

2 **ESHB 2629** - S COMM AMD

3 By Committee on Agriculture & Water Resources

4

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

7 "Sec. 1. RCW 43.20.230 and 1989 c 348 s 12 are each amended to  
8 read as follows:

9 (1) Consistent with the water resource planning process of the  
10 department of ecology, the department of ~~((social and))~~ health  
11 ~~((services))~~ shall, contingent on the availability of funds:

12 ~~((1))~~ (a) Develop procedures and guidelines relating to water use  
13 efficiency~~((, as defined in section 4(3) of this act,))~~ to be included  
14 in the development and approval of cost-efficient water system plans  
15 required under RCW 43.20.050;

16 ~~((2))~~ (b) Develop criteria, with input from technical experts,  
17 with the objective of encouraging the cost-effective reuse of greywater  
18 and other water recycling practices, consistent with protection of  
19 public health and water quality; ~~((and~~

20 ~~(3))~~ (c) Provide advice and technical assistance upon request in  
21 the development of water use efficiency plans and model rate-setting  
22 formulas; and

23 (2) On or before December 31, 1992, the department of health shall  
24 develop, in consultation with public water system operators from  
25 various regions of the state, voluntary alternative model rate-setting  
26 formulas for water conservation and provide these to public water  
27 systems defined in RCW 70.119.020 that have one thousand service  
28 connections or more."

1       **"Sec. 2.** RCW 43.21A.064 and 1977 c 75 s 46 are each amended to  
2 read as follows:

3       The director of the department of ecology shall have the following  
4 powers and duties:

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

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

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

17       (4) ((He)) On or before December 31, 1992, the director shall, in  
18 consultation with the coordinating agency established in chapter 87.76  
19 RCW, develop voluntary alternative rate-setting formulas for water  
20 conservation, develop a report which discusses the opportunities,  
21 limitations, and other considerations in adopting water conserving  
22 rate-setting formulas, and provide the formulas and report to  
23 irrigation districts with over five hundred service connections;

24       (5) The director shall determine the discharge of streams and  
25 springs and other sources of water supply, and the capacities of lakes  
26 and of reservoirs whose waters are being or may be utilized for  
27 beneficial purposes;

28       ((5) He) (6) The director shall keep such records as may be  
29 necessary for the recording of the financial transactions and  
30 statistical data thereof, and shall procure all necessary documents,

1 forms, and blanks. ((He)) The director shall keep a seal of the  
2 office, and all certificates by ((him)) the director covering any of  
3 his or her acts or the acts of ((his)) the office, or the records and  
4 files of ((his)) the office, under such seal, shall be taken as  
5 evidence thereof in all courts;

6 ((+6-He)) (7) The director shall render when required by the  
7 governor, a full written report of the work of ((his)) the office with  
8 such recommendations for legislation as he or she may deem advisable  
9 for the better control and development of the water resources of the  
10 state;

11 ((+7)) (8) The director and duly authorized deputies may  
12 administer oaths;

13 ((+8-He)) (9) The director shall establish and promulgate rules  
14 governing the administration of chapter 90.03 RCW;

15 ((+9-He)) (10) The director shall perform such other duties as may  
16 be prescribed by law."

17 "NEW SECTION. Sec. 3. (1) On or before October 1, 1993, each  
18 of the public water systems defined in RCW 70.119.020 that have one  
19 thousand service connections or more, and irrigation districts that  
20 have five hundred service connections or more, shall evaluate whether  
21 it is appropriate to adopt and implement water delivery rate structures  
22 that encourage water conservation.

23 (2) Within ninety days of making the evaluation required by  
24 subsection (1) of this section, such public water systems shall submit  
25 the conclusions of the evaluation to the department of health.

26 (3) Within ninety days of making the evaluation required by  
27 subsection (1) of this section, such irrigation districts shall submit  
28 the conclusions of the evaluation to the department of ecology."

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

3        On or before December 31, 1992, the department of ecology shall, in  
4  consultation with the department of fisheries, department of wildlife,  
5  and other parties, establish a list of recommended priorities for  
6  evaluation of minimum flows, and establish fishery harvest escapement  
7  goals, in basins with declining stocks of wild salmonids.  The  
8  department shall, at a minimum, consider as possible priorities the  
9  rivers identified by the American Fisheries Society as containing  
10 stocks of wild salmonids that are declining.

11        The recommended priorities established under this section shall be  
12 presented to the joint select committee on water resource policy."

13        "**Sec. 5.**  RCW 90.42.010 and 1991 c 347 s 5 are each amended to read  
14 as follows:

15        (1) The legislature finds that a need exists to develop and test a  
16 means to facilitate the voluntary transfer of water and water rights,  
17 including conserved water, to provide water for presently unmet needs  
18 and emerging needs.  Further, the legislature finds that water  
19 conservation activities have the potential of affecting the quantity of  
20 return flow waters to which existing water right holders have a right  
21 to and rely upon.  It is the intent of the legislature that persons  
22 holding rights to water, including return flows, not be adversely  
23 affected in the implementation of the provisions of this chapter.

24        The purpose of this chapter is to provide the mechanism for  
25 accomplishing this in a manner that will not impair existing rights to  
26 water and to test the mechanism in two pilot planning areas designated  
27 pursuant to RCW 90.54.045(2) and in the water resource inventory areas  
28 designated under subsection (2) of this section.

1 (2) The department may designate up to four water resource  
2 inventory areas west of the crest of the Cascade mountains and up to  
3 four water resource inventory areas east of the crest of the Cascade  
4 mountains, as identified pursuant to chapter 90.54 RCW. The areas  
5 designated shall contain critical water supply problems and shall  
6 provide an opportunity to test and evaluate a variety of applications  
7 of RCW 90.42.010 through 90.42.090, including application to municipal,  
8 industrial, and agricultural use. The department shall seek advice  
9 from appropriate state agencies, Indian tribes, local governments,  
10 representatives of water right holders, and interested parties before  
11 identifying such water resource inventory areas.

12 (3) The department shall provide to the appropriate legislative  
13 committees by December 31, 1993, a written evaluation of the  
14 implementation of RCW 90.42.010 through 90.42.090 and recommendations  
15 for future application. Recommendations shall include methods of  
16 applying RCW 90.42.010 through 90.42.090 to the rivers that are  
17 designated as high priority by the department of ecology under section  
18 4 of this act in order to use net water savings to achieve minimum  
19 flows."

20 "NEW SECTION. Sec. 6. The legislature finds that declarations  
21 by the federal government that species of anadromous fish are  
22 threatened or endangered can cause severe disruption to the economic  
23 health of the state and to a wide range of livelihoods of its citizens.  
24 Significant economic and social impacts will be incurred by the listing  
25 of a few fish stocks for which petitions have already been filed with  
26 the federal government for listing certain species as threatened or  
27 endangered.

28 The legislature finds that there are other species of anadromous  
29 fish in rivers and streams throughout the state in a depressed

1 condition that have a significant potential to be petitioned for  
2 threatened or endangered status. Several of the depressed runs are in  
3 watercourses that do not have either hydroelectric or water withdrawal  
4 projects situated on them.

5 The legislature finds that the public has invested several hundred  
6 million dollars in the development and implementation of plans and has  
7 adopted wide-ranging regulations to protect and enhance habitat for  
8 anadromous fish and that these activities will in all likelihood  
9 continue. However, the legislature finds that there are insufficient  
10 mechanisms in place to assure that the significant current and future  
11 investment of funds by the taxpaying and ratepaying public is protected  
12 from overfishing of weak stocks in the mixed stock fishery. If an  
13 effective means is not found to protect weak stocks from the cumulative  
14 overharvest by various fish interests, the benefits of this current  
15 investment and future investments are in serious jeopardy.

16 The legislature finds it to be the policy of the federal government  
17 that weak stocks be protected from being overharvested. In observance  
18 of this policy, it is in the state's interest to develop a harvest  
19 management policy that protects and strengthens weak stocks of fish  
20 while maintaining the feasibility of a viable fishery on abundant  
21 stocks.

22 The legislature finds that a study as provided in sections 7  
23 through 9 of this act is necessary to develop harvest management  
24 strategies that protect and strengthen weak stocks while maintaining,  
25 to the maximum extent feasible, viable fisheries on abundant stocks of  
26 fish."

27 "NEW SECTION. **Sec. 7.** A committee shall be established to  
28 carry out a study on ways to improve harvest management to increase the  
29 returns of weak anadromous fish stocks. The committee shall be known

1 as the committee on harvest management of anadromous fish. The  
2 committee, in consultation with other interested agencies,  
3 organizations, and the public, shall investigate and evaluate options  
4 of increasing the returns of adult spawners. As used in this section,  
5 "anadromous fish" has the meaning provided in section 11 of this act.  
6 The evaluation shall include but not be limited to the following:

7 (1) Develop a policy for the harvest of anadromous fish in mixed  
8 stock fisheries, while protecting weak stocks;

9 (2) Develop a policy to encourage harvest of anadromous fish in  
10 situations where stocks are segregated or otherwise identifiable and  
11 harvest of weak stocks is unlikely;

12 (3) Develop a policy for attainment of escapement goals;

13 (4) Review, evaluate, and augment the harvest management options  
14 recommended by the Northwest power planning council;

15 (5) Evaluate alternative harvest management options for each fish  
16 harvest group that allow the achievement of the spawning goal with the  
17 minimum effect on the harvest of abundant stocks; and

18 (6) Develop recommendations for any needed changes in laws, rules,  
19 policies, and programs to facilitate harvest management changes to  
20 increase the return of weak stock fish."

21 "NEW SECTION. Sec. 8. (1) The committee created in section 7  
22 of this act shall consist of the following voting members:

23 (a) Four members of the house of representatives, appointed by the  
24 speaker, two from each major political party;

25 (b) Four members of the senate, appointed by the president of the  
26 senate, two from each major political party;

27 (c) One individual representing the commercial fishing industry;

28 (d) One individual representing sports fishing interests;

1 (e) One individual representing the commercial charter boat  
2 industry;

3 (f) One individual representing Indian tribes;

4 (g) One member appointed by the governor to represent the  
5 department of fisheries;

6 (h) One member appointed by the governor to represent the  
7 department of wildlife;

8 (i) One individual representing hydro-based public electric  
9 utilities;

10 (j) One individual representing forestry interests;

11 (k) One individual representing irrigated agriculture;

12 (l) One individual representing commercial water borne commerce;

13 (m) One individual representing industries heavily dependent on  
14 electricity; and

15 (n) One individual representing public water utilities who obtain  
16 water from surface waters.

17 (2) The twelve individuals listed in subsection (1)(c) through (n)  
18 of this section who are not legislators shall be appointed by the  
19 speaker of the house of representatives and the president of the  
20 senate. Whenever possible, each interest group listed in subsection  
21 (1)(c) through (n) of this section shall attempt to identify one  
22 nominee as an interest group representative. Any nominations for  
23 appointments to fill positions on the committee listed in subsection  
24 (1)(c) through (n) of this section shall be submitted to either the  
25 chief clerk of the house of representatives or the secretary of the  
26 senate no later than fifteen calendar days after the effective date of  
27 this section. From the nominations, the speaker of the house of  
28 representatives and the president of the senate shall appoint people  
29 from various regions of the state. Appointments to the committee shall



1 be completed within thirty calendar days after the effective date of  
2 this section.

3 (3) Members of the committee shall serve without compensation. A  
4 member representing a state agency shall be reimbursed, by his or her  
5 employing agency or office, for travel expenses in accordance with RCW  
6 43.03.050 and 43.03.060. Members of the committee who are members of  
7 the legislature shall be reimbursed as provided in chapter 44.04 RCW.  
8 All other members of the committee may seek reimbursement from those  
9 interest groups which they represent.

10 (4) At the initial meeting of the committee, the members of the  
11 committee shall elect a chair from among themselves. The chair shall  
12 preside over the meetings of the committee. The committee may organize  
13 itself into subcommittees as necessary to carry out the study described  
14 in section 7 of this act.

15 (5) The committee shall hold public meetings to inform the public  
16 about the study, and to receive public comment on a draft report of its  
17 findings and recommendations.

18 (6) The committee shall submit its recommendations in its final  
19 report.

20 (7) The committee shall submit a written report of its findings and  
21 recommendations to the legislature no later than December 31, 1992.  
22 State agencies shall seriously consider the recommendations developed  
23 by the committee that can be implemented without additional  
24 legislation.

25 (8) The committee shall expire December 31, 1992."

26 "NEW SECTION. **Sec. 9.** The committee created in section 7 of  
27 this act shall be provided staff support by the senate and the house of  
28 representatives."

1        "NEW SECTION. Sec. 10.        Sections 6 through 9 of this act shall  
2 expire June 30, 1993."

3        "NEW SECTION. Sec. 11.        For the purposes of RCW 75.08.012 and  
4 77.12.010, "anadromous fish" means those species of fish, commonly  
5 referred to as salmon and steelhead, that spend a portion of their life  
6 cycle in saltwater."

7        "Sec. 12.        RCW 75.08.012 and 1983 1st ex.s. c 46 s 5 are each  
8 amended to read as follows:

9        The department shall preserve, protect, perpetuate and manage the  
10 food fish and shellfish in state waters and offshore waters.

11        The department shall conserve the food fish and shellfish resources  
12 in a manner that does not impair the resource. In a manner consistent  
13 with this goal, the department shall seek to maintain the economic  
14 well-being and stability of the fishing industry in the state. The  
15 department shall promote orderly fisheries and shall enhance and  
16 improve recreational and commercial fishing in this state. In carrying  
17 out this policy, the department shall regulate the harvest of  
18 anadromous fish, as defined in section 11 of this act, in such a way as  
19 to protect and strengthen weak stocks to meet escapement goals while  
20 maintaining to the maximum extent feasible a viable fishery on abundant  
21 stocks."

22        "Sec. 13.        RCW 77.12.010 and 1985 c 438 s 1 are each amended to  
23 read as follows:

24        Wildlife is the property of the state. The department shall  
25 preserve, protect, and perpetuate wildlife. The department shall  
26 regulate the harvest of anadromous fish, as defined in section 11 of  
27 this act, in such a way as to protect and strengthen weak stocks to

1 meet escapement goals while maintaining to the maximum extent feasible  
2 a viable fishery on abundant stocks. Game animals, game birds, and  
3 game fish may be taken only at times or places, or in manners or  
4 quantities as in the judgment of the commission maximizes public  
5 recreational opportunities without impairing the supply of wildlife.

6 The commission shall not adopt rules that categorically prohibit  
7 fishing with bait or artificial lures in streams, rivers, beaver ponds,  
8 and lakes except that the commission may adopt rules and regulations  
9 restricting fishing methods upon a determination by the director that  
10 an individual body of water or part thereof clearly requires a fishing  
11 method prohibition to conserve or enhance the fisheries resource or to  
12 provide selected fishing alternatives. The commission shall attempt to  
13 maximize the public recreational fishing opportunities of all citizens,  
14 particularly juvenile, handicapped, and senior citizens.

15 Nothing contained herein shall be construed to infringe on the  
16 right of a private property owner to control the owner's private  
17 property."

18 "NEW SECTION. Sec. 14. This act is necessary for the immediate  
19 preservation of the public peace, health, or safety, or support of the  
20 state government and its existing public institutions, and shall take  
21 effect immediately."

1 **ESHB 2629** - S COMM AMD  
2 By Committee on Agriculture & Water Resources

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4 On page 1, line 1 of the title, after "salmonids;" strike the  
5 remainder of the title and insert "amending RCW 43.20.230, 43.21A.064,  
6 90.42.010, 75.08.012, and 77.12.010; adding a new section to chapter  
7 90.54 RCW; creating new sections; providing an expiration date; and  
8 declaring an emergency."