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ENGROSSED SECOND SUBSTITUTE SENATE BILL 6291

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State of Washington

53rd Legislature

1994 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators M. Rasmussen, Prince, McCaslin, Bauer, Winsley and Newhouse)

Read first time 2/24/94.

1 AN ACT Relating to the processing of water rights; amending RCW  
2 90.03.340, 90.03.270, 90.03.280, 90.03.290, 90.03.320, 90.03.380,  
3 90.03.390, 90.44.100, 90.03.260, 90.44.060, 90.03.250, 90.03.470,  
4 90.03.--- (section 29 of this act), 89.30.001, 90.40.090, and  
5 90.46.020; amending 1993 c 495 s 3 (uncodified); adding new sections to  
6 chapter 90.03 RCW; adding new sections to chapter 43.21B RCW; creating  
7 new sections; repealing RCW 90.03.471; providing effective dates; and  
8 providing an expiration date.

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

10 NEW SECTION. **Sec. 1.** The purpose of chapter . . . , Laws of 1994  
11 (this act) is to make changes to the water right permitting process and  
12 to provide sufficient funds to catch up on the backlog of water right  
13 applications in as short of period as possible.

14 In furtherance of this purpose, the department shall expedite to  
15 the maximum extent possible the processing of water right applications,  
16 consistent with RCW 90.03.290, in areas where there are no known  
17 shortages of water. In areas of where there is a known shortage of  
18 water, the department may act promptly to deny the water right  
19 applications.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 90.03 RCW  
2 to read as follows:

3        In furtherance of the purpose of chapter . . . , Laws of 1994 (this  
4 act) to more expeditiously make decisions regarding water right  
5 applications as stated in section 1 of this act, the legislature finds  
6 that the administering agency will be better enabled to make decisions  
7 and be better able to assure conditions placed on permits and  
8 certificates are complied with if procedures for the regulation of  
9 waters and water rights are clearly established. The purpose of this  
10 section is to set forth the powers of the department to regulate the  
11 withdrawal or diversion of public waters and water or water rights  
12 related thereto including regulation based on dates of priority or  
13 other pertinent factors. Regulatory actions taken under this section  
14 shall be based on examination and determination by the department or  
15 the court, as applicable, of the various water rights involved  
16 according to the department's records and other records and pertinent  
17 facts. The powers set forth in this section may be exercised whether  
18 or not a general adjudication relating to the water rights involved has  
19 been conducted.

20        (1) In a regulatory situation (a) where a water right or all water  
21 rights proposed for regulation by the department, as well as any right  
22 or rights of a senior priority that the proposed regulation is designed  
23 to protect, is or are embodied in a certificate or certificates issued  
24 under RCW 90.03.240, 90.03.330, 90.38.040, 90.42.040, or 90.44.060 or  
25 a permit or permits issued pursuant to RCW 90.03.290 or 90.44.060; or  
26 (b) where a flow or level has been established by rule pursuant to  
27 chapter 90.22 or 90.54 RCW; or (c) where it appears to the department  
28 that public waters are being withdrawn without any right or other  
29 appropriate authority whatsoever, the department in its discretion is  
30 authorized to regulate the right or rights under either RCW 43.27A.190  
31 or subsection (2) of this section.

32        (2) In a regulatory situation where one or more of the water rights  
33 proposed for regulation by the department, as well as any right or  
34 rights of a senior priority that the proposed regulation is designed to  
35 protect, is not or are not embodied in a permit or certificate as  
36 described in subsection (1) of this section, the department, as its  
37 sole and exclusive power to regulate, is authorized to bring an  
38 appropriate action at law or in equity, including seeking injunctive  
39 relief, as it may deem necessary. Where actions are brought in a state

1 court, the actions shall be initiated in the superior court of the  
2 county where the point or points of diversion of the water right or  
3 rights proposed for regulation are located. If the points of diversion  
4 are located in more than one county, the department may bring the  
5 action in a county where a point of diversion is located.

6 (3) Nothing in this section authorizes the department to accomplish  
7 a general adjudication of water rights proceeding or the substantial  
8 equivalent of a general adjudication of water rights. The exclusive  
9 procedure for accomplishing a general adjudication of water rights is  
10 under RCW 90.03.110 through 90.03.245 or 90.44.220.

11 (4) Nothing in this section shall have an impact on RCW 90.14.130  
12 or 90.14.200.

13 (5) This section does not in any way modify regulatory powers  
14 previously placed with the department except as provided in subsections  
15 (1) and (2) of this section.

16 **Sec. 3.** RCW 90.03.340 and 1987 c 109 s 90 are each amended to read  
17 as follows:

18 After January 1, 1995, the priority date of the right acquired by  
19 appropriation ((shall relate back to)) is the date ((of filing of)) the  
20 ((original)) completed application form for the right is filed with the  
21 department. For the purposes of this section and RCW 90.03.270, a  
22 completed application form is one that contains all of the information  
23 requested on the form and is accompanied by the application fee.

24 **Sec. 4.** RCW 90.03.270 and 1987 c 109 s 85 are each amended to read  
25 as follows:

26 Upon receipt of ((an)) a completed water right application form, it  
27 shall be the duty of the department to ((make an endorsement thereon of  
28 the)) date ((of its receipt,)) stamp and ((to)) keep a record of  
29 ((same)) it. If ((upon examination,)) an application form is filed  
30 with the department but the information requested on the application  
31 form is ((found to be defective,)) not complete or the form is not  
32 accompanied by the proper application fee, the form and any application  
33 fee filed with it shall be returned to the applicant ((for correction  
34 or completion,)) and the date and the reasons for the return thereof  
35 shall be ((endorsed thereon and made a record in his office. No  
36 application shall lose its priority of filing on account of such  
37 defects, provided acceptable maps, drawings and such data as is

1 ~~required by the department shall be filed with the department within~~  
2 ~~such reasonable time as it shall require))~~ noted in the department's  
3 records and in a letter returning the form. The department may not  
4 require an applicant to provide information in support of an  
5 application for a water right permit that is not directly necessary for  
6 the department's investigations, determinations, or findings regarding  
7 that particular application.

8       **Sec. 5.** RCW 90.03.280 and 1988 c 36 s 65 are each amended to read  
9 as follows:

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

27       NEW SECTION. **Sec. 6.** A new section is added to chapter 43.21B RCW  
28 to read as follows:

29       In a proceeding before the pollution control hearings board  
30 challenging a decision of the department related to the issuance,  
31 conditioning, transfer, amendment, or denial of a water right permit  
32 under Title 90 RCW, the burden of proof is on the person filing the  
33 appeal.

