) The right to the use of water which has been applied to a
12 beneficial use in the state shall be and remain appurtenant to the land
13 or place upon which the same is used~~((:—PROVIDED, HOWEVER, That~~
14 ~~said)).~~ However, all or a portion of a water right may be transferred
15 to another ~~((or to others))~~ person or persons and become appurtenant to
16 any other land or place of use without loss of priority of right
17 ~~((theretofore established))~~ if ~~((such change))~~ the transfer can be made
18 without detriment or injury to existing rights.

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

23 The season of use under an existing water right or permit may be
24 changed if the change involves the same general category of water use
25 and the change can be made without detriment or injury to existing
26 water rights. An example of a general category of water use for the
27 purposes of this subsection, but not a limit to the categories, is an
28 agricultural use of water.

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

34 (4) The right embodied in a permit for water that has not yet been
35 put to beneficial use may be transferred or changed. For a
36 certificate, only the amount of water that has been beneficially used
37 in accordance with the laws of the state may be transferred or changed.
38 Excess quantities must be relinquished as provided under chapter 90.14

1 RCW. If a water right permit or certificate is transferred or changed,
2 the amount diverted or withdrawn for beneficial use may not be enlarged
3 as to annual quantity. This subsection shall not apply to municipal
4 water uses.

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

11 (6) A person proposing to relocate a point of diversion of surface
12 water is not required to file an application if the diversion point is
13 moved no more than one-quarter mile from its original location, no
14 diversions exist between the original point of diversion and the new
15 point of diversion, and no other water rights will be impaired. At
16 least fifteen days before construction of a replacement diversion
17 point, the water right holder shall inform the department in writing of
18 the intention to move the diversion point and shall submit
19 documentation that the change is in compliance with RCW 75.20.100 or
20 75.20.103.

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

24 (8) If it ((shall)) appears that ((such)) the transfer or ((such))
25 change may be made without injury or detriment to existing rights, the
26 department shall issue to the applicant an authorization to proceed
27 with the transfer or change. The department may include in its
28 authorization necessary conditions or limitations under which the
29 transfer or change may be made, including a reasonable time for
30 completion. The time may be extended upon request and a showing of
31 good cause in accordance with RCW 90.03.320 and 90.03.470. If the
32 person authorized to make a transfer or change of right fails to do so
33 within the time allowed, including extensions granted for good cause,
34 the department shall cancel the authorization and the water right or
35 permit reverts to its original form and substance.

36 (9) If the department determines that the proposed transfer or
37 change may periodically operate to impair an existing right, the
38 department's authorization may be made contingent on the proponent's

1 willingness to subordinate the use to the potentially impaired right or
2 rights and the authorization must be so conditioned.

3 (10) The person authorized to make the transfer or change shall
4 notify the department upon completion of the transfer or change. After
5 verifying that the transfer or change has been completed in accordance
6 with the authorization, the department shall issue to those persons
7 having an interest in the resulting water right or rights a
8 certificate, certificate of change, or superseding certificate, as
9 appropriate, in duplicate ((granting)) that reflects the nature of the
10 water right ((for such transfer)) or rights as transferred or ((for
11 such change of point of diversion or of use)) changed. The certificate
12 or certificates so issued ((shall)) must be filed and be made a record
13 with the department and the duplicate certificate issued to the
14 applicant ((may)) must be filed with the county auditor in like manner
15 and with the same effect as provided in the original certificate or
16 permit to divert water.

17 If an application for change proposes to transfer water rights from
18 one irrigation district to another, the department shall, before
19 publication of notice, receive concurrence from each of the irrigation
20 districts that such transfer or change will not adversely affect the
21 ability to deliver water to other landowners or impair the financial
22 integrity of either of the districts.

23 A change in place of use by an individual water user or users of
24 water provided by an irrigation district need only receive approval for
25 the change from the board of directors of the district if the use of
26 water continues within the irrigation district.

27 This section shall not apply to trust water rights acquired by the
28 state through the funding of water conservation projects under chapter
29 90.38 RCW or RCW 90.42.010 through 90.42.070.

30 **Sec. 28.** RCW 90.03.390 and 1991 c 350 s 3 are each amended to read
31 as follows:

32 ~~((RCW 90.03.380 shall not be construed to prevent))~~ (1) A water
33 ~~((users from making))~~ right holder may make a seasonal or temporary
34 change of ((point of diversion or place of use of water)) a water right
35 when ((such)) the change can be made without detriment to existing
36 rights, but in no case shall such change be made without the permission
37 of ((the water master of the district in which such proposed change is
38 located, or of)) the department. Nor shall RCW 90.03.380 be construed

1 to prevent construction of emergency interties between public water
2 systems to permit exchange of water during short-term emergency
3 situations, or rotation in the use of water for bringing about a more
4 economical use of the available supply, provided however, that the
5 department of health in consultation with the department of ecology
6 shall adopt rules or develop written guidelines setting forth standards
7 for determining when a short-term emergency exists and the
8 circumstances in which emergency interties are permitted. The rules or
9 guidelines shall be consistent with the procedures established in RCW
10 43.83B.400 through 43.83B.420. Water users owning lands to which water
11 rights are attached may rotate in the use of water to which they are
12 collectively entitled, or an individual water user having lands to
13 which are attached water rights of a different priority, may in like
14 manner rotate in use when ((such)) rotation can be made without
15 detriment to other existing water rights, and has the approval of the
16 ((water master or)) department.

17 (2) A person or persons wishing to make a seasonal or temporary
18 change or to rotate use in the manner provided in this section must
19 file an application with the department on a form adopted and provided
20 by the department. The department shall waive the notice provisions of
21 RCW 90.03.280 unless it has reason to believe that fish habitat or the
22 water rights of other persons are likely to be affected by the proposed
23 change. The department shall respond to the request by letter setting
24 forth its approval or denial, including the reason for denial. The
25 department shall retain a record of its decision as part of the records
26 of the water right or rights being changed. To the extent practicable,
27 the department shall expedite its consideration of requests under this
28 section.

29 **Sec. 29.** RCW 90.44.100 and 1987 c 109 s 113 are each amended to
30 read as follows:

31 ~~((After an application to, and upon the issuance by the department~~
32 ~~of an amendment to the appropriate permit or certificate of ground~~
33 ~~water right, the holder of a valid right to withdraw public ground~~
34 ~~waters may, without losing his priority of right, construct wells or~~
35 ~~other means of withdrawal at a new location in substitution for or in~~
36 ~~addition to those at the original location, or he may change the manner~~
37 ~~or the place of use of the water: PROVIDED, HOWEVER, That such~~
38 ~~amendment shall be issued only after publication of notice of the~~

1 application and findings as prescribed in the case of an original
2 application. Such amendment shall be issued by the department only on
3 the conditions that:)) (1) ((The)) A ground water permit or
4 certificate may be transferred or changed in the manner provided in RCW
5 90.03.380 if: (a) Any additional or substitute well or wells shall tap
6 the same body of public ground water as the original well or wells;
7 ((+2)) (b) use of the original well or wells shall be discontinued
8 upon construction of the substitute well or wells; ((+3)) (c) the
9 construction of an additional well or wells shall not enlarge the right
10 conveyed by the original permit or certificate; and ((+4)) (d) other
11 existing rights shall not be impaired. The department may specify an
12 approved manner of construction and shall require a showing of
13 compliance with the terms of the amendment, as provided in RCW
14 90.44.080 in the case of an original permit.

15 (2) Authorization from the department is not required for
16 construction of a replacement well of the same size, depth, and
17 capacity that will tap the same aquifer as the original well if the new
18 well is within one-quarter mile of the original well and if the well
19 being replaced is properly decommissioned in accordance with chapter
20 18.104 RCW. The well owner shall notify the department in writing of
21 the intent to replace the original well and to describe the change in
22 location.

23 NEW SECTION. Sec. 30. RCW 90.03.471 and 1987 c 109 s 99 & 1925
24 ex.s. c 161 s 3 are each repealed.

25 NEW SECTION. Sec. 31. Section 3 of this act shall take effect
26 January 2, 1996.

27 NEW SECTION. Sec. 32. Sections 22 and 30 of this act are
28 necessary for the immediate preservation of the public peace, health,
29 or safety, or support of the state government and its existing public
30 institutions, and shall take effect July 1, 1995.

1 NEW SECTION. **Sec. 33.** Section 23 of this act shall take effect
2 July 1, 1999.

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