

---

SECOND SUBSTITUTE SENATE BILL 6291

---

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 27 of this act), 89.30.001, and 90.40.090; adding  
5 new sections to chapter 43.21B RCW; adding new sections to chapter  
6 90.03 RCW; creating a new section; repealing RCW 90.03.471; providing  
7 effective dates; and providing an expiration date.

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

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

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

1       **Sec. 2.** RCW 90.03.340 and 1987 c 109 s 90 are each amended to read  
2 as follows:

3       After January 1, 1995, the priority date of the right acquired by  
4 appropriation (~~((shall relate back to))~~) is the date (~~((of filing of))~~) the  
5 (~~((original))~~) completed application form for the right is filed with the  
6 department. For the purposes of this section and RCW 90.03.270, a  
7 completed application form is one that contains all of the information  
8 requested on the form and is accompanied by the application fee.

9       **Sec. 3.** RCW 90.03.270 and 1987 c 109 s 85 are each amended to read  
10 as follows:

11       Upon receipt of (~~((an))~~) a completed water right application form, it  
12 shall be the duty of the department to (~~((make an endorsement thereon of~~  
13 ~~the))~~) date (~~((of its receipt,))~~) stamp and (~~((to))~~) keep a record of  
14 (~~((same))~~) it. If (~~((upon examination,))~~) an application form is filed  
15 with the department but the information requested on the application  
16 form is (~~((found to be defective,))~~) not complete or the form is not  
17 accompanied by the proper application fee, the form and any application  
18 fee filed with it shall be returned to the applicant (~~((for correction~~  
19 ~~or completion,))~~) and the date and the reasons for the return thereof  
20 shall be (~~((endorsed thereon and made a record in his office. No~~  
21 ~~application shall lose its priority of filing on account of such~~  
22 ~~defects, provided acceptable maps, drawings and such data as is~~  
23 ~~required by the department shall be filed with the department within~~  
24 ~~such reasonable time as it shall require))~~) noted in the department's  
25 records and in a letter returning the form. The department may not  
26 require an applicant to provide information in support of an  
27 application for a water right permit that is not directly necessary for  
28 the department's investigations, determinations, or findings regarding  
29 that particular application.

30       **Sec. 4.** RCW 90.03.280 and 1988 c 36 s 65 are each amended to read  
31 as follows:

32       (~~((Upon receipt of a proper application,))~~) The department shall  
33 instruct the applicant to publish notice (~~((thereof))~~) in a form and  
34 within a time prescribed by (~~((him))~~) the department in a newspaper of  
35 general circulation published in the county or counties in which the  
36 storage, diversion or withdrawal, and use is to be made, and in such  
37 other newspapers as (~~((he))~~) the department may direct, once a week for

1 two consecutive weeks. The notice must include information pertinent  
2 to the proposed appropriation, including the location, the source, the  
3 purpose or purposes of use, and the quantity proposed to be diverted or  
4 withdrawn. The notice must state that persons wishing to protest the  
5 proposed application must do so in writing to the department within  
6 thirty days of the last date of publication of the notice. In order to  
7 be considered by the department, a protest must be received by the  
8 department within thirty days of the last date of publication of the  
9 notice. Upon receipt by the department of an application it shall send  
10 notice thereof containing pertinent information to (~~the director of~~  
11 ~~fisheries and~~) the director of fish and wildlife.

12 NEW SECTION. Sec. 5. A new section is added to chapter 43.21B RCW  
13 to read as follows:

14 In a proceeding before the pollution control hearings board  
15 challenging a decision of the department related to the issuance,  
16 conditioning, transfer, amendment, or denial of a water right permit  
17 under Title 90 RCW, the burden of proof is on the person filing the  
18 appeal.

19 NEW SECTION. Sec. 6. A new section is added to chapter 43.21B RCW  
20 to read as follows:

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

25 NEW SECTION. Sec. 7. A new section is added to chapter 43.21B RCW  
26 to read as follows:

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

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

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

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

34 the applicant for the water right may request, within ten days of the  
35 filing of the appeal with the court, a hearing before the court to  
36 determine whether construction and operation may begin under the water

1 right permit or authorization. If at the conclusion of the hearing the  
2 court finds that construction and operation under the permit or  
3 authorization would not involve a significant damaging of the  
4 environment or impair existing water rights, the court may allow the  
5 permittee to begin construction and operation under the permit or  
6 authorization as the court deems appropriate. The court may require  
7 the permittee to post bonds, in the name of the department, sufficient  
8 to remove the construction or to restore the environment if the permit  
9 or authorization is ultimately disapproved by the courts, or to alter  
10 the construction or operation if the alteration is ultimately ordered  
11 by the courts. In the hearing before the court, the burden of proving  
12 whether the construction or operation might involve significant damage  
13 to the environment or impair existing water rights and demonstrating  
14 whether the construction would or would not be appropriate is on the  
15 appellant.

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

18 One member of the pollution control hearings board may hear and  
19 render a decision on an appeal from a water right applicant regarding  
20 the nature and extent of the information needed to make determinations  
21 regarding the application for or the processing of a water right  
22 permit.

23 NEW SECTION. **Sec. 9.** A water right applicant may appeal to the  
24 pollution control hearings board a determination by the department  
25 regarding the nature and extent of the information needed to make  
26 determinations regarding the application for or the processing of a  
27 water right permit.

28 NEW SECTION. **Sec. 10.** (1) The department shall develop a general  
29 permit system for appropriating water for nonconsumptive, nonbypass  
30 uses and a general permit system for appropriating marine waters for  
31 use on upland sites. These systems must be designed and used to  
32 streamline the consideration of applications for nonconsumptive,  
33 nonbypass water uses and marine water uses that by their nature do not  
34 raise issues regarding water availability or the impairment of other  
35 water rights. The evaluation and report required for an application

1 under RCW 90.03.290 are not required for applications processed under  
2 the general permit system. For the purposes of this section:

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

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

11 (c) "Marine waters" means the coastal saline waters under the  
12 jurisdiction of the state.

