

2 **ESHB 2537** - S AMD - 233  
3 By Senators Newhouse and Haugen

4 ADOPTED 2/29/96

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

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

9 A board of joint control may be created as provided in this chapter  
10 to administer: (1) The construction, operation, maintenance,  
11 betterments, and regulations of the ((water works, main, and branch  
12 canals, if any, and water lines and other water facilities)) joint use  
13 facilities, including reservoirs, canals, hydroelectric facilities  
14 within the works of the irrigation water supply system, pumping  
15 stations, drainage works, reserved works, and system interconnections,  
16 of two or more irrigation ((districts and others)) entities which are  
17 the owners of, have an ownership interest in, or are trustees for  
18 owners of water rights having the same ((natural)) source ((and)) or  
19 which use ((the same)) common works for the diversion and either  
20 transportation, or drainage, or both, of all or any part of their  
21 respective irrigation water supplies((, may be created as hereinafter  
22 provided)); and (2) activities and programs that promote more effective  
23 and efficient water management for the benefit of member entities of a  
24 board of joint control.

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

27 Unless the context clearly requires otherwise, the definitions in  
28 this section apply throughout this chapter.

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

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

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

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

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

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

15 (1) For the purpose of creating ((such)) a board of joint control  
16 a petition signed by ((three)) two or more ((owners of)) entities that  
17 are owners of or hold an ownership interest in water rights having the  
18 same ((natural)) source of water ((and which owners)) or use common  
19 works for the diversion ((and)), transportation, or drainage of all or  
20 any part of their respective irrigation water supplies, ((as aforesaid,  
21 shall)) must be filed with the board of county commissioners of the  
22 county in which the greater part of the land irrigated from ((said))  
23 the source of water supply is situated. ((No irrigation district shall  
24 be represented on said petition without the signatures of the entire  
25 membership of its board of directors.))

26 (2) The petition shall also be filed with the board of  
27 commissioners of each county containing lands irrigated from the source  
28 of water supply of the entities signing the petition. The board of  
29 county commissioners making the review under RCW 87.80.090 shall  
30 consider any comments of other boards of county commissioners provided  
31 within the public hearing and comment period on the petition.

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

34 The petition for the creation of a board of joint control shall be  
35 addressed to the board of county commissioners, shall describe  
36 generally the ((water works, main, and branch canals, if any, and water  
37 lines and other water facilities involved)) relationship, if any, of

1 the irrigation entities to an established federal reclamation project,  
2 the primary water works of the entities including reservoirs, main  
3 canals, hydroelectric facilities, pumping stations, and drainage  
4 facilities, giving them their local names, if any they have, and shall  
5 show generally the physical relationship of the lands being watered  
6 from the ~~((common use of said water works, canals, lines and other))~~  
7 water facilities~~((: PROVIDED, That))~~. However, lands included in any  
8 irrigation ~~((district))~~ entity involved need not be described  
9 individually but shall be included by stating the name of the  
10 irrigation ~~((district))~~ entity and all the irrigable lands in the  
11 irrigation ~~((district))~~ entity named shall by that method be deemed to  
12 be involved unless otherwise specifically stated in the petition.  
13 Further, the petition must propose the formula for board of joint  
14 control apportionment of costs among its members, and may propose the  
15 composition of the board of joint control as to membership, chair, and  
16 voting structure. The petition shall also state generally the reasons  
17 for the creation of a board of joint control and any other matter the  
18 petitioners deem material, and shall allege that it is in the public  
19 interest and to the benefit of all the owners of the lands receiving  
20 water ~~((from said common source))~~ within the area of jurisdiction, that  
21 ~~((said))~~ the board of joint control be created and ((pray)) request  
22 that the board of county commissioners consider ~~((said))~~ the petition  
23 and take the necessary steps provided by law for the creation of a  
24 board of joint control. The petition shall be accompanied by a map  
25 showing the area of jurisdiction and the general location of the water  
26 ~~((works, main, and branch canals, if any, and water lines and other~~  
27 ~~water))~~ supply and distribution facilities.

