Chapter 90.38 RCW
YAKIMA RIVER BASIN WATER RIGHTS

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RCW 90.38.005 Findings—Purpose. (1) The legislature finds that:

(a) Under present physical conditions in the Yakima river basin there is an insufficient supply of ground and surface water to satisfy the present needs of the basin, and that the general health, welfare, and safety of the people of the Yakima river basin depend upon the conservation, management, development, and optimum use of all the basin's water resources;

(b) The future competition for water among municipal, domestic, industrial, agricultural, and instream water interests in the Yakima river basin will be intensified by continued population growth, and by changes in climate and precipitation anticipated to reduce the basin's snow pack and thereby reduce the total water supply available to existing water users, instream flows, and carryover storage;

(c) To address the challenges described in this subsection, congress has enacted several bills to promote Yakima river basin water enhancement, each of which was urged for enactment by this state, the United States has completed a study of ways to provide needed waters through improvements of the federal water project presently existing in the Yakima river basin, and federal, tribal, state, and local cooperators have developed an integrated water resource management plan for improving water supply, habitat, and streamflow conditions in the Yakima river basin;

(d) As part of the Yakima river basin water enhancement project, the United States department of the interior's bureau of reclamation is now seeking funding to support implementation of the integrated water resource management plan for the Yakima river basin, which was

jointly prepared by the Washington state department of ecology and the United States bureau of reclamation and published in a final programmatic environmental impact statement in March 2012;

(e) The interests of the state will be served by developing programs, in cooperation with the United States and the various water users in the basin, that increase the overall ability to manage basin waters in order to better satisfy both present and future needs for water in the Yakima river basin;

(f) The interests of the state will also be served through coordination of federal and state policies and procedures in order to develop and implement projects within the framework of the integrated water resource management plan for the Yakima river basin. The pace of integrated plan implementation over the long term depends upon adequate funding and is subject to the availability of amounts appropriated for this purpose;

(g) The current real estate market provides opportunities to acquire community forestlands that are useful for protecting and enhancing watershed function at affordable prices;

(h) Although significant benefits are anticipated to result from the implementation of the Yakima integrated plan, in light of its substantial costs and the state's limited capacity to absorb them within existing resources, there is a need to identify and evaluate potential new state and local revenue sources to assist in paying the state and local share of implementation costs.

(2) It is the purpose of this chapter, consistent with these findings, to:

(a) Improve the ability of the state to work with the United States and various water users of the Yakima river basin in a program designed to satisfy both existing rights, and other presently unmet as well as future needs of the basin;

(b) Establish legislative intent to promote timely and effective implementation of the integrated plan in the Yakima river basin, and to promote the aggressive pursuit of water supply solutions that provide concurrent benefits to both instream and out-of-stream uses in the Yakima river basin as rapidly as possible; and

(c) Take advantage of affordable real estate prices to acquire community forestlands that are useful for protecting and enhancing watershed function.

(3) The provisions of this chapter apply only to waters of the Yakima river basin. [2013 2nd sp.s. c 11 s 1; 1989 c 429 s 1.]

RCW 90.38.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of ecology.

(2) "Integrated plan" means the Yakima river basin integrated water resource management plan developed through a consensus-based approach by a diverse work group of representatives of the Yakama Nation, federal, state, county, and city governments, environmental organizations, and irrigation districts, which is to be implemented consistent with congressional Yakima river basin water enhancement project enactments and for which the final programmatic environmental impact statement was made available for review through public notice published in the federal register (77 FR 12076 (2012)).

(3) "Net water savings" means the amount of water that through hydrological analysis is determined to be conserved and usable for

other purposes without impairing existing water rights, reducing the ability to deliver water, or reducing the supply of water that otherwise would have been available to other water users.

(4) "Trust water right" means that portion of an existing water right, constituting net water savings, that is no longer required to be diverted for beneficial use due to the installation of a water conservation project that improves an existing system. The term "trust water right" also applies to any other water right acquired by the department under this chapter for management in the Yakima river basin trust water rights program.

(5) "Water conservation project" means any project funded to further the purposes of this chapter and that achieves physical or operational improvements of efficiency in existing systems for diversion, conveyance, or application of water under existing water rights.

