

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** (1) The legislature finds that:

8 (a) The state of Washington is faced with a continuing shortage of
9 water with which to meet existing and future water needs;

10 (b) The state, local governments, federally recognized tribal
11 governments, and various private interests representing a broad range
12 of water users and interests have agreed to pursue a cooperative water
13 resources planning and management effort. This effort will address
14 both current water needs, conflicts, critical situations, and long-term
15 future needs;

16 (c) Conservation and water use efficiency programs should be the
17 preferred method of addressing water uses because they can relieve
18 current critical water situations, provide for presently unmet needs,
19 and assist in meeting future water needs. It is further recognized
20 that other combinations of water management tools may be necessary to
21 resolve particular water resource needs within regions of the state;
22 and

23 (d) The interests of the state will be served by developing
24 programs and regional water resource plans, in cooperation with local
25 governments, federally recognized tribal governments, appropriate
26 federal agencies, private citizens, and the various water users and
27 water interests in the state, that increase the overall ability to

1 manage the state's waters in order to better satisfy both present and
2 future needs for water.

3 (2) Consistent with the findings of this section, the purposes of
4 this act are to:

5 (a) Improve the ability of the state to work with the United
6 States, local governments, federally recognized tribal governments,
7 water users, and various water interests in water conservation and
8 water use efficiency programs designed to satisfy existing rights,
9 presently unmet needs, and future needs, both instream and out-of-
10 stream;

11 (b) Establish new incentives, enhance existing incentives, and
12 remove disincentives for efficient water use;

13 (c) Establish improved means to disseminate information to the
14 public and provide technical assistance regarding ways to improve the
15 efficiency of water use;

16 (d) Create a trust water rights mechanism for the acquisition of
17 water rights on a voluntary basis to be used to meet presently unmet
18 needs and future needs;

19 (e) Accelerate the adoption of water efficiency, conservation, and
20 recycling, including water efficient plumbing fixtures, irrigation
21 systems and methods, landscaping techniques, conservation rates,
22 conservation plans, and wastewater reclamation and reuse;

23 (f) Eliminate tax disincentives to water conservation, reuse, and
24 improved water use efficiency;

25 (g) Require evaluation of state facilities and property to identify
26 cost-effective water use efficiency improvement opportunities;

27 (h) Add achievement of water conservation as a factor to be
28 considered by water supply utilities in setting water rates;

1 (i) Establish a water restoration account for deposit of water
2 resources civil penalties and for use in restoring damaged water and
3 related resources; and

4 (j) Establish means for providing funding for water resources
5 related initiatives, including planning and water conservation."

6 "NEW SECTION. **Sec. 2.** A new section is added to chapter 90.54 RCW
7 to read as follows:

8 (1) State funding of water resource, supply, and quality related
9 capital programs, both current and future, shall, to the maximum extent
10 possible within state or federal legal requirements, be directed to
11 assist in the resolution of current conflicts and implementation of
12 regional water resource plans with priority given to current needs over
13 new requirements.

14 (2) Priority shall be given, to the maximum extent possible within
15 state or federal legal requirements, to those water conservation
16 projects funded by the state that will result in the greatest water
17 savings."

18 "NEW SECTION. **Sec. 3.** (1) The legislature finds that a need
19 exists for a means to facilitate the voluntary transfer of water and
20 water rights, including conserved water, to provide water for presently
21 unmet needs and emerging needs. The purpose of this chapter is to
22 provide the mechanism for accomplishing this in a manner that will not
23 impair existing rights to water.

24 (2) This chapter applies to all areas of the state except the
25 Yakima river basin, which is governed by chapter 90.38 RCW."

1 "NEW SECTION. Sec. 4. Unless the context clearly requires
2 otherwise, the definitions in this section apply throughout this
3 chapter.

4 (1) "Department" means the department of ecology.

5 (2) "Net water savings" means the amount of water that is
6 determined to be conserved and usable for other purposes without
7 impairing water rights existing at the time that a water conservation
8 project is undertaken, reducing the ability to deliver water, or
9 reducing the supply of water that otherwise would have been available
10 to other existing water uses.

11 (3) "Trust water right" means any water right acquired by the state
12 under this chapter for management in the state's trust water rights
13 program.

14 (4) "Water conservation project" means any project or program that
15 achieves physical or operational improvements that provide for
16 increased water use efficiency in existing systems of diversion,
17 conveyance, application, or use of water under water rights existing on
18 the effective date of this section."

19 "NEW SECTION. Sec. 5. (1) For purposes of this chapter, the
20 state may enter into contracts to provide moneys to assist in the
21 financing of water conservation projects. In consideration for the
22 financial assistance provided, the state shall obtain public benefits
23 defined in guidelines developed under section 8 of this act.