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

30 Notice of the hearing on ~~((said))~~ the petition shall be given by  
31 the clerk of the board of county commissioners by publishing the same,  
32 at the cost of the board of control, if created, otherwise at the cost  
33 of the petitioners, in the official newspaper of ~~((the))~~ each county  
34 containing lands irrigated from the source of supply of the entities  
35 signing the petition. The notice shall be published in at least three  
36 weekly issues thereof~~((: PROVIDED, That))~~. However, the time of the  
37 hearing shall not be less than thirty days from the date of the first  
38 publication of ~~((said))~~ the notice. A copy of ~~((said))~~ the notice

1 shall be posted at the regular meeting place of the board of directors  
2 of each irrigation (~~district~~) entity concerned in the granting or  
3 denial of (~~said~~) the petition and a copy of the notice shall be  
4 mailed to the department of ecology at Olympia at least thirty days  
5 prior to the day of (~~said~~) the hearing.

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

8 The notice of the hearing on (~~said~~) the petition shall state that  
9 a petition (~~praying for~~) requesting the creation of a board of joint  
10 control to administer the (~~operation, maintenance, betterments and~~  
11 ~~regulation of the water works, main, and branch canals, if any, and~~  
12 ~~water lines, naming them, if named in the petition, and other water~~  
13 ~~facilities involved~~) facilities and activities, naming them if named  
14 in the petition, has been filed with the board of county commissioners  
15 of the county (~~naming it~~), naming the county; that (~~said~~) the  
16 board of joint control, if it is created, will have authority to  
17 provide for (~~assessments~~) apportionment of costs to carry out the  
18 objects of its creation (~~against the irrigable lands in the several~~  
19 ~~irrigation districts~~) among the member irrigation entities (naming  
20 them) (~~and against any other lands involved if set out in the petition~~  
21 ~~describing them~~); shall state the day, hour, and place of the  
22 hearing on the petition; shall state that any person interested in the  
23 creation of (~~said~~) the board of joint control may appear on or before  
24 the day of hearing on (~~said~~) the petition, and show cause in writing,  
25 if any (~~he has~~), why the same should not be granted, and the notice  
26 shall be over the name of the clerk of the board of county  
27 commissioners.

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

30 If the board of county commissioners determine that the creation of  
31 a board of joint control is in the public interest (~~and is~~), of  
32 benefit to the (~~lands~~) irrigation entities and individual water uses  
33 within those entities concerned, (~~it~~) and will not be detrimental to  
34 water right interests outside the proposed board of joint control area  
35 of jurisdiction: Then the county board shall so find and adopt a  
36 resolution creating the board of joint control, designating it (~~give~~  
37 [giving] the) name of county) County Joint Control Board No. (specify

1 number), and the county board at the same time shall appoint ((the  
2 president of the board of directors of each irrigation district  
3 involved and the resident owner of each individual tract of land  
4 involved or such other person as any said landowner shall designate in  
5 writing, as)) the first members of ((said)) the board of joint control  
6 based on the board composition proposed in the petition and ((said))  
7 the board of joint control shall consist of ((said)) this membership.  
8 A copy of ((said)) the resolution creating the board of joint control  
9 certified by the clerk of the county board shall be filed with the  
10 county assessor of the county in which the board of joint control was  
11 created and with the county assessor in any other county in the state  
12 in which any lands involved are situated, within five days after  
13 ((said)) the resolution is adopted.

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

16 The principal office and place of business of the board of joint  
17 control shall be at a place to be designated by the board in the county  
18 in which the board was created. Each member of the board before  
19 entering on the duties of his or her office shall subscribe a written  
20 oath for the faithful discharge of his or her duties as ((such)) a  
21 member and file the ((same)) oath with the county clerk of ((said)) the  
22 county. The filing of ((such)) the oath shall be without clerk's fee.  
23 The term of office of members of the board ((shall be)) is for one year  
24 or a fraction thereof ending on the first Monday in March next  
25 following their selection and until their respective successors are  
26 selected as ((herein)) provided in this section. The term of the first  
27 members of the board shall also be as above stated. In January of each  
28 year the board of directors of each irrigation ((district)) entity  
29 concerned shall designate in writing and deliver to the board of joint  
30 control, the name or names of the person or persons who constitute the  
31 entity's membership and who shall represent the ((district)) entity on  
32 the board of joint control for the ensuing year. ((Likewise, the  
33 owners of land concerned but not in the irrigation district, shall each  
34 designate in writing a person to represent their respective lands and  
35 file the same with the board of joint control and that board shall  
36 select from the list of persons so filed, one person to represent the  
37 lands outside any irrigation district on the board of joint control for  
38 the ensuing year.)) The persons ((so selected as aforesaid shall))