(6) "Water supply facility permit and funding milestone" means a date prior to June 30, 2035, when required permits have been approved, and funding has been secured to begin construction on one or more water supply facilities designed to provide at least 214,000 acre feet of water to be used for instream and out-of-stream uses.

(7) "Yakima river basin water enhancement project" means a series of congressional enactments, originally initiated by the United States congress in 1979 under P.L. 96-162, with subsequent federal implementing legislation being passed in 1984 under section 109 of P.L. 98-381 to promote fish passage improvements, and in 1994 under P.L. 103-434, as amended by P.L. 105-62 in 1997 and P.L. 106-372 in 2000, to promote water conservation, water supply, habitat, and stream enhancement improvements in the Yakima river basin. [2025 c 285 s 1; 2013 2nd sp.s. c 11 s 2; 1989 c 429 s 2.]

Effective date—2025 c 285: See note following RCW 90.38.110.

RCW 90.38.020 Acquisition or donation of trust water rights. (1)(a) The department may acquire water rights, including but not limited to storage rights, by purchase, lease, gift, or other appropriate means other than by condemnation, from any person or entity or combination of persons or entities. Once acquired, such rights are trust water rights. A water right acquired by the state that is expressly conditioned to limit its use to instream purposes shall be administered as a trust water right in compliance with that condition.

(b) If the holder of a right to water from a body of water chooses to donate all or a portion of the person's water right to the trust water system to assist in providing instream flows on a temporary or permanent basis, the department shall accept the donation on such terms as the person may prescribe as long as the donation satisfies the requirements of subsection (4) of this section and the other applicable requirements of this chapter and the terms prescribed are relevant and material to protecting any interest in the water right retained by the donor. Once accepted, such rights are trust water rights within the conditions prescribed by the donor.

(2) The department may make such other arrangements, including entry into contracts with other persons or entities as appropriate to ensure that trust water rights acquired in accordance with this chapter can be exercised to the fullest possible extent.

(3) The trust water rights may be acquired on a temporary or permanent basis.

(4) A water right donated under subsection (1)(b) of this section shall not exceed the extent to which the water right was exercised during the five years before the donation nor may the total of any portion of the water right remaining with the donor plus the donated portion of the water right exceed the extent to which the water right was exercised during the five years before the donation. A water right holder who believes his or her water right has been impaired by a trust water right donated under subsection (1)(b) of this section may request that the department review the impairment claim. If the department determines that exercising the trust water right resulting from the donation or exercising a portion of that trust water right donated under subsection (1)(b) of this section is impairing existing water rights in violation of RCW 90.38.902, the trust water right shall be altered by the department to eliminate the impairment. Any decision of the department to alter or not alter a trust water right donated under subsection (1)(b) of this section is appealable to the pollution control hearings board under RCW 43.21B.230. A donated water right's status as a trust water right under this subsection is not evidence of the validity or quantity of the water right.

(5) Any water right conveyed to the trust water right system as a gift that is expressly conditioned to limit its use to instream purposes shall be managed by the department for public purposes to ensure that it qualifies as a gift that is deductible for federal income taxation purposes for the person or entity conveying the water right.

(6) If the department acquires a trust water right by lease, the amount of the trust water right shall not exceed the extent to which the water right was exercised during the five years before the acquisition was made nor may the total of any portion of the water right remaining with the original water right holder plus the portion of the water right leased by the department exceed the extent to which the water right was exercised during the five years before the acquisition. A water right holder who believes his or her water right has been impaired by a trust water right leased under this subsection may request that the department review the impairment claim. If the department determines that exercising the trust water right resulting from the leasing or exercising of a portion of that trust water right leased under this subsection is impairing existing water rights in violation of RCW 90.38.902, the trust water right shall be altered by the department to eliminate the impairment. Any decision of the department to alter or not to alter a trust water right leased under this subsection is appealable to the pollution control hearings board under RCW 43.21B.230. The department's leasing of a trust water right under this subsection is not evidence of the validity or quantity of the water right.