34       NEW SECTION. **Sec. 7.** A new section is added to chapter 43.21B RCW  
35 to read as follows:

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

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

7        If the department proposes to issue a water right permit or  
8 transfer or change authorization under Title 90 RCW and:

9        (1) The decision of the department is appealed to the pollution  
10 control hearings board within thirty days of the date of filing;

11        (2) The hearings board upholds the department's decision; and

12        (3) An appeal for judicial review of the hearings board decision is  
13 filed under chapter 34.05 RCW,

14 the applicant for the water right may request, within ten days of the  
15 filing of the appeal with the court, a hearing before the court to  
16 determine whether construction and operation may begin under the water  
17 right permit or authorization. If at the conclusion of the hearing the  
18 court finds that construction and operation under the permit or  
19 authorization would not involve a significant damaging of the  
20 environment or impair existing water rights, the court may allow the  
21 permittee to begin construction and operation under the permit or  
22 authorization as the court deems appropriate. The court may require  
23 the permittee to post bonds, in the name of the department, sufficient  
24 to remove the construction or to restore the environment if the permit  
25 or authorization is ultimately disapproved by the courts, or to alter  
26 the construction or operation if the alteration is ultimately ordered  
27 by the courts. In the hearing before the court, the burden of proving  
28 whether the construction or operation might involve significant damage  
29 to the environment or impair existing water rights and demonstrating  
30 whether the construction would or would not be appropriate is on the  
31 appellant.

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

34        One member of the pollution control hearings board may hear and  
35 render a decision on an appeal from a water right applicant regarding  
36 the nature and extent of the information needed to make determinations

1 regarding the application for or the processing of a water right  
2 permit.

3 NEW SECTION. **Sec. 10.** A water right applicant may appeal to the  
4 pollution control hearings board a determination by the department  
5 regarding the nature and extent of the information needed to make  
6 determinations regarding the application for or the processing of a  
7 water right permit.

8 NEW SECTION. **Sec. 11.** (1) The department shall develop a general  
9 permit system for appropriating water for nonconsumptive, nonbypass  
10 uses and a general permit system for appropriating marine waters for  
11 use on upland sites. These systems must be designed and used to  
12 streamline the consideration of applications for nonconsumptive,  
13 nonbypass water uses and marine water uses that by their nature do not  
14 raise issues regarding water availability or the impairment of other  
15 water rights. The evaluation and report required for an application  
16 under RCW 90.03.290 are not required for applications processed under  
17 the general permit system. For the purposes of this section:

18 (a) "Nonconsumptive, nonbypass use" means a use of water in which  
19 water is diverted from a stream or withdrawn from an aquifer and  
20 following its use is discharged, as determined by the department, back  
21 to or very near the point of diversion or withdrawal without  
22 diminishment in quantity or quality;

23 (b) "Without diminishment of quality" means that, before being  
24 discharged back to its source, the water being discharged meets state  
25 water quality standards adopted under chapter 90.48 RCW; and

26 (c) "Marine waters" means the coastal saline waters under the  
27 jurisdiction of the state.

28 (2) The department shall establish the general permit systems by  
29 adopting rules in accordance with chapter 34.05 RCW. Before the  
30 adoption of rules for a system, at least four public hearings must be  
31 held at various locations around the state. The hearings on the  
32 general permit system for marine water use must be held in appropriate  
33 coastal communities. The rules must identify criteria for proposed  
34 uses of water for which applications might be processed under each  
35 system and must establish procedures for filing and processing  
36 applications under the general permit systems.

1        NEW SECTION.    **Sec. 12.**    An application for appropriating water  
2 under a general permit system established under section 11 of this act  
3 must be made on a form adopted and provided by the department. Within  
4 sixty days of the publication of a notice for the application in  
5 accordance with RCW 90.03.280, the department shall determine whether  
6 the proposed use is eligible to be processed under the general permit  
7 system. If the department determines that the proposed use is eligible  
8 to be processed under the system, the application must be processed  
9 under it. If the department determines that the proposed use is not  
10 eligible for the processing, the department shall explain to the  
11 applicant in writing the reasons for its determination. For a proposed  
12 use determined ineligible for the processing, if the department finds  
13 that the information contained on the application form substantially  
14 satisfies the information requirements for an application for a use  
15 that would normally be filed for processing the application outside of  
16 the general permit system, the department shall notify the applicant of  
17 its finding and shall process the application as if it were filed for  
18 processing outside of the system. If the department finds that the  
19 information does not substantially satisfy the requirements, the  
20 application must be considered to be incomplete for the processing and  
21 the applicant must be notified of this consideration.

22        **Sec. 13.**    RCW 90.03.290 and 1988 c 36 s 66 are each amended to read  
23 as follows:

24        (1) When an application complying with the provisions of this  
25 chapter and with the rules (~~and regulations~~) of the department has  
26 been filed, the (~~same~~) application shall be placed on record with the  
27 department, and it shall be (~~its~~) the department's duty to  
28 (~~investigate the application, and~~) determine what water, if any, is  
29 available for appropriation, and find and determine to what beneficial  
30 use or uses it can be applied.

31        The department shall investigate the application. It is the duty  
32 of the applicant to provide a completed application form. In addition  
33 to providing the information requested on the form, however, the  
34 applicant shall also provide such information as may be required for  
35 the department's investigation, determinations, and findings regarding  
36 the application and may provide additional information. The  
37 information provided by the applicant must satisfy the protocols, that  
38 is, study plans and criteria, established by the department for

1 obtaining and providing the information. If an applicant provides the  
2 information and the protocols set by the department for obtaining and  
3 providing it have been satisfied, the department shall review the  
4 information and may take actions to verify that the information is  
5 accurate, but it may not, except to replace inaccurate information,  
6 take actions that would constitute obtaining major portions of the  
7 information anew.

8 (2) With regard to an application:

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

13 (b) If it is proposed to appropriate water for the purpose of power  
14 development, the department shall investigate, determine and find  
15 whether the proposed development is likely to prove detrimental to the  
16 public interest, having in mind the highest feasible use of the waters  
17 belonging to the public.