24 (2) If the public benefits to be obtained require conveyance or
25 modification of a water right, the recipient of funds shall convey to
26 the state the recipient's interest in that part of the water right or
27 claim constituting all or a portion of the resulting net water savings
28 for deposit in the trust water rights program. The amount to be
29 conveyed shall be finitely determined by the parties, in accordance

1 with the guidelines developed under section 8 of this act, before the
2 expenditure of state funds. Conveyance may consist of complete
3 transfer, lease contracts, or other legally binding agreements.

4 (3) If, as a result of a water conservation project and conveyance
5 to the state of net water savings as provided in this section, the
6 remaining water right of the participant is in excess of the quantity
7 that can be beneficially used, the participant may be required to
8 relinquish the excess portion of the remaining water right.

9 (4) No contract for acquisition of trust water rights under this
10 section may be entered into by the state unless it appears that, upon
11 completion of a water conservation project or program financed with
12 moneys as provided in this section, a valid water right or portion
13 thereof will exist for conveyance to the state.

14 (5) The state shall cooperate fully with the United States in the
15 implementation of this chapter. Trust water rights may be acquired
16 through expenditure of funds provided by the United States and shall be
17 treated in the same manner as trust water rights resulting from the
18 expenditure of state funds.

19 (6) If water is proposed to be acquired by or conveyed to the state
20 as a trust water right by an irrigation district, evidence of the
21 district's authority to represent the water right holders shall be
22 submitted to and for the satisfaction of the department.

23 (7) The state shall not contract with any person to acquire a water
24 right served by an irrigation district without the approval of the
25 board of directors of the irrigation district. Disapproval by a board
26 shall be factually based on probable adverse effects on the ability of
27 the district to deliver water to other members or on maintenance of the
28 financial integrity of the district."

1 "NEW SECTION. **Sec. 6.** (1) The state may acquire all or
2 portions of existing water rights, by purchase, gift, or other
3 appropriate means other than by condemnation, from any person or entity
4 or combination of persons or entities. Once acquired, such rights are
5 trust water rights.

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

10 (3) Trust water rights may be acquired by the state on a temporary
11 or permanent basis."

12 "NEW SECTION. **Sec. 7.** (1) All trust water rights acquired by
13 the state shall be placed in the state trust water rights program to be
14 managed by the department. Trust water rights acquired by the state
15 shall be held or authorized for use by the department for instream
16 flows, irrigation, municipal, or other beneficial uses consistent with
17 applicable regional plans and critical resource area agreements, or for
18 other areas of the state as determined by the department under the
19 guidelines required in section 8 of this act.

20 (2) The department shall issue a water right certificate in the
21 name of the state of Washington for each permanent trust water right
22 conveyed to the state and shall issue a superseding certificate, if
23 applicable, to the original water right holder for the portion of the
24 water right required for beneficial use following such conveyance. The
25 superseding certificate shall retain the same priority date as the
26 original right. For nonpermanent conveyances, the department shall
27 issue certificates or such other instruments as are necessary to
28 reflect the changes in purpose or place of use or point of diversion or

1 withdrawal. Water rights for which such nonpermanent conveyances are
2 arranged shall not be subject to relinquishment for nonuse.

3 (3) A trust water right retains the same priority date as the water
4 right from which it originated, but as between them the trust right
5 shall be deemed to be inferior in priority unless otherwise specified
6 by an agreement between the state and the party holding the original
7 right.

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

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

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

26 (7) RCW 90.03.380 has no applicability to trust water rights
27 acquired by the state through the funding of water conservation
28 projects."

1 "NEW SECTION. **Sec. 8.** The department, in cooperation with
2 federally recognized Indian tribes, local governments, state agencies,
3 and other interested parties, shall establish guidelines by July 1,
4 1992, governing the acquisition, administration, and management of
5 trust water rights. The guidelines shall address at a minimum the
6 following:

7 (1) Methods for determining the net water savings resulting from
8 water conservation projects or programs carried out in accordance with
9 this chapter, and other factors to be considered in determining the
10 quantity or value of water available for potential designation as a
11 trust water right;

12 (2) Criteria for determining the portion of net water savings to be
13 conveyed to the state under this chapter;

14 (3) Criteria for prioritizing water conservation projects;

15 (4) A description of potential public benefits that will affect
16 consideration for state financial assistance in section 5 of this act;

17 (5) Procedures for providing notification to potentially interested
18 parties;

19 (6) Criteria for the assignment of uses of trust water rights
20 acquired in areas of the state not addressed in a regional water
21 resource plan or critical area agreement; and

22 (7) Contracting procedures and other procedures not specifically
23 addressed in this section."

24 "NEW SECTION. **Sec. 9.** The policies and purposes of this
25 chapter shall not be construed as replacing or amending the policies or
26 the purposes for which funds available under chapter 43.83B or 43.99E
27 RCW may be used."