(7) For a water right donated to or acquired by the trust water rights program on a temporary basis, the full quantity of water diverted or withdrawn to exercise the right before the donation or acquisition shall be placed in the trust water rights program and shall revert to the donor or person from whom it was acquired when the trust period ends. [2002 c 329 s 7; 2001 c 237 s 28; 1989 c 429 s 3.]

Finding—Intent—Severability—Effective date—2001 c 237: See notes following RCW 90.82.040.

Intent—2001 c 237: See note following RCW 90.66.065.

RCW 90.38.030 Water conservation projects—Contracts for financial assistance. (1) For the purposes of this chapter, the department is authorized to enter into contracts with water users for the purpose of providing moneys to users to assist in the financing of water conservation projects. In exchange for the financial assistance provided for the purposes of this chapter, the water users shall convey the trust water rights, created as a result of the assistance, to the department of ecology.

(2) No contract shall be entered into by the department with a water user under this chapter unless it appears to the department that, upon the completion of a water conservation project financed with moneys as provided in this section, a valid water right exists for conveyance to the department.

(3) The department shall cooperate fully with the United States in the implementation of this chapter. Trust water rights may be acquired through expenditure of funds provided by the United States and shall be treated in the same manner as trust water rights resulting from the expenditure of state funds.

(4) When water is proposed to be acquired by or conveyed to the department as a trust water right by an irrigation district, evidence of the district's authority to represent the water right holders must be submitted to, and for the satisfaction of, the department.

(5) The department shall not acquire an individual's water right under this chapter that is appurtenant to land lying within an irrigation district without the approval of the board of directors of the irrigation district. [1989 c 429 s 4.]

RCW 90.38.040 Trust water rights program. (1) All trust water rights acquired by the department shall be placed in the Yakima river basin trust water rights program to be managed by the department. The department shall issue a water right certificate in the name of the state of Washington for each trust water right it acquires.

(2) Trust water rights shall retain the same priority date as the water right from which they originated. Trust water rights may be modified as to purpose or place of use or point of diversion, including modification from a diversionary use to a nondiversionary instream use.

(3) Trust water rights may be held by the department for instream flows, irrigation use, or other beneficial use. Trust water rights may be acquired on a temporary or permanent basis. To the extent practicable and subject to legislative appropriation, trust water rights acquired in an area with an approved watershed plan developed under chapter 90.82 RCW shall be consistent with that plan if the plan calls for such acquisition.

(4) A schedule of the amount of net water saved as a result of water conservation projects carried out in accordance with this chapter, shall be developed annually to reflect the predicted hydrologic and water supply conditions, as well as anticipated water demands, for the upcoming irrigation season. This schedule shall serve as the basis for the distribution and management of trust water rights each year.

(5)(a) No exercise of a trust water right may be authorized unless the department first determines that no existing water rights, junior or senior in priority, will be impaired as to their exercise or injured in any manner whatever by such authorization.

(b) Before any trust water right is exercised, the department shall publish notice thereof in a newspaper of general circulation published in the county or counties in which the storage, diversion, and use are to be made, and in such other newspapers as the department determines are necessary, once a week for two consecutive weeks. At the same time the department may also send notice thereof containing pertinent information to the director of fish and wildlife.

(c) Subsections (4) and (5)(b) of this section do not apply to a trust water right resulting from a donation for instream flows described in RCW 90.38.020(1)(b) or from the lease of a water right under RCW 90.38.020(6) if the period of the lease does not exceed five years. However, the department shall provide the notice described in (b) of this subsection the first time the trust water right resulting from the donation is exercised.

(6) RCW 90.03.380 and 90.14.140 through 90.14.910 shall have no applicability to trust water rights held by the department under this chapter or exercised under this section. [2001 c 237 s 29; 1994 c 264 s 90; 1989 c 429 s 5.]

Finding—Intent—Severability—Effective date—2001 c 237: See notes following RCW 90.82.040.

Intent—2001 c 237: See note following RCW 90.66.065.

RCW 90.38.050 Rules. The department may adopt rules as appropriate to ensure full implementation of this chapter. [1989 c 429 s 6.]

