

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2537

Chapter 320, Laws of 1996

54th Legislature
1996 Regular Session

BOARDS OF JOINT CONTROL

EFFECTIVE DATE: 6/6/96

Passed by the House March 4, 1996
Yeas 94 Nays 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

Passed by the Senate February 29, 1996
Yeas 47 Nays 0

JOEL PRITCHARD
President of the Senate

Approved March 30, 1996

MIKE LOWRY
Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2537** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

March 30, 1996 - 11:34 p.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2537

AS AMENDED BY THE SENATE

Passed Legislature - 1996 Regular Session

State of Washington 54th Legislature 1996 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Honeyford, Chandler, Mastin, Clements, Schoesler, Foreman, Grant, Lisk and Mulliken)

Read first time 02/02/96.

1 AN ACT Relating to the creation, operation, and management of
2 boards of joint control; amending RCW 87.80.010, 87.80.020, 87.80.030,
3 87.80.050, 87.80.060, 87.80.090, 87.80.100, 87.80.110, 87.80.120,
4 87.80.130, 87.80.140, 87.80.160, 87.80.190, 87.80.200, 87.03.440,
5 90.03.380, 43.83B.050, and 43.99E.030; adding new sections to chapter
6 87.80 RCW; and repealing RCW 87.80.170, 87.80.180, and 87.80.210.

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

8 **Sec. 1.** RCW 87.80.010 and 1949 c 56 s 1 are each amended to read
9 as follows:

10 A board of joint control may be created as provided in this chapter
11 to administer: (1) The construction, operation, maintenance,
12 betterments, and regulations of the ((water works, main, and branch
13 canals, if any, and water lines and other water facilities)) joint use
14 facilities, including reservoirs, canals, hydroelectric facilities
15 within the works of the irrigation water supply system, pumping
16 stations, drainage works, reserved works, and system interconnections,
17 of two or more irrigation ((districts and others)) entities which are
18 the owners of, have an ownership interest in, or are trustees for
19 owners of water rights having the same ((natural)) source ((and)) or

1 which use ~~((the same))~~ common works for the diversion and either
2 transportation, or drainage, or both, of all or any part of their
3 respective irrigation water supplies(~~(, may be created as hereinafter~~
4 ~~provided))~~; and (2) activities and programs that promote more effective
5 and efficient water management for the benefit of member entities of a
6 board of joint control.

7 NEW SECTION. Sec. 2. A new section is added to chapter 87.80 RCW
8 to read as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

11 (1) "Area of jurisdiction" means all lands within the exterior
12 boundary of the composite area served by the irrigation entities that
13 comprise the board of joint control as the boundary is represented on
14 the map filed under RCW 87.80.030.

15 (2) "Irrigation entity" means an irrigation district or an
16 operating entity for a division within a federal reclamation project.

17 (3) "Joint use facilities" means those works, including reservoirs,
18 canals, hydroelectric facilities, pumping stations, drainage works,
19 reserved works as may be transferred by contracts with the United
20 States, and system interties that are determined by the board of joint
21 control to provide common benefit to its members.

22 (4) "Ownership interest" means the irrigation entity holds water
23 rights in its name for the benefit of its water users or, in federal
24 reclamation projects, the irrigation entity has a contractual
25 responsibility for delivery of water to its individual water users.

26 (5) "Source of water" means a hydrological distinct river or
27 aquifer system from which board of joint control member entities
28 appropriate water.

29 **Sec. 3.** RCW 87.80.020 and 1949 c 56 s 2 are each amended to read
30 as follows:

31 (1) For the purpose of creating ~~((such))~~ a board of joint control
32 a petition signed by ~~((three))~~ two or more ~~((owners of))~~ entities that
33 are owners of or hold an ownership interest in water rights having the
34 same ~~((natural))~~ source of water ~~((and which owners))~~ or use common
35 works for the diversion ~~((and)),~~ transportation, or drainage of all or
36 any part of their respective irrigation water supplies, ~~((as aforesaid,~~
37 ~~shall))~~ must be filed with the board of county commissioners of the

1 county in which the greater part of the land irrigated from ((said))
2 the source of water supply is situated. (~~(No irrigation district shall~~
3 ~~be represented on said petition without the signatures of the entire~~
4 ~~membership of its board of directors.)~~)

5 (2) The petition shall also be filed with the board of
6 commissioners of each county containing lands irrigated from the source
7 of water supply of the entities signing the petition. The board of
8 county commissioners making the review under RCW 87.80.090 shall
9 consider any comments of other boards of county commissioners provided
10 within the public hearing and comment period on the petition.