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

34 (4) The department shall make and file as part of the record in the  
35 matter, written findings of fact concerning all things investigated,  
36 and if it shall find that there is water available for appropriation  
37 for a beneficial use, and the appropriation thereof as proposed in the  
38 application will not impair existing rights or be detrimental to the  
39 public welfare, it shall issue a permit stating the amount of water to



1 which the applicant shall be entitled and the beneficial use or uses to  
2 which it may be applied: PROVIDED, That where the water applied for is  
3 to be used for irrigation purposes, it shall become appurtenant only to  
4 such land as may be reclaimed thereby to the full extent of the soil  
5 for agricultural purposes. But where there is no unappropriated water  
6 in the proposed source of supply, or where the proposed use conflicts  
7 with existing rights, or threatens to prove detrimental to the public  
8 interest, having due regard to the highest feasible development of the  
9 use of the waters belonging to the public, it shall be duty of the  
10 department to reject such application and to refuse to issue the permit  
11 asked for. If the permit is refused because of conflict with existing  
12 rights and such applicant shall acquire same by purchase or  
13 condemnation under RCW 90.03.040, the department may thereupon grant  
14 such permit. Any application may be approved for a less amount of  
15 water than that applied for, if there exists substantial reason  
16 therefor, and in any event shall not be approved for more water than  
17 can be applied to beneficial use for the purposes named in the  
18 application. In determining whether or not a permit shall issue upon  
19 any application, it shall be the duty of the department to investigate  
20 all facts relevant and material to the application. After the  
21 department approves said application in whole or in part and before any  
22 permit shall be issued thereon to the applicant, such applicant shall  
23 pay the fee provided in RCW 90.03.470 or section 29 of this act:  
24 PROVIDED FURTHER, That in the event a permit is issued by the  
25 department upon any application, it shall be its duty to notify ((both  
26 ~~the director of fisheries and~~) the director of fish and wildlife of  
27 such issuance.

28 NEW SECTION. **Sec. 14.** As used in RCW 90.03.280 and 90.03.290,  
29 "the director of fish and wildlife" means the director of fisheries and  
30 the director of wildlife.

31 NEW SECTION. **Sec. 15.** Section 14 of this act shall expire June  
32 30, 1994.

33 **Sec. 16.** RCW 90.03.320 and 1987 c 109 s 67 are each amended to  
34 read as follows:

35 (1) Actual construction work shall be commenced on any project for  
36 which permit has been granted within such reasonable time as shall be

1 prescribed by the department, and shall thereafter be prosecuted with  
2 diligence and completed within the time prescribed by the department.  
3 The department, in fixing the time for the commencement of the work, or  
4 for the completion thereof and the application of the water to the  
5 beneficial use prescribed in the permit, shall take into consideration  
6 the cost and magnitude of the project and the engineering and physical  
7 features to be encountered, and shall allow such time as shall be  
8 reasonable and just under the conditions then existing, having due  
9 regard for the public welfare and public interests affected: and, for  
10 good cause shown, it shall extend the time or times fixed as aforesaid,  
11 and shall grant such further period or periods as may be reasonably  
12 necessary, having due regard to the good faith of the applicant and the  
13 public interests affected. If the terms of the permit or extension  
14 thereof, are not complied with the department shall give notice by  
15 registered mail that such permit will be canceled unless the holders  
16 thereof shall show cause within sixty days why the same should not be  
17 so canceled. If cause be not shown, said permit shall be canceled.

18 (2) For the purposes of this section, "good cause" includes but is  
19 not limited to the following circumstances:

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

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

23 (c) The operation of legal proceedings;

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

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

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

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

31 (h) Encountering generally depressed economic conditions.

32 **Sec. 17.** RCW 90.03.380 and 1991 c 347 s 15 are each amended to  
33 read as follows:

34 (1) The right to the use of water which has been applied to a  
35 beneficial use in the state shall be and remain appurtenant to the land  
36 or place upon which the same is used(~~(:—PROVIDED, HOWEVER, That~~  
37 said)). However, all or a portion of a water right may be transferred  
38 to another (~~(or to others))~~ person or persons and become appurtenant to

1 any other land or place of use without loss of priority of right  
2 (~~((theretofore established))~~) if (~~((such change))~~) the transfer can be made  
3 without detriment or injury to existing rights.

4 (2) The point of diversion or withdrawal of water for beneficial  
5 use or the purpose of use under an existing water right or permit may  
6 be changed(~~((7))~~) if (~~((such))~~) the change or changes can be made without  
7 detriment or injury to existing water rights.

8 The season of use under an existing water right or permit may be  
9 changed if the change involves the same general category of water use  
10 and the change can be made without detriment or injury to existing  
11 water rights. An example of a general category of water use for the  
12 purposes of this subsection, but not a limit to the categories, is an  
13 agricultural use of water.

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

19 (4) The right embodied in a permit for water that has not yet been  
20 put to beneficial use may be transferred or changed. For a  
21 certificate, only the amount of water that has been beneficially used  
22 in accordance with the laws of the state may be transferred or changed.  
23 Excess quantities must be relinquished as provided under chapter 90.14  
24 RCW. If a water right permit or certificate is transferred or changed,  
25 the amount diverted or withdrawn for beneficial use may not be enlarged  
26 as to annual quantity. This subsection shall not apply to municipal  
27 water uses.

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

34 (6) A person proposing to relocate a point of diversion of surface  
35 water is not required to file an application if the diversion point is  
36 moved no more than one-quarter mile from its original location, no  
37 diversions exist between the original point of diversion and the new  
38 point of diversion, and no other water rights will be impaired. At  
39 least fifteen days before construction of a replacement diversion

1 point, the water right holder shall inform the department in writing of  
2 the intention to move the diversion point and shall submit  
3 documentation that the change is in compliance with RCW 75.20.100 or  
4 75.20.103.

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

8 (8) If it ((shall)) appears that ((such)) the transfer or ((such))  
9 change may be made without injury or detriment to existing rights, the  
10 department shall issue to the applicant an authorization to proceed  
11 with the transfer or change. The department may include in its  
12 authorization necessary conditions or limitations under which the  
13 transfer or change may be made, including a reasonable time for  
14 completion. The time may be extended upon request and a showing of  
15 good cause in accordance with RCW 90.03.320 and 90.03 470. If the  
16 person authorized to make a transfer or change of right fails to do so  
17 within the time allowed, including extensions granted for good cause,  
18 the department shall cancel the authorization and the water right or  
19 permit reverts to its original form and substance.

20 (9) If the department determines that the proposed transfer or  
21 change may periodically operate to impair an existing right, the  
22 department's authorization may be made contingent on the proponent's  
23 willingness to subordinate the use to the potentially impaired right or  
24 rights and the authorization must be so conditioned.