RCW 90.38.060 Integrated water resource management plan. The department is authorized to implement the integrated water resource management plan in the Yakima river basin, through a coordinated effort of affected federal, state, and local agencies and resources, to develop water supply solutions that provide concurrent benefits to both instream and out-of-stream uses, and to address a variety of water resource and ecosystem problems affecting fish passage, habitat functions, and agricultural, municipal, and domestic water supply in the Yakima river basin, consistent with the integrated plan.

(1) Authorized department actions include, but are not limited to:

(a) Accepting funds from any entity, public or private, as necessary to implement the objectives of this chapter;

(b) Assessing, planning, and developing projects under the Yakima river basin integrated water resource management plan, or for any other action designed to provide access to new water supplies within the Yakima river basin, consistent with the integrated plan and including but not limited to: Enhanced water conservation and efficiency measures, water reallocation markets, in-basin surface and groundwater storage facilities, fish passage at existing in-basin reservoirs, structural and operational modifications to existing facilities, habitat protection and restoration, and general watershed

enhancements as necessary to implement the objectives of this chapter and the integrated plan; and

(c) Entering into contracts to ensure the effective delivery of water and to provide for the design and construction of facilities necessary to implement the objectives of the integrated plan and this chapter.

(2) Consistent with the integrated plan, the goals and objectives of department actions authorized under this chapter include, but are not limited to:

(a) Protection, mitigation, and enhancement of fish and wildlife through improved water management; improved instream flows; improved water quality; protection, creation, and enhancement of wetlands; improved fish passage, and by other appropriate means of habitat improvement, including the protection and enhancement of natural wetlands, floodplains, and groundwater storage systems;

(b) Improved water availability and reliability, and improved efficiency of water delivery and use, to enhance basin water supplies for agricultural irrigation, municipal, commercial, industrial, domestic, and environmental water uses;

(c) Establishment of more efficient water markets and more effective operational and structural changes to manage variability of water supplies and to prepare for the uncertainties of climate change, including but not limited to the facilitation of water banking, water right transfers, dry year options, the voluntary sale and lease of land, water, or water rights from any entity or individual willing to limit or forego water use on a temporary or permanent basis, and any other innovative water allocation tools used to maximize the utility of existing Yakima river basin water supplies, as long as the establishment and use of these tools is consistent with the integrated plan.

(3) Water supplies secured through the development of new storage facilities or expansion of existing storage facilities made possible with funding from the Yakima integrated plan implementation account, the Yakima integrated plan implementation taxable bond account, and the Yakima integrated plan implementation revenue recovery account must be allocated for out-of-stream uses and to augment instream flows consistent with the Yakima river basin integrated water resource management plan. Water to be made available to benefit out-of-stream uses under this subsection, but not yet appropriated, must be temporarily available to augment instream flows to the extent that it does not impair existing water rights and is consistent with the integrated plan. [2013 2nd sp.s. c 11 s 3.]

RCW 90.38.070 Yakima integrated plan implementation account.

(1) The Yakima integrated plan implementation account is created in the state treasury. All receipts from direct appropriations from the legislature, moneys directed to the account pursuant to this chapter, or moneys directed to the account from any other sources must be deposited in the account. The account is intended to fund projects using tax exempt bonds. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only as provided in this section. Interest earned by deposits in the account will be retained in the account.

(2) Expenditures from the account created in this section may be used to assess, plan, and develop projects under the Yakima river basin integrated water resource management plan or for any other

actions designed to provide access to new water supplies within the Yakima river basin for both instream and out-of-stream uses, consistent with the integrated plan and the authorities, goals, and objectives set forth in RCW 90.38.060.

(3)(a) Funds may not be expended from the account for the construction of a new storage facility until the department evaluates the following:

(i) Water uses to be served by the facility;

(ii) The quantity of water necessary to meet the needs of those uses;

(iii) The benefits and costs to the state of serving those uses, including short-term and long-term economic, cultural, and environmental effects; and

(iv) Alternative means of supplying water to meet those uses, including the costs of those alternatives and an analysis of the extent to which the long-term water supply needs are able to be met using those alternatives.