11 **Sec. 4.** RCW 87.80.030 and 1949 c 56 s 3 are each amended to read
12 as follows:

13 The petition for the creation of a board of joint control shall be
14 addressed to the board of county commissioners, shall describe
15 generally the (~~(water works, main, and branch canals, if any, and water~~
16 ~~lines and other water facilities involved)) relationship, if any, of~~

17 the irrigation entities to an established federal reclamation project,
18 the primary water works of the entities including reservoirs, main
19 canals, hydroelectric facilities, pumping stations, and drainage
20 facilities, giving them their local names, if any they have, and shall
21 show generally the physical relationship of the lands being watered
22 from the (~~(common use of said water works, canals, lines and other))~~
23 water facilities((:—PROVIDED, That)). However, lands included in any
24 irrigation (~~(district))~~ entity involved need not be described
25 individually but shall be included by stating the name of the
26 irrigation (~~(district))~~ entity and all the irrigable lands in the
27 irrigation (~~(district))~~ entity named shall by that method be deemed to
28 be involved unless otherwise specifically stated in the petition.
29 Further, the petition must propose the formula for board of joint
30 control apportionment of costs among its members, and may propose the
31 composition of the board of joint control as to membership, chair, and
32 voting structure. The petition shall also state generally the reasons
33 for the creation of a board of joint control and any other matter the
34 petitioners deem material, and shall allege that it is in the public
35 interest and to the benefit of all the owners of the lands receiving
36 water (~~(from said common source))~~ within the area of jurisdiction, that
37 (~~(said))~~ the board of joint control be created and ((pray)) request
38 that the board of county commissioners consider ((said)) the petition

1 and take the necessary steps provided by law for the creation of a
2 board of joint control. The petition shall be accompanied by a map
3 showing the area of jurisdiction and the general location of the water
4 ~~((works, main, and branch canals, if any, and water lines and other~~
5 ~~water)) supply and distribution facilities.~~

6 **Sec. 5.** RCW 87.80.050 and 1988 c 127 s 66 are each amended to read
7 as follows:

8 Notice of the hearing on ~~((said))~~ the petition shall be given by
9 the clerk of the board of county commissioners by publishing the same,
10 at the cost of the board of control, if created, otherwise at the cost
11 of the petitioners, in the official newspaper of ~~((the))~~ each county
12 containing lands irrigated from the source of supply of the entities
13 signing the petition. The notice shall be published in at least three
14 weekly issues thereof ~~((:—PROVIDED, That))~~. However, the time of the
15 hearing shall not be less than thirty days from the date of the first
16 publication of ~~((said))~~ the notice. A copy of ~~((said))~~ the notice
17 shall be posted at the regular meeting place of the board of directors
18 of each irrigation ~~((district))~~ entity concerned in the granting or
19 denial of ~~((said))~~ the petition and a copy of the notice shall be
20 mailed to the department of ecology at Olympia at least thirty days
21 prior to the day of ~~((said))~~ the hearing.

22 **Sec. 6.** RCW 87.80.060 and 1949 c 56 s 6 are each amended to read
23 as follows:

24 The notice of the hearing on ~~((said))~~ the petition shall state that
25 a petition ~~((praying for))~~ requesting the creation of a board of joint
26 control to administer the ~~((operation, maintenance, betterments and~~
27 ~~regulation of the water works, main, and branch canals, if any, and~~
28 ~~water lines, naming them, if named in the petition, and other water~~
29 ~~facilities involved))~~ facilities and activities, naming them if named
30 in the petition, has been filed with the board of county commissioners
31 of the county ~~((naming it))~~, naming the county; that ~~((said))~~ the
32 board of joint control, if it is created, will have authority to
33 provide for ~~((assessments))~~ apportionment of costs to carry out the
34 objects of its creation ~~((against the irrigable lands in the several~~
35 ~~irrigation districts))~~ among the member irrigation entities (naming
36 them) ~~((and against any other lands involved if set out in the petition~~
37 ~~(describing them))~~); shall state the day, hour, and place of the

1 hearing on the petition; shall state that any person interested in the
2 creation of ~~((said))~~ the board of joint control may appear on or before
3 the day of hearing on ~~((said))~~ the petition, and show cause in writing,
4 if any ~~((he has))~~, why the same should not be granted, and the notice
5 shall be over the name of the clerk of the board of county
6 commissioners.