13 (2) The department shall establish the general permit systems by  
14 adopting rules in accordance with chapter 34.05 RCW. Before the  
15 adoption of rules for a system, at least four public hearings must be  
16 held at various locations around the state. The hearings on the  
17 general permit system for marine water use must be held in appropriate  
18 coastal communities. The rules must identify criteria for proposed  
19 uses of water for which applications might be processed under each  
20 system and must establish procedures for filing and processing  
21 applications under the general permit systems.

22 NEW SECTION. **Sec. 11.** An application for appropriating water  
23 under a general permit system established under section 10 of this act  
24 must be made on a form adopted and provided by the department. Within  
25 sixty days of the publication of a notice for the application in  
26 accordance with RCW 90.03.280, the department shall determine whether  
27 the proposed use is eligible to be processed under the general permit  
28 system. If the department determines that the proposed use is eligible  
29 to be processed under the system, the application must be processed  
30 under it. If the department determines that the proposed use is not  
31 eligible for the processing, the department shall explain to the  
32 applicant in writing the reasons for its determination. For a proposed  
33 use determined ineligible for the processing, if the department finds  
34 that the information contained on the application form substantially  
35 satisfies the information requirements for an application for a use  
36 that would normally be filed for processing the application outside of  
37 the general permit system, the department shall notify the applicant of  
38 its finding and shall process the application as if it were filed for

1 processing outside of the system. If the department finds that the  
2 information does not substantially satisfy the requirements, the  
3 application must be considered to be incomplete for the processing and  
4 the applicant must be notified of this consideration.

5 **Sec. 12.** RCW 90.03.290 and 1988 c 36 s 66 are each amended to read  
6 as follows:

7 (1) When an application complying with the provisions of this  
8 chapter and with the rules (~~and regulations~~) of the department has  
9 been filed, the (~~same~~) application shall be placed on record with the  
10 department, and it shall be (~~its~~) the department's duty to  
11 (~~investigate the application, and~~) determine what water, if any, is  
12 available for appropriation, and find and determine to what beneficial  
13 use or uses it can be applied.

14 The department shall investigate the application. It is the duty  
15 of the applicant to provide a completed application form. In addition  
16 to providing the information requested on the form, however, the  
17 applicant shall also provide such information as may be required for  
18 the department's investigation, determinations, and findings regarding  
19 the application and may provide additional information. The  
20 information provided by the applicant must satisfy the protocols, that  
21 is, study plans and criteria, established by the department for  
22 obtaining and providing the information. If an applicant provides the  
23 information and the protocols set by the department for obtaining and  
24 providing it have been satisfied, the department shall review the  
25 information and may take actions to verify that the information is  
26 accurate, but it may not, except to replace inaccurate information,  
27 take actions that would constitute obtaining major portions of the  
28 information anew.

29 (2) With regard to an application:

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

34 (b) If it is proposed to appropriate water for the purpose of power  
35 development, the department shall investigate, determine and find  
36 whether the proposed development is likely to prove detrimental to the  
37 public interest, having in mind the highest feasible use of the waters  
38 belonging to the public.

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

17       (4) The department shall make and file as part of the record in the  
18 matter, written findings of fact concerning all things investigated,  
19 and if it shall find that there is water available for appropriation  
20 for a beneficial use, and the appropriation thereof as proposed in the  
21 application will not impair existing rights or be detrimental to the  
22 public welfare, it shall issue a permit stating the amount of water to  
23 which the applicant shall be entitled and the beneficial use or uses to  
24 which it may be applied: PROVIDED, That where the water applied for is  
25 to be used for irrigation purposes, it shall become appurtenant only to  
26 such land as may be reclaimed thereby to the full extent of the soil  
27 for agricultural purposes. But where there is no unappropriated water  
28 in the proposed source of supply, or where the proposed use conflicts  
29 with existing rights, or threatens to prove detrimental to the public  
30 interest, having due regard to the highest feasible development of the  
31 use of the waters belonging to the public, it shall be duty of the  
32 department to reject such application and to refuse to issue the permit  
33 asked for. If the permit is refused because of conflict with existing  
34 rights and such applicant shall acquire same by purchase or  
35 condemnation under RCW 90.03.040, the department may thereupon grant  
36 such permit. Any application may be approved for a less amount of  
37 water than that applied for, if there exists substantial reason  
38 therefor, and in any event shall not be approved for more water than  
39 can be applied to beneficial use for the purposes named in the

1 application. In determining whether or not a permit shall issue upon  
2 any application, it shall be the duty of the department to investigate  
3 all facts relevant and material to the application. After the  
4 department approves said application in whole or in part and before any  
5 permit shall be issued thereon to the applicant, such applicant shall  
6 pay the fee provided in RCW 90.03.470 or section 27 of this act:  
7 PROVIDED FURTHER, That in the event a permit is issued by the  
8 department upon any application, it shall be its duty to notify ((~~both~~  
9 ~~the director of fisheries and~~)) the director of fish and wildlife of  
10 such issuance.

11 NEW SECTION. **Sec. 13.** As used in RCW 90.03.280 and 90.03.290,  
12 "the director of fish and wildlife" means the director of fisheries and  
13 the director of wildlife.

14 NEW SECTION. **Sec. 14.** Section 13 of this act shall expire June  
15 30, 1994.

16 **Sec. 15.** RCW 90.03.320 and 1987 c 109 s 67 are each amended to  
17 read as follows:

18 (1) Actual construction work shall be commenced on any project for  
19 which permit has been granted within such reasonable time as shall be  
20 prescribed by the department, and shall thereafter be prosecuted with  
21 diligence and completed within the time prescribed by the department.  
22 The department, in fixing the time for the commencement of the work, or  
23 for the completion thereof and the application of the water to the  
24 beneficial use prescribed in the permit, shall take into consideration  
25 the cost and magnitude of the project and the engineering and physical  
26 features to be encountered, and shall allow such time as shall be  
27 reasonable and just under the conditions then existing, having due  
28 regard for the public welfare and public interests affected: and, for  
29 good cause shown, it shall extend the time or times fixed as aforesaid,  
30 and shall grant such further period or periods as may be reasonably  
31 necessary, having due regard to the good faith of the applicant and the  
32 public interests affected. If the terms of the permit or extension  
33 thereof, are not complied with the department shall give notice by  
34 registered mail that such permit will be canceled unless the holders  
35 thereof shall show cause within sixty days why the same should not be  
36 so canceled. If cause be not shown, said permit shall be canceled.