25 (10) The person authorized to make the transfer or change shall  
26 notify the department upon completion of the transfer or change. After  
27 verifying that the transfer or change has been completed in accordance  
28 with the authorization, the department shall issue to those persons  
29 having an interest in the resulting water right or rights a  
30 certificate, certificate of change, or superseding certificate, as  
31 appropriate, in duplicate ((granting)) that reflects the nature of the  
32 water right ((for such transfer)) or rights as transferred or ((for  
33 such change of point of diversion or of use)) changed. The certificate  
34 or certificates so issued ((shall)) must be filed and be made a record  
35 with the department and the duplicate certificate issued to the  
36 applicant ((may)) must be filed with the county auditor in like manner  
37 and with the same effect as provided in the original certificate or  
38 permit to divert water.

1 If an application for change proposes to transfer water rights from  
2 one irrigation district to another, the department shall, before  
3 publication of notice, receive concurrence from each of the irrigation  
4 districts that such transfer or change will not adversely affect the  
5 ability to deliver water to other landowners or impair the financial  
6 integrity of either of the districts.

7 A change in place of use by an individual water user or users of  
8 water provided by an irrigation district need only receive approval for  
9 the change from the board of directors of the district if the use of  
10 water continues within the irrigation district.

11 This section shall not apply to trust water rights acquired by the  
12 state through the funding of water conservation projects under chapter  
13 90.38 RCW or RCW 90.42.010 through 90.42.070.

14 **Sec. 18.** RCW 90.03.390 and 1991 c 350 s 3 are each amended to read  
15 as follows:

16 (~~RCW 90.03.380 shall not be construed to prevent~~) (1) A water  
17 ~~((users from making))~~ right holder may make a seasonal or temporary  
18 change of ~~((point of diversion or place of use of water))~~ a water right  
19 when ~~((such))~~ the change can be made without detriment to existing  
20 rights, but in no case shall such change be made without the permission  
21 of ~~((the water master of the district in which such proposed change is~~  
22 ~~located, or of))~~ the department. Nor shall RCW 90.03.380 be construed  
23 to prevent construction of emergency interties between public water  
24 systems to permit exchange of water during short-term emergency  
25 situations, or rotation in the use of water for bringing about a more  
26 economical use of the available supply, provided however, that the  
27 department of health in consultation with the department of ecology  
28 shall adopt rules or develop written guidelines setting forth standards  
29 for determining when a short-term emergency exists and the  
30 circumstances in which emergency interties are permitted. The rules or  
31 guidelines shall be consistent with the procedures established in RCW  
32 43.83B.400 through 43.83B.420. Water users owning lands to which water  
33 rights are attached may rotate in the use of water to which they are  
34 collectively entitled, or an individual water user having lands to  
35 which are attached water rights of a different priority, may in like  
36 manner rotate in use when ~~((such))~~ rotation can be made without  
37 detriment to other existing water rights, and has the approval of the

1 ~~((water master or))~~ department, under this chapter or chapter 90.46  
2 RCW.

3 (2) A person or persons wishing to make a seasonal or temporary  
4 change or to rotate use in the manner provided in this section must  
5 file an application with the department on a form adopted and provided  
6 by the department. The department shall waive the notice provisions of  
7 RCW 90.03.280 unless it has reason to believe that fish habitat or the  
8 water rights of other persons are likely to be affected by the proposed  
9 change. The department shall respond to the request by letter setting  
10 forth its approval or denial, including the reason for denial. The  
11 department shall retain a record of its decision as part of the records  
12 of the water right or rights being changed. To the extent practicable,  
13 the department shall expedite its consideration of requests under this  
14 section.

15 **Sec. 19.** RCW 90.44.100 and 1987 c 109 s 113 are each amended to  
16 read as follows:

17 ~~((After an application to, and upon the issuance by the department~~  
18 ~~of an amendment to the appropriate permit or certificate of ground~~  
19 ~~water right, the holder of a valid right to withdraw public ground~~  
20 ~~waters may, without losing his priority of right, construct wells or~~  
21 ~~other means of withdrawal at a new location in substitution for or in~~  
22 ~~addition to those at the original location, or he may change the manner~~  
23 ~~or the place of use of the water: PROVIDED, HOWEVER, That such~~  
24 ~~amendment shall be issued only after publication of notice of the~~  
25 ~~application and findings as prescribed in the case of an original~~  
26 ~~application. Such amendment shall be issued by the department only on~~  
27 ~~the conditions that:)) (1) ((The)) A ground water permit or  
28 certificate may be transferred or changed in the manner provided in RCW  
29 90.03.380 if: (a) Any additional or substitute well or wells shall tap  
30 the same body of public ground water as the original well or wells;  
31 ~~((+2)) (b) use of the original well or wells shall be discontinued~~  
32 ~~upon construction of the substitute well or wells; ((+3)) (c) the~~  
33 ~~construction of an additional well or wells shall not enlarge the right~~  
34 ~~conveyed by the original permit or certificate; and ((+4)) (d) other~~  
35 ~~existing rights shall not be impaired. The department may specify an~~  
36 ~~approved manner of construction and shall require a showing of~~  
37 ~~compliance with the terms of the amendment, as provided in RCW~~  
38 ~~90.44.080 in the case of an original permit.~~~~

1       (2) Authorization from the department is not required for  
2 construction of a replacement well of the same size, depth, and  
3 capacity that will tap the same aquifer as the original well if the new  
4 well is within one-quarter mile of the original well and if the well  
5 being replaced is properly decommissioned in accordance with chapter  
6 18.104 RCW. The well owner shall notify the department in writing of  
7 the intent to replace the original well and to describe the change in  
8 location.

9       **Sec. 20.** RCW 90.03.260 and 1987 c 109 s 84 are each amended to  
10 read as follows:

11       ~~((Each application for permit to appropriate water shall set forth~~  
12 ~~the name and post office address of the applicant, the source of water~~  
13 ~~supply, the nature and amount of the proposed use, the time during~~  
14 ~~which water will be required each year, the location and description of~~  
15 ~~the proposed ditch, canal, or other work, the time within which the~~  
16 ~~completion of the construction and the time for the complete~~  
17 ~~application of the water to the proposed use. If for agricultural~~  
18 ~~purposes, it shall give the legal subdivision of the land and the~~  
19 ~~acreage to be irrigated, as near as may be, and the amount of water~~  
20 ~~expressed in acre feet to be supplied per season. If for power~~  
21 ~~purposes, it shall give the nature of the works by means of which the~~  
22 ~~power is to be developed, the head and amount of water to be utilized,~~  
23 ~~and the uses to which the power is to be applied. If for construction~~  
24 ~~of a reservoir, it shall give the height of the dam, the capacity of~~  
25 ~~the reservoir, and the uses to be made of the impounded waters. If for~~  
26 ~~municipal water supply, it shall give the present population to be~~  
27 ~~served, and, as near as may be, the future requirement of the~~  
28 ~~municipality. If for mining purposes, it shall give the nature of the~~  
29 ~~mines to be served and the method of supplying and utilizing the water;~~  
30 ~~also their location by legal subdivisions. All applications shall be~~  
31 ~~accompanied by such maps and drawings, in duplicate, and such other~~  
32 ~~data, as may be required by the department, and such accompanying data~~  
33 ~~shall be considered as a part of the application.)) The department~~  
34 shall adopt rules in accordance with chapter 34.05 RCW by January 1,  
35 1995, that specify the contents of completed water right application  
36 forms. The rules must include specific timelines for the department to  
37 follow in making a determination as to whether an application is  
38 complete and notifying the applicant of its determination. The rules