(b) The department may rely on studies and information developed through compliance with other state and federal requirements and other sources. The department shall compile its findings and conclusions and provide a summary of the information it reviewed.

(c) Before finalizing its evaluation under the provisions of this subsection, the department shall make the preliminary evaluation available to the public. Public comment may be made to the department within thirty days of the date the preliminary evaluation is made public.

(4) For water supplies developed under the integrated plan to support future municipal and domestic water needs, the department shall give preference to other entities in managing water service contracts. Where the department determines that the management of such contracts by other entities is not feasible or suitable, the department may enter into water service contracts with applicants receiving water from the program to recover all or a portion of the cost of developing water supplies made possible with funding from the account created in this section. The department may deny an application if the applicant does not enter into a water service contract. Revenue collected from water service contracts must be deposited into the Yakima integrated plan implementation revenue recovery account created in RCW 90.38.090. The department may adopt rules describing the methodology as to how charges will be established and direct costs recovered for water supply developed under the Yakima river basin integrated water resource management plan implementation program. [2013 2nd sp.s. c 11 s 4.]

RCW 90.38.080 Yakima integrated plan implementation taxable bond account. (1) The Yakima integrated plan implementation taxable bond account is created in the state treasury. All receipts from direct appropriations from the legislature, moneys directed to the account pursuant to this chapter, or moneys directed to the account from any other sources must be deposited in the account. The account is intended to fund projects using taxable bonds. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only as provided in this section. Interest earned by deposits in the account will be retained in the account.

(2) Expenditures from the account created in this section may be used to assess, plan, and develop projects under the Yakima river

basin integrated water resource management plan or for any other actions designed to provide access to new water supplies within the Yakima river basin for both instream and out-of-stream uses, consistent with the integrated plan and the authorities, goals, and objectives set forth in RCW 90.38.060.

(3)(a) Funds may not be expended from the account for the construction of a new storage facility until the department evaluates the following:

(i) Water uses to be served by the facility;

(ii) The quantity of water necessary to meet the needs of those uses;

(iii) The benefits and costs to the state of serving those uses, including short-term and long-term economic, cultural, and environmental effects; and

(iv) Alternative means of supplying water to meet those uses, including the costs of those alternatives and an analysis of the extent to which the long-term water supply needs are able to be met using those alternatives.

(b) The department may rely on studies and information developed through compliance with other state and federal requirements and other sources. The department shall compile its findings and conclusions and provide a summary of the information it reviewed.

(c) Before finalizing its evaluation under the provisions of this subsection, the department shall make the preliminary evaluation available to the public. Public comment may be made to the department within thirty days of the date the preliminary evaluation is made public.

(4) For water supplies developed under the integrated plan to support future municipal and domestic water needs, the department shall give preference to other entities in managing water service contracts. Where the department determines that the management of such contracts by other entities is not feasible or suitable, the department may enter into water service contracts with applicants receiving water from the program to recover all or a portion of the cost of developing water supplies made possible with funding from the account created in this section. The department may deny an application if the applicant does not enter into a water service contract. Revenue collected from water service contracts must be deposited into the Yakima integrated plan implementation revenue recovery account created in RCW 90.38.090. The department may adopt rules describing the methodology as to how charges will be established and direct costs recovered for water supply developed under the Yakima river basin integrated water resource management plan implementation program. [2013 2nd sp.s. c 11 s 5.]

RCW 90.38.090 Yakima integrated plan implementation revenue recovery account. (1) The Yakima integrated plan implementation revenue recovery account is created in the state treasury. All receipts from direct appropriations from the legislature, moneys directed to the account pursuant to this chapter, or moneys directed to the account from any other sources must be deposited in the account. The account is intended to fund projects using revenues from water service contracts as authorized in this chapter. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only as provided in this section. Interest earned by deposits in the account will be retained in the account.

(2) Expenditures from the account created in this section may be used to assess, plan, and develop projects under the Yakima river basin integrated water resource management plan or for any other actions designed to provide access to new water supplies within the Yakima river basin for both instream and out-of-stream uses, consistent with the integrated plan and the authorities, goals, and objectives set forth in RCW 90.38.060.

(3)(a) Funds may not be expended from the account for the construction of a new storage facility until the department evaluates the following:

(i) Water uses to be served by the facility;

(ii) The quantity of water necessary to meet the needs of those uses;

(iii) The benefits and costs to the state of serving those uses, including short-term and long-term economic, cultural, and environmental effects; and

(iv) Alternative means of supplying water to meet those uses, including the costs of those alternatives and an analysis of the extent to which the long-term water supply needs are able to be met using those alternatives.

(b) The department may rely on studies and information developed through compliance with other state and federal requirements and other sources. The department shall compile its findings and conclusions and provide a summary of the information it reviewed.

(c) Before finalizing its evaluation under the provisions of this subsection, the department shall make the preliminary evaluation available to the public. Public comment may be made to the department within thirty days of the date the preliminary evaluation is made public.

(4) For water supplies developed under the integrated plan to support future municipal and domestic water needs in the Yakima basin, the department shall give preference to other entities in managing water service contracts. Where the department determines that the management of such contracts by other entities is not feasible or suitable, the department may enter into water service contracts with applicants receiving water from the program to recover all or a portion of the cost of developing water supplies made possible with funding from the account created in this section. The department may deny an application if the applicant does not enter into a water service contract. Revenue collected from water service contracts must be deposited into the Yakima integrated plan implementation revenue recovery account created in this section. The department may adopt rules describing the methodology as to how charges will be established and direct costs recovered for water supply developed under the Yakima river basin integrated water resource management plan implementation program. [2013 2nd sp.s. c 11 s 6.]

RCW 90.38.100 Report to the legislature and governor. ***(Expires December 31, 2045.)*** (1) By December 1, 2015, and by December 1st of every odd-numbered year thereafter, and in compliance with RCW 43.01.036, the department, in consultation with the United States bureau of reclamation, the Yakama Nation, Yakima river basin local governments, and key basin stakeholders, shall provide a Yakima river basin integrated water resource management plan implementation status report to the legislature and to the governor that includes: A description of measures that have been funded and implemented in the

Yakima river basin and their effectiveness in meeting the objectives of chapter 11, Laws of 2013 2nd sp. sess., a project funding list that represents the state's percentage cost share to implement the integrated plan measures for the current biennium and cost estimates for subsequent biennia, a description of progress toward concurrent realization of the integrated plan's fish passage, watershed enhancement, and water supply goals, and an annual summary of all associated costs to develop and implement projects within the framework of the integrated water resource management plan for the Yakima river basin.

(2) The status report required in this section for December 1, 2021, must include a statement of progress in achieving the water supply facility permit and funding milestone, as defined in RCW 90.38.010. If, after a good faith effort to achieve the water supply facility permit and funding milestone, it appears that the milestone cannot or may not be met, the department, in consultation with the United States bureau of reclamation, the Yakama Nation, Yakima river basin local governments, and key basin stakeholders, shall provide a detailed description of the impediments to achieving the milestone, describe the strategy for resolving the identified impediments, and, if necessary, recommend modifications to the milestone.

(3) This section expires December 31, 2045. [2013 2nd sp.s. c 11 s 9.]

RCW 90.38.110 Construction of a water supply project—Prior review by the state of Washington water research center. *(Expires July 1, 2035.)* (1) Prior to the appropriation of funding for the construction of a water supply project proposed in the integrated plan with a cost of greater than $100,000,000, the state of Washington water research center shall review, evaluate, and prepare comments on the cost-benefit analysis prepared for the project by the department and the United States bureau of reclamation.

(2) To the greatest extent possible, the center must use information from existing studies, supplemented by primary research, to measure and evaluate each project's benefits and costs.

(3) The center must measure and report the economic benefits of each project subject to subsection (1) of this section, so that it is clear the extent to which an individual project is expected to result in increases in fish populations, increases in the reliability of irrigation water during severe drought years, and improvements in municipal and domestic water supply.

(4) The center may enter into agreements with other state universities and with private consultants as needed to accomplish the scope of work.

(5) The center may consult, as necessary, with the department of ecology and the Yakima river basin water enhancement project work group.

(6) No more than 12 percent of any appropriations provided for the implementation of this section may be retained for administrative overhead expenses.

(7) This section expires July 1, 2035. [2025 c 285 s 2; 2013 2nd sp.s. c 11 s 10.]

Effective date—2025 c 285: "This act is necessary for the immediate preservation of the public peace, health, or safety, or

support of the state government and its existing public institutions, and takes effect June 30, 2025." [2025 c 285 s 5.]

RCW 90.38.120 Legislative intent—Cost to implement the integrated plan. (1)(a) It is the intent of the legislature for the state to pay its fair share of the cost to implement the integrated plan. At least one-half of the total costs to finance the implementation of the integrated plan must be funded through federal, private, and other nonstate sources, including a significant contribution of funding from local project beneficiaries. This section applies to the total costs of the integrated plan and not to individual projects within the plan.

(b) The state's continuing support for the integrated plan shall be formally reevaluated independently by the governor and the legislature if, after December 31, 2021, and periodically thereafter, the actual funding provided through nonstate sources is less than one-half of all costs and if funding from local project beneficiaries does not comprise a significant portion of the nonstate sources.

(2) The department shall deliver, consistent with the intent of this section, a cost estimate and financing plan that addresses the total estimated cost to implement the integrated plan and analyzes various financing options. The cost estimate and financing plan must include a description of state expenditures as of September 28, 2013, incurred implementing the integrated plan and proposed state expenditures in the 2015-2017 biennium and beyond with proposed financing sources for each project.

(3) In addition, the department, with assistance from the office of the state treasurer, shall prepare supplementary chapters to the cost estimate and financing plan for the department that:

(a) Identifies and evaluates potential new state financing sources to pay for the state's contribution towards the overall costs of the Yakima integrated plan's implementation;

(b) Identifies and evaluates potential new local financing sources to pay for a significant local contribution towards the overall costs of the Yakima integrated plan's implementation;

(c) Considers the viability, and evaluates the advantages and disadvantages of various financing mechanisms such as revenue bonds, general obligation bonds, and other financing models;

(d) Identifies past, current, and anticipated future costs that will be, or are anticipated to be, paid by nonstate sources such as federal sources, private sources, and local sources; and

(e) Considers how cost overruns of projects associated with the integrated plan could affect long-term financing of the overall integrated plan and provides options for how cost overruns can be addressed.

(4) The department may, in the sole discretion of the department, contract with state universities or private consultants for any part of the cost estimate and financing plan required under this section.

(5) The initial cost estimate and financing plan required by this section must be provided to the governor and the legislature, consistent with RCW 43.01.036, by no later than December 15, 2014, for consideration in preparing the 2015-2017 biennial budget and future budgets. The cost estimate and financing plan must be updated by September 1st of each successive even-numbered year. [2025 c 285 s 3; 2013 2nd sp.s. c 11 s 11.]

Effective date—2025 c 285: See note following RCW 90.38.110.

RCW 90.38.130 Authorization to purchase land—Management and disposal of land. (1) Subject to the availability of amounts appropriated for this specific purpose, the department of natural resources is authorized to purchase land to be held in the community forest trust under RCW 79.155.040 to serve the purposes of the community forest trust including the protection of Yakima river basin functioning, without complying with the requirements of RCW 79.155.030(1), 79.155.060, or 79.155.070, relating to the identification, prioritization, local commitment, and financial contribution normally prerequisite to nominating and acquiring community forest trust lands. The purchase must be reviewed and approved by the board of natural resources. In its evaluation of this acquisition pursuant to RCW 79.155.040(3), the board is relieved from considering the criteria for identifying and prioritizing land set forth in RCW 79.155.050. Once purchased, the land must be managed by the department of natural resources in consultation with the department of fish and wildlife. Any investment in the land purchase with funds belonging to the common school trust constitutes a loan from the irreducible principal of the common school trust and may only be made if first determined to be a prudent investment by the board of natural resources. An annual interest payment on the loan of nine percent must be paid, with six percent deposited into the common school construction account and three percent deposited into the real property replacement account. Interest begins to accrue on the date the land purchase is completed and is due and payable July 1st following the completion of the state fiscal year. The principal of the loan must be repaid in accordance with the provisions of subsection (3) of this section.

(2) The land purchased under this authority must be managed under a transitional postacquisition management plan during the period between the date of purchase and the water supply facility permit and funding milestone or until June 30, 2035, whichever is sooner. The plan must be consistent with RCW 79.155.080(1), provided that the lands acquired as community forest trust lands are not required to generate financial support for their management as would otherwise be required by RCW 79.155.020(2), 79.155.030(2)(d), and 79.155.080(3), and provided further that the authority granted to the department to divest of the property under RCW 79.155.080(4) does not apply to these lands. The department of natural resources must develop the transitional postacquisition management plan in consultation with the department of fish and wildlife.

(a) The plan must ensure that the land is managed in a manner that is consistent with the Yakima basin integrated plan principles for forestland acquisitions, including the following:

(i) To protect and enhance the water supply and protect the watershed;

(ii) To maintain working lands for forestry and grazing while protecting key watershed functions and aquatic habitat;

(iii) To maintain and where possible expand recreational opportunities consistent with watershed protection, for activities such as hiking, fishing, hunting, horseback riding, camping, birding, and snowmobiling;

(iv) To conserve and restore vital habitat for fish, including steelhead, spring chinook, and bull trout, and wildlife, including deer, elk, large predators, and spotted owls; and

(v) To support a strong community partnership, in which the Yakama Nation, residents, business owners, local governments, conservation groups, and others provide advice about ongoing land management.

(b) The department of natural resources, in consultation with the department of fish and wildlife, must establish the Teanaway community forest advisory committee that includes representatives from the department of ecology, the local community, land conservation organizations, the Yakama Nation, the Kittitas county commission, and local agricultural interests.

(c) By June 30, 2015, the department of natural resources must complete the transitional postacquisition management plan with a public process that involves interested stakeholders, particularly residents from Kittitas county, friends of the Teanaway, back country horsemen, off-road vehicle and snowmobile users, a representative from Kittitas field and stream, hikers and wildlife watchers, and ranchers who graze cattle.

(3) After the water supply facility permit and funding milestone or June 30, 2035, whichever is sooner, the land must be disposed of in the following manner:

(a) If the water supply facility permit and funding milestone conditions have been met, the land remains in the community forest trust and the transitional postacquisition management plan must be converted to a permanent postacquisition management plan with whatever updates and amendments are periodically adopted. Under these conditions, the remaining principal of any investment in the land purchased with funds belonging to the common school trust must be repaid to the real property replacement account.

(b) If the water supply facility permit and funding milestone conditions have not been met, the board of natural resources must decide between the following dispositions of the land:

(i) Deposit of the entire amount of land purchased into the ownership of the common school trust for management or disposition for the benefit of the common schools; or

(ii) Disposition under the terms of (a) of this subsection. [2025 c 285 s 4; 2013 2nd sp.s. c 11 s 12.]

Effective date—2025 c 285: See note following RCW 90.38.110.

RCW 90.38.900 Existing policies not replaced. The policies and purposes of this chapter shall not be construed as replacing or amending the policies or the purposes for which funds available under chapter 43.83B RCW, RCW 43.83.340 or chapter 90.90 RCW may be used within or without the Yakima river basin. [2015 1st sp.s. c 4 s 54; 2013 2nd sp.s. c 11 s 7; 1989 c 429 s 7.]

RCW 90.38.901 Transfer of rights between irrigation districts not intended. It is not the intent of this chapter to facilitate the transfer of water rights from one irrigation district to another. [1989 c 429 s 8.]

RCW 90.38.902 Existing rights not impaired. (1) Nothing in this chapter shall authorize the impairment of, or operate to impair, any existing water rights.

(2) Nothing in this chapter may be construed to limit, impair, waive, abrogate, or diminish:

(a) Any treaty or other rights of the Yakama Nation;

(b) Any powers, rights, or authorities conferred upon irrigation districts under existing law;

(c) Any rights or jurisdictions of the United States, the state of Washington, or other person or entity over waters in the Yakima river basin. [2013 2nd sp.s. c 11 s 8; 1989 c 429 s 9.]