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

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

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

6       (c) The operation of legal proceedings;

7       (d) Delays in securing other permits necessary to proceed with the  
8 development;

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

10       (f) Encountering unanticipated physical impediments to  
11 construction; and

12       (g) Encountering generally depressed economic conditions.

13       **Sec. 16.** RCW 90.03.380 and 1991 c 347 s 15 are each amended to  
14 read as follows:

15       (1) The right to the use of water which has been applied to a  
16 beneficial use in the state shall be and remain appurtenant to the land  
17 or place upon which the same is used(~~(:—PROVIDED, HOWEVER, That~~  
18 said)). However, all or a portion of a water right may be transferred  
19 to another (~~(or to others)) person or persons and become appurtenant to~~  
20 any other land or place of use without loss of priority of right  
21 (~~(theretofore established)) if ((such change)) the transfer can be made~~  
22 without detriment or injury to existing rights.

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

27       The season of use under an existing water right or permit may be  
28 changed if the change involves the same general category of water use  
29 and the change can be made without detriment or injury to existing  
30 water rights. An example of a general category of water use for the  
31 purposes of this subsection, but not a limit to the categories, is an  
32 agricultural use of water.

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

1       (4) The right embodied in a permit for water that has not yet been  
2 put to beneficial use may be transferred or changed. For a  
3 certificate, only the amount of water that has been beneficially used  
4 in accordance with the laws of the state may be transferred or changed.  
5 Excess quantities must be relinquished as provided under chapter 90.14  
6 RCW. If a water right permit or certificate is transferred or changed,  
7 the amount diverted or withdrawn for beneficial use may not be enlarged  
8 as to annual quantity. This subsection shall not apply to municipal  
9 water uses.

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

16       (6) A person proposing to relocate a point of diversion of surface  
17 water is not required to file an application if the diversion point is  
18 moved no more than one-quarter mile from its original location, no  
19 diversions exist between the original point of diversion and the new  
20 point of diversion, and no other water rights will be impaired. At  
21 least fifteen days before construction of a replacement diversion  
22 point, the water right holder shall inform the department in writing of  
23 the intention to move the diversion point and shall submit  
24 documentation that the change is in compliance with RCW 75.20.100 or  
25 75.20.103.

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

29       (8) If it ((shall)) appears that ((such)) the transfer or ((such))  
30 change may be made without injury or detriment to existing rights, the  
31 department shall issue to the applicant an authorization to proceed  
32 with the transfer or change. The department may include in its  
33 authorization necessary conditions or limitations under which the  
34 transfer or change may be made, including a reasonable time for  
35 completion. The time may be extended upon request and a showing of  
36 good cause in accordance with RCW 90.03.320 and 90.03 470. If the  
37 person authorized to make a transfer or change of right fails to do so  
38 within the time allowed, including extensions granted for good cause,

1 the department shall cancel the authorization and the water right or  
2 permit reverts to its original form and substance.

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

8 (10) The person authorized to make the transfer or change shall  
9 notify the department upon completion of the transfer or change. After  
10 verifying that the transfer or change has been completed in accordance  
11 with the authorization, the department shall issue to those persons  
12 having an interest in the resulting water right or rights a  
13 certificate, certificate of change, or superseding certificate, as  
14 appropriate, in duplicate (~~(granting)~~) that reflects the nature of the  
15 water right (~~(for such transfer)~~) or rights as transferred or (~~(for~~  
16 such change of point of diversion or of use)) changed. The certificate  
17 or certificates so issued (~~(shall)~~) must be filed and be made a record  
18 with the department and the duplicate certificate issued to the  
19 applicant (~~(may)~~) must be filed with the county auditor in like manner  
20 and with the same effect as provided in the original certificate or  
21 permit to divert water.

22 If an application for change proposes to transfer water rights from  
23 one irrigation district to another, the department shall, before  
24 publication of notice, receive concurrence from each of the irrigation  
25 districts that such transfer or change will not adversely affect the  
26 ability to deliver water to other landowners or impair the financial  
27 integrity of either of the districts.

28 A change in place of use by an individual water user or users of  
29 water provided by an irrigation district need only receive approval for  
30 the change from the board of directors of the district if the use of  
31 water continues within the irrigation district.

32 This section shall not apply to trust water rights acquired by the  
33 state through the funding of water conservation projects under chapter  
34 90.38 RCW or RCW 90.42.010 through 90.42.070.

35 **Sec. 17.** RCW 90.03.390 and 1991 c 350 s 3 are each amended to read  
36 as follows:

37 (~~(RCW 90.03.380 shall not be construed to prevent)~~) (1) A water  
38 (~~(users from making)~~) right holder may make a seasonal or temporary

1 change of (~~point of diversion or place of use of water~~) a water right  
2 when (~~such~~) the change can be made without detriment to existing  
3 rights, but in no case shall such change be made without the permission  
4 of (~~the water master of the district in which such proposed change is~~  
5 ~~located, or of~~) the department. Nor shall RCW 90.03.380 be construed  
6 to prevent construction of emergency interties between public water  
7 systems to permit exchange of water during short-term emergency  
8 situations, or rotation in the use of water for bringing about a more  
9 economical use of the available supply, provided however, that the  
10 department of health in consultation with the department of ecology  
11 shall adopt rules or develop written guidelines setting forth standards  
12 for determining when a short-term emergency exists and the  
13 circumstances in which emergency interties are permitted. The rules or  
14 guidelines shall be consistent with the procedures established in RCW  
15 43.83B.400 through 43.83B.420. Water users owning lands to which water  
16 rights are attached may rotate in the use of water to which they are  
17 collectively entitled, or an individual water user having lands to  
18 which are attached water rights of a different priority, may in like  
19 manner rotate in use when (~~such~~) rotation can be made without  
20 detriment to other existing water rights, and has the approval of the  
21 (~~water master or~~) department.