7 **Sec. 7.** RCW 87.80.090 and 1949 c 56 s 8 are each amended to read
8 as follows:

9 If the board of county commissioners determine that the creation of
10 a board of joint control is in the public interest ~~((and is))~~, of
11 benefit to the ~~((lands))~~ irrigation entities and individual water uses
12 within those entities concerned, ((it)) and will not be detrimental to
13 water right interests outside the proposed board of joint control area
14 of jurisdiction: Then the county board shall so find and adopt a
15 resolution creating the board of joint control, designating it ~~((give~~
16 ~~{giving} the))~~ name of county) County Joint Control Board No. (specify
17 number), and the county board at the same time shall appoint ~~((the~~
18 ~~president of the board of directors of each irrigation district~~
19 ~~involved and the resident owner of each individual tract of land~~
20 ~~involved or such other person as any said landowner shall designate in~~
21 ~~writing, as))~~ the first members of ~~((said))~~ the board of joint control
22 based on the board composition proposed in the petition and ((said))
23 the board of joint control shall consist of ~~((said))~~ this membership.
24 A copy of ~~((said))~~ the resolution creating the board of joint control
25 certified by the clerk of the county board shall be filed with the
26 county assessor of the county in which the board of joint control was
27 created and with the county assessor in any other county in the state
28 in which any lands involved are situated, within five days after
29 ~~((said))~~ the resolution is adopted.

30 **Sec. 8.** RCW 87.80.100 and 1949 c 56 s 9 are each amended to read
31 as follows:

32 The principal office and place of business of the board of joint
33 control shall be at a place to be designated by the board in the county
34 in which the board was created. Each member of the board before
35 entering on the duties of his or her office shall subscribe a written
36 oath for the faithful discharge of his or her duties as ~~((such))~~ a
37 member and file the ~~((same))~~ oath with the county clerk of ~~((said))~~ the

1 county. The filing of ~~((such))~~ the oath shall be without clerk's fee.
2 The term of office of members of the board ~~((shall be))~~ is for one year
3 or a fraction thereof ending on the first Monday in March next
4 following their selection and until their respective successors are
5 selected as ~~((herein))~~ provided in this section. The term of the first
6 members of the board shall also be as above stated. In January of each
7 year the board of directors of each irrigation ~~((district))~~ entity
8 concerned shall designate in writing and deliver to the board of joint
9 control, the name or names of the person or persons who constitute the
10 entity's membership and who shall represent the ~~((district))~~ entity on
11 the board of joint control for the ensuing year. ~~((Likewise, the~~
12 ~~owners of land concerned but not in the irrigation district, shall each~~
13 ~~designate in writing a person to represent their respective lands and~~
14 ~~file the same with the board of joint control and that board shall~~
15 ~~select from the list of persons so filed, one person to represent the~~
16 ~~lands outside any irrigation district on the board of joint control for~~
17 ~~the ensuing year.))~~ The persons ~~((so selected as aforesaid shall))~~
18 designated under this section constitute the board of joint control for
19 ~~((such))~~ the year and until their respective successors are selected
20 and have qualified. Any irrigation ~~((district or owner of land not in~~
21 ~~a district as the case may be, which))~~ entity that fails to designate
22 its ~~((or his))~~ representative and to file the same as ~~((above))~~
23 provided ((shall)) in this section is not ((be)) entitled to
24 representation on the board unless and until ~~((such))~~ the requirements
25 are complied with.

26 **Sec. 9.** RCW 87.80.110 and 1949 c 56 s 10 are each amended to read
27 as follows:

28 In the month of March, or another time as determined by the board
29 of joint control, in each year the members of the board of joint
30 control shall meet and organize as a board for the ensuing year and
31 shall select a ~~((chairman))~~ chair from their number and appoint a
32 secretary who may, but need not, be a member of the board, and who
33 shall keep a record of their proceedings, and perform ~~((such))~~ other
34 duties as the board ~~((shall))~~ prescribes. Business of the board shall
35 be transacted at meetings thereof and a majority of the qualified
36 membership of the board ~~((shall))~~ constitutes a quorum for the
37 transaction of business and in all matters requiring action by the
38 board there shall be a concurrence of at least a majority of the

1 members present. However, if an alternative voting structure was
2 proposed in the petition and adopted in the board of county
3 commissioners' resolution, this structure will govern the voting
4 procedures of the board of joint control. All meetings of the board
5 shall be public.

