
SENATE BILL 5494

State of Washington

54th Legislature

1995 Regular Session

By Senator Fraser; by request of Governor Lowry

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

1 AN ACT Relating to watershed planning and management; amending RCW
2 90.44.050, 19.27.097, 58.17.110, 43.21A.064, 90.03.070, 43.20.230,
3 70.116.030, 70.116.050, 90.44.450, 90.03.340, 90.03.270, 90.03.280,
4 90.03.290, 90.03.380, 90.03.470, 89.30.001, and 90.40.090; amending
5 1994 c 239 s 3 (uncodified); adding a new section to chapter 35.63 RCW;
6 adding a new section to chapter 35A.63 RCW; adding a new section to
7 chapter 36.70 RCW; adding new sections to chapter 36.70A RCW; adding a
8 new section to chapter 70.116 RCW; adding a new section to chapter
9 70.119A RCW; adding a new section to chapter 43.20 RCW; adding a new
10 section to chapter 43.70 RCW; adding a new section to chapter 90.54
11 RCW; adding a new section to chapter 89.08 RCW; adding new sections to
12 chapter 43.27A RCW; adding new sections to chapter 90.03 RCW; adding a
13 new section to chapter 87.03 RCW; adding new sections to chapter 43.21B
14 RCW; adding a new chapter to Title 90 RCW; creating new sections;
15 repealing RCW 90.03.471, 90.38.005, 90.38.010, 90.38.020, 90.38.030,
16 90.38.040, 90.38.050, 90.38.900, 90.38.901, and 90.38.902; providing an
17 effective date; and declaring an emergency.

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

1 NEW SECTION. **Sec. 1.** The legislature finds it a high priority for
2 the state to expedite the development of comprehensive watershed
3 resource management plans in cooperation with local, federal, and
4 tribal governments. Such plans will resolve uncertainties about water
5 quality, water resources, and habitat conservation measures necessary
6 to preserve the environment, provide economic prosperity, and avoid
7 federal or judicial interventions stemming from noncompliance with
8 federal treaties and laws, including the endangered species act, 16
9 U.S.C. Sec. 1531, et seq. and the clean water act, 33 U.S.C. Sec. 1251,
10 et seq.

11 The legislature also finds that watershed planning should model
12 itself upon the planning efforts in the Methow and Dungeness and
13 Quilcene watersheds, pursuant to RCW 90.54.045. Such planning efforts
14 have demonstrated the benefits of cooperatively based and locally
15 driven watershed planning efforts, and have provided increased
16 certainty as to the availability of water for instream and out-of-
17 stream uses and future economic development. Continued integrated and
18 coordinated planning and its implementation is needed to achieve the
19 most effective and efficient use of public funds.

20 The legislature further finds that such watershed planning should
21 extend state-wide and should encompass the protection of water quality,
22 the assurance of public water supplies, and the enhancement,
23 restoration, and conservation of fish and wildlife habitat. It also
24 should encompass the recovery of species that are about to become or
25 are listed as threatened or endangered.

26 NEW SECTION. **Sec. 2.** (1) It is the intent of this chapter to
27 ensure the development of watershed resource management plans that will
28 provide certainty as to water quality, water availability, and habitat
29 conservation measures that must be known and considered for informed
30 local decisions on land use planning and economic development and state
31 decisions on water resources and water quality.

32 It is further the intent to implement the plans through federal,
33 state, local, and tribal authority, including the laws related to water
34 quality, water allocation, public water supply, fish and wildlife
35 protection, forest practices, and local land-use planning. Watershed
36 resource management plans must therefore be comprehensive, addressing
37 at a minimum water quality, ground and surface water availability and
38 use, economic development, and habitat conservation.

1 (2) The state shall also support watershed planning by providing,
2 as a high priority and to the maximum extent possible, technical
3 assistance, and funds for development, implementation, and monitoring
4 of watershed resource management plans.

5 NEW SECTION. **Sec. 3.** For the purpose of this chapter, the
6 following terms are defined as follows:

7 (1) "Person" means a firm, association, corporation, irrigation
8 district, water district, or other municipal corporation, governmental
9 agencies, as well as an individual.

10 (2) "Watershed resource management plan" or "watershed plan" means
11 a plan that provides specific water quality, water availability, and
12 habitat conservation measures to be implemented in managing and
13 regulating the water and land use in the watershed, and when adopted or
14 implemented will comply with the requirements of federal law under the
15 endangered species act, 16 U.S.C. Sec. 1351, et seq., the clean water
16 act, 33 U.S.C. Sec. 1251, et seq., and will, to the extent possible,
17 address tribal claims under their respective treaties for use of water.

18 (3) "Habitat conservation" or "habitat measures" are those
19 requirements for managing a watershed that protect and restore the full
20 productive capacity of the fish and wildlife resources.

21 (4) "Initiating entity" means a local or tribal government or
22 special purpose district designated by the local governments and tribal
23 governments petitioning under section 4 of this act.

24 (5) "Department" means the department of ecology.

25 (6) "Council" means the Washington watershed coordinating council.

26 (7) "Caucus" means a group of persons having common views and goals
27 regarding the issues that are addressed through watershed planning
28 under this chapter.

29 (8) Endangered species act means the endangered species act of
30 1973, as amended and codified in 16 U.S.C. Sec. 1531-1544.

31 NEW SECTION. **Sec. 4.** (1) To commence watershed planning under
32 this chapter, cities, towns, and counties with jurisdictions within a
33 proposed watershed planning area and affected Indian tribal governments
34 shall designate an "initiating entity" to petition the state. The
35 petition must be endorsed by resolutions by each city, town, county,
36 and tribal government. The petitioning cities, towns, and counties
37 must have within their combined jurisdictions a majority of the

1 population and nonfederal land in the watershed. The petition shall be
2 directed to the governor. The petition shall provide:

3 (a) The boundaries of the watershed. The watershed must include
4 one or more entire water resource inventory areas established by the
5 department pursuant to chapter 90.54 RCW;

6 (b) A description of the status of the water quality, water
7 allocation, and economic development in the watershed, specifically
8 addressing whether water availability or water quality are negatively
9 affecting the economic development in the watersheds;

10 (c) A general description, of the status of the health of the fish
11 and wildlife species in the watersheds, including whether any species
12 are listed or may be listed as threatened or endangered by the United
13 States fish and wildlife service or the national marine fisheries
14 service under the endangered species act or by the Washington fish and
15 wildlife commission under RCW 77.12.020;

16 (d) A general description of other significant environmental,
17 natural resource, or development issues, including flood control, that
18 impact the condition of the watersheds;

19 (e) The current projections and plans for population and economic
20 growth in the watersheds, and the estimated demand for water to meet
21 these projections;

22 (f) A list and status of other natural resource, public water
23 system, land use, and agricultural planning and management efforts
24 currently being developed or implemented in the watershed;

25 (g) The local and tribal governments' respective authorities and
26 abilities to help fund the development and implementation of a
27 watershed plan.

28 (2) Any petition for planning to commence in 1995 shall be filed by
29 September 1, 1995, with the governor; and the governor shall approve or
30 deny it by October 1, 1995. Thereafter, a petition must be filed with
31 the governor by May 1st of the year the petitioners wish to commence
32 planning, and the governor must approve or deny the petition by July
33 1st. In reviewing petitions the governor shall consult with the
34 council. Petitions may be resubmitted to the governor for
35 reconsideration the following year or thereafter.

36 (3) In reviewing a petition, the governor must consider the status
37 of water resources and of fish and wildlife habitat, including a
38 specific review of the urgency of public water supply needs, listings
39 or foreseeable listing of species under the endangered species act, the

1 readiness of local and tribal governments to proceed with the process,
2 the extent to which necessary data are available, and the growth
3 pressures on water quality, available water supply, and fish and
4 wildlife habitat. The governor shall determine whether state, local,
5 or federal funds are available to develop and implement the plan. The
6 governor shall determine which petitions to approve if not enough
7 funding exists to commence all plans in pending petitions.

8 (4)(a) Within thirty days of approval of the petition, the
9 initiating entity shall call an invitational meeting of all interested
10 persons in the watershed. At that meeting, caucuses shall be
11 identified for the planning process. The caucuses shall represent
12 state government, local governments, Indian tribes, and interests from
13 agriculture, business, environment, and fisheries, both sport and
14 commercial, and recreation. The federal government shall be invited
15 and encouraged to establish a caucus.

16 (b) Within sixty days after the invitational meeting, a planning
17 group of two representatives from each caucus shall convene. Each
18 caucus shall choose its representatives to the planning group. A group
19 not granted caucus status may petition the governor for caucus status.
20 The petition shall justify the need for the new caucus by showing
21 substantive differences from existing caucuses' goals.

22 (c) The planning group shall designate one or more governmental
23 entities to administer all phases of the planning process, to enter
24 into contracts agreed to by the planning group, and to coordinate
25 intergovernmental agreements among the participating entities.

26 (d) The planning group decisions shall require a majority vote of
27 the nongovernmental caucuses and the unanimous consent of the
28 governmental caucuses, provided that the planning group by agreement of
29 all parties may approve a different process for making decisions.