22 (2) A person or persons wishing to make a seasonal or temporary  
23 change or to rotate use in the manner provided in this section must  
24 file an application with the department on a form adopted and provided  
25 by the department. The department shall waive the notice provisions of  
26 RCW 90.03.280 unless it has reason to believe that fish habitat or the  
27 water rights of other persons are likely to be affected by the proposed  
28 change. The department shall respond to the request by letter setting  
29 forth its approval or denial, including the reason for denial. The  
30 department shall retain a record of its decision as part of the records  
31 of the water right or rights being changed. To the extent practicable,  
32 the department shall expedite its consideration of requests under this  
33 section.

34 **Sec. 18.** RCW 90.44.100 and 1987 c 109 s 113 are each amended to  
35 read as follows:

36 (~~After an application to, and upon the issuance by the department~~  
37 ~~of an amendment to the appropriate permit or certificate of ground~~  
38 ~~water right, the holder of a valid right to withdraw public ground~~

1 waters may, without losing his priority of right, construct wells or  
2 other means of withdrawal at a new location in substitution for or in  
3 addition to those at the original location, or he may change the manner  
4 or the place of use of the water:— PROVIDED, HOWEVER, That such  
5 amendment shall be issued only after publication of notice of the  
6 application and findings as prescribed in the case of an original  
7 application. Such amendment shall be issued by the department only on  
8 the conditions that:)) (1) ((The)) A ground water permit or  
9 certificate may be transferred or changed in the manner provided in RCW  
10 90.03.380 if: (a) Any additional or substitute well or wells shall tap  
11 the same body of public ground water as the original well or wells;  
12 ((+2)) (b) use of the original well or wells shall be discontinued  
13 upon construction of the substitute well or wells; ((+3)) (c) the  
14 construction of an additional well or wells shall not enlarge the right  
15 conveyed by the original permit or certificate; and ((+4)) (d) other  
16 existing rights shall not be impaired. The department may specify an  
17 approved manner of construction and shall require a showing of  
18 compliance with the terms of the amendment, as provided in RCW  
19 90.44.080 in the case of an original permit.

20 (2) Authorization from the department is not required for  
21 construction of a replacement well of the same size, depth, and  
22 capacity that will tap the same aquifer as the original well if the new  
23 well is within one-quarter mile of the original well and if the well  
24 being replaced is properly decommissioned in accordance with chapter  
25 18.104 RCW. The well owner shall notify the department in writing of  
26 the intent to replace the original well and to describe the change in  
27 location.

28 **Sec. 19.** RCW 90.03.260 and 1987 c 109 s 84 are each amended to  
29 read as follows:

30 ~~((Each application for permit to appropriate water shall set forth~~  
31 ~~the name and post office address of the applicant, the source of water~~  
32 ~~supply, the nature and amount of the proposed use, the time during~~  
33 ~~which water will be required each year, the location and description of~~  
34 ~~the proposed ditch, canal, or other work, the time within which the~~  
35 ~~completion of the construction and the time for the complete~~  
36 ~~application of the water to the proposed use. If for agricultural~~  
37 ~~purposes, it shall give the legal subdivision of the land and the~~  
38 ~~acreage to be irrigated, as near as may be, and the amount of water~~

1 expressed in acre feet to be supplied per season. If for power  
2 purposes, it shall give the nature of the works by means of which the  
3 power is to be developed, the head and amount of water to be utilized,  
4 and the uses to which the power is to be applied. If for construction  
5 of a reservoir, it shall give the height of the dam, the capacity of  
6 the reservoir, and the uses to be made of the impounded waters. If for  
7 municipal water supply, it shall give the present population to be  
8 served, and, as near as may be, the future requirement of the  
9 municipality. If for mining purposes, it shall give the nature of the  
10 mines to be served and the method of supplying and utilizing the water;  
11 also their location by legal subdivisions. All applications shall be  
12 accompanied by such maps and drawings, in duplicate, and such other  
13 data, as may be required by the department, and such accompanying data  
14 shall be considered as a part of the application.)) The department  
15 shall adopt rules in accordance with chapter 34.05 RCW by January 1,  
16 1995, that specify the contents of completed water right application  
17 forms. The rules must include specific timelines for the department to  
18 follow in making a determination as to whether an application is  
19 complete and notifying the applicant of its determination. The rules  
20 must also identify the kinds of inaccuracies that render an application  
21 incomplete.

22 **Sec. 20.** RCW 90.44.060 and 1987 c 109 s 109 are each amended to  
23 read as follows:

24 Applications for permits for appropriation of underground water  
25 shall be made in the same form and manner provided in RCW 90.03.250  
26 through 90.03.340, as amended, the provisions of which sections are  
27 hereby extended to govern and to apply to ground water, or ground water  
28 right certificates and to all permits that shall be issued pursuant to  
29 such applications, and the rights to the withdrawal of ground water  
30 acquired thereby shall be governed by RCW 90.03.250 through 90.03.340,  
31 inclusive(~~(: PROVIDED, That each application to withdraw public ground~~  
32 ~~water by means of a well or wells shall set forth the following~~  
33 ~~additional information: (1) the name and post office address of the~~  
34 ~~applicant; (2) the name and post office address of the owner of the~~  
35 ~~land on which such well or wells or works will be located; (3) the~~  
36 ~~location of the proposed well or wells or other works for the proposed~~  
37 ~~withdrawal; (4) the ground water area, sub-area, or zone from which~~  
38 ~~withdrawal is proposed, provided the department has designated such~~