6 **Sec. 10.** RCW 87.80.120 and 1949 c 56 s 11 are each amended to read
7 as follows:

8 Each member of the board of joint control shall ~~((receive not to~~
9 ~~exceed ten dollars per day in attending meetings of the board to be~~
10 ~~determined by the board, and such compensation, not exceeding ten~~
11 ~~dollars per day for other services previously authorized and rendered~~
12 ~~the board, and in addition thereto, the members shall receive necessary~~
13 ~~expenses in attending meetings or when otherwise engaged on the~~
14 ~~business of the board)) be compensated for services in accordance with~~
15 the provisions of RCW 87.03.460. The amount must be fixed by
16 resolution and entered in the minutes of the proceedings of the board.
17 The board shall fix the compensation to be paid the secretary and all
18 other agents and employees of the board.

19 **Sec. 11.** RCW 87.80.130 and 1949 c 56 s 12 are each amended to read
20 as follows:

21 (1) A board of joint control created under the provisions of this
22 chapter shall have full authority within its area of jurisdiction to
23 enter into and perform any and all necessary contracts((~~τ~~)); to accept
24 grants and loans, including, but not limited to, those provided under
25 chapters 43.83B and 43.99E RCW, to appoint and employ and discharge the
26 necessary officers, agents, and employees((~~τ~~)); to sue and be sued as
27 a board but without personal liability of the members thereof in any
28 and all matters in which all the irrigation ((~~districts and others~~))
29 entities represented on the board as a whole have a common interest
30 without making ((~~such districts and other parties~~)) the irrigation
31 entities parties to the suit; to represent ((~~said districts and~~
32 others)) the entities in all matters of common interest as a whole
33 within the scope of this chapter; and to do any and all lawful acts
34 required and expedient to carry out the purposes of this chapter((~~÷~~
35 PROVIDED, That nothing in this chapter contained shall be held or
36 construed to give the board of joint control authority to abridge,
37 increase or modify the water rights of any irrigation district or

1 ~~others represented on the board or the privileges or burdens incident~~
2 ~~thereto or connected therewith and in the apportionment of expenses and~~
3 ~~outlays chargeable to the respective irrigation districts and others,~~
4 ~~the board shall be bound by their respective water rights and~~
5 ~~appurtenant privileges and burdens)).~~

6 (2) A board of joint control is authorized and encouraged to pursue
7 conservation and system efficiency improvements to optimize the use of
8 appropriated waters and to either redistribute the saved water within
9 its area of jurisdiction, or, transfer the water to others, or both.
10 A redistribution of saved water as an operational practice internal to
11 the board of joint control's area of jurisdiction, may be authorized if
12 it can be made without detriment or injury to rights existing outside
13 of the board of control's area of jurisdiction, including instream flow
14 water rights established under state or federal law. Prior to
15 undertaking a water conservation or system efficiency improvement
16 project which will result in a redistribution of saved water, the board
17 of joint control must consult with the department of ecology and if the
18 board's jurisdiction is within a United States reclamation project the
19 board must obtain the approval of the bureau of reclamation. The
20 purpose of such consultation is to assure that the proposal will not
21 impair the rights of other water holders or bureau of reclamation
22 contract water users. A board of control does not have the power to
23 authorize a change of any water right that would change the point or
24 points of diversion, purpose of use, or place of use outside the
25 board's area of jurisdiction, without the approval of the department of
26 ecology pursuant to RCW 90.03.380 and if the board's jurisdiction is
27 within a United States reclamation project, the approval of the bureau
28 of reclamation.

29 (3) A board of joint control is authorized to design, construct,
30 and operate either drainage projects, or water quality enhancement
31 projects, or both.

32 (4) Where the board of joint control area of jurisdiction is
33 totally within a federal reclamation project, the board is authorized
34 to accept operational responsibility for federal reserved works.