30 NEW SECTION. **Sec. 5.** Within thirty days of approval of a petition
31 the governor shall request appropriate federal agencies to approve
32 under the endangered species act the development in an approved
33 watershed of habitat conservation measures for species listed or that
34 may soon be listed as endangered or threatened. In coordination with
35 the planning group, the governor shall request the federal government
36 to enter into a memorandum of understanding or cooperative agreement
37 for the development and implementation of habitat conservation measures
38 that will, at a minimum, satisfy the requirements of the endangered

1 species act. If no such species exist in a watershed, or if the
2 federal government otherwise determines it will not or cannot negotiate
3 with the planning group to meet requirements of the endangered species
4 act, the planning group shall proceed to develop the watershed plan and
5 to address habitat conservation issues within the watershed.

6 **Sec. 6.** 1994 c 239 s 3 (uncodified) is amended to read as follows:

7 (1) The watershed coordinating council is hereby established. The
8 council shall be comprised of the commissioner of public lands or the
9 commissioner's designee and the director or the director's designee or
10 the secretary or the secretary's designee of the following agencies:
11 The department of transportation, the department of agriculture, the
12 department of ecology, the department of fish and wildlife, the
13 department of health, the department of community, trade, and economic
14 development, the interagency committee for outdoor recreation, the
15 Puget Sound water quality authority, and the conservation commission.
16 The members of the council shall coordinate their watershed planning
17 and implementation activities. Meetings of the council shall be
18 subject to the provisions of the open public meetings act.

19 (2) In conjunction with the council's efforts, the commissioner of
20 public lands shall continue to coordinate the department of natural
21 resources' landscape planning and implementation activities with
22 landowners and other interested parties.

23 (3) The council shall coordinate its activities set forth in
24 section 4 of this act with federal, tribal, and local governments.

25 (4) The directors of the departments of agriculture, fish and
26 wildlife, and ecology and the commissioner of public lands shall
27 organize meetings of the council and shall cooperatively ensure a
28 reasonable level of staff support for the council and for the task
29 force established in section 5 of this act.

30 (5) The watershed coordinating council shall (~~expire on June 30,~~
31 1997) provide information and data under section 8 of this act.

32 NEW SECTION. **Sec. 7.** Within ninety days of being established
33 under section 4(4)(b) of this act, the planning group shall adopt a
34 scope of work that describes the schedule, information, data
35 requirements, responsibilities for addressing issues, funding
36 requirements, and other plan elements necessary to comply with this

1 chapter. The planning group shall conduct a public hearing on the
2 scope of work before adopting it.

3 NEW SECTION. **Sec. 8.** (1) Within ninety days after the governor's
4 approval of the planning petition, the council in cooperation with
5 local and tribal governments, and federal and state agencies, shall
6 provide the planning group all available data and information related
7 to the watershed, including, but not limited to:

8 (a) Current water use, both consumptive and nonconsumptive, both
9 ground water and surface water;

10 (b) Water right claims, certificates, and permits for water use;

11 (c) The estimated quantity of water available, based on a water
12 budget analysis;

13 (d) Habitat condition; and

14 (e) General status of fish and wildlife.

15 Local, tribal, and state agencies shall provide in a timely manner
16 the data, reports, and other information requested by the council. The
17 council, in cooperation with other agencies, shall also provide to the
18 planning group basic information on water resources, water quality,
19 fish and wildlife legal issues, hydrology, instream flow and hydraulic
20 continuity policies, fish and wildlife biology and status, and other
21 general information the council determines relevant.

22 (2) The planning group may also request the governmental entity or
23 entities designated in section 4(4)(c) of this act to enter into
24 contracts to obtain additional data and technical information.

25 NEW SECTION. **Sec. 9.** (1) Within two years after the governor's
26 approval of a petition, the planning group shall adopt a watershed
27 plan. If the planning group has made sufficient progress in the
28 development of the plan, the governor may extend the date for adopting
29 the plan for up to one additional year.

30 (2) The planning group shall conduct a public hearing on the
31 watershed plan before it adopts the plan.

32 (3) The planning group shall make recommendations in the watershed
33 plan on each of the following:

34 (a) Water use efficiency and conservation standards applicable to
35 the watershed for (i) the conditioning and permitting of water use,
36 (ii) the approval of water systems, (iii) conservation planning and
37 implementation, and (iv) compliance with the beneficial use of water;

1 (b) Measures and plans to improve the water quality of the ground
2 and surface water sources;

3 (c) Safety and reliability standards for public water supplies;

4 (d) Water supply planning requirements under the growth management
5 act, chapter 36.70A RCW;

6 (e) Instream flow requirements, and measures for habitat
7 conservation as defined in this act;

8 (f) Priorities for the expenditures of implementation funds for
9 water conservation, water quality improvements, and habitat protection
10 and restoration;

11 (g) Metering and reporting requirements for new and existing water
12 users;

13 (h) Conditions and limitations on future water rights permits and
14 change authorizations within the watershed;

15 (i) Reservations and other allocations of water for future
16 beneficial use;

17 (j) Priorities for acquisition and use of trust water rights,
18 including development and operation of water banks;

19 (k) Limitations and conditions on development of wells exempt from
20 permitting under RCW 90.44.050;

21 (l) Options for the potential storage of water, including
22 artificial ground water recharge;

23 (m) Land use controls and incentives for habitat preservation and
24 restoration;

25 (n) Measures and plans addressing flood control; and

26 (o) Ongoing monitoring and evaluation efforts.

27 (4) The plan shall specify conditions on land use and water use to
28 implement the recommendations. In addition, as planning
29 recommendations develop, the planning group shall develop an
30 implementation strategy to define completion schedules, cost estimates,
31 and entities responsible for implementing planning recommendations,
32 including monitoring and enforcement. Plan recommendations must
33 satisfy standards in state and federal laws and regulations.

34 (5) If a planning group fails to develop a plan with sufficient
35 progress under subsection (1) of this section, the governor shall
36 withdraw all further state funds for the groups' planning process
37 and/or designate appropriate state agencies to investigate whether
38 state agencies can complete the plan with assistance from federal,
39 local, and tribal governments.

1 (6) After adoption of a watershed plan, the local and tribal
2 governments and the state shall implement the plans pursuant to their
3 respective administrative and regulatory powers, and through the
4 adoption of local, state, and tribal legislative enactments. From the
5 time the watershed plan is adopted or otherwise completed under
6 subsection (5) of this section, the state and local governments may not
7 process permit applications for development or use of water or land
8 within habitat areas specified in the plan until they have adopted the
9 plan into local ordinances, state regulations, or other necessary
10 legislative enactments. The state agencies shall thereafter process,
11 as a high priority, applications for permits to the use of water in the
12 watershed.

13 (7) Concurrent with the adoption of a watershed plan or with its
14 completion under subsection (5) of this section, the state and the
15 local governments that participated in adoption of the plan, shall seek
16 to enter into a binding memorandum of understanding or cooperative
17 agreement with appropriate federal agencies for the purpose of
18 incorporating elements of the watershed plan into a habitat plan, to
19 satisfy the current or foreseeable enforcement requirements of the
20 endangered species act in the watershed. The state shall have the
21 authority to enter into a memorandum of understanding or cooperative
22 agreement with the federal government to implement the habitat
23 conservation measures developed in the watershed plan. Such memorandum
24 of understanding or cooperative agreement shall be binding on all state
25 agencies and local governments in the watershed.

26 NEW SECTION. **Sec. 10.** In attempting to resolve concerns about
27 water availability as it affects water quality, fish or wildlife
28 habitat, and economic growth in the region, the planning group may
29 initiate discussions with holders of water rights to determine whether
30 such holders will agree to conserve water and transfer the savings
31 voluntarily or by sale or agree to lease the right or a portion of the
32 right. The transfer of any water right or a portion of the right or
33 the use of conserved water shall be approved by the department and
34 implemented under the provisions of chapters 90.42 and 90.03 RCW.

35 NEW SECTION. **Sec. 11.** (1) The planning group shall recognize
36 other planning activities. The planning efforts under this chapter
37 shall provide for the protection of water and should coordinate

1 development and land use planning and zoning with water quality and
2 availability. To this end, the watershed plans adopted pursuant to
3 this chapter shall be coordinated with the planning elements required
4 in chapters 36.70A, 70.116, 70.119A, 43.20, 43.70, and 90.70 RCW. To
5 the extent that the watershed plans address the elements that affect
6 land use planning, water availability, and population and economic
7 growth in the region, the plans shall be incorporated into, or
8 referenced as supporting data for, the local government comprehensive
9 growth management plan and development regulations as provided in
10 chapter 36.70A RCW. Those portions of the plan shall be adopted
11 pursuant to chapter 36.70A RCW and the local government's water supply
12 plans adopted and approved under chapters 70.116, 70.119A, 43.20, and
13 43.70 RCW.

14 (2) The planning group shall consider what linkages to water use
15 and management on and off Indian reservations it should incorporate in
16 a watershed plan.

17 (3) The planning group should integrate its watershed planning with
18 other federal, state, and local programs that impact water resource use
19 and availability, water quality, and habitat plans.