1 must also identify the kinds of inaccuracies that render an application  
2 incomplete.

3 **Sec. 21.** RCW 90.44.060 and 1987 c 109 s 109 are each amended to  
4 read as follows:

5 Applications for permits for appropriation of underground water  
6 shall be made in the same form and manner provided in RCW 90.03.250  
7 through 90.03.340, as amended, the provisions of which sections are  
8 hereby extended to govern and to apply to ground water, or ground water  
9 right certificates and to all permits that shall be issued pursuant to  
10 such applications, and the rights to the withdrawal of ground water  
11 acquired thereby shall be governed by RCW 90.03.250 through 90.03.340,  
12 inclusive(~~(: PROVIDED, That each application to withdraw public ground~~  
13 ~~water by means of a well or wells shall set forth the following~~  
14 ~~additional information: (1) the name and post office address of the~~  
15 ~~applicant; (2) the name and post office address of the owner of the~~  
16 ~~land on which such well or wells or works will be located; (3) the~~  
17 ~~location of the proposed well or wells or other works for the proposed~~  
18 ~~withdrawal; (4) the ground water area, sub-area, or zone from which~~  
19 ~~withdrawal is proposed, provided the department has designated such~~  
20 ~~area, sub-area, or zone in accord with RCW 90.44.130; (5) the amount of~~  
21 ~~water proposed to be withdrawn, in gallons a minute and in acre feet a~~  
22 ~~year, or millions of gallons a year; (6) the depth and type of~~  
23 ~~construction proposed for the well or wells or other works: AND~~  
24 ~~PROVIDED FURTHER, That)).~~ The department shall adopt rules in  
25 accordance with chapter 34.05 RCW by January 1, 1995, that specify the  
26 contents of completed water right application forms. The rules must  
27 include specific timelines for the department to follow in making a  
28 determination as to whether an application is complete and notifying  
29 the applicant of its determination. The rules must also identify the  
30 kinds of inaccuracies that render an application incomplete. Any  
31 permit issued pursuant to an application for constructing a well or  
32 wells to withdraw public ground water may specify an approved type and  
33 manner of construction for the purposes of preventing waste of said  
34 public waters and of conserving their head.

35 **Sec. 22.** RCW 90.03.250 and 1987 c 109 s 83 are each amended to  
36 read as follows:



1 Any person, municipal corporation, firm, irrigation district,  
2 association, corporation or water users' association hereafter desiring  
3 to appropriate water for a beneficial use shall make an application to  
4 the department for a permit to make such appropriation, and shall not  
5 use or divert such waters until he has received a permit from the  
6 department as in this chapter provided. The construction of any ditch,  
7 canal or works, or performing any work in connection with said  
8 construction or appropriation, or the use of any waters, shall not be  
9 an appropriation of such water nor an act for the purpose of  
10 appropriating water unless a permit to make said appropriation has  
11 first been granted by the department: PROVIDED, That a temporary  
12 permit may be granted upon a proper showing made to the department to  
13 be valid only during the pendency of such application for a permit  
14 unless sooner revoked by the department: PROVIDED, FURTHER, That  
15 nothing in this chapter contained shall be deemed to affect RCW  
16 90.40.010 through 90.40.080 except that the notice and certificate  
17 therein provided for in RCW 90.40.030 shall be addressed to the  
18 department, and the department shall exercise the powers and perform  
19 the duties prescribed by RCW 90.40.030.

20 The department shall encourage the filing of a consolidated  
21 application for a complex project under a single ownership that  
22 proposes to divert or withdraw water from more than one source,  
23 including a combination of surface and ground water sources. The  
24 filing of a consolidated application for transfer or change of one or  
25 more water rights involving multiple sources must also be encouraged if  
26 all of the affected diversions or withdrawals are intended to serve a  
27 single project with a single ownership. The department shall adopt and  
28 provide forms for consolidated applications.

29 NEW SECTION. Sec. 23. (1) Future de minimis appropriations of  
30 surface water may be developed under streamlined procedures if the  
31 department has adopted a reservation of water for such uses under RCW  
32 90.54.050.

33 (2) For purposes of this chapter, "de minimis appropriation" means  
34 diversion and use of surface water in an amount not exceeding four  
35 hundred fifty gallons per day and not exceeding an instantaneous  
36 diversion rate of two one-hundredths cubic feet per second.

37 (3) Applications for appropriating water under this section must be  
38 made on a form adopted and provided by the department. Within sixty

1 days of the publication of a notice in accordance with RCW 90.03.280,  
2 the department shall issue or deny a permit for the requested  
3 appropriation. If the department denies the application, it shall  
4 explain its determination in writing.

5 (4) The department shall waive the evaluation and report  
6 requirements of RCW 90.03.290 if during the establishment of the  
7 reservation it was conclusively determined that water is available and  
8 that no impairment of existing water rights or the public interest will  
9 occur.

10 (5) This section may not be utilized in areas that are within urban  
11 growth areas as designated under RCW 36.70A.110 or within the service  
12 areas of an existing public water system as defined in RCW 70.119A.020  
13 that has an available water supply.

14 (6) The department shall develop, in cooperation with the  
15 department of health, informational materials regarding the risks of  
16 drinking untreated surface water. This informational material may be  
17 provided to prospective applicants. The department shall attach the  
18 informational materials to any permit that is approved under subsection  
19 (3) of this section.

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

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

35 NEW SECTION. Sec. 25. The department shall establish a register  
36 that identifies, by water resource inventory area, applications for new  
37 water rights and applications for water right transfers and changes.