1 designated under this section constitute the board of joint control for  
2 ~~((such))~~ the year and until their respective successors are selected  
3 and have qualified. Any irrigation ~~((district or owner of land not in~~  
4 ~~a district as the case may be, which))~~ entity that fails to designate  
5 its ~~((or his))~~ representative and to file the same as ~~((above))~~  
6 provided ~~((shall))~~ in this section is not ~~((be))~~ entitled to  
7 representation on the board unless and until ~~((such))~~ the requirements  
8 are complied with.

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

11 In the month of March, or another time as determined by the board  
12 of joint control, in each year the members of the board of joint  
13 control shall meet and organize as a board for the ensuing year and  
14 shall select a ~~((chairman))~~ chair from their number and appoint a  
15 secretary who may, but need not, be a member of the board, and who  
16 shall keep a record of their proceedings, and perform ~~((such))~~ other  
17 duties as the board ~~((shall))~~ prescribes. Business of the board shall  
18 be transacted at meetings thereof and a majority of the qualified  
19 membership of the board ~~((shall))~~ constitutes a quorum for the  
20 transaction of business and in all matters requiring action by the  
21 board there shall be a concurrence of at least a majority of the  
22 members present. However, if an alternative voting structure was  
23 proposed in the petition and adopted in the board of county  
24 commissioners' resolution, this structure will govern the voting  
25 procedures of the board of joint control. All meetings of the board  
26 shall be public.

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

29 Each member of the board of joint control shall ~~((receive not to~~  
30 ~~exceed ten dollars per day in attending meetings of the board to be~~  
31 ~~determined by the board, and such compensation, not exceeding ten~~  
32 ~~dollars per day for other services previously authorized and rendered~~  
33 ~~the board, and in addition thereto, the members shall receive necessary~~  
34 ~~expenses in attending meetings or when otherwise engaged on the~~  
35 ~~business of the board))~~ be compensated for services in accordance with  
36 the provisions of RCW 87.03.460. The amount must be fixed by  
37 resolution and entered in the minutes of the proceedings of the board.

1 The board shall fix the compensation to be paid the secretary and all  
2 other agents and employees of the board.

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

5 (1) A board of joint control created under the provisions of this  
6 chapter shall have full authority within its area of jurisdiction to  
7 enter into and perform any and all necessary contracts((~~τ~~)); to accept  
8 grants and loans, including, but not limited to, those provided under  
9 chapters 43.83B and 43.99E RCW, to appoint and employ and discharge the  
10 necessary officers, agents, and employees((~~τ~~)); to sue and be sued as  
11 a board but without personal liability of the members thereof in any  
12 and all matters in which all the irrigation ((~~districts and others~~))  
13 entities represented on the board as a whole have a common interest  
14 without making ((~~such districts and other parties~~)) the irrigation  
15 entities parties to the suit; to represent ((~~said districts and~~  
16 others)) the entities in all matters of common interest as a whole  
17 within the scope of this chapter; and to do any and all lawful acts  
18 required and expedient to carry out the purposes of this chapter((~~+~~  
19 PROVIDED, That nothing in this chapter contained shall be held or  
20 construed to give the board of joint control authority to abridge,  
21 increase or modify the water rights of any irrigation district or  
22 others represented on the board or the privileges or burdens incident  
23 thereto or connected therewith and in the apportionment of expenses and  
24 outlays chargeable to the respective irrigation districts and others,  
25 the board shall be bound by their respective water rights and  
26 appurtenant privileges and burdens)).

27 (2) A board of joint control is authorized and encouraged to pursue  
28 conservation and system efficiency improvements to optimize the use of  
29 appropriated waters and to either redistribute the saved water within  
30 its area of jurisdiction, or, transfer the water to others, or both.  
31 A redistribution of saved water as an operational practice internal to  
32 the board of joint control's area of jurisdiction, may be authorized if  
33 it can be made without detriment or injury to rights existing outside  
34 of the board of control's area of jurisdiction, including instream flow  
35 water rights established under state or federal law. Prior to  
36 undertaking a water conservation or system efficiency improvement  
37 project which will result in a redistribution of saved water, the board  
38 of joint control must consult with the department of ecology and if the

1 board's jurisdiction is within a United States reclamation project the  
2 board must obtain the approval of the bureau of reclamation. The  
3 purpose of such consultation is to assure that the proposal will not  
4 impair the rights of other water holders or bureau of reclamation  
5 contract water users. A board of control does not have the power to  
6 authorize a change of any water right that would change the point or  
7 points of diversion, purpose of use, or place of use outside the  
8 board's area of jurisdiction, without the approval of the department of  
9 ecology pursuant to RCW 90.03.380 and if the board's jurisdiction is  
10 within a United States reclamation project, the approval of the bureau  
11 of reclamation.

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

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

18 (5) Nothing contained in this chapter gives a board of joint  
19 control the authority to abridge the existing rights, responsibilities,  
20 and authorities of an individual irrigation entity or others within the  
21 area of jurisdiction; nor in a case where the board of joint control  
22 consists of representatives of two or more divisions of a federal  
23 reclamation project shall the board of joint control abridge any powers  
24 of an existing board of control created through federal contract; nor  
25 shall a board of joint control have any authority to abridge or modify  
26 a water right benefitting lands within its area of jurisdiction without  
27 consent of the party holding the ownership interest in the water right.

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

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

34 In September of each year the board of joint control shall prepare  
35 a budget of its estimated expenses and outlay for the ensuing calendar  
36 year and the apportionment thereof chargeable against the several  
37 irrigation ~~((districts and others))~~ entities coming within the  
38 jurisdiction of the board and shall fix a time and place when ~~((said))~~



1 the budget shall be considered and adopted by the board. Notice of the  
2 hearing of the budget signed by the secretary of the board shall be  
3 published in at least two weekly issues of a newspaper of general  
4 circulation in each county in which any lands chargeable with ~~((said))~~  
5 the expense and outlay of the board are situated. The date of the  
6 first publication of ~~((such))~~ the notice shall be not less than ten  
7 days prior to the day of ~~((said))~~ the hearing.

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

10 Immediately after final adoption of the budget the secretary of the  
11 board shall mail or deliver a copy thereof showing the apportionment of  
12 the charge to each irrigation ~~((district))~~ entity, to the secretary of  
13 each irrigation ~~((district))~~ entity coming under the jurisdiction of  
14 the board of joint control and it shall be the duty of each irrigation  
15 ~~((district))~~ entity to include in its levy for the ensuing year, the  
16 amount apportioned and charged to it in the budget.

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

19 There is ~~((hereby))~~ created in the county treasurer's office of the  
20 county in which the board of joint control was created, a special fund  
21 to be designated Control Fund of the (naming the county) County Joint  
22 Control Board No. (specifying the number). The county treasurer shall  
23 distribute all collections for this fund to ~~((said))~~ the control fund.  
24 The treasurer of any other county collecting assessments for this fund  
25 shall remit the ~~((same))~~ assessments monthly to the county treasurer of  
26 the county in which the board of joint control was created. However,  
27 at the option of the board of joint control, a treasurer other than the  
28 county treasurer may be designated under RCW 87.03.440.

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

31 When the county treasurer serves as treasurer for the board of  
32 joint control, the board of joint control shall issue vouchers for its  
33 operations against ~~((said))~~ the control fund and the county treasurer  
34 shall pay out moneys from ~~((said))~~ the fund upon warrants drawn by the  
35 county auditor of said county.

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

3        A board of joint control created under this chapter is limited to  
4 the membership, area of jurisdiction, and other terms and conditions  
5 contained in the resolution of the board of county commissioners filed  
6 under RCW 87.80.090.    Amendments may be proposed at any time by the  
7 board of joint control to the board of county commissioners and acted  
8 upon through the petition process contained in RCW 87.80.030 through  
9 87.80.090.

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

12       An irrigation entity under contract with an agency of the federal  
13 government for the construction or operation of its irrigation system  
14 may not participate in a board of joint control under this chapter if  
15 this action is in conflict with provisions of the subject contract.    If  
16 a responsible official of the federal agency notifies the board of  
17 county commissioners in writing on or before the day of hearing  
18 provided under RCW 87.80.060 of a conflict in contract provisions and  
19 evidences the conflict, the board of county commissioners must deny the  
20 irrigation entity's proposed participation.    If subsequent to formation  
21 of a board of joint control, a judicial decision determines a conflict  
22 in contract conditions, the irrigation entity must not participate in  
23 a project or activity inconsistent with the court determination.

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

26       The treasurer of the county in which is located the office of the  
27 district shall be ex officio treasurer of the district, and any county  
28 treasurer handling district funds shall be liable upon his or her  
29 official bond and to criminal prosecution for malfeasance and  
30 misfeasance, or failure to perform any duty as county or district  
31 treasurer.    The treasurer of each county in which lands of the district  
32 are located shall collect and receipt for all assessments levied on  
33 lands within his or her county.    There shall be deposited with the  
34 district treasurer all funds of the district.    The district treasurer  
35 shall pay out such funds upon warrants issued by the county auditor  
36 against the proper funds of the district, except the sums to be paid  
37 out of the bond fund for interest and principal payments on bonds:

1 PROVIDED, That in those districts which designate their own treasurer,  
2 the treasurer may issue the warrants or any checks when the district is  
3 authorized to issue checks. All warrants shall be paid in the order of  
4 their issuance. The district treasurer shall report, in writing, on  
5 the first Monday in each month to the directors, the amount in each  
6 fund, the receipts for the month preceding in each fund, and file the  
7 report with the secretary of the board. The secretary shall report to  
8 the board, in writing, at the regular meeting in each month, the amount  
9 of receipts and expenditures during the preceding month, and file the  
10 report in the office of the board.

11 The preceding paragraph of this section notwithstanding, the board  
12 of directors or board of control of an irrigation district which lies  
13 in more than one county and which had assessments in each of two of the  
14 preceding three years equal to at least five hundred thousand dollars,  
15 or a board of joint control created under chapter 87.80 RCW, may  
16 designate some other person having experience in financial or fiscal  
17 matters as treasurer of the district. In addition, the board of  
18 directors of an irrigation district which lies entirely within one  
19 county may designate some other person having experience in financial  
20 or fiscal matters as treasurer of the district if the board has the  
21 approval of the county treasurer to designate some other person. If  
22 the board designates a treasurer, it shall require a bond with a surety  
23 company authorized to do business in the state of Washington in an  
24 amount and under the terms and conditions which it finds from time to  
25 time will protect the district against loss. The premium on the bond  
26 shall be paid by the district. The designated treasurer shall collect  
27 and receipt for all irrigation district assessments on lands within the  
28 district and shall act with the same powers and duties and be under the  
29 same restrictions as provided by law for county treasurers acting in  
30 matters pertaining to irrigation districts, except the powers, duties,  
31 and restrictions in RCW 87.56.110 and 87.56.210 which shall continue to  
32 be those of county treasurers.

33 In those districts which have designated their own treasurers, the  
34 provisions of law pertaining to irrigation districts which require  
35 certain acts to be done and which refer to and involve a county  
36 treasurer or the office of a county treasurer or the county officers  
37 charged with the collection of irrigation district assessments, except  
38 RCW 87.56.110 and 87.56.210 shall be construed to refer to and involve

1 the designated district treasurer or the office of the designated  
2 district treasurer.

3 Any claim against the district for which it is liable under  
4 existing laws shall be presented to the board as provided in RCW  
5 4.96.020 and upon allowance it shall be attached to a voucher and  
6 approved by the chairman and signed by the secretary and directed to  
7 the proper official for payment: PROVIDED, That in the event  
8 claimant's claim is for crop damage, the claimant in addition to filing  
9 his or her claim within the applicable period of limitations within  
10 which an action must be commenced and in the manner specified in RCW  
11 4.96.020 must file with the secretary of the district, or in the  
12 secretary's absence one of the directors, not less than three days  
13 prior to the severance of the crop alleged to be damaged, a written  
14 preliminary notice pertaining to the crop alleged to be damaged. Such  
15 preliminary notice, so far as claimant is able, shall advise the  
16 district; that the claimant has filed a claim or intends to file a  
17 claim against the district for alleged crop damage; shall give the name  
18 and present residence of the claimant; shall state the cause of the  
19 damage to the crop alleged to be damaged and the estimated amount of  
20 damage; