

2 SSB 6475 - H COMM AMD  
3 By Committee on Energy & Utilities

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

7 "Sec. 1. RCW 43.21A.064 and 1977 c 75 s 46 are each amended to  
8 read as follows:

9 The director of the department of ecology shall have the following  
10 powers and duties:

11 (1) The supervision of public waters within the state and their  
12 appropriation, diversion, and use, and of the various officers  
13 connected therewith;

14 (2)(a) Except as otherwise provided in (b) of this subsection,  
15 insofar as may be necessary to assure safety to life or property,  
16 ((he)) the director shall inspect the construction of all dams, canals,  
17 ditches, irrigation systems, hydraulic power plants, and all other  
18 works, systems, and plants pertaining to the use of water, and ((he))  
19 the director may require such necessary changes in the construction or  
20 maintenance of said works, to be made from time to time, as will  
21 reasonably secure safety to life and property.

22 (b) The provisions of (a) of this subsection do not apply to any  
23 dam, hydraulic power plant, reservoir, project, or other work, system,  
24 or plant licensed under the federal power act, except that the  
25 department:

26 (i) May review or comment on reports, plans, or specifications that  
27 are submitted to the federal energy regulatory commission or its  
28 successor;

1 (ii) May inspect dams or controlling works that, pursuant to  
2 agreement between the department and the federal energy regulatory  
3 commission, are subject to inspection by the department; and

4 (iii) May inspect dams or controlling works for which the  
5 department, based upon information filed with the federal energy  
6 regulatory commission or communicated or known to the department, has  
7 reasonable cause to believe that a condition may exist at the dam or  
8 work which has not been reported to or evaluated by the commission and  
9 that, if not remedied, will result in the loss of life or substantial  
10 damage to property.

11 (c) The department shall report to the commission and the licensee  
12 any recommendations for remedial actions resulting from inspections the  
13 department conducts pursuant to (b) of this subsection. Unless the  
14 commission has delegated authority over the dam or controlling work to  
15 the department, the department shall not order a licensee to undertake  
16 any remedial actions as a result of an inspection conducted by the  
17 department;

18 (3) ((He)) The director shall regulate and control the diversion of  
19 water in accordance with the rights thereto;

20 (4) ((He)) The director shall determine the discharge of streams  
21 and springs and other sources of water supply, and the capacities of  
22 lakes and of reservoirs whose waters are being or may be utilized for  
23 beneficial purposes;

24 (5) ((He)) The director shall keep such records as may be necessary  
25 for the recording of the financial transactions and statistical data  
26 thereof, and shall procure all necessary documents, forms, and blanks.

27 ((He)) The director shall keep a seal of the office, and all  
28 certificates by ((him)) the director covering any of his or her acts or  
29 the acts of his or her office, or the records and files of his or her

1 office, under such seal, shall be taken as evidence thereof in all  
2 courts;

3 (6) ((He)) The director shall render when required by the governor,  
4 a full written report of the work of his or her office with such  
5 recommendations for legislation as he or she may deem advisable for the  
6 better control and development of the water resources of the state;

7 (7) The director and duly authorized deputies may administer oaths;

8 (8) ((He)) The director shall establish and ((promulgate)) adopt  
9 rules governing the administration of chapter 90.03 RCW;

10 (9) ((He)) The director shall perform such other duties as may be  
11 prescribed by law."

12 "Sec. 2. RCW 86.16.035 and 1987 c 523 s 9 and 1987 c 109 s 53 are  
13 each reenacted and amended to read as follows:

14 The department of ecology shall have supervision and control over  
15 all dams and obstructions in streams(~~, and~~) to the same extent as  
16 provided in RCW 43.21A.064(2). The department may make reasonable  
17 regulations with respect thereto concerning the flow of water which  
18 ((he)) the department deems necessary for the protection to life and  
19 property below such works from flood waters."

20 "Sec. 3. RCW 90.03.350 and 1987 c 109 s 91 are each amended to  
21 read as follows:

22 (1) Except as provided in subsection (2) of this section, any  
23 person, corporation or association intending to construct or modify any  
24 dam or controlling works for the storage of ten acre feet or more of  
25 water, shall before beginning said construction or modification, submit  
26 plans and specifications of the same to the department for examination  
27 and approval as to its safety. Such plans and specifications shall be  
28 submitted in duplicate, one copy of which shall be retained as a public

1 record, by the department, and the other returned with its approval or  
2 rejection endorsed thereon. No such dam or controlling works shall be  
3 constructed or modified until the same or any modification thereof  
4 shall have been approved as to its safety by the department. Any such  
5 dam or controlling works constructed or modified in any manner other  
6 than in accordance with plans and specifications approved by the  
7 department or which shall not be maintained in accordance with the  
8 order of the department shall be presumed to be a public nuisance and  
9 may be abated in the manner provided by law, and it shall be the duty  
10 of the attorney general or prosecuting attorney of the county wherein  
11 such dam or controlling works, or the major portion thereof, is  
12 situated to institute abatement proceedings against the owner or owners  
13 of such dam or controlling works, whenever ((he)) the director is  
14 requested to do so by the department. If the department determines  
15 that a dam or controlling work poses a high and significant hazard to  
16 life and property, it shall inspect the dam or controlling work at  
17 least once every two years.

18 (2) The provisions of subsection (1) of this section do not apply  
19 to any dam, hydraulic power plant, reservoir, project, or other work,  
20 system, or plant licensed under the federal power act, except that the  
21 department:

22 (a) May review or comment on reports, plans, or specifications that  
23 are submitted to the federal energy regulatory commission or its  
24 successor;

25 (b) May inspect dams or controlling works that, pursuant to  
26 agreement between the department and the federal energy regulatory  
27 commission, are subject to inspection by the department; and

28 (c) May inspect dams or controlling works for which the department,  
29 based upon information filed with the federal energy regulatory  
30 commission or communicated or known to the department, has reasonable

1 cause to believe that a condition may exist at the dam or work which  
2 has not been reported to or evaluated by the commission and that, if  
3 not remedied, will result in the loss of life or substantial damage to  
4 property.

5 (3) The department shall report to the commission and the licensee  
6 any recommendations for remedial actions resulting from inspections the  
7 department conducts pursuant to subsection (2) of this section. Unless  
8 the commission has delegated authority over the dam or controlling work  
9 to the department, the department shall not order a licensee to  
10 undertake any remedial actions as a result of an inspection conducted  
11 by the department.

12 (4) Upon request of the owner or operator of a dam, reservoir,  
13 project, or other controlling work storing less than ten acre feet of  
14 water, the department shall inspect the construction or modification of  
15 the dam, reservoir, project, or controlling work."

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19 On page 1, line 1 of the title, after "resources;" strike the  
20 remainder of the title and insert "amending RCW 43.21A.064 and  
21 90.03.350; and reenacting and amending RCW 86.16.035."