1 The applications appearing in the register must be limited to those  
2 requesting a new appropriation or change or transfer of more than three  
3 cubic feet per second of water. The register must identify: The  
4 location of the proposed use, change, or transfer; whether the  
5 application is for surface or ground water; and, for surface water  
6 applications, the water source. The department shall produce the  
7 register once every two weeks and shall make the register available to  
8 interested parties for a fee that is based on the cost of producing and  
9 mailing the register. One year after the effective date of this  
10 section, the department may cease production of the register if the  
11 number of requests for the register are not adequate to cover the costs  
12 of producing and mailing it.

13 NEW SECTION. **Sec. 26.** (1) The department of ecology shall in  
14 conjunction with the task force created in section 3, chapter 495, Laws  
15 of 1993 develop a budget process for its water rights administration  
16 program that accomplishes the following:

- 17 (a) Identifies targets for permitting activities for the biennium;
- 18 (b) Identifies workload standards;
- 19 (c) Prepares a draft budget;
- 20 (d) Provides for timely public review of the draft budget; and
- 21 (e) Circulates a final budget.

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

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

31 In establishing the initial workload standards, the legislature has  
32 an expectation that the department of ecology will process a simple,  
33 basic application in six months and an application of intermediate  
34 difficulty in one year.

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

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

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

7 **Sec. 27.** 1993 c 495 s 3 (uncodified) is amended to read as  
8 follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (3) Before December 1, ((1993)) 1997, the task force shall provide  
26 recommendations to the legislature regarding:

27 (a) ((Provide recommendations to the department of ecology on ways  
28 to improve the efficiency and accountability of the water rights  
29 program;

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

32 (c) Propose a new fee schedule for the water rights program which  
33 incorporates the results of the task force's work and which funds  
34 through fees fifty percent of the cost of the activities and services  
35 provided by the program)) The efficiency and accountability of the  
36 water right permit processing program and the need for change to the  
37 level of funding in fiscal year 1999;

1        (b) The future direction of the water resource data management  
2 program and the need for changes to the level of funding in fiscal year  
3 1999; and

4        (c) Modification to the fee schedule to fund water right permit  
5 processing and data management programs that is to go into effect on  
6 July 1, 1998, including a reexamination of the fee on exempt wells  
7 established in RCW 90.03.--- (section 30 of this act).

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

10        (5) The task force shall convene as soon as possible upon the  
11 appointment of its members. Task force members shall elect a chair and  
12 adopt rules for conducting the business of the task force. The task  
13 force shall expire on June 30, ((1994)) 1998.

14        **Sec. 28.** RCW 90.03.470 and 1993 c 495 s 2 are each amended to read  
15 as follows:

16        ((Except as otherwise provided in subsection (15) of this  
17 section,)) The following fees shall be collected by the department in  
18 advance:

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

33        ~~Within five days from receipt of an application the department~~  
34 ~~shall notify the applicant by registered mail of any additional fees~~  
35 ~~due under the above schedule and any additional fees shall be paid to~~  
36 ~~and received by the department within thirty days from the date of~~  
37 ~~filing the application, or the application shall be rejected.~~

1       ~~(2) For filing and recording a permit to appropriate water for~~  
2 ~~irrigation purposes, forty cents per acre for each acre to be irrigated~~  
3 ~~up to and including one hundred acres, and twenty cents per acre for~~  
4 ~~each acre in excess of one hundred acres up to and including one~~  
5 ~~thousand acres, and ten cents for each acre in excess of one thousand~~  
6 ~~acres; and also twenty cents for each theoretical horsepower up to and~~  
7 ~~including one thousand horsepower, and four cents for each theoretical~~  
8 ~~horsepower in excess of one thousand horsepower, but in no instance~~  
9 ~~shall the minimum fee for filing and recording a permit to appropriate~~  
10 ~~water be less than five dollars. For all other beneficial purposes the~~  
11 ~~fee shall be twice the amount of the examination fee except that for~~  
12 ~~individual household and domestic use, which may include water for~~  
13 ~~irrigation of a family garden, the fee shall be five dollars.~~

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

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

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

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

26       ~~(7)) For granting each extension of time for beginning~~  
27 ~~construction work under a permit to appropriate water((, an amount~~  
28 ~~equal to one half of the filing and recording fee, except that the~~  
29 ~~minimum fee shall be not less than five dollars for each year that an~~  
30 ~~extension is granted,)) and for granting an extension of time for~~  
31 ~~completion of construction work or for completing application of water~~  
32 ~~to a beneficial use, ((five dollars for each year that an extension is~~  
33 ~~granted)) one hundred dollars.~~

34       ~~((+8)) (2) For the inspection of any hydraulic works to insure~~  
35 ~~safety to life and property, the actual cost of the inspection,~~  
36 ~~including the expense incident thereto.~~

37       ~~((+9)) (3) For the examination of plans and specifications as to~~  
38 ~~safety of controlling works for storage of ten acre feet or more of~~  
39 ~~water, a minimum fee of ((ten)) fifty dollars, or the actual cost.~~

1       ~~((10))~~ (4) For recording an assignment either of a permit to  
2 appropriate water or of an application for such a permit, a fee of  
3 ~~((five))~~ one hundred dollars.

4       ~~((11) For preparing and issuing all water right certificates, five~~  
5 ~~dollars.~~

6       ~~(12))~~ (5) For filing and recording a protest against granting any  
7 application, ~~((two))~~ fifty dollars.

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

15       ~~(14))~~ (6) For an appeal of a decision against granting any  
16 application, two hundred dollars.

17       (7) For a general permit for nonconsumptive and nonbypass use and  
18 marine waters, one hundred dollars for filing an application and one  
19 hundred dollars for the issuance of a certificate.

20       (8) For filing an application for and authorizing a seasonal change  
21 or rotation, one hundred dollars.

22       (9) For filing an application for and authorizing a temporary or  
23 short-term water use, one hundred dollars.

24       (10) For a de minimis appropriation under a reservation of water  
25 adopted by rule, one hundred dollars for filing an application and one  
26 hundred dollars for issuance of a certificate.

27       (11) For an issuance of a preliminary permit, one hundred dollars.

28       (12) For a consolidated application covering multiple sources or  
29 changes:

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

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

34       (c) The certificate fee is as is appropriate for the individual  
35 certificates, since separate permits would issue and, therefore,  
36 separate certificates would result.