20 NEW SECTION. **Sec. 12.** State grant or loan funds may be used to
21 implement on-farm or private property water system improvements
22 consistent with the watershed plan under this chapter, if the land
23 owner agrees in advance in writing that all or a portion of the net
24 water savings, as defined in RCW 90.42.020(2) shall be dedicated to
25 public purposes, including but not limited to instream flow
26 restoration.

27 NEW SECTION. **Sec. 13.** A new section is added to chapter 35.63 RCW
28 to read as follows:

29 For the purposes of implementing watershed plans adopted under
30 sections 1 through 12 of this act, city and town governments shall have
31 the authority to adopt ordinances that through current land use
32 planning and permitting condition the diversion, withdrawal, or use of
33 water and at a minimum satisfy conservation standards under federal or
34 state law.

35 NEW SECTION. **Sec. 14.** A new section is added to chapter 35A.63
36 RCW to read as follows:

1 For the purposes of implementing watershed plans adopted under
2 sections 1 through 12 of this act, city and town governments shall have
3 the authority to adopt ordinances that through current land use
4 planning and permitting condition the diversion, withdrawal, or use of
5 water and at a minimum satisfy conservation standards under federal or
6 state law.

7 NEW SECTION. **Sec. 15.** A new section is added to chapter 36.70 RCW
8 to read as follows:

9 For the purposes of implementing watershed plans adopted under
10 sections 1 through 12 of this act, county governments shall have the
11 authority to adopt ordinances that through current land use planning
12 and permitting condition the diversion, withdrawal, or use of water and
13 at a minimum satisfy conservation standards under federal or state law.

14 NEW SECTION. **Sec. 16.** A new section is added to chapter 36.70A
15 RCW to read as follows:

16 For the purposes of implementing watershed plans adopted under
17 sections 1 through 12 of this act, city, town, and county governments
18 shall have the authority to adopt ordinances that through current land
19 use planning and permitting condition the diversion, withdrawal, or use
20 of water and at a minimum satisfy conservation standards under federal
21 or state law.

22 NEW SECTION. **Sec. 17.** A new section is added to chapter 36.70A
23 RCW to read as follows:

24 Planning under this chapter shall be coordinated with planning done
25 under sections 1 through 12 of this act. Comprehensive plans and
26 development regulations adopted pursuant to this chapter shall be
27 consistent with watershed plans adopted under sections 1 through 12 of
28 this act.

29 NEW SECTION. **Sec. 18.** A new section is added to chapter 70.116
30 RCW to read as follows:

31 Planning under this chapter shall be coordinated with planning done
32 under sections 1 through 12 of this act. Water system plans and
33 coordinated plans adopted under this chapter shall be consistent with
34 watershed plans adopted under sections 1 through 12 of this act.

1 NEW SECTION. **Sec. 19.** A new section is added to chapter 70.119A
2 RCW to read as follows:

3 Planning under this chapter shall be coordinated with planning done
4 under sections 1 through 12 of this act. Water system plans and
5 coordinated plans adopted under this chapter shall be consistent with
6 watershed plans adopted under sections 1 through 12 of this act.

7 NEW SECTION. **Sec. 20.** A new section is added to chapter 43.20 RCW
8 to read as follows:

9 Planning under this chapter shall be coordinated with planning done
10 under sections 1 through 12 of this act. Water system plans and
11 coordinated plans adopted under this chapter shall be consistent with
12 watershed plans adopted under sections 1 through 12 of this act.

13 NEW SECTION. **Sec. 21.** A new section is added to chapter 43.70 RCW
14 to read as follows:

15 Planning under this chapter shall be coordinated with planning done
16 under sections 1 through 12 of this act. Water system plans and
17 coordinated plans adopted under this chapter shall be consistent with
18 watershed plans adopted under sections 1 through 12 of this act.

19 NEW SECTION. **Sec. 22.** A new section is added to chapter 90.54 RCW
20 to read as follows:

21 (1) The governor shall establish a policy advisory committee to be
22 known as the water resources forum. The purpose of the water resources
23 forum is to provide recommendations to the governor and the legislature
24 regarding state water resources policy and advise the department
25 pursuant to section 48 of this act. The governor shall convene the
26 forum as needed and shall provide direction for each such convening,
27 specifying issues to address, timeframes for response, and form of
28 presentation. In addition, the legislature may request that the
29 governor convene the water resources forum to address and make
30 recommendations on specific issues.

31 (2) The water resources forum shall consist of representatives of
32 governmental and nongovernmental caucuses. The four governmental
33 caucuses shall include: Local governments, Indian tribal governments,
34 the federal government, and state agencies. The five nongovernmental
35 caucuses shall include: Business, agriculture, recreation,
36 environmental groups, and fisheries. The fisheries caucus shall

1 include both commercial and sport interests. Each caucus shall be
2 represented by two of its members except that Indian tribal governments
3 shall be represented by four of its caucus members. Caucuses shall
4 designate representatives according to their own procedures and may
5 designate different representatives for discussion on different issues
6 or convenings, as appropriate. Representatives shall be entitled to
7 receive compensation for travel and per diem if not compensated by
8 their own organizations.

9 (3) The water resources forum shall adopt by-laws within ninety
10 days of the effective date of this act.

11 (4) The department shall provide staffing and logistical support to
12 the water resources forum during the periods when the governor has
13 convened it. The department may contract with a professional
14 facilitator to assist the water resources forum in its work.

15 (5) This section expires midnight of June 30, 2000.

16 NEW SECTION. **Sec. 23.** A new section is added to chapter 89.08 RCW
17 to read as follows:

18 As part of the watershed planning process in this act, the
19 Washington state conservation commission is eligible to receive
20 planning moneys made available to conservation districts for
21 development of the habitat conservation measures and conservation plans
22 on private lands that are part of the watershed plan adopted under
23 sections 1 through 12 of this act, to assist in the development of
24 conservation plans on private lands. The plans should:

25 (1) Be voluntary in nature;

26 (2) Be economically feasible to implement;

27 (3) Contribute to the protection and restoration of fish and
28 wildlife habitat;

29 (4) Demonstrate, if appropriate, a net savings of water;

30 (5) Not be in conflict with farm plans required under other
31 programs; and

32 (6) Be consistent with the watershed plan adopted under sections 1
33 through 12 of this act.

34 NEW SECTION. **Sec. 24.** Nothing in this act shall affect or impair
35 the state's obligation under the federal clean water act 33 U.S.C. Sec.
36 1251 et seq., including the triennial review of water quality standards
37 pursuant to RCW 90.48.260 and 33 U.S.C. Sec. 1313(c). Any local

1 ordinances or regulations adopted under watershed plans developed under
2 sections 1 through 12 of this act are subject to and must be amended to
3 meet the minimum requirements of the clean water act and the state
4 regulations adopted under chapter 90.48 RCW and amended under RCW
5 90.48.260.

6 **Sec. 25.** RCW 90.44.050 and 1987 c 109 s 108 are each amended to
7 read as follows:

8 ~~((After June 6, 1945,))~~ (1) No withdrawal of public ground waters
9 of the state shall be begun, nor shall any well or other works for such
10 withdrawal be constructed, unless an application to appropriate such
11 waters has been made to the department and a permit has been granted by
12 it as herein provided: EXCEPT, HOWEVER, That any withdrawal of public
13 ground waters for stock-watering purposes, or for the watering of a
14 lawn or of a noncommercial garden not exceeding one-half acre in area,
15 or for ~~((single or group domestic uses))~~ domestic use for single
16 residence or a short plat approved by the local government in an amount
17 not exceeding five thousand gallons a day, or for an industrial purpose
18 in an amount not exceeding five thousand gallons a day, is and shall be
19 exempt from the provisions of this section, but, to the extent that it
20 is regularly used beneficially, shall be entitled to a right equal to
21 that established by a permit issued under the provisions of this
22 chapter: PROVIDED, HOWEVER, That ~~((the department from time to time~~
23 may require the person or agency making any such small withdrawal to
24 furnish information as to the means for and the quantity of that
25 withdrawal: PROVIDED, FURTHER, That at the option of the party making
26 withdrawals of ground waters of the state not exceeding five thousand
27 gallons per day, applications under this section or declarations under
28 RCW 90.44.090 may be filed and permits and certificates obtained in the
29 same manner and under the same requirements as is in this chapter
30 provided in the case of withdrawals in excess of five thousand gallons
31 a day)) to properly manage the state's waters and protect existing
32 rights, this exemption must be gradually eliminated in a manner that
33 provides reasonable notice and minimizes the impact on current plans,
34 and therefore unless specifically authorized in a watershed plan
35 adopted under sections 1 through 12 of this act, the exemption shall
36 expire on January 1, 2005, and thereafter all ground water withdrawals
37 must obtain a permit under the requirements in this chapter. The
38 department shall, by emergency rule before December 31, 1995, where

1 conditions indicate the need for immediate action, or in the absence of
2 such condition, by permanent rule before December 31, 1997, and
3 whenever necessary thereafter, restrict or eliminate the use of the
4 exemption in areas where the department finds, after consulting with
5 the appropriate local governments and any affected Indian tribes that:

6 (a) The additional anticipated ground water withdrawals will likely
7 impair, by impacts on either the quantity or quality of water, the safe
8 sustaining yield of the ground water resource, existing water rights,
9 fish and wildlife habitat, or instream flows or lake levels established
10 by rule or otherwise determined by the department;

11 (b) The source has water quality problems of public health
12 significance that have been identified by the department of health or
13 the local health authority;

14 (c) Alternative water sources have been identified by the local
15 government that are, or will soon be readily available and that can be
16 used to accommodate new development;

17 (d) Population densities have been determined by the local
18 government to be sufficient to make the development or expansion of
19 existing public water systems the appropriate means for providing water
20 service for new growth; or

21 (e) Other conditions exist in which use of the exemption will
22 contribute to detrimental effects to existing rights, in-stream flows,
23 or public health and safety.