35 (5) Nothing contained in this chapter gives a board of joint
36 control the authority to abridge the existing rights, responsibilities,
37 and authorities of an individual irrigation entity or others within the
38 area of jurisdiction; nor in a case where the board of joint control
39 consists of representatives of two or more divisions of a federal

1 reclamation project shall the board of joint control abridge any powers
2 of an existing board of control created through federal contract; nor
3 shall a board of joint control have any authority to abridge or modify
4 a water right benefitting lands within its area of jurisdiction without
5 consent of the party holding the ownership interest in the water right.

6 (6) A board of joint control created under this chapter may not use
7 any authority granted to it by this chapter or by RCW 90.03.380 to
8 authorize a transfer of or change in a water right or to authorize a
9 redistribution of saved water before July 1, 1997.

10 **Sec. 12.** RCW 87.80.140 and 1949 c 56 s 13 are each amended to read
11 as follows:

12 In September of each year the board of joint control shall prepare
13 a budget of its estimated expenses and outlay for the ensuing calendar
14 year and the apportionment thereof chargeable against the several
15 irrigation ~~((districts and others))~~ entities coming within the
16 jurisdiction of the board and shall fix a time and place when ~~((said))~~
17 the budget shall be considered and adopted by the board. Notice of the
18 hearing of the budget signed by the secretary of the board shall be
19 published in at least two weekly issues of a newspaper of general
20 circulation in each county in which any lands chargeable with ~~((said))~~
21 the expense and outlay of the board are situated. The date of the
22 first publication of ~~((such))~~ the notice shall be not less than ten
23 days prior to the day of ~~((said))~~ the hearing.

24 **Sec. 13.** RCW 87.80.160 and 1949 c 56 s 15 are each amended to read
25 as follows:

26 Immediately after final adoption of the budget the secretary of the
27 board shall mail or deliver a copy thereof showing the apportionment of
28 the charge to each irrigation ~~((district))~~ entity, to the secretary of
29 each irrigation ~~((district))~~ entity coming under the jurisdiction of
30 the board of joint control and it shall be the duty of each irrigation
31 ~~((district))~~ entity to include in its levy for the ensuing year, the
32 amount apportioned and charged to it in the budget.

33 **Sec. 14.** RCW 87.80.190 and 1949 c 56 s 18 are each amended to read
34 as follows:

35 There is ~~((hereby))~~ created in the county treasurer's office of the
36 county in which the board of joint control was created, a special fund

1 to be designated Control Fund of the (naming the county) County Joint
2 Control Board No. (specifying the number). The county treasurer shall
3 distribute all collections for this fund to (~~said~~) the control fund.
4 The treasurer of any other county collecting assessments for this fund
5 shall remit the (~~same~~) assessments monthly to the county treasurer of
6 the county in which the board of joint control was created. However,
7 at the option of the board of joint control, a treasurer other than the
8 county treasurer may be designated under RCW 87.03.440.

9 **Sec. 15.** RCW 87.80.200 and 1949 c 56 s 19 are each amended to read
10 as follows:

11 When the county treasurer serves as treasurer for the board of
12 joint control, the board of joint control shall issue vouchers for its
13 operations against (~~said~~) the control fund and the county treasurer
14 shall pay out moneys from (~~said~~) the fund upon warrants drawn by the
15 county auditor of said county.

16 NEW SECTION. **Sec. 16.** A new section is added to chapter 87.80 RCW
17 to read as follows:

18 A board of joint control created under this chapter is limited to
19 the membership, area of jurisdiction, and other terms and conditions
20 contained in the resolution of the board of county commissioners filed
21 under RCW 87.80.090. Amendments may be proposed at any time by the
22 board of joint control to the board of county commissioners and acted
23 upon through the petition process contained in RCW 87.80.030 through
24 87.80.090.

25 NEW SECTION. **Sec. 17.** A new section is added to chapter 87.80 RCW
26 to read as follows:

27 An irrigation entity under contract with an agency of the federal
28 government for the construction or operation of its irrigation system
29 may not participate in a board of joint control under this chapter if
30 this action is in conflict with provisions of the subject contract. If
31 a responsible official of the federal agency notifies the board of
32 county commissioners in writing on or before the day of hearing
33 provided under RCW 87.80.060 of a conflict in contract provisions and
34 evidences the conflict, the board of county commissioners must deny the
35 irrigation entity's proposed participation. If subsequent to formation
36 of a board of joint control, a judicial decision determines a conflict

1 in contract conditions, the irrigation entity must not participate in
2 a project or activity inconsistent with the court determination.

3 **Sec. 18.** RCW 87.03.440 and 1993 c 449 s 12 are each amended to
4 read as follows:

5 The treasurer of the county in which is located the office of the
6 district shall be ex officio treasurer of the district, and any county
7 treasurer handling district funds shall be liable upon his or her
8 official bond and to criminal prosecution for malfeasance and
9 misfeasance, or failure to perform any duty as county or district
10 treasurer. The treasurer of each county in which lands of the district
11 are located shall collect and receipt for all assessments levied on
12 lands within his or her county. There shall be deposited with the
13 district treasurer all funds of the district. The district treasurer
14 shall pay out such funds upon warrants issued by the county auditor
15 against the proper funds of the district, except the sums to be paid
16 out of the bond fund for interest and principal payments on bonds:
17 PROVIDED, That in those districts which designate their own treasurer,
18 the treasurer may issue the warrants or any checks when the district is
19 authorized to issue checks. All warrants shall be paid in the order of
20 their issuance. The district treasurer shall report, in writing, on
21 the first Monday in each month to the directors, the amount in each
22 fund, the receipts for the month preceding in each fund, and file the
23 report with the secretary of the board. The secretary shall report to
24 the board, in writing, at the regular meeting in each month, the amount
25 of receipts and expenditures during the preceding month, and file the
26 report in the office of the board.

27 The preceding paragraph of this section notwithstanding, the board
28 of directors or board of control of an irrigation district which lies
29 in more than one county and which had assessments in each of two of the
30 preceding three years equal to at least five hundred thousand dollars,
31 or a board of joint control created under chapter 87.80 RCW, may
32 designate some other person having experience in financial or fiscal
33 matters as treasurer of the district. In addition, the board of
34 directors of an irrigation district which lies entirely within one
35 county may designate some other person having experience in financial
36 or fiscal matters as treasurer of the district if the board has the
37 approval of the county treasurer to designate some other person. If
38 the board designates a treasurer, it shall require a bond with a surety

1 company authorized to do business in the state of Washington in an
2 amount and under the terms and conditions which it finds from time to
3 time will protect the district against loss. The premium on the bond
4 shall be paid by the district. The designated treasurer shall collect
5 and receipt for all irrigation district assessments on lands within the
6 district and shall act with the same powers and duties and be under the
7 same restrictions as provided by law for county treasurers acting in
8 matters pertaining to irrigation districts, except the powers, duties,
9 and restrictions in RCW 87.56.110 and 87.56.210 which shall continue to
10 be those of county treasurers.

11 In those districts which have designated their own treasurers, the
12 provisions of law pertaining to irrigation districts which require
13 certain acts to be done and which refer to and involve a county
14 treasurer or the office of a county treasurer or the county officers
15 charged with the collection of irrigation district assessments, except
16 RCW 87.56.110 and 87.56.210 shall be construed to refer to and involve
17 the designated district treasurer or the office of the designated
18 district treasurer.

19 Any claim against the district for which it is liable under
20 existing laws shall be presented to the board as provided in RCW
21 4.96.020 and upon allowance it shall be attached to a voucher and
22 approved by the chairman and signed by the secretary and directed to
23 the proper official for payment: PROVIDED, That in the event
24 claimant's claim is for crop damage, the claimant in addition to filing
25 his or her claim within the applicable period of limitations within
26 which an action must be commenced and in the manner specified in RCW
27 4.96.020 must file with the secretary of the district, or in the
28 secretary's absence one of the directors, not less than three days
29 prior to the severance of the crop alleged to be damaged, a written
30 preliminary notice pertaining to the crop alleged to be damaged. Such
31 preliminary notice, so far as claimant is able, shall advise the
32 district; that the claimant has filed a claim or intends to file a
33 claim against the district for alleged crop damage; shall give the name
34 and present residence of the claimant; shall state the cause of the
35 damage to the crop alleged to be damaged and the estimated amount of
36 damage; and shall accurately locate and describe where the crop alleged
37 to be damaged is located. Such preliminary notice may be given by
38 claimant or by anyone acting in his or her behalf and need not be
39 verified. No action may be commenced against an irrigation district

1 for crop damages unless claimant has complied with the provisions of
2 RCW 4.96.020 and also with the preliminary notice requirements of this
3 section.