1 ~~area, sub-area, or zone in accord with RCW 90.44.130; (5) the amount of~~  
2 ~~water proposed to be withdrawn, in gallons a minute and in acre feet a~~  
3 ~~year, or millions of gallons a year; (6) the depth and type of~~  
4 ~~construction proposed for the well or wells or other works: AND~~  
5 ~~PROVIDED FURTHER, That)).~~ The department shall adopt rules in  
6 accordance with chapter 34.05 RCW by January 1, 1995, that specify the  
7 contents of completed water right application forms. The rules must  
8 include specific timelines for the department to follow in making a  
9 determination as to whether an application is complete and notifying  
10 the applicant of its determination. The rules must also identify the  
11 kinds of inaccuracies that render an application incomplete. Any  
12 permit issued pursuant to an application for constructing a well or  
13 wells to withdraw public ground water may specify an approved type and  
14 manner of construction for the purposes of preventing waste of said  
15 public waters and of conserving their head.

16 **Sec. 21.** RCW 90.03.250 and 1987 c 109 s 83 are each amended to  
17 read as follows:

18 Any person, municipal corporation, firm, irrigation district,  
19 association, corporation or water users' association hereafter desiring  
20 to appropriate water for a beneficial use shall make an application to  
21 the department for a permit to make such appropriation, and shall not  
22 use or divert such waters until he has received a permit from the  
23 department as in this chapter provided. The construction of any ditch,  
24 canal or works, or performing any work in connection with said  
25 construction or appropriation, or the use of any waters, shall not be  
26 an appropriation of such water nor an act for the purpose of  
27 appropriating water unless a permit to make said appropriation has  
28 first been granted by the department: PROVIDED, That a temporary  
29 permit may be granted upon a proper showing made to the department to  
30 be valid only during the pendency of such application for a permit  
31 unless sooner revoked by the department: PROVIDED, FURTHER, That  
32 nothing in this chapter contained shall be deemed to affect RCW  
33 90.40.010 through 90.40.080 except that the notice and certificate  
34 therein provided for in RCW 90.40.030 shall be addressed to the  
35 department, and the department shall exercise the powers and perform  
36 the duties prescribed by RCW 90.40.030.

37 The department shall encourage the filing of a consolidated  
38 application for a complex project under a single ownership that

1 proposes to divert or withdraw water from more than one source,  
2 including a combination of surface and ground water sources. The  
3 filing of a consolidated application for transfer or change of one or  
4 more water rights involving multiple sources must also be encouraged if  
5 all of the affected diversions or withdrawals are intended to serve a  
6 single project with a single ownership. The department shall adopt and  
7 provide forms for consolidated applications.

8 NEW SECTION. Sec. 22. (1) Future de minimis appropriations of  
9 surface water may be developed under streamlined procedures if the  
10 department has adopted a reservation of water for such uses under RCW  
11 90.54.050.

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

16 (3) Applications for appropriating water under this section must be  
17 made on a form adopted and provided by the department. Within sixty  
18 days of the publication of a notice in accordance with RCW 90.03.280,  
19 the department shall issue or deny a permit for the requested  
20 appropriation. If the department denies the application, it shall  
21 explain its determination in writing.

22 (4) The department shall waive the evaluation and report  
23 requirements of RCW 90.03.290 if during the establishment of the  
24 reservation it was conclusively determined that water is available and  
25 that no impairment of existing water rights or the public interest will  
26 occur.

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

31 (6) The department shall develop, in cooperation with the  
32 department of health, informational materials regarding the risks of  
33 drinking untreated surface water. This informational material may be  
34 provided to prospective applicants. The department shall attach the  
35 informational materials to any permit that is approved under subsection  
36 (3) of this section.



1        NEW SECTION.    **Sec. 23.**    (1) The department may authorize short-term  
2 uses of water without publication of the notice required under RCW  
3 90.03.280 and without the report required under RCW 90.03.290.  
4 However, before approving a short-term use, the department shall  
5 determine to its satisfaction that the substantive criteria in RCW  
6 90.03.290 are met and that a stream affected by a short-term use will  
7 be retained with sufficient flows to maintain instream uses and to  
8 protect existing water rights. The department shall adopt and provide  
9 application forms for persons applying for a short-term use and shall  
10 expedite its consideration of short-term use requests to the extent  
11 practicable.

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

16        NEW SECTION.    **Sec. 24.**    The department shall establish a register  
17 that identifies, by water resource inventory area, applications for new  
18 water rights and applications for water right transfers and changes.  
19 The applications appearing in the register must be limited to those  
20 requesting a new appropriation or change or transfer of more than three  
21 cubic feet per second of water. The register must identify: The  
22 location of the proposed use, change, or transfer; whether the  
23 application is for surface or ground water; and, for surface water  
24 applications, the water source. The department shall produce the  
25 register once every two weeks and shall make the register available to  
26 interested parties for a fee that is based on the cost of producing and  
27 mailing the register. One year after the effective date of this  
28 section, the department may cease production of the register if the  
29 number of requests for the register are not adequate to cover the costs  
30 of producing and mailing it.

31        NEW SECTION.    **Sec. 25.**    (1) The department of ecology shall develop  
32 a budget process for its water rights administration program that  
33 accomplishes the following:

- 34        (a) Identifies targets for permitting activities for the biennium;  
35        (b) Identifies workload standards;  
36        (c) Prepares a draft budget;  
37        (d) Provides for timely public review of the draft budget; and

1 (e) Circulates a final budget.

2 (2) The department of ecology shall also establish an advisory  
3 committee of stakeholders. This group of stakeholders shall establish  
4 and periodically review the following:

5 (a) Workload standards and proposed incentives to improve such  
6 standards;

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

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

11 In establishing the initial workload standards, the legislature has  
12 an expectation that the department of ecology will process a simple,  
13 basic application in six months and an application of intermediate  
14 difficulty in one year.

15 (3) The department of ecology shall report annually on the success  
16 measures established, the number of water right permit decisions made,  
17 and the associated costs of administering the water rights program.