1 "NEW SECTION. Sec. 10. Nothing in this chapter authorizes the
2 involuntary impairment of any existing water rights, nor shall this
3 chapter apply to any projects or programs within the exterior
4 boundaries of any Indian reservation without the express approval of
5 the tribe."

6 "NEW SECTION. Sec. 11. A new section is added to chapter 90.14
7 RCW to read as follows:

8 This chapter shall not apply to trust water rights held or
9 exercised by the department of ecology under chapter 90.38 or 90.-- RCW
10 (sections 3 through 10 of this act)."

11 "Sec. 12. RCW 90.03.380 and 1987 c 109 s 94 are each amended to
12 read as follows:

13 The right to the use of water which has been applied to a
14 beneficial use in the state shall be and remain appurtenant to the land
15 or place upon which the same is used: PROVIDED, HOWEVER, That said
16 right may be transferred to another or to others and become appurtenant
17 to any other land or place of use without loss of priority of right
18 theretofore established if such change can be made without detriment or
19 injury to existing rights. The point of diversion of water for
20 beneficial use or the purpose of use may be changed, if such change can
21 be made without detriment or injury to existing rights. Before any
22 transfer of such right to use water or change of the point of diversion
23 of water or change of purpose of use can be made, any person having an
24 interest in the transfer or change, shall file a written application
25 therefor with the department, and said application shall not be granted
26 until notice of said application shall be published as provided in RCW
27 90.03.280. If it shall appear that such transfer or such change may be
28 made without injury or detriment to existing rights, the department

1 shall issue to the applicant a certificate in duplicate granting the
2 right for such transfer or for such change of point of diversion or of
3 use. The certificate so issued shall be filed and be made a record
4 with the department and the duplicate certificate issued to the
5 applicant may be filed with the county auditor in like manner and with
6 the same effect as provided in the original certificate or permit to
7 divert water.

8 This section shall not apply to trust water rights acquired by the
9 state through the funding of water conservation projects under chapter
10 90.38 or 90.-- RCW (sections 3 through 10 of this 1991 act)."

11 "Sec. 13. RCW 19.27.170 and 1989 c 348 s 8 are each amended to
12 read as follows:

13 (1) The state building code council shall adopt rules under chapter
14 34.05 RCW that implement and incorporate the water conservation
15 performance standards in subsections (~~((3))~~) (4) and (~~((4))~~) (5) of
16 this section. These standards shall apply to all new construction and
17 all remodeling involving replacement of plumbing fixtures in all
18 residential, hotel, motel, school, industrial, commercial use, or other
19 occupancies determined by the council to use significant quantities of
20 water.

21 (2) The legislature recognizes that a phasing-in approach to these
22 new standards is appropriate. Therefore, standards in subsection
23 (~~((3))~~) (4) of this section shall take effect on July 1, 1990. The
24 standards in subsection (~~((4))~~) (5) of this section shall take effect
25 July 1, 1993.

26 (3) No individual, public or private corporation, firm, political
27 subdivision, government agency, or other legal entity may, for purposes
28 of use in this state, distribute, sell, offer for sale, import,

1 install, or approve for installation any plumbing fixtures unless the
2 fixtures meet the standards as provided for in this section.

3 (4) Standards for water use efficiency effective July 1, 1990.

4 (a) Standards for waterclosets. The guideline for maximum water
5 use allowed in gallons per flush (gpf) for any of the following
6 waterclosets is the following:

7 Tank-type toilets..... 3.5 gpf.

8 Flushometer-valve toilets..... 3.5 gpf.

9 Flushometer-tank toilets..... 3.5 gpf.

10 Electromechanical hydraulic toilets..... 3.5 gpf.

11 (b) Standard for urinals. The guideline for maximum water use
12 allowed for any urinal is 3.0 gallons per flush.

13 (c) Standard for showerheads. The guideline for maximum water use
14 allowed for any showerhead is 3.0 gallons per minute.

15 (d) Standard for faucets. The guideline for maximum water use
16 allowed in gallons per minute (gpm) for any of the following faucets
17 and replacement aerators is the following:

18 Bathroom faucets..... 3.0 gpm.

19 Lavatory faucets..... 3.0 gpm.

20 Kitchen faucets..... 3.0 gpm.

21 Replacement aerators..... 3.0 gpm.

22 (e) Except where designed and installed for use by the physically
23 handicapped, lavatory faucets located in restrooms intended for use by
24 the general public must be equipped with a metering valve designed to
25 close by spring or water pressure when left unattended (self-closing).

26 (f) No urinal or watercloset that operates on a continuous flow or
27 continuous flush basis shall be permitted.

28 ~~((4))~~ (5) Standards for water use efficiency effective July 1,
29 1993.