4 **Sec. 19.** RCW 90.03.380 and 1991 c 347 s 15 are each amended to
5 read as follows:

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

29 If an application for change proposes to transfer water rights from
30 one irrigation district to another, the department shall, before
31 publication of notice, receive concurrence from each of the irrigation
32 districts that such transfer or change will not adversely affect the
33 ability to deliver water to other landowners or impair the financial
34 integrity of either of the districts.

35 A change in place of use by an individual water user or users of
36 water provided by an irrigation district need only receive approval for
37 the change from the board of directors of the district if the use of
38 water continues within the irrigation district, and when water is

1 provided by an irrigation entity that is a member of a board of joint
2 control created under chapter 87.80 RCW, approval need only be received
3 from the board of joint control if the use of water continues within
4 the area of jurisdiction of the joint board and the change can be made
5 without detriment or injury to existing rights.

6 This section shall not apply to trust water rights acquired by the
7 state through the funding of water conservation projects under chapter
8 90.38 RCW or RCW 90.42.010 through 90.42.070.

9 **Sec. 20.** RCW 43.83B.050 and 1975 c 18 s 1 are each amended to read
10 as follows:

11 As used in this chapter, the term "water supply facilities" shall
12 mean municipal, industrial, and agricultural water supply and
13 distribution systems including, but not limited to, all equipment,
14 utilities, structures, real property, and interests in and improvements
15 on real property, necessary for or incidental to the acquisition,
16 construction, installation, or use of any municipal, industrial, or
17 agricultural water supply or distribution system.

18 As used in this chapter, the term "public body" means the state of
19 Washington, or any agency, political subdivision, taxing district, or
20 municipal corporation thereof, a board of joint control, an agency of
21 the federal government, and those Indian tribes now or hereafter
22 recognized as such by the federal government for participation in the
23 federal land and water conservation program and which may
24 constitutionally receive grants or loans from the state of Washington.

25 **Sec. 21.** RCW 43.99E.030 and 1979 ex.s. c 234 s 5 are each amended
26 to read as follows:

27 As used in this chapter, the term "water supply facilities" means
28 domestic, municipal, industrial, and agricultural (and any associated
29 fishery, recreational, or other beneficial use) water supply or
30 distribution systems including but not limited to all equipment,
31 utilities, structures, real property, and interests in and improvements
32 on real property necessary for or incidental to the acquisition,
33 construction, installation, or use of any such water supply or
34 distribution system.

35 As used in this chapter, the term "public body" means the state of
36 Washington or any agency, political subdivision, taxing district, or
37 municipal or public corporation thereof; a board of joint control; an

1 agency of the federal government; and those Indian tribes which may
2 constitutionally receive grants or loans from the state of Washington.

3 NEW SECTION. **Sec. 22.** A new section is added to chapter 87.80 RCW
4 to read as follows:

5 A board of joint control created among irrigation entities
6 utilizing waters of the Yakima river and tributaries shall, when
7 undertaking water conservation projects, fully coordinate those
8 projects with federal and state programs adopted under the Yakima river
9 basin water enhancement project, P.L. 103-434. The projects shall be
10 developed and implemented, consistent with the board's development
11 schedule, within the framework of the Yakima river basin water
12 enhancement project policies and procedures provided by the state and
13 federal governments, as funds are available to the board of joint
14 control for the projects. However, should there be no reasonable
15 prospect of funding for construction by the federal and state
16 government within three years of the date of the publication of the
17 Yakima river basin conservation plan under P.L. 103-434, the board of
18 joint control may pursue the projects under alternative funding
19 programs and conditions.

20 NEW SECTION. **Sec. 23.** A new section is added to chapter 87.80 RCW
21 to read as follows:

22 This chapter shall not affect the final decree of a general
23 adjudication conducted under RCW 90.03.110 through 90.03.245.

24 NEW SECTION. **Sec. 24.** The following acts or parts of acts are
25 each repealed:

- 26 (1) RCW 87.80.170 and 1949 c 54 s 16;
27 (2) RCW 87.80.180 and 1949 c 56 s 17; and
28 (3) RCW 87.80.210 and 1949 c 56 s 20.

Passed the House March 4, 1996.

Passed the Senate February 29, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.