18 (4) The legislature shall provide for another state entity or an  
19 independent contractor to conduct periodic performance audits or  
20 evaluations of the effectiveness and efficiency of the department of  
21 ecology in meeting its workload standards and achieving programmatic  
22 success.

23 **Sec. 26.** RCW 90.03.470 and 1993 c 495 s 2 are each amended to read  
24 as follows:

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

28 (1) (~~For the examination of an application for permit to~~  
29 ~~appropriate water or on application to change point of diversion,~~  
30 ~~withdrawal, purpose or place of use, a minimum of ten dollars, to be~~  
31 ~~paid with the application. For each second foot between one and five~~  
32 ~~hundred second feet, two dollars per second foot; for each second foot~~  
33 ~~between five hundred and two thousand second feet, fifty cents per~~  
34 ~~second foot; and for each second foot in excess thereof, twenty cents~~  
35 ~~per second foot. For each acre foot of storage up to and including one~~  
36 ~~hundred thousand acre feet, one cent per acre foot, and for each acre~~  
37 ~~foot in excess thereof, one fifth cent per acre foot. The ten dollar~~  
38 ~~fee payable with the application shall be a credit to that amount~~

1 whenever the fee for direct diversion or storage totals more than ten  
2 dollars under the above schedule and in such case the further fee due  
3 shall be the total computed amount less ten dollars.

4 Within five days from receipt of an application the department  
5 shall notify the applicant by registered mail of any additional fees  
6 due under the above schedule and any additional fees shall be paid to  
7 and received by the department within thirty days from the date of  
8 filing the application, or the application shall be rejected.

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

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

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

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

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

34 (7)) For granting each extension of time for beginning  
35 construction work under a permit to appropriate water((, an amount  
36 equal to one half of the filing and recording fee, except that the  
37 minimum fee shall be not less than five dollars for each year that an  
38 extension is granted,)) and for granting an extension of time for  
39 completion of construction work or for completing application of water

1 to a beneficial use, (~~five dollars for each year that an extension is~~  
2 ~~granted~~) one hundred dollars.

3 (~~(8)~~) (2) For the inspection of any hydraulic works to insure  
4 safety to life and property, the actual cost of the inspection,  
5 including the expense incident thereto.

6 (~~(9)~~) (3) For the examination of plans and specifications as to  
7 safety of controlling works for storage of ten acre feet or more of  
8 water, a minimum fee of (~~ten~~) fifty dollars, or the actual cost.

9 (~~(10)~~) (4) For recording an assignment either of a permit to  
10 appropriate water or of an application for such a permit, a fee of  
11 (~~five~~) one hundred dollars.

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

14 (~~(12)~~) (5) For filing and recording a protest against granting any  
15 application, (~~two~~) fifty dollars.

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

23 (~~(14)~~) (6) For an appeal of a decision against granting any  
24 application, two hundred dollars.

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

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

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

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

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

36 (12) For a consolidated application covering multiple sources or  
37 changes:

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

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

3        (c) The certificate fee is as is appropriate for the individual  
4 certificates, since separate permits would issue and, therefore,  
5 separate certificates would result.

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

9        ~~((15) For the period beginning July 1, 1993, and ending June 30,~~  
10 ~~1994, there is imposed and the department shall collect a one hundred~~  
11 ~~dollar surcharge on all water rights applications or changes filed~~  
12 ~~under this section, and upon all water rights applications or changes~~  
13 ~~pending as of July 1, 1993. This charge shall be in addition to any~~  
14 ~~other fees imposed under this section.))~~

15        NEW SECTION.    Sec. 27.    (1) The department shall collect the  
16 following fees in advance:

17        (a) Application filing fees for the following:

18        (i) Surface water and ground water applications:

19        (A)        Greater than 0.0 and less than or equal to 0.2	
20                    cubic feet per second	\$90
21        (B)        Greater than 0.2 and less than or equal to 0.5	
22                    cubic feet per second	\$290
23        (C)        Greater than 0.5 and less than or equal to 3	
24                    cubic feet per second	\$490
25        (D)        Greater than 3 and less than or equal to 5 cubic	
26                    feet per second	\$660
27        (E)        Greater than 5 and less than or equal to 20	
28                    cubic feet per second	\$820
29        (F)        Greater than 20 and less than or equal to 100	
30                    cubic feet per second	\$990
31        (G)        Greater than 100 cubic feet per second	\$1,150

32        (ii) Reservoir applications:

33        (A)        Greater than 0.0 and less than or equal to 10	
34                    acre-feet	\$90
35        (B)        Greater than 10 and less than or equal to 100	
36                    acre-feet	\$490

1	(C)	Greater than 100 and less than or equal to 1,000	
2		acre-feet	\$820
3	(D)	Greater than 1,000 acre-feet	\$1,150
4	(iii)	Change applications:	
5	(A)	Changing a single element	\$90
6	(B)	Changing multiple elements	\$290
7	(b)	Examination fees for the following:	
8	(i)	Surface water applications:	
9	(A)	Greater than 0.0 and less than or equal to 0.2	
10		cubic feet per second	\$100
11	(B)	Greater than 0.2 and less than or equal to 0.5	
12		cubic feet per second	\$450
13	(C)	Greater than 0.5 and less than or equal to 3	
14		cubic feet per second	\$820
15	(D)	Greater than 3 and less than or equal to 5 cubic	
16		feet per second	\$1,150
17	(E)	Greater than 5 and less than or equal to 20	
18		cubic feet per second	\$1,480
19	(F)	Greater than 20 and less than or equal to 100	
20		cubic feet per second	\$1,810
21	(G)	Greater than 100 cubic feet per second	\$2,130
22	(ii)	Ground water applications:	
23	(A)	Greater than 0.0 and less than or equal to 0.2	
24		cubic feet per second	\$120
25	(B)	Greater than 0.2 and less than or equal to 0.5	
26		cubic feet per second	\$540
27	(C)	Greater than 0.5 and less than or equal to 3	
28		cubic feet per second	\$980
29	(D)	Greater than 3 and less than or equal to 5 cubic	
30		feet per second	\$1,380
31	(E)	Greater than 5 and less than or equal to 20	
32		cubic feet per second	\$1,780
33	(F)	Greater than 20 and less than or equal to 100	
34		cubic feet per second	\$2,170
35	(G)	Greater than 100 cubic feet per second	\$2,560
36	(iii)	Reservoir applications:	
37	(A)	Greater than 0.0 and less than or equal to 10	
38		acre-feet	\$100