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





1	(A)	Greater than 0.0 and less than or equal to 0.2	
2		cubic feet per second	\$100
3	(B)	Greater than 0.2 and less than or equal to 0.5	
4		cubic feet per second	\$450
5	(C)	Greater than 0.5 and less than or equal to 3	
6		cubic feet per second	\$820
7	(D)	Greater than 3 and less than or equal to 5 cubic	
8		feet per second	\$1,150
9	(E)	Greater than 5 and less than or equal to 20	
10		cubic feet per second	\$1,480
11	(F)	Greater than 20 and less than or equal to 100	
12		cubic feet per second	\$1,810
13	(G)	Greater than 100 cubic feet per second	\$2,130
14	(ii)	Ground water applications:	
15	(A)	Greater than 0.0 and less than or equal to 0.2	
16		cubic feet per second	\$120
17	(B)	Greater than 0.2 and less than or equal to 0.5	
18		cubic feet per second	\$540
19	(C)	Greater than 0.5 and less than or equal to 3	
20		cubic feet per second	\$980
21	(D)	Greater than 3 and less than or equal to 5 cubic	
22		feet per second	\$1,380
23	(E)	Greater than 5 and less than or equal to 20	
24		cubic feet per second	\$1,780
25	(F)	Greater than 20 and less than or equal to 100	
26		cubic feet per second	\$2,170
27	(G)	Greater than 100 cubic feet per second	\$2,560
28	(iii)	Reservoir applications:	
29	(A)	Greater than 0.0 and less than or equal to 10	
30		acre-feet	\$100
31	(B)	Greater than 10 and less than or equal to 100	
32		acre-feet	\$820
33	(C)	Greater than 100 and less than or equal to 1,000	
34		acre-feet	\$1,480
35	(D)	Greater than 1,000 acre-feet	\$2,130
36	(iv)	Changes to permits and certificates:	
37	(A)	Changing a single element	\$100
38	(B)	Changing multiple elements	\$450
39	(c)	Certificate fees:	

1	(i) Surface water and ground water applications:	
2	(A) Greater than 0.0 and less than or equal to 0.2	
3	cubic feet per second	\$90
4	(B) Greater than 0.2 and less than or equal to 0.5	
5	cubic feet per second	\$290
6	(C) Greater than 0.5 and less than or equal to 3	
7	cubic feet per second	\$490
8	(D) Greater than 3 and less than or equal to 5 cubic	
9	feet per second	\$660
10	(E) Greater than 5 and less than or equal to 20	
11	cubic feet per second	\$820
12	(F) Greater than 20 and less than or equal to 100	
13	cubic feet per second	\$990
14	(G) Greater than 100 cubic feet per second	\$1,150
15	(ii) Reservoir applications:	
16	(A) Greater than 0.0 and less than or equal to 10	
17	acre-feet	\$90
18	(B) Greater than 10 and less than or equal to 100	
19	acre-feet	\$490
20	(C) Greater than 100 and less than or equal to 1,000	
21	acre-feet	\$820
22	(D) Greater than 1,000 acre-feet	\$1,150
23	(iii) Changes to permits and certificates:	
24	(A) Changing a single element	\$90
25	(B) Changing multiple elements	\$290

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

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

36 (2) There shall be a seventy-five dollar priority date registration  
37 fee on rights to ground water established after July 1, 1994, under RCW  
38 90.44.050 that are exempt from the water right permitting process. The

1 department shall adopt by rule the means whereby these water rights are  
2 registered with the department and the method of collection of this fee  
3 in accordance with chapter 34.05 RCW. This fee shall be due from only  
4 those well owners who place the water to beneficial use. The  
5 department shall register the well in the water resource data  
6 management system and provide to the owner a certificate that the well  
7 has been registered.

8 (3) The water right processing and data management account is  
9 created in the state treasury. All receipts collected under RCW  
10 90.03.470 and this section shall be deposited into the account. Moneys  
11 in the account may be spent only after appropriation. Expenditures  
12 from the account may be used only for functions of the department of  
13 ecology related to: Filing, examination, and certification water right  
14 permits, changes to water right permits, and transfer of water rights;  
15 development and maintenance of the data management program related to  
16 water rights; and a proportionate share of indirect costs allocated to  
17 these functions necessary to fund the general administrative functions  
18 of the department. The department may expend funds from the account in  
19 an amount that is substantially equal to the amount expended of funds  
20 appropriated from the general fund.

21 **Sec. 30.** RCW 90.03.--- and 1994 c ... s 29 (section 29 of this  
22 act) are each amended 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 0.2  
27 cubic feet per second ((~~\$90~~) \$100)
- 28 (B) Greater than 0.2 and less than or equal to 0.5  
29 cubic feet per second ((~~\$290~~) \$210)
- 30 (C) Greater than 0.5 and less than or equal to 3  
31 cubic feet per second ((~~\$490~~) \$320)
- 32 (D) Greater than 3 and less than or equal to 5 cubic  
33 feet per second ((~~\$660~~) \$420)
- 34 (E) Greater than 5 and less than or equal to 20  
35 cubic feet per second ((~~\$820~~) \$530)
- 36 (F) Greater than 20 and less than or equal to 100  
37 cubic feet per second ((~~\$990~~) \$640)

1 (G) Greater than 100 cubic feet per second ((~~\$1,150~~)) \$740

2 (ii) Reservoir applications:

3 (A) Greater than 0.0 and less than or equal to 10

4 acre-feet ((~~\$90~~)) \$100

5 (B) Greater than 10 and less than or equal to 100

6 acre-feet ((~~\$490~~)) \$320

7 (C) Greater than 100 and less than or equal to 1,000

8 acre-feet ((~~\$820~~)) \$530

9 (D) Greater than 1,000 acre-feet ((~~\$1,150~~)) \$740

10 (iii) Change applications:

11 (A) Changing a single element ((~~\$90~~)) \$100

12 (B) Changing multiple elements ((~~\$290~~)) \$210

13 (b) Examination fees for the following:

14 (i) Surface water applications:

15 (A) Greater than 0.0 and less than or equal to 0.2

16 cubic feet per second \$100

17 (B) Greater than 0.2 and less than or equal to 0.5

18 cubic feet per second ((~~\$450~~)) \$320

19 (C) Greater than 0.5 and less than or equal to 3

20 cubic feet per second ((~~\$820~~)) \$530

21 (D) Greater than 3 and less than or equal to 5 cubic

22 feet per second ((~~\$1,150~~)) \$740

23 (E) Greater than 5 and less than or equal to 20

24 cubic feet per second ((~~\$1,480~~)) \$960

25 (F) Greater than 20 and less than or equal to 100

26 cubic feet per second ((~~\$1,810~~)) \$1,170

27 (G) Greater than 100 cubic feet per second ((~~\$2,130~~)) \$1,380

28 (ii) Ground water applications:

29 (A) Greater than 0.0 and less than or equal to 0.2

30 cubic feet per second \$120

31 (B) Greater than 0.2 and less than or equal to 0.5

32 cubic feet per second ((~~\$540~~)) \$380

33 (C) Greater than 0.5 and less than or equal to 3

34 cubic feet per second ((~~\$980~~)) \$640

35 (D) Greater than 3 and less than or equal to 5 cubic

36 feet per second ((~~\$1,380~~)) \$890

37 (E) Greater than 5 and less than or equal to 20

38 cubic feet per second ((~~\$1,780~~)) \$1,150

1 (F) Greater than 20 and less than or equal to 100  
2 cubic feet per second ((~~\$2,170~~)) \$1,400

3 (G) Greater than 100 cubic feet per second ((~~\$2,560~~)) \$1,660

4 (iii) Reservoir applications:

5 (A) Greater than 0.0 and less than or equal to 10  
6 acre-feet \$100

7 (B) Greater than 10 and less than or equal to 100  
8 acre-feet ((~~\$820~~)) \$530

9 (C) Greater than 100 and less than or equal to 1,000  
10 acre-feet ((~~\$1,480~~)) \$960

11 (D) Greater than 1,000 acre-feet ((~~\$2,130~~)) \$1,380

12 (iv) Changes to permits and certificates:

13 (A) Changing a single element \$100

14 (B) Changing multiple elements ((~~\$450~~)) \$320

15 (c) Certificate fees:

16 (i) Surface water and ground water applications:

17 (A) Greater than 0.0 and less than or equal to 0.2  
18 cubic feet per second ((~~\$90~~)) \$100

19 (B) Greater than 0.2 and less than or equal to 0.5  
20 cubic feet per second ((~~\$290~~)) \$210

21 (C) Greater than 0.5 and less than or equal to 3  
22 cubic feet per second ((~~\$490~~)) \$320

23 (D) Greater than 3 and less than or equal to 5 cubic  
24 feet per second ((~~\$660~~)) \$420

25 (E) Greater than 5 and less than or equal to 20  
26 cubic feet per second ((~~\$820~~)) \$530

27 (F) Greater than 20 and less than or equal to 100  
28 cubic feet per second ((~~\$990~~)) \$640

29 (G) Greater than 100 cubic feet per second ((~~\$1,150~~)) \$740

30 (ii) Reservoir applications:

31 (A) Greater than 0.0 and less than or equal to 10  
32 acre-feet ((~~\$90~~)) \$100

33 (B) Greater than 10 and less than or equal to 100  
34 acre-feet ((~~\$490~~)) \$320

35 (C) Greater than 100 and less than or equal to 1,000  
36 acre-feet ((~~\$820~~)) \$530

37 (D) Greater than 1,000 acre-feet ((~~\$1,150~~)) \$740

38 (iii) Changes to permits and certificates:

39 (A) Changing a single element ((~~\$90~~)) \$100

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

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

12 (2) There shall be a seventy-five dollar priority date registration  
13 fee on rights to ground water established after July 1, 1994, under RCW  
14 90.44.050 that are exempt from the water right permitting process. The  
15 department shall adopt by rule the means whereby these water rights are  
16 registered with the department and the method of collection of this fee  
17 in accordance with chapter 34.05 RCW. This fee shall be due from only  
18 those well owners who place the water to beneficial use. The  
19 department shall register the well in the water resource data  
20 management system and provide to the owner a certificate that the well  
21 has been registered.

22 (3) The water right processing and data management account is  
23 created in the state treasury. All receipts collected under RCW  
24 90.03.470 and this section shall be deposited into the account. Moneys  
25 in the account may be spent only after appropriation. Expenditures  
26 from the account may be used only for functions of the department of  
27 ecology related to: Filing, examination, and certification water right  
28 permits, changes to water right permits, and transfer of water rights;  
29 development and maintenance of the data management program related to  
30 water rights; and a proportionate share of indirect costs allocated to  
31 these functions necessary to fund the general administrative functions  
32 of the department. The department may expend funds from the account in  
33 an amount that is substantially equal to the amount expended of funds  
34 appropriated from the general fund.

35 **Sec. 31.** RCW 89.30.001 and 1933 c 149 s 1 are each amended to read  
36 as follows:

1 Reclamation districts including an area of not less than one  
2 million acres of land may be created and maintained in this state, as  
3 herein provided, for the reclamation and improvement of arid and  
4 semiarid lands situated in such districts, and for the generation  
5 and/or sale of hydroelectric energy(~~(:—PROVIDED, That no~~  
6 ~~appropriation, license, filing, recording, examination or other fee or~~  
7 ~~fees, as provided in RCW 90.16.050 through 90.16.090 or in RCW~~  
8 ~~90.03.470 shall be applicable to a district or districts created under~~  
9 ~~this chapter)).~~

10 **Sec. 32.** RCW 90.40.090 and 1988 c 127 s 83 are each amended to  
11 read as follows:

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

19 **Sec. 33.** RCW 90.46.020 and 1992 c 204 s 3 are each amended to read  
20 as follows:

21 (1) The department of ecology shall, in coordination with the  
22 department of health, develop ~~((interim))~~ standards for ~~((pilot~~  
23 ~~projects under subsection (3) of this section on or before July 1,~~  
24 ~~1992, for))~~ the use of reclaimed water in land applications.

25 (2) The department of health shall, in coordination with the  
26 department of ecology, develop ~~((interim))~~ standards for ~~((pilot~~  
27 ~~projects under subsection (3) of this section on or before November 15,~~  
28 ~~1992, for))~~ the use of reclaimed water in commercial and industrial  
29 activities.

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

33 NEW SECTION. **Sec. 34.** The legislature shall examine and recommend  
34 state policies relating to water rights, water use, and water doctrine  
35 and report the recommendations to the appropriate standing committees  
36 of the 1995 legislature.



1        NEW SECTION.    **Sec. 35.**    RCW 90.03.471 and 1987 c 109 s 99 & 1925  
2    ex.s. c 161 s 3 are each repealed.

3        NEW SECTION.    **Sec. 36.**    Sections 10 through 12, 23 through 26, and  
4    29 of this act are each added to chapter 90.03 RCW.

5        NEW SECTION.    **Sec. 37.**    (1) Section 3 of this act shall take effect  
6    January 2, 1995.

7        (2) Sections 26 through 29 and 31 through 35 of this act shall take  
8    effect July 1, 1994.

9        (3) Section 30 of this act shall take effect July 1, 1998.

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