24 (2) The local government may adopt ordinances in consultation with
25 the department which limit the purposes, quantity, and time period for
26 uses of water authorized in the exemption under subsection (1) of this
27 section.

28 (3) The local ordinances and rules adopted pursuant to subsections
29 (1) and (2) of this section shall be consistent with plans developed
30 under sections 1 through 12 of this act, chapters 90.44, 90.54, 70.116,
31 36.70A, and 36.36 RCW.

32 (4) A person making a withdrawal under this section shall maintain,
33 to the satisfaction of the department of ecology, a measuring device
34 constructed and maintained to permit accurate measurement and practical
35 regulation of the flow of water withdrawn regardless of the quantity of
36 water to be withdrawn.

37 (5) The department may require the person or entity making a
38 withdrawal under this section to furnish information as to the means
39 for and the quantity of that withdrawal.

1 **Sec. 26.** RCW 19.27.097 and 1991 sp.s. c 32 s 28 are each amended
2 to read as follows:

3 (1) Each applicant for a building permit of a building
4 necessitating potable water shall provide evidence of an adequate water
5 supply for the intended use of the building. Evidence may be in the
6 form of a water right permit from the department of ecology, a letter
7 from an approved water purveyor stating the ability to provide water,
8 or another form sufficient to verify the existence of an adequate water
9 supply. In addition to other authorities, the county or city (~~may~~)
10 shall, after January 1, 1996, impose conditions on building permits
11 requiring connection to an existing public water system approved by the
12 state board of health, where the existing system is (~~willing and~~)
13 now, or will be able to provide safe and reliable potable water to the
14 applicant with reasonable economy and efficiency. An application for
15 a water right shall not be sufficient proof of an adequate water
16 supply.

17 (2) Within counties not required or not choosing to plan pursuant
18 to RCW 36.70A.040, the county and the state may mutually determine
19 those areas in the county in which the requirements of subsection (1)
20 of this section shall not apply. The departments of health and ecology
21 shall coordinate on the implementation of this section. Should the
22 county and the state fail to mutually determine those areas to be
23 designated pursuant to this subsection, the county may petition the
24 department of community, trade, and economic development to mediate or,
25 if necessary, make the determination.

26 (3) Buildings that do not need potable water facilities are exempt
27 from the provisions of this section. The department of ecology, after
28 consultation with local governments, may adopt rules to implement this
29 section, which may recognize differences between high-growth and low-
30 growth counties.

31 (4) By January 1, 1996, the department of health shall, in
32 conjunction with the department of community, trade, and economic
33 development, the utilities and transportation commission, water
34 purveyors, and local governments develop criteria for determining what
35 constitutes reasonable economy and efficiency under subsection (1) of
36 this section, which shall be utilized by the county or city in
37 implementing that subsection. In developing these criteria, the
38 department of health shall include, but not be limited to the
39 following: (a) Costs for system construction and operation, for at

1 least the twenty-year planning period covered by the local
2 comprehensive plan adopted under chapter 36.70A RCW; and (b)
3 consistency with state guidelines and existing plans, such as
4 coordinated water system plans adopted under chapter 70.116 RCW, that
5 assure systematic, coordinated, and timely delivery of water supplies
6 within the areas covered by such plans.

7 **Sec. 27.** RCW 58.17.110 and 1990 1st ex.s. c 17 s 52 are each
8 amended to read as follows:

9 (1) The city, town, or county legislative body shall inquire into
10 the public use and interest proposed to be served by the establishment
11 of the subdivision and dedication. ~~((It shall determine:—(a) If~~
12 ~~appropriate provisions are made for, but not limited to, the public~~
13 ~~health, safety, and general welfare, for open spaces, drainage ways,~~
14 ~~streets or roads, alleys, other public ways, transit stops, potable~~
15 ~~water supplies, sanitary wastes, parks and recreation, playgrounds,~~
16 ~~schools and schoolgrounds, and shall consider all other relevant facts,~~
17 ~~including sidewalks and other planning features that assure safe~~
18 ~~walking conditions for students who only walk to and from school; and~~
19 ~~(b) whether the public interest will be served by the subdivision and~~
20 ~~dedication.~~

21 ~~(2))~~ A proposed subdivision and dedication shall not be approved
22 unless the city, town, or county legislative body determines and makes
23 written findings that: (a) Appropriate provisions are made for the
24 public health, safety, and general welfare and for such open spaces,
25 drainage ways, streets or roads, alleys, other public ways, transit
26 stops, potable water supplies, sanitary wastes, parks and recreation,
27 playgrounds, schools and schoolgrounds and all other relevant facts,
28 including sidewalks and other planning features that assure safe
29 walking conditions for students who only walk to and from school; and
30 (b) the public use and interest will be served by the platting of such
31 subdivision and dedication.

32 (2) In making its determination and written findings that
33 appropriate provisions have been made for potable water supplies, the
34 city, town, or county legislative body shall promote the reliable and
35 efficient delivery of safe and adequate water supply by ensuring that:
36 (a) The number of new public water supply systems established is
37 minimized; (b) the use of new individual wells for drinking water
38 supply is limited to areas where such wells represent the only

1 reasonable alternative available for new development, and (c) projects
2 that will result in a total water use in excess of the exemption
3 provided for in RCW 90.44.050 obtain the necessary water rights prior
4 to final approval. The city, town, or county may require ownership or
5 operation by satellite management agencies or assured control of
6 wellhead areas by those drilling wells as means of achieving the above
7 objectives.

8 (3) If (~~it~~) the city, town, or county legislative body finds that
9 the proposed subdivision and dedication make (~~such~~) appropriate
10 provisions as provided in subsection (1) and (2) of this section and
11 that the public use and interest will be served, then the legislative
12 body shall approve the proposed subdivision and dedication. Dedication
13 of land to any public body, provision of public improvements to serve
14 the subdivision, and/or impact fees imposed under RCW 82.02.050 through
15 82.02.090 may be required as a condition of subdivision approval.
16 Dedications shall be clearly shown on the final plat. No dedication,
17 provision of public improvements, or impact fees imposed under RCW
18 82.02.050 through 82.02.090 shall be allowed that constitutes an
19 unconstitutional taking of private property. The legislative body
20 shall not as a condition to the approval of any subdivision require a
21 release from damages to be procured from other property owners.

22 (4) The county or city shall, after August 1, 1995, impose
23 conditions on subdivision approval requiring connection to an existing
24 public water system where the existing system is able to provide safe
25 and reliable potable water to the applicant with reasonable economy and
26 efficiency.

27 (5) By January 1, 1996, the department of health shall, in
28 conjunction with the department of community, trade, and economic
29 development, the utilities and transportation commission, water
30 purveyors, and local governments, develop criteria for determining what
31 constitutes reasonable economy and efficiency under subsection (4) of
32 this section, which shall be utilized by the county or city in
33 implementing that subsection. In developing these criteria, the
34 department of health shall include, but not be limited to: (a) Costs
35 for system construction and operation for at least the twenty-year
36 planning period covered by the appropriate local comprehensive plan
37 adopted under chapter 36.70 RCW; and (b) consistency with state
38 guidelines and existing plans, such as coordinated water system plans
39 adopted under chapter 70.116 RCW, that assure systematic, coordinated,

1 and timely delivery of water supplies within the areas covered by such
2 plans.

3 **Sec. 28.** RCW 43.21A.064 and 1977 c 75 s 46 are each amended to
4 read as follows:

5 The director of the department of ecology shall have the following
6 powers and duties:

7 (1) The supervision of public waters within the state and their
8 appropriation, diversion, and use, and of the various officers
9 connected therewith;

10 (2) Insofar as may be necessary to assure safety to life or
11 property, (~~he shall~~) inspect the construction of all dams, canals,
12 ditches, irrigation systems, hydraulic power plants, and all other
13 works, systems, and plants pertaining to the use of water, and (~~he~~)
14 the director may require such necessary changes in the construction or
15 maintenance of said works, to be made from time to time, as will
16 reasonably secure safety to life and property;

17 (3) (~~He shall~~) Regulate and control the diversion of water in
18 accordance with the rights thereto. Such regulation and control shall
19 be exercised on the basis of the director's determination of the
20 various rights involved, based on a review of the department's records
21 and investigation of relevant facts as provided in section 30 of this
22 act;

23 (4) (~~He shall~~) Determine the discharge of streams and springs and
24 other sources of water supply, and the capacities of lakes and of
25 reservoirs whose waters are being or may be utilized for beneficial
26 purposes;

27 (5) (~~He shall~~) Keep such records as may be necessary for the
28 recording of the financial transactions and statistical data thereof,
29 and (~~shall~~) procure all necessary documents, forms, and blanks.
30 (~~He~~) The director shall keep a seal of the office, and all
31 certificates by him or her covering any of (~~his~~) the director's acts
32 or the acts of his or her office, or the records and files of his or
33 her office, under such seal, shall be taken as evidence thereof in all
34 courts;

35 (6) (~~He shall~~) Render when required by the governor, a full
36 written report of the work of his or her office with such
37 recommendations for legislation as he or she may deem advisable for the
38 better control and development of the water resources of the state;

- 1 (7) The director and duly authorized deputies may administer oaths;
2 (8) ~~((He shall))~~ Establish and ~~((promulgate))~~ adopt rules governing
3 the administration of chapter 90.03 RCW;
4 (9) ~~((He shall))~~ Perform such other duties as may be prescribed by
5 law.