1 (a) Standards for waterclosets. The guideline for maximum water
2 use allowed in gallons per flush (gpf) for any of the following
3 waterclosets is the following:

4 Tank-type toilets..... 1.6 gpf.

5 Flushometer-tank toilets..... 1.6 gpf.

6 Electromechanical hydraulic toilets..... 1.6 gpf.

7 (b) Standards for urinals. The guideline for maximum water use
8 allowed for any urinal is 1.0 gallons per flush.

9 (c) Standards for showerheads. The guideline for maximum water use
10 allowed for any showerhead is 2.5 gallons per minute.

11 (d) Standards for faucets. The guideline for maximum water use
12 allowed in gallons per minute for any of the following faucets and
13 replacement aerators is the following:

14 Bathroom faucets..... 2.5 gpm.

15 Lavatory faucets..... 2.5 gpm.

16 Kitchen faucets..... 2.5 gpm.

17 Replacement aerators..... 2.5 gpm.

18 (e) Except where designed and installed for use by the physically
19 handicapped, lavatory faucets located in restrooms intended for use by
20 the general public must be equipped with a metering valve designed to
21 close by water pressure when unattended (self-closing).

22 (f) No urinal or watercloset that operates on a continuous flow or
23 continuous basis shall be permitted.

24 ~~((5) The building code council shall make an assessment regarding~~
25 ~~the low volume fixtures required under subsection (4) of this section.~~
26 ~~The assessment shall consider the availability of low volume fixtures~~
27 ~~which are technologically feasible, will operate effectively, and are~~
28 ~~economically justified. The council shall also assess the potential~~
29 ~~impact on the necessary flow or water required to insure sewerage or~~
30 ~~septic lines and treatment plants will effectively operate.~~

1 ~~The council shall submit a report to the chief clerk of the house~~
2 ~~of representatives and the secretary of the senate by October 30, 1992,~~
3 ~~setting forth its conclusions, and any recommendations for legislative~~
4 ~~action.)~~)

5 (6) The building code council shall establish methods and
6 procedures for testing and identifying fixtures that meet the standards
7 established in this section. The council shall use the testing
8 standards designated as American national standards, written under
9 American national standards institute procedures or other widely
10 recognized national testing standards. The council shall either review
11 test results from independent testing laboratories that are submitted
12 by manufacturers of plumbing fixtures or accept data submitted to and
13 evaluated by the international association of plumbing and mechanical
14 officials. The council shall publish and widely distribute a current
15 list of fixtures that meet the standards of this section.

16 (7) The building code council shall adopt rules for marking and
17 labeling fixtures meeting the standards of this section.

18 (8) This section shall not apply to fixtures installed before the
19 effective date of this section that are removed and relocated to
20 another room or area of the same building after the effective date of
21 this section, nor shall it apply to fixtures, as determined by the
22 council, that in order to perform a specialized function, cannot meet
23 the standards specified in this section.

24 (9) The water conservation performance standards shall supersede
25 all local government codes. After July 1, 1990, cities, towns, and
26 counties shall not amend the code revisions and standards established
27 under subsection ((3) or) (4) or (5) of this section."

28 **"Sec. 14.** RCW 35.67.020 and 1965 c 7 s 35.67.020 are each amended
29 to read as follows:

1 Every city and town may construct, condemn and purchase, acquire,
2 add to, maintain, conduct, and operate systems of sewerage and systems
3 and plants for refuse collection and disposal together with additions,
4 extensions, and betterments thereto, within and without its limits,
5 with full jurisdiction and authority to manage, regulate, and control
6 them and to fix, alter, regulate, and control the rates and charges for
7 the use thereof: PROVIDED, That the rates charged must be uniform for
8 the same class of customers or service. In classifying customers
9 served or service furnished by such system of sewerage, the city or
10 town legislative body may in its discretion consider any or all of the
11 following factors: The difference in cost of service to the various
12 customers; the location of the various customers within and without the
13 city or town; the difference in cost of maintenance, operation, repair,
14 and replacement of the various parts of the system; the different
15 character of the service furnished various customers; the quantity and
16 quality of the sewage delivered and the time of its delivery; the
17 achievement of water conservation goals and the discouragement of
18 wasteful water use practices; capital contributions made to the system,
19 including but not limited to, assessments; and any other matters which
20 present a reasonable difference as a ground for distinction."