1	(B)	Greater than 10 and less than or equal to 100	
2		acre-feet	\$820
3	(C)	Greater than 100 and less than or equal to 1,000	
4		acre-feet	\$1,480
5	(D)	Greater than 1,000 acre-feet	\$2,130
6	(iv)	Changes to permits and certificates:	
7	(A)	Changing a single element	\$100
8	(B)	Changing multiple elements	\$450
9	(c)	Certificate fees:	
10	(i)	Surface water and ground water applications:	
11	(A)	Greater than 0.0 and less than or equal to 0.2	
12		cubic feet per second	\$90
13	(B)	Greater than 0.2 and less than or equal to 0.5	
14		cubic feet per second	\$290
15	(C)	Greater than 0.5 and less than or equal to 3	
16		cubic feet per second	\$490
17	(D)	Greater than 3 and less than or equal to 5 cubic	
18		feet per second	\$660
19	(E)	Greater than 5 and less than or equal to 20	
20		cubic feet per second	\$820
21	(F)	Greater than 20 and less than or equal to 100	
22		cubic feet per second	\$990
23	(G)	Greater than 100 cubic feet per second	\$1,150
24	(ii)	Reservoir applications:	
25	(A)	Greater than 0.0 and less than or equal to 10	
26		acre-feet	\$90
27	(B)	Greater than 10 and less than or equal to 100	
28		acre-feet	\$490
29	(C)	Greater than 100 and less than or equal to 1,000	
30		acre-feet	\$820
31	(D)	Greater than 1,000 acre-feet	\$1,150
32	(iii)	Changes to permits and certificates:	
33	(A)	Changing a single element	\$90
34	(B)	Changing multiple elements	\$290

35 The department shall provide timely notification by certified mail  
36 with return receipt requested to applicants that fees are due. No  
37 action may be taken until the fee is paid in full. Failure to remit  
38 fees within sixty days of the department's notification shall be

1 grounds for rejecting the application or canceling the permit. Cash  
2 shall not be accepted. Fees must be paid by check or money order and  
3 are nonrefundable.

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

7 (2) There shall be a seventy-five dollar priority date registration  
8 fee on rights to ground water established after July 1, 1994, under RCW  
9 90.44.050 that are exempt from the water right permitting process. The  
10 department shall adopt by rule the means whereby these water rights are  
11 registered with the department and the method of collection of this fee  
12 in accordance with chapter 34.05 RCW. This fee shall be due from only  
13 those well owners who place the water to beneficial use. The  
14 department shall register the well in the water resource data  
15 management system and provide to the owner a certificate that the well  
16 has been registered.

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

30 **Sec. 28.** RCW 90.03.--- and 1994 c ... s 27 (section 27 of this  
31 act) are each amended to read as follows:

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

33 (a) Application filing fees for the following:

34 (i) Surface water and ground water applications:

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

36 cubic feet per second ((~~\$90~~) \$100)



- 1 (B) Greater than 0.2 and less than or equal to 0.5  
2 cubic feet per second ((~~\$290~~) \$210)
- 3 (C) Greater than 0.5 and less than or equal to 3  
4 cubic feet per second ((~~\$490~~) \$320)
- 5 (D) Greater than 3 and less than or equal to 5 cubic  
6 feet per second ((~~\$660~~) \$420)
- 7 (E) Greater than 5 and less than or equal to 20  
8 cubic feet per second ((~~\$820~~) \$530)
- 9 (F) Greater than 20 and less than or equal to 100  
10 cubic feet per second ((~~\$990~~) \$640)
- 11 (G) Greater than 100 cubic feet per second ((~~\$1,150~~) \$740)
- 12 (ii) Reservoir applications:
- 13 (A) Greater than 0.0 and less than or equal to 10  
14 acre-feet ((~~\$90~~) \$100)
- 15 (B) Greater than 10 and less than or equal to 100  
16 acre-feet ((~~\$490~~) \$320)
- 17 (C) Greater than 100 and less than or equal to 1,000  
18 acre-feet ((~~\$820~~) \$530)
- 19 (D) Greater than 1,000 acre-feet ((~~\$1,150~~) \$740)
- 20 (iii) Change applications:
- 21 (A) Changing a single element ((~~\$90~~) \$100)
- 22 (B) Changing multiple elements ((~~\$290~~) \$210)
- 23 (b) Examination fees for the following:
- 24 (i) Surface water applications:
- 25 (A) Greater than 0.0 and less than or equal to 0.2  
26 cubic feet per second \$100
- 27 (B) Greater than 0.2 and less than or equal to 0.5  
28 cubic feet per second ((~~\$450~~) \$320)
- 29 (C) Greater than 0.5 and less than or equal to 3  
30 cubic feet per second ((~~\$820~~) \$530)
- 31 (D) Greater than 3 and less than or equal to 5 cubic  
32 feet per second ((~~\$1,150~~) \$740)
- 33 (E) Greater than 5 and less than or equal to 20  
34 cubic feet per second ((~~\$1,480~~) \$960)
- 35 (F) Greater than 20 and less than or equal to 100  
36 cubic feet per second ((~~\$1,810~~) \$1,170)
- 37 (G) Greater than 100 cubic feet per second ((~~\$2,130~~) \$1,380)
- 38 (ii) Ground water applications:

1	(A)	Greater than 0.0 and less than or equal to 0.2	
2		cubic feet per second	\$120
3	(B)	Greater than 0.2 and less than or equal to 0.5	
4		cubic feet per second	<del>(\$540)</del> <u>\$380</u>
5	(C)	Greater than 0.5 and less than or equal to 3	
6		cubic feet per second	<del>(\$980)</del> <u>\$640</u>
7	(D)	Greater than 3 and less than or equal to 5 cubic	
8		feet per second	<del>(\$1,380)</del> <u>\$890</u>
9	(E)	Greater than 5 and less than or equal to 20	
10		cubic feet per second	<del>(\$1,780)</del> <u>\$1,150</u>
11	(F)	Greater than 20 and less than or equal to 100	
12		cubic feet per second	<del>(\$2,170)</del> <u>\$1,400</u>
13	(G)	Greater than 100 cubic feet per second	<del>(\$2,560)</del> <u>\$1,660</u>
14	(iii) Reservoir applications:		
15	(A)	Greater than 0.0 and less than or equal to 10	
16		acre-feet	\$100
17	(B)	Greater than 10 and less than or equal to 100	
18		acre-feet	<del>(\$820)</del> <u>\$530</u>
19	(C)	Greater than 100 and less than or equal to 1,000	
20		acre-feet	<del>(\$1,480)</del> <u>\$960</u>
21	(D)	Greater than 1,000 acre-feet	<del>(\$2,130)</del> <u>\$1,380</u>
22	(iv) Changes to permits and certificates:		
23	(A)	Changing a single element	\$100
24	(B)	Changing multiple elements	<del>(\$450)</del> <u>\$320</u>
25	(c) Certificate fees:		
26	(i) Surface water and ground water applications:		
27	(A)	Greater than 0.0 and less than or equal to 0.2	
28		cubic feet per second	<del>(\$90)</del> <u>\$100</u>
29	(B)	Greater than 0.2 and less than or equal to 0.5	
30		cubic feet per second	<del>(\$290)</del> <u>\$210</u>
31	(C)	Greater than 0.5 and less than or equal to 3	
32		cubic feet per second	<del>(\$490)</del> <u>\$320</u>
33	(D)	Greater than 3 and less than or equal to 5 cubic	
34		feet per second	<del>(\$660)</del> <u>\$420</u>
35	(E)	Greater than 5 and less than or equal to 20	
36		cubic feet per second	<del>(\$820)</del> <u>\$530</u>
37	(F)	Greater than 20 and less than or equal to 100	
38		cubic feet per second	<del>(\$990)</del> <u>\$640</u>
39	(G)	Greater than 100 cubic feet per second	<del>(\$1,150)</del> <u>\$740</u>

- 1 (ii) Reservoir applications:
- 2 (A) Greater than 0.0 and less than or equal to 10
- 3 acre-feet ((~~\$90~~) \$100)
- 4 (B) Greater than 10 and less than or equal to 100
- 5 acre-feet ((~~\$490~~) \$320)
- 6 (C) Greater than 100 and less than or equal to 1,000
- 7 acre-feet ((~~\$820~~) \$530)
- 8 (D) Greater than 1,000 acre-feet ((~~\$1,150~~) \$740)
- 9 (iii) Changes to permits and certificates:
- 10 (A) Changing a single element ((~~\$90~~) \$100)
- 11 (B) Changing multiple elements ((~~\$290~~) \$210)

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

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

22 (2) There shall be a seventy-five dollar priority date registration  
 23 fee on rights to ground water established after July 1, 1994, under RCW  
 24 90.44.050 that are exempt from the water right permitting process. The  
 25 department shall adopt by rule the means whereby these water rights are  
 26 registered with the department and the method of collection of this fee  
 27 in accordance with chapter 34.05 RCW. This fee shall be due from only  
 28 those well owners who place the water to beneficial use. The  
 29 department shall register the well in the water resource data  
 30 management system and provide to the owner a certificate that the well  
 31 has been registered.

32 (3) The water right processing and data management account is  
 33 created in the state treasury. All receipts collected under RCW  
 34 90.03.470 and this section shall be deposited into the account. Moneys  
 35 in the account may be spent only after appropriation. Expenditures  
 36 from the account may be used only for functions of the department of  
 37 ecology related to: Filing, examination, and certification water right  
 38 permits, changes to water right permits, and transfer of water rights;

1 development and maintenance of the data management program related to  
2 water rights; and a proportionate share of indirect costs allocated to  
3 these functions necessary to fund the general administrative functions  
4 of the department. The department may expend funds from the account in  
5 an amount that is substantially equal to the amount expended of funds  
6 appropriated from the general fund.

7 **Sec. 29.** RCW 89.30.001 and 1933 c 149 s 1 are each amended to read  
8 as follows:

9 Reclamation districts including an area of not less than one  
10 million acres of land may be created and maintained in this state, as  
11 herein provided, for the reclamation and improvement of arid and  
12 semiarid lands situated in such districts, and for the generation  
13 and/or sale of hydroelectric energy(~~(:—PROVIDED, That no~~  
14 ~~appropriation, license, filing, recording, examination or other fee or~~  
15 ~~fees, as provided in RCW 90.16.050 through 90.16.090 or in RCW~~  
16 ~~90.03.470 shall be applicable to a district or districts created under~~  
17 ~~this chapter))).~~

18 **Sec. 30.** RCW 90.40.090 and 1988 c 127 s 83 are each amended to  
19 read as follows:

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

27 NEW SECTION. **Sec. 31.** RCW 90.03.471 and 1987 c 109 s 99 & 1925  
28 ex.s. c 161 s 3 are each repealed.

29 NEW SECTION. **Sec. 32.** Sections 9 through 11, 22 through 25, and  
30 27 of this act are each added to chapter 90.03 RCW.

31 NEW SECTION. **Sec. 33.** (1) Section 2 of this act shall take effect  
32 January 2, 1995.

33 (2) Sections 25 through 27 and 29 through 31 of this act shall take  
34 effect July 1, 1994.

1 (3) Section 28 of this act shall take effect July 1, 1998.

--- END ---