6 **Sec. 29.** RCW 90.03.070 and 1987 c 109 s 70 are each amended to
7 read as follows:

8 It shall be the duty of the water master, acting under the
9 direction of the department, to divide in whole or in part, the water
10 supply of ~~((his))~~ the water master's district among the several water
11 conduits and reservoirs using said supply, according to the right and
12 priority of each, respectively. ~~((He))~~ The water master shall divide,
13 regulate and control the use of water within ~~((his))~~ the district by
14 such regulation of headgates, conduits and reservoirs as shall be
15 necessary to prevent the use of water in excess of the amount to which
16 the owner of the right is lawfully entitled. Such regulation shall be
17 exercised on the basis of the water master's tentative determination of
18 the various rights involved, based on a review of the department's
19 records and investigation of relevant facts. Whenever, in the
20 pursuance of his or her duties, the water master regulates a headgate
21 of a water conduit or the controlling works of a reservoir, ~~((he))~~ the
22 water master shall attach to such headgate or controlling works a
23 written notice, properly dated and signed, stating that such headgate
24 or controlling works has been properly regulated and is wholly under
25 ~~((his))~~ the water master's control and such notice shall be a legal
26 notice to all parties. In addition to dividing the available waters
27 and supervising the stream patrolmen in ~~((his))~~ the district, ~~((he))~~
28 the water master shall enforce such rules ~~((and regulations))~~ as the
29 department shall from time to time prescribe.

30 The county or counties in which water master districts are created
31 shall deputize the water masters appointed hereunder, and may without
32 charge provide to each water master suitable office space, supplies,
33 equipment and clerical assistance as are necessary to the water master
34 in the performance of his or her duties.

35 NEW SECTION. **Sec. 30.** A new section is added to chapter 43.27A
36 RCW to read as follows:

1 In issuing orders pursuant to RCW 43.27A.190 for the purpose of
2 regulating between or among the users of water, the department shall
3 first determine whether any use of water is based on a valid existing
4 water right. In making such determination, the department shall
5 investigate and make a tentative determination as to the priority,
6 quantity, place of use, and point of diversion of the water right.
7 Unless exigent circumstances exist, the department shall notify the
8 person whose use of water will be regulated prior to issuing an order
9 of regulation. The notice shall state that the order of regulation
10 shall be issued in three days after receipt of the notice, unless the
11 person can show cause in writing to the department why the department's
12 decision is in error. The order of regulation shall be effective
13 immediately upon issuance, unless otherwise stated in the order. The
14 department's determination of the validity of a water right is not
15 binding in any subsequent general adjudication, but is prima facie
16 evidence of the existence and conditions of the right.

17 NEW SECTION. **Sec. 31.** A new section is added to chapter 43.27A
18 RCW to read as follows:

19 In any appeal of a regulatory order issued pursuant to RCW
20 43.27A.190 it is not a defense that any of the rights recognized have
21 not been confirmed in a general water rights adjudication.

22 NEW SECTION. **Sec. 32.** A new section is added to chapter 43.27A
23 RCW to read as follows:

24 A regulatory order, based in whole or part on a conclusion that all
25 or any portion of any water right has been relinquished for nonuse
26 shall not be issued, unless the department initiates proceedings under
27 RCW 90.14.130 in relation to the asserted relinquishment. Appeals of
28 the regulatory order and of the relinquishment order may be
29 consolidated for hearing before the pollution control hearings board.
30 Notwithstanding the provisions of RCW 43.27A.190, such a regulatory
31 order shall not become effective unless or until the relinquishment
32 order becomes final.

33 NEW SECTION. **Sec. 33.** A new section is added to chapter 90.03 RCW
34 to read as follows:

35 The holder of any water right may transfer any reclaimed water, as
36 defined in RCW 90.46.010(4), generated from the underlying beneficial

1 use to another party for some other beneficial use that is in
2 compliance with standards and criteria adopted by the department or by
3 the department of health, or both pursuant to chapter 90.46 RCW. Where
4 such a transfer results in a change in the place of use of such water,
5 the holder of the right shall apply for a change in place of use,
6 pursuant to the process in RCW 90.03.380. The department shall approve
7 such a transfer as consistent with the public interest, unless it
8 impairs existing rights, or detrimentally affects instream flows
9 established in a watershed plan adopted under sections 1 through 12 of
10 this act, a regional basin water resource plan adopted under chapter
11 90.54 RCW, or as otherwise determined necessary by the department.

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

14 In considering an application for a permit to appropriate surface
15 or ground water, the department shall identify potential sources of
16 reclaimed water as defined in RCW 90.46.010(4). The department shall
17 deny the application if it finds, after consulting with the department
18 of health, the department of labor and industries, the department of
19 fish and wildlife, and the local health authority, as appropriate, that
20 there is a cost-effective source of reclaimed water and its use will
21 not impair public health, safety, existing water rights, or instream
22 flows established in a watershed plan adopted under sections 1 through
23 12 of this act, a regional or basin water resource plan adopted under
24 chapter 90.54 RCW, or as otherwise determined necessary by the
25 department. The department's decision shall be consistent with any
26 adopted coordinated water system plans under chapter 70.116 RCW,
27 regional or basin water resource plans under chapter 90.54 RCW,
28 watershed plans adopted under sections 1 through 12 of this act; and
29 comprehensive plans and development regulations under chapter 36.70A
30 RCW.

31 **Sec. 35.** RCW 43.20.230 and 1993 sp.s. c 4 s 9 are each amended to
32 read as follows:

33 ~~((Consistent with the water resource planning process of the~~
34 ~~department of ecology,))~~ The department of health shall:

35 (1) Develop procedures, regulations, and guidelines relating to
36 water use efficiency, ~~((as defined in section 4(3), chapter 348, Laws~~
37 ~~of 1989))~~ water demand forecasting, and water use data collection, to

1 be included in the development and approval of cost-efficient water
2 system plans required under RCW 43.20.050. Public water systems may be
3 required to develop conservation programs more stringent than those
4 required by the department of health if local standards are developed
5 through the watershed plan adopted pursuant to sections 1 through 12 of
6 this act. For the purposes of this section, water use efficiency is
7 defined as those measures, projects, practices, or techniques that
8 result in a net water savings that cost less than obtaining an
9 equivalent amount of water from the next least costly source of supply;

10 (2) Develop criteria, with input from technical experts, with the
11 objective of encouraging the cost-effective reuse of greywater and
12 other water recycling practices, consistent with protection of public
13 health and water quality;

14 (3) Provide advice and technical assistance upon request in the
15 development of water use efficiency plans; ~~((and))~~

16 (4) Provide advice and technical assistance on request for
17 development of model conservation rate structures for public water
18 systems ~~((. Subsections (1), (2), and (3) of this section are subject~~
19 ~~to the availability of funding)); and~~

20 (5) Develop guidelines and procedures, with input from the
21 department of ecology, and other technical experts, by January 1, 2000,
22 defining water use guidelines and standards for use in water demand
23 forecasting and conservation program planning to be included in the
24 development and approval of water system plans required under RCW
25 43.20.050. These guidelines and procedures shall be based, at a
26 minimum, on regional residential water use patterns, land use density
27 restrictions, and precipitation patterns.

28 **Sec. 36.** RCW 70.116.030 and 1991 c 3 s 366 are each amended to
29 read as follows:

30 Unless the context clearly requires otherwise, the following terms
31 when used in this chapter shall be defined as follows:

32 (1) "Coordinated water system plan" means a plan for public water
33 systems within a critical water supply service area which identifies
34 the present and future needs of the systems and sets forth means for
35 meeting those needs in the most efficient manner possible. Such a plan
36 shall include provisions for subsequently updating the plan. In areas
37 where more than one water system exists, a coordinated plan may consist
38 of either: (a) A new plan developed for the area following its

1 designation as a critical water supply service area; or (b) a
2 compilation of compatible water system plans existing at the time of
3 such designation and containing such supplementary provisions as are
4 necessary to satisfy the requirements of this chapter. Any such
5 coordinated plan must include provisions regarding: Future service
6 area designations; assessment of the feasibility of shared source,
7 transmission, and storage facilities; emergency inter-ties; design
8 standards; regional water conservation planning; and other concerns
9 related to the construction and operation of the water system
10 facilities.

11 (2) "Critical water supply service area" means a geographical area
12 which is characterized by a proliferation of small, inadequate water
13 systems, or by water supply problems which threaten the present or
14 future water quality or reliability of service in such a manner that
15 efficient and orderly development may best be achieved through
16 coordinated planning by the water utilities in the area.

17 (3) "Public water system" means any system providing water intended
18 for, or used for, human consumption or other domestic uses. It
19 includes, but is not limited to, the source, treatment for purifying
20 purposes only, storage, transmission, pumping, and distribution
21 facilities where water is furnished to any community, or number of
22 individuals, or is made available to the public for human consumption
23 or domestic use, but excluding water systems serving one single family
24 residence. However, systems existing on September 21, 1977 which are
25 owner operated and serve less than ten single family residences or
26 which serve only one industrial plant shall be excluded from this
27 definition and the provisions of this chapter.

28 (4) "Purveyor" means any agency or subdivision of the state or any
29 municipal corporation, firm, company, mutual or cooperative
30 association, institution, partnership, or person or any other entity,
31 that owns or operates for wholesale or retail service a public water
32 system. It also means the authorized agents of any such entities.

33 (5) "Secretary" means the secretary of the department of health or
34 the secretary's authorized representative.

35 (6) "Service area" means a specific geographical area serviced or
36 for which service is planned by a purveyor.

37 **Sec. 37.** RCW 70.116.050 and 1977 ex.s. c 142 s 5 are each amended
38 to read as follows:

1 (1) Each purveyor within the boundaries of a critical water supply
2 service area shall develop a water system plan for the purveyor's
3 future service area if such a plan has not already been developed:
4 PROVIDED, That nonmunicipally owned public water systems are exempt
5 from the planning requirements of this chapter, except for the
6 establishment of service area boundaries if they: (a) Were in
7 existence as of September 21, 1977; and (b) have no plans for water
8 service beyond their existing service area, and (c) meet minimum
9 quality and pressure design criteria established by the state board of
10 health: PROVIDED FURTHER, That if the county legislative authority
11 permits a change in development that will increase the demand for water
12 service of such a system beyond the existing system's ability to
13 provide minimum water service, the purveyor shall develop a water
14 system plan in accordance with this section. The establishment of
15 future service area boundaries shall be in accordance with RCW
16 70.116.070.

17 (2) After the boundaries of a critical water supply service area
18 have been established pursuant to RCW 70.116.040, the committee
19 established in RCW 70.116.040 shall participate in the development of
20 a coordinated water system plan for the designated area. Such a plan
21 shall incorporate all water system plans developed pursuant to
22 subsection (1) of this section. The plan shall provide for maximum
23 integration and coordination of public water system facilities
24 consistent with the protection and enhancement of the public health and
25 well-being.

26 (3) Those portions of a critical water supply service area not yet
27 served by a public water system shall have a coordinated water system
28 plan developed by existing purveyors based upon permitted densities in
29 county plans, ordinances, and/or growth policies for a minimum of five
30 years beyond the date of establishment of the boundaries of the
31 critical water supply service area.

32 (4) To insure that the plan incorporates the proper designs to
33 protect public health, the secretary shall adopt regulations pursuant
34 to chapter 34.05 RCW concerning the scope and content of coordinated
35 water system plans, and shall ensure, as minimum requirements, that
36 such plans:

37 (a) Are reviewed by the appropriate local governmental agency to
38 insure that the plan is not inconsistent with the land use plans,
39 shoreline master programs, and/or developmental policies of the general

1 purpose local government or governments whose jurisdiction the water
2 system plan affects.

3 (b) Recognize all water resource plans, water quality plans, and
4 water pollution control plans which have been adopted by units of
5 local, regional, and state government. Water system plans must be
6 consistent with watershed plans adopted under sections 1 through 12 of
7 this act.

8 (c) Incorporate the fire protection standards developed pursuant to
9 RCW 70.116.080.

10 (d) Identify the future service area boundaries of the public water
11 system or systems included in the plan within the critical water supply
12 service area.

13 (e) Identify feasible emergency inter-ties between adjacent
14 purveyors.

15 (f) Identify water conservation planning efforts underway by public
16 water systems as defined in their water system plans and identify
17 opportunities for regional water conservation programs including, at a
18 minimum, consideration of those conservation measures defined pursuant
19 to RCW 43.20.230.

20 (5) If a "water general plan" for a critical water supply service
21 area or portion thereof has been prepared pursuant to chapter 36.94 RCW
22 and such a plan meets the requirements of subsections (1) and (4) of
23 this section, such a plan shall constitute the coordinated water system
24 plan for the applicable geographical area.

25 (6) Prior to the submission of a coordinated water system plan to
26 the secretary for approval of the design of the proposed facilities
27 pursuant to RCW 70.116.060, the plan shall be reviewed for consistency
28 with subsection (4) of this section by the legislative authorities of
29 the counties in which the critical water supply service area is
30 located. If within sixty days of receipt of the plan, the legislative
31 authorities find any segment of a proposed service area of a purveyor's
32 plan or any segment of the coordinated water system plan to be
33 inconsistent with any current land use plans, shoreline master
34 programs, and/or developmental policies of the general purpose local
35 government or governments whose jurisdiction the water system plan
36 affects, the secretary shall not approve that portion of the plan until
37 the inconsistency is resolved between the local government and the
38 purveyor. If no comments have been received from the legislative

1 authorities within sixty days of receipt of the plan, the secretary may
2 consider the plan for approval.

3 NEW SECTION. **Sec. 38.** A new section is added to chapter 87.03 RCW
4 to read as follows:

5 By June 30, 2001, each irrigation district established and
6 operating under this chapter shall prepare a comprehensive water
7 conservation plan in accordance with rules and guidelines adopted by
8 the department of ecology. The plan shall provide guidance for capital
9 and operational improvements as well as financial incentives to be
10 undertaken by the district with the goal of improving the efficiency of
11 water use by the district. The conservation plan shall be updated by
12 the district at no less than six-year intervals. Districts developing
13 or amending such plans shall be eligible to receive funding assistance
14 from the department of ecology in accordance with chapter 43.99E RCW
15 and the rules and guidelines adopted by the department thereunder.

16 **Sec. 39.** RCW 90.44.450 and 1989 c 348 s 7 are each amended to read
17 as follows:

18 The department of ecology may require withdrawals of ground water
19 to be metered, or measured by other approved methods(~~(, as a condition~~
20 ~~for a new water right permit)~~). The department may also require(~~(, as~~
21 ~~a condition for such permits,~~) reports regarding such withdrawals as
22 to the amount of water being withdrawn. These reports shall be in a
23 form prescribed by the department.

24 **Sec. 40.** RCW 90.03.340 and 1987 c 109 s 90 are each amended to
25 read as follows:

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

32 **Sec. 41.** RCW 90.03.270 and 1987 c 109 s 85 are each amended to
33 read as follows:

34 Upon receipt of (~~(an)~~) a completed water right application form, it
35 shall be the duty of the department to (~~(make an endorsement thereon of~~

1 the)) date ((of its receipt,)) stamp and ((to)) keep a record of
2 ((same)) it. If ((upon examination,)) an application form is filed
3 with the department but the information requested on the application
4 form is ((found to be defective,)) not complete or the form is not
5 accompanied by the proper application fee, the form and any application
6 fee filed with it shall be returned to the applicant ((for correction
7 or completion,)) and the date and the reasons for the return thereof
8 shall be ((endorsed thereon and made a record in his office. No
9 application shall lose its priority of filing on account of such
10 defects, provided acceptable maps, drawings and such data as is
11 required by the department shall be filed with the department within
12 such reasonable time as it shall require)) noted in the department's
13 records and in a letter returning the form. The department may not
14 require an applicant to provide information in support of an
15 application for a water right permit that is not directly necessary for
16 the department's investigations, determinations, or findings regarding
17 that particular application.

18 **Sec. 42.** RCW 90.03.280 and 1994 c 264 s 83 are each amended to
19 read as follows:

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

1 NEW SECTION. **Sec. 43.** A new section is added to chapter 43.21B
2 RCW to read as follows:

3 In a proceeding before the pollution control hearings board
4 challenging a decision of the department related to the issuance,
5 conditioning, transfer, amendment, or denial of a water right permit
6 under Title 90 RCW, the burden of proof is on the person filing the
7 appeal.

8 NEW SECTION. **Sec. 44.** A new section is added to chapter 43.21B
9 RCW to read as follows:

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

14 **Sec. 45.** RCW 90.03.290 and 1994 c 264 s 84 are each amended to
15 read as follows:

16 (1) When an application complying with the provisions of this
17 chapter and with the rules (~~and regulations~~) of the department has
18 been filed, the (~~same~~) application shall be placed on record with the
19 department, and it shall be (~~its~~) the department's duty to
20 (~~investigate the application, and~~) determine what water, if any, is
21 available for appropriation, and find and determine to what beneficial
22 use or uses it can be applied.

23 The department shall investigate the application. It is the duty
24 of the applicant to provide a completed application form. In addition
25 to providing the information requested on the form, however, the
26 applicant shall also provide such information as may be required for
27 the department's investigation, determinations, and findings regarding
28 the application and may provide additional information. The
29 information provided by the applicant must satisfy the protocols, that
30 is, study plans and criteria, established by the department for
31 obtaining and providing the information. If an applicant provides the
32 information and the protocols set by the department for obtaining and
33 providing it have been satisfied, the department shall review the
34 information and may take actions to verify that the information is
35 accurate.

36 (2) With regard to an application:

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

5 (b) If it is proposed to appropriate water for the purpose of power
6 development, the department shall investigate, determine and find
7 whether the proposed development is likely to prove detrimental to the
8 public interest, having in mind the highest feasible use of the waters
9 belonging to the public.

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

26 (4) The department shall make and file as part of the record in the
27 matter, written findings of fact concerning all things investigated,
28 and if it shall find that there is water available for appropriation
29 for a beneficial use, and the appropriation thereof as proposed in the
30 application will not impair existing rights or be detrimental to the
31 public welfare, it shall issue a permit stating the amount of water to
32 which the applicant shall be entitled and the beneficial use or uses to
33 which it may be applied: PROVIDED, That where the water applied for is
34 to be used for irrigation purposes, it shall become appurtenant only to
35 such land as may be reclaimed thereby to the full extent of the soil
36 for agricultural purposes. But where there is no unappropriated water
37 in the proposed source of supply, or where the proposed use conflicts
38 with existing rights, or threatens to prove detrimental to the public
39 interest, having due regard to the highest feasible development of the

1 use of the waters belonging to the public, it shall be duty of the
2 department to reject such application and to refuse to issue the permit
3 asked for. If the permit is refused because of conflict with existing
4 rights and such applicant shall acquire same by purchase or
5 condemnation under RCW 90.03.040, the department may thereupon grant
6 such permit. Any application may be approved for a less amount of
7 water than that applied for, if there exists substantial reason
8 therefor, and in any event shall not be approved for more water than
9 can be applied to beneficial use for the purposes named in the
10 application. In determining whether or not a permit shall issue upon
11 any application, it shall be the duty of the department to investigate
12 all facts relevant and material to the application. After the
13 department approves said application in whole or in part and before any
14 permit shall be issued thereon to the applicant, such applicant shall
15 pay the fee provided in RCW 90.03.470: PROVIDED FURTHER, That in the
16 event a permit is issued by the department upon any application, it
17 shall be its duty to notify the director of fish and wildlife of such
18 issuance.

19 **Sec. 46.** RCW 90.03.380 and 1991 c 347 s 15 are each amended to
20 read as follows:

21 (1) The right to the use of water which has been applied to a
22 beneficial use in the state shall be and remain appurtenant to the land
23 or place upon which the same is used(~~(:—PROVIDED, HOWEVER, That~~
24 said)). However, all or a portion of a water right may be transferred
25 to another (~~(or to others)) person or persons~~ and become appurtenant to
26 any other land or place of use without loss of priority of right
27 (~~(theretofore established))~~ if (~~(such change))~~ the transfer can be made
28 without detriment or injury to existing water rights, or detrimentally
29 affects instream flows established in a watershed plan adopted under
30 sections 1 through 12 of this act, a regional basin water resource plan
31 adopted under chapter 90.54 RCW, or as otherwise determined necessary
32 by the department.

33 (2) The point of diversion or withdrawal of water for beneficial
34 use (~~(or)), the purpose of use, or the season of use under an existing~~

35 water right may be changed, if (~~(such))~~ the change can be made without
36 detriment or injury to existing water rights, or detrimentally affects
37 instream flows established in a watershed plan adopted under sections
38 1 through 12 of this act, a regional basin water resource plan adopted

1 under chapter 90.54 RCW, or as otherwise determined necessary by the
2 department.

3 (3) The source of water for an existing water right or permit may
4 be changed from a surface water diversion to a ground water withdrawal
5 or vice versa if the two sources are in direct hydraulic continuity and
6 if the change can be made without detriment or injury to existing water
7 rights, or detrimentally affects instream flows established in a
8 watershed plan adopted under sections 1 through 12 of this act, a
9 regional basin water resource plan adopted under chapter 90.54 RCW, or
10 as otherwise determined necessary by the department.

11 (4) Before any transfer or change of ((such)) a water right ((to
12 use water or change of the point of diversion of water or change of
13 purpose of use)) can be made, any person having an interest in the
14 transfer or change((,)) shall file a written application ((therefor))
15 with the department((, and said application)) on a form provided by the
16 department.

17 (5) Authorization for the requested transfer or change shall not be
18 granted until notice of ((said)) the application ((shall be)) has been
19 published as provided in RCW 90.03.280.

20 (6) If it ((shall)) appears that ((such)) the transfer or ((such))
21 change may be made without injury or detriment to existing water rights
22 or instream flows, the department shall issue to the applicant an
23 authorization to proceed with the transfer or change. The department
24 may include in its authorization any necessary conditions or
25 limitations under which the transfer or change may be made, including
26 a reasonable time for completion. If the person authorized to make a
27 transfer or change of right fails to do so within the time allowed,
28 including extensions granted for good cause, the department shall
29 cancel the authorization and the water right or permit shall revert to
30 its original form and substance.

31 (7) If the department determines that the proposed transfer or
32 change may periodically operate to impair an existing right, the
33 department's authorization may be made contingent on the proponent's
34 willingness to subordinate the use to the potentially impaired right or
35 rights and the authorization shall be so conditioned.

36 (8) The person authorized to make the transfer or change shall
37 notify the department upon completion of the transfer or change. After
38 verifying that the transfer or change has been completed in accordance
39 with its authorization, the department shall issue to those persons

1 having an interest in the resulting water right or rights a
2 certificate, certificate of change, or superseding certificate as
3 appropriate in duplicate ((granting)) that reflects the nature of the
4 water right ((for such transfer or for such change of point of
5 diversion or of use)) or rights as transferred or changed. The
6 certificate or certificates so issued shall be filed and be made a
7 record with the department and the duplicate certificate issued to the
8 applicant ((may)) shall be filed with the county auditor in like manner
9 and with the same effect as provided in the original certificate or
10 permit to divert water.

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

17 A change in place of use by an individual water user or users of
18 water provided by an irrigation district need only receive approval for
19 the change from the board of directors of the district if the use of
20 water continues within the irrigation district.

21 This section shall not apply to trust water rights acquired by the
22 state through the funding of water conservation projects under chapter
23 90.38 RCW or RCW 90.42.010 through 90.42.070.

24 NEW SECTION. Sec. 47. A new section is added to chapter 90.03 RCW
25 to read as follows:

26 (1) The department may authorize short-term uses of water without
27 publication of the notice required under RCW 90.03.280 and without the
28 report required under RCW 90.03.290. However, before approving a
29 short-term use, the department shall determine to its satisfaction that
30 the substantive criteria in RCW 90.03.290 are met and that a stream
31 affected by a short-term use will be retained with sufficient flows to
32 maintain instream uses and to protect existing water rights. The
33 department shall adopt and provide application forms for persons
34 applying for a short-term use and shall expedite its consideration of
35 short-term use requests to the extent practicable.

36 (2) For the purposes of this chapter, "short-term use" means a use
37 of water that will not exceed one year in duration. Short-term uses

1 include but are not limited to use in construction, dust control,
2 dewatering, and short-term planned fire suppression activities.

3 NEW SECTION. **Sec. 48.** A new section is added to chapter 90.03 RCW
4 to read as follows:

5 (1) The department shall, in consultation with the water resources
6 forum established in section 22 of this act, develop a budget process
7 for its water rights administration program that accomplishes the
8 following:

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

10 (b) Identifies workload standards;

11 (c) Prepares a draft budget;

12 (d) Provides for timely public review of the draft budget; and

13 (e) Circulates a final budget.

14 (2) The department shall, in consultation with the water resources
15 forum, establish and periodically review the following:

16 (a) Workload standards and proposed incentives to improve such
17 standards;

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

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

22 In establishing the initial workload standards, the legislature has
23 an expectation that following elimination of the permit application
24 backlog the department will process a simple, basic application in six
25 months and an application of intermediate difficulty in one year.

26 (3) The department shall report to the legislature biennially prior
27 to the regular legislative session held in odd-numbered years on the
28 success measures established, the number of water right applications
29 received, the permit decisions made, and the associated costs of
30 administering the water rights program.

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

35 (5) This section shall expire on June 30, 1999.

36 **Sec. 49.** RCW 90.03.470 and 1993 c 495 s 2 are each amended to read
37 as follows:

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

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

18 Within five days from receipt of an application the department
19 shall notify the applicant by registered mail of any additional fees
20 due under the above schedule and any additional fees shall be paid to
21 and received by the department within thirty days from the date of
22 filing the application, or the application shall be rejected.

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

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

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

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

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

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

18 ~~((+8)) (2) For the inspection of any hydraulic works to insure~~
19 ~~safety to life and property, the actual cost of the inspection,~~
20 ~~including the expense incident thereto.~~

21 ~~((+9)) (3) For the examination of plans and specifications as to~~
22 ~~safety of controlling works for storage of ten acre feet or more of~~
23 ~~water, a minimum fee of ((ten)) fifty dollars, or the actual cost.~~

24 ~~((+10)) (4) For recording an assignment either of a permit to~~
25 ~~appropriate water or of an application for such a permit, a fee of~~
26 ~~((five)) one hundred dollars.~~

27 ~~((+11) For preparing and issuing all water right certificates, five~~
28 ~~dollars.~~

29 ~~(+12)) (5) For filing and recording a protest against granting any~~
30 ~~application, ((two)) fifty dollars.~~

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

38 ~~(+14)) (6) For filing an application for and authorizing a seasonal~~
39 ~~change or rotation, one hundred dollars.~~

1 (7) For filing an application for and authorizing a temporary or
2 short-term water use, one hundred dollars.

3 (8) For a consolidated application covering multiple sources or
4 changes:

5 (a) The filing fee must be based upon either the total amount of
6 water or the total number of changes requested, or both;

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

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

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

15 ~~((15) For the period beginning July 1, 1993, and ending June 30,~~
16 ~~1994, there is imposed and the department shall collect a one hundred~~
17 ~~dollar surcharge on all water rights applications or changes filed~~
18 ~~under this section, and upon all water rights applications or changes~~
19 ~~pending as of July 1, 1993. This charge shall be in addition to any~~
20 ~~other fees imposed under this section.))~~

21 NEW SECTION. Sec. 50. A new section is added to chapter 90.03 RCW
22 to read as follows:

23 (1) The department shall collect the following fees in advance:

24 (a) Application filing fees for the following:

25 (i) Surface water and ground water applications:

26 (A) Greater than 0.0 and less than or equal to 0.02	
27 cubic feet per second	\$ 100
28 (B) Greater than 0.02 and less than or equal to 0.1	
29 cubic feet per second	\$ 200
30 (C) Greater than 0.1 and less than or equal to 0.2	
31 cubic feet per second	\$ 400
32 (D) Greater than 0.2 and less than or equal to 0.5	
33 cubic feet per second	\$ 600
34 (E) Greater than 0.5 and less than or equal to 1	
35 cubic feet per second	\$ 800
36 (F) Greater than 1 and less than or equal to 3 cubic	
37 feet per second	\$ 900

1	(G)	Greater than 3 and less than or equal to 5 cubic	
2		feet per second	\$1,100
3	(H)	Greater than 5 and less than or equal to 20	
4		cubic feet per second	\$1,200
5	(I)	Greater than 20 and less than or equal to 100	
6		cubic feet per second	\$1,400
7	(J)	Greater than 100 cubic feet per second	\$1,500
8	(ii)	Reservoir applications:	
9	(A)	Greater than 0.0 and less than or equal to 10	
10		acre-feet	\$ 200
11	(B)	Greater than 10 and less than or equal to 100	
12		acre-feet	\$ 500
13	(C)	Greater than 100 and less than or equal to 1,000	
14		acre-feet	\$ 800
15	(D)	Greater than 1,000 acre-feet	\$1,100
16	(iii)	Change applications:	
17	(A)	Changing a single element	\$ 200
18	(B)	Changing multiple elements	\$ 600
19	(b)	Examination fees for the following:	
20	(i)	Surface water applications:	
21	(A)	Greater than 0.0 and less than or equal to 0.02	
22		cubic feet per second	\$ 100
23	(B)	Greater than 0.02 and less than or equal to 0.1	
24		cubic feet per second	\$ 300
25	(C)	Greater than 0.01 and less than or equal to 0.2	
26		cubic feet per second	\$ 600
27	(D)	Greater than 0.2 and less than or equal to 0.5	
28		cubic feet per second	\$1,100
29	(E)	Greater than 0.5 and less than or equal to 1	
30		cubic feet per second	\$1,400
31	(F)	Greater than 1 and less than or equal to 3 cubic	
32		feet per second	\$1,700
33	(G)	Greater than 3 and less than or equal to 5 cubic	
34		feet per second	\$2,000
35	(H)	Greater than 5 and less than or equal to 20	
36		cubic feet per second	\$2,300
37	(I)	Greater than 20 and less than or equal to 100	
38		cubic feet per second	\$2,600
39	(J)	Greater than 100 cubic feet per second	\$2,900

1	(ii) Ground water applications:	
2	(A) Greater than 0.0 and less than or equal to 0.02	
3	cubic feet per second	\$ 100
4	(B) Greater than 0.02 and less than or equal to 0.1	
5	cubic feet per second	\$ 400
6	(C) Greater than 0.1 and less than or equal to 0.2	
7	cubic feet per second	\$ 700
8	(D) Greater than 0.2 and less than or equal to 0.5	
9	cubic feet per second	\$1,300
10	(E) Greater than 0.5 and less than or equal to 1	
11	cubic feet per second	\$1,700
12	(F) Greater than 1 or less than or equal to 3 cubic	
13	feet per second	\$2,000
14	(G) Greater than 3 and less than or equal to 5 cubic	
15	feet per second	\$2,400
16	(H) Greater than 5 and less than or equal to 20	
17	cubic feet per second	\$2,800
18	(I) Greater than 20 and less than or equal to 100	
19	cubic feet per second	\$3,100
20	(J) Greater than 100 cubic feet per second	\$3,500
21	(iii) Reservoir applications:	
22	(A) Greater than 0.0 and less than or equal to 10	
23	acre-feet	\$ 200
24	(B) Greater than 10 and less than or equal to 100	
25	acre-feet	\$ 800
26	(C) Greater than 100 and less than or equal to 1,000	
27	acre-feet	\$1,400
28	(D) Greater than 1,000 acre-feet	\$2,000
29	(iv) Changes to permits and certificates:	
30	(A) Changing a single element	\$ 300
31	(B) Changing multiple elements	\$1,100
32	(c) Certificate fees:	
33	(i) Surface water and ground water applications:	
34	(A) Greater than 0.0 and less than or equal to 0.02	
35	cubic feet per second	\$ 100
36	(B) Greater than 0.02 and less than or equal to 0.1	
37	cubic feet per second	\$ 200
38	(C) Greater than 0.1 and less than or equal to 0.2	
39	cubic feet per second	\$ 400

1	(D)	Greater than 0.2 and less than or equal to 0.5	
2		cubic feet per second	\$ 600
3	(E)	Greater than 0.5 and less than or equal to 1	
4		cubic feet per second	\$ 800
5	(F)	Greater than 1 and less than or equal to 3 cubic	
6		feet per second	\$ 900
7	(G)	Greater than 3 and less than or equal to 5 cubic	
8		feet per second	\$1,100
9	(H)	Greater than 5 and less than or equal to 20	
10		cubic feet per second	\$1,200
11	(I)	Greater than 20 and less than or equal to 100	
12		cubic feet per second	\$1,400
13	(J)	Greater than 100 cubic feet per second	\$1,500
14	(ii)	Reservoir applications:	
15	(A)	Greater than 0.0 and less than or equal to 10	
16		acre-feet	\$ 200
17	(B)	Greater than 10 and less than or equal to 100	
18		acre-feet	\$ 500
19	(C)	Greater than 100 and less than or equal to 1,000	
20		acre-feet	\$ 800
21	(D)	Greater than 1,000 acre-feet	\$1,100
22	(iii)	Changes to permits and certificates:	
23	(A)	Changing a single element	\$ 200
24	(B)	Changing multiple elements	\$ 600

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

35 (2) The water resource administration account is created in the
36 state treasury. All receipts collected under RCW 90.03.470 and this
37 section shall be deposited into the account. Moneys in the account may
38 be spent only after appropriation. Expenditures from the account may

1 be used only for functions of the department of ecology related to:
2 Filing, examination, and certification water right permits, changes to
3 water right permits, and transfer of water rights; development and
4 maintenance of the data management program related to water rights; and
5 a proportionate share of indirect costs allocated to these functions
6 necessary to fund the general administrative functions of the
7 department. The department may expend funds from the account in an
8 amount that is substantially equal to the amount expended of funds
9 appropriated from the general fund.

10 **Sec. 51.** 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. 52.** 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 NEW SECTION. **Sec. 53.** RCW 90.03.471 and 1987 c 109 s 99 & 1925
31 ex.s. c 161 s 3 are each repealed.

32 NEW SECTION. **Sec. 54.** The following acts or parts of acts are
33 each repealed:

- 34 (1) RCW 90.38.005 and 1989 c 429 s 1;
35 (2) RCW 90.38.010 and 1989 c 429 s 2;

- 1 (3) RCW 90.38.020 and 1989 c 429 s 3;
- 2 (4) RCW 90.38.030 and 1989 c 429 s 4;
- 3 (5) RCW 90.38.040 and 1994 c 264 s 90 & 1989 c 429 s 5;
- 4 (6) RCW 90.38.050 and 1989 c 429 s 6;
- 5 (7) RCW 90.38.900 and 1989 c 429 s 7;
- 6 (8) RCW 90.38.901 and 1989 c 429 s 8; and
- 7 (9) RCW 90.38.902 and 1989 c 429 s 9.

8 NEW SECTION. **Sec. 55.** This act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of the
10 state government and its existing public institutions, and shall take
11 effect July 1, 1995.

12 NEW SECTION. **Sec. 56.** Part headings as used in this act
13 constitute no part of the law.

14 NEW SECTION. **Sec. 57.** Sections 1 through 12 of this act shall
15 constitute a new chapter in Title 90 RCW.

--- END ---