21 "Sec. 15. RCW 35.92.010 and 1985 c 445 s 4 and 1985 c 444 s 2 are
22 each reenacted and amended to read as follows:

23 A city or town may construct, condemn and purchase, purchase,
24 acquire, add to, alter, maintain and operate waterworks, within or
25 without its limits, for the purpose of furnishing the city and its
26 inhabitants, and any other persons, with an ample supply of water for
27 all purposes, public and private, including water power and other power
28 derived therefrom, with full power to regulate and control the use,
29 distribution, and price thereof: PROVIDED, That the rates charged must

1 be uniform for the same class of customers or service. Such waterworks
2 may include facilities for the generation of electricity as a byproduct
3 and such electricity may be used by the city or town or sold to an
4 entity authorized by law to distribute electricity. Such electricity
5 is a byproduct when the electrical generation is subordinate to the
6 primary purpose of water supply. In classifying customers served or
7 service furnished, the city or town governing body may in its
8 discretion consider any or all of the following factors: The
9 difference in cost of service to the various customers; location of the
10 various customers within and without the city or town; the difference
11 in cost of maintenance, operation, repair, and replacement of the
12 various parts of the system; the different character of the service
13 furnished various customers; the quantity and quality of the water
14 furnished; the time of its use; the achievement of water conservation
15 goals and the discouragement of wasteful water use practices; capital
16 contributions made to the system including, but not limited to,
17 assessments; and any other matters which present a reasonable
18 difference as a ground for distinction. No rate shall be charged that
19 is less than the cost of the water and service to the class of
20 customers served.

21 For such purposes any city or town may take, condemn and purchase,
22 purchase, acquire, and retain water from any public or navigable lake
23 or watercourse, surface or ground, and, by means of aqueducts or pipe
24 lines, conduct it to the city or town; and it may erect and build dams
25 or other works across or at the outlet of any lake or watercourse in
26 this state for the purpose of storing and retaining water therein up to
27 and above high water mark; and for all the purposes of erecting such
28 aqueducts, pipe lines, dams, or waterworks or other necessary
29 structures in storing and retaining water, or for any of the purposes
30 provided for by this chapter, the city or town may occupy and use the

1 beds and shores up to the high water mark of any such watercourse or
2 lake, and acquire the right by purchase, or by condemnation and
3 purchase, or otherwise, to any water, water rights, easements or
4 privileges named in this chapter, or necessary for any of said
5 purposes, and the city or town may acquire by purchase or condemnation
6 and purchase any properties or privileges necessary to be had to
7 protect its water supply from pollution. Should private property be
8 necessary for any such purposes or for storing water above high water
9 mark, the city or town may condemn and purchase, or purchase and
10 acquire such private property. For the purposes of waterworks which
11 include facilities for the generation of electricity as a byproduct,
12 nothing in this section may be construed to authorize a city or town
13 that does not own or operate an electric utility system to condemn
14 electric generating, transmission, or distribution rights or facilities
15 of entities authorized by law to distribute electricity, or to acquire
16 such rights or facilities without the consent of the owner."

17 **"Sec. 16.** RCW 56.16.090 and 1974 ex.s. c 58 s 3 are each amended
18 to read as follows:

19 The sewer commissioners of any sewer district, in the event that
20 such sewer revenue bonds are issued, shall provide for revenues by
21 fixing rates and charges for the furnishing of sewerage disposal
22 service to those to whom such service is available. Such rates and
23 charges may be combined for the furnishing of more than one type of
24 sewer service such as but not limited to storm or surface water and
25 sanitary. Such rates and charges are to be fixed as deemed necessary
26 by such sewer commissioners, so that uniform charges will be made for
27 the same class of customer or service. In classifying customers served
28 or service furnished by such system of sewerage, the board of
29 commissioners may in its discretion consider any or all of the

1 following factors: The difference in cost of service to the various
2 customers; the location of the various customers within and without the
3 district; the difference in cost of maintenance, operation, repair, and
4 replacement of the various parts of the system; the different character
5 of the service furnished various customers; the quantity and quality of
6 the sewage delivered and the time of its delivery; the achievement of
7 water conservation goals and the discouragement of wasteful water use
8 practices; capital contributions made to the system including but not
9 limited to assessments; and any other matters which present a
10 reasonable difference as a ground for distinction. Such rates are to
11 be made on a monthly basis and shall produce revenues sufficient to
12 take care of the costs of maintenance and operation, revenue bond and
13 warrant interest and principal amortization requirements, and all other
14 charges necessary for efficient and proper operation of the system."

15 "Sec. 17. RCW 57.20.020 and 1983 c 167 s 164 are each amended to
16 read as follows:

17 (1) Whenever any issue or issues of water revenue bonds have been
18 authorized in compliance with the provisions of RCW 57.16.010 through
19 57.16.040, said bonds shall be in bearer form or registered as to
20 principal or interest or both, as provided in RCW 39.46.030, and may
21 provide for conversion between registered and coupon bonds; shall be in
22 such denominations, shall be numbered, shall bear such date, and shall
23 be payable at such time or times up to a maximum period of not to
24 exceed thirty years as shall be determined by the board of water
25 commissioners of the district; shall bear interest at such rate or
26 rates payable at such time or times as authorized by the board; shall
27 be payable at the office of the county treasurer of the county in which
28 the water district is located and may also be payable at such other
29 place or places as the board of water commissioners may determine;

1 shall be executed by the president of the board of water commissioners
2 and attested and sealed by the secretary thereof, one of which
3 signatures may, with the written permission of the signator whose
4 facsimile signature is being used, be a facsimile; and may have
5 facsimile signatures of said president or secretary imprinted on any
6 interest coupons in lieu of original signatures.

7 The water district commissioners shall have power and are required
8 to create a special fund or funds for the sole purpose of paying the
9 interest and principal of such bonds into which special fund or funds
10 the said water district commissioners shall obligate and bind the water
11 district to set aside and pay a fixed proportion of the gross revenues
12 of the water supply system or any fixed amount out of and not exceeding
13 a fixed proportion of such revenues, or a fixed amount or amounts
14 without regard to any fixed proportion and such bonds and the interest
15 thereof shall be payable only out of such special fund or funds, but
16 shall be a lien and charge against all revenues and payments received
17 from any utility local improvement district or districts pledged to
18 secure such bonds, subject only to operating and maintenance expenses.

19 In creating any such special fund or funds the water district
20 commissioners of such water district shall have due regard to the cost
21 of operation and maintenance of the plant or system as constructed or
22 added to and to any proportion or part of the revenue previously
23 pledged as a fund for the payment of bonds, warrants or other
24 indebtedness, and shall not set aside into such special fund a greater
25 amount or proportion of the revenue and proceeds than in their judgment
26 will be available over and above such cost of maintenance and operation
27 and the amount or proportion, if any, of the revenue so previously
28 pledged. Any such bonds and interest thereon issued against any such
29 fund as herein provided shall be a valid claim of the owner thereof
30 only as against the said special fund and its fixed proportion or

1 amount of the revenue pledged to such fund, and shall not constitute an
2 indebtedness of such water district within the meaning of the
3 constitutional provisions and limitations. Each such bond shall state
4 upon its face that it is payable from a special fund, naming the said
5 fund and the resolution creating it. Said bonds shall be sold in such
6 manner, at such price and at such rate or rates of interest as the
7 water district commissioners shall deem for the best interests of the
8 water district, either at public or private sale, and the said
9 commissioners may provide in any contract for the construction and
10 acquirement of the proposed improvement (and for the refunding of
11 outstanding local improvement district obligations, if any) that
12 payment therefor shall be made in such bonds at par value thereof.

13 When any such special fund shall have been heretofore or shall be
14 hereafter created and any such bonds shall have been heretofore or
15 shall hereafter be issued against the same a fixed proportion or a
16 fixed amount out of and not to exceed such fixed proportion, or a fixed
17 amount or amounts without regard to any fixed proportion, of revenue
18 shall be set aside and paid into said special fund as provided in the
19 resolution creating such fund or authorizing such bonds, and in case
20 any water district shall fail thus to set aside and pay said fixed
21 proportion or amount as aforesaid, the owner of any bond payable from
22 such special fund may bring suit or action against the water district
23 and compel such setting aside and payment.

24 (2) Notwithstanding subsection (1) of this section, such bonds may
25 be issued and sold in accordance with chapter 39.46 RCW.

26 (3) The water district commissioners of any water district, in the
27 event that such water revenue bonds are issued, shall provide for
28 revenues by fixing rates and charges for the furnishing of water supply
29 to those receiving such service, such rates and charges to be fixed as

1 deemed necessary by such water district commissioners, so that uniform
2 charges will be made for the same class of customer or service.

3 In classifying customers served or service furnished by such water
4 supply system, the board of water commissioners may in its discretion
5 consider any or all of the following factors: The difference in cost
6 of service to the various customers; the location of the various
7 customers within and without the district; the difference in cost of
8 maintenance, operation, repair and replacement of the various parts of
9 the system; the different character of the service furnished various
10 customers; the quantity and quality of the water furnished; the time of
11 its use; the achievement of water conservation goals and the
12 discouragement of wasteful practices; capital contributions made to the
13 system including but not limited to assessments; and any other matters
14 which present a reasonable difference as a ground for distinction.
15 Such rates shall be made on a monthly basis as may be deemed proper by
16 such commissioners and as fixed by resolution and shall produce
17 revenues sufficient to take care of the costs of maintenance and
18 operation, revenue bond and warrant interest and principal amortization
19 requirements and all other charges necessary for efficient and proper
20 operation of the system."

21 "Sec. 18. RCW 54.24.080 and 1959 c 218 s 9 are each amended to
22 read as follows:

23 (1) The commission of each district which shall have revenue
24 obligations outstanding shall have the power and shall be required to
25 establish, maintain, and collect rates or charges for electric energy
26 and water and other services, facilities, and commodities sold,
27 furnished, or supplied by the district which shall be fair and
28 nondiscriminatory and adequate to provide revenues sufficient for the
29 payment of the principal of and interest on such revenue obligations

1 for which the payment has not otherwise been provided and all payments
2 which the district is obligated to set aside in any special fund or
3 funds created for such purpose, and for the proper operation and
4 maintenance of the public utility and all necessary repairs,
5 replacements, and renewals thereof.

6 (2) In establishing rates or charges for water service,
7 commissioners may in their discretion consider the achievement of water
8 conservation goals and the discouragement of wasteful water use
9 practices."

10 "Sec. 19. RCW 80.28.010 and 1990 1st ex.s. c 1 s 5 are each
11 amended to read as follows:

12 (1) All charges made, demanded or received by any gas company,
13 electrical company or water company for gas, electricity or water, or
14 for any service rendered or to be rendered in connection therewith,
15 shall be just, fair, reasonable and sufficient.

16 (2) Every gas company, electrical company and water company shall
17 furnish and supply such service, instrumentalities and facilities as
18 shall be safe, adequate and efficient, and in all respects just and
19 reasonable.

20 (3) All rules and regulations issued by any gas company, electrical
21 company or water company, affecting or pertaining to the sale or
22 distribution of its product, shall be just and reasonable.

23 (4) Until June 30, 1991:

24 (a) Utility service for residential space heating shall not be
25 terminated between November 15 through March 15 if the customer:

26 (i) Notifies the utility of the inability to pay the bill,
27 including a security deposit. This notice should be provided within
28 five business days of receiving a payment overdue notice unless there
29 are extenuating circumstances. If the customer fails to notify the

1 utility within five business days and service is terminated, the
2 customer can, by paying reconnection charges, if any, and fulfilling
3 the requirements of this section, receive the protections of this
4 chapter;

5 (ii) Provides self-certification of household income for the prior
6 twelve months to a grantee of the department of community development
7 which administers federally funded energy assistance programs. The
8 grantee shall determine that the household income does not exceed the
9 maximum allowed for eligibility under the state's plan for low-income
10 energy assistance under 42 U.S.C. 8624 and shall provide a dollar
11 figure that is seven percent of household income. The grantee may
12 verify information provided in the self-certification;

13 (iii) Has applied for home heating assistance from applicable
14 government and private sector organizations and certifies that any
15 assistance received will be applied to the current bill and future
16 utility bills;

17 (iv) Has applied for low-income weatherization assistance to the
18 utility or other appropriate agency if such assistance is available for
19 the dwelling;

20 (v) Agrees to a payment plan and agrees to maintain the payment
21 plan. The plan will be designed both to pay the past due bill by the
22 following October 15 and to pay for continued utility service. If the
23 past due bill is not paid by the following October 15, the customer
24 shall not be eligible for protections under this chapter until the past
25 due bill is paid. The plan shall not require monthly payments in
26 excess of seven percent of the customer's monthly income plus one-
27 twelfth of any arrearage accrued from the date application is made and
28 thereafter during November 15 through March 15. A customer may agree
29 to pay a higher percentage during this period, but shall not be in
30 default unless payment during this period is less than seven percent of

1 monthly income plus one-twelfth of any arrearage accrued from the date
2 application is made and thereafter. If assistance payments are
3 received by the customer subsequent to implementation of the plan, the
4 customer shall contact the utility to reformulate the plan; and

5 (vi) Agrees to pay the moneys owed even if he or she moves.

6 (b) The utility shall:

7 (i) Include in any notice that an account is delinquent and that
8 service may be subject to termination, a description of the customer's
9 duties in this section;

10 (ii) Assist the customer in fulfilling the requirements under this
11 section;

12 (iii) Be authorized to transfer an account to a new residence when
13 a customer who has established a plan under this section moves from one
14 residence to another within the same utility service area;

15 (iv) Be permitted to disconnect service if the customer fails to
16 honor the payment program. Utilities may continue to disconnect
17 service for those practices authorized by law other than for nonpayment
18 as provided for in this subsection. Customers who qualify for payment
19 plans under this section who default on their payment plans and are
20 disconnected can be reconnected and maintain the protections afforded
21 under this chapter by paying reconnection charges, if any, and by
22 paying all amounts that would have been due and owing under the terms
23 of the applicable payment plan, absent default, on the date on which
24 service is reconnected; and

25 (v) Advise the customer in writing at the time it disconnects
26 service that it will restore service if the customer contacts the
27 utility and fulfills the other requirements of this section.

28 (c) A payment plan implemented under this section is consistent
29 with RCW 80.28.080.

1 (5) Every gas company and electrical company shall offer
2 residential customers the option of a budget billing or equal payment
3 plan. The budget billing or equal payment plan shall be offered low-
4 income customers eligible under the state's plan for low-income energy
5 assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without
6 limiting availability to certain months of the year, without regard to
7 the length of time the customer has occupied the premises, and without
8 regard to whether the customer is the tenant or owner of the premises
9 occupied.

10 (6) Every gas company, electrical company and water company shall
11 construct and maintain such facilities in connection with the
12 manufacture and distribution of its product as will be efficient and
13 safe to its employees and the public.

14 (7) An agreement between the customer and the utility, whether oral
15 or written, shall not waive the protections afforded under this
16 chapter.

17 (8) In establishing rates or charges for water service, water
18 companies as defined in RCW 80.04.010 may consider the achievement of
19 water conservation goals and the discouragement of wasteful water use
20 practices."

21 "**Sec. 20.** RCW 80.28.025 and 1980 c 149 s 2 are each amended to
22 read as follows:

23 (1) In establishing rates for each gas and electric company
24 regulated by this chapter, the commission shall adopt policies to
25 encourage meeting or reducing energy demand through cogeneration as
26 defined in RCW 82.35.020, measures which improve the efficiency of
27 energy end use, and new projects which produce or generate energy from
28 renewable resources, such as solar energy, wind energy, hydroelectric
29 energy, geothermal energy, wood, wood waste, municipal wastes,

1 agricultural products and wastes, and end-use waste heat. These
2 policies shall include but are not limited to allowing a return on
3 investment in measures to improve the efficiency of energy end use,
4 cogeneration, or projects which produce or generate energy from
5 renewable resources which return is established by adding an increment
6 of two percent to the rate of return on common equity permitted on the
7 company's other investment. Measures or projects encouraged under this
8 section are those for which construction or installation is begun after
9 June 12, 1980, and before January 1, 1990, and which, at the time they
10 are placed in the rate base, are reasonably expected to save, produce,
11 or generate energy at a total incremental system cost per unit of
12 energy delivered to end use which is less than or equal to the
13 incremental system cost per unit of energy delivered to end use from
14 similarly available conventional energy resources which utilize nuclear
15 energy or fossil fuels and which the gas or electric company could
16 acquire to meet energy demand in the same time period. The rate of
17 return increment shall be allowed for a period not to exceed thirty
18 years after the measure or project is first placed in the rate base.

19 (2) In establishing rates for water companies regulated by this
20 chapter, the commission may consider the achievement of water
21 conservation goals and the discouragement of wasteful water use
22 practices."

23 "NEW SECTION. Sec. 21. A new section is added to chapter 90.03
24 RCW to read as follows:

25 The water restoration account is created in the state treasury.
26 All receipts from the collection of penalties under RCW 90.03.600 and
27 18.104.155 shall be deposited into the account. Moneys in the account
28 may be spent only after appropriation. Expenditures from the account
29 may be used only for the restoration of water and related resources

1 damaged by violations of chapters 18.104, 43.83B, 90.03, 90.22, 90.44,
2 and 90.54 RCW, and rules, permits, and other documents or orders issued
3 by the department of ecology in enforcing those chapters."

4 "NEW SECTION. **Sec. 22.** A new section is added to chapter 90.54
5 RCW to read as follows:

6 The water management account is created in the state treasury.
7 Moneys in the account may be spent only after appropriation.
8 Expenditures from the account may be used only for water resources
9 planning and management."

10 "NEW SECTION. **Sec. 23.** A new section is added to chapter 18.104
11 RCW to read as follows:

12 Civil penalties collected under RCW 18.104.155 shall be deposited
13 in the water restoration account created in section 21 of this act."

14 "NEW SECTION. **Sec. 24.** Sections 3 through 10 of this act shall
15 constitute a new chapter in Title 90 RCW."

16 "NEW SECTION. **Sec. 25.** This act shall be null and void in the
17 event that the legislature fails to appropriate funds for this act by
18 July 1, 1991, and if such appropriation does not derive from new
19 revenues developed pursuant to this act."

20 "NEW SECTION. **Sec. 26.** If any provision of this act or its
21 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected."

3 **SHB 2026** - H COMM AMD
4 By Committee on Revenue

5

6 On page 1, line 1 of the title, after "management;" strike the
7 remainder of the title and insert "amending RCW 90.03.380, 19.27.170,
8 35.67.020, 56.16.090, 57.20.020, 54.24.080, 80.28.010, and 80.28.025;
9 reenacting and amending RCW 35.92.010; adding new sections to chapter
10 90.54 RCW; adding a new section to chapter 90.14 RCW; adding a new
11 section to chapter 90.03 RCW; adding a new section to chapter 18.104
12 RCW; adding a new chapter to Title 90 RCW; and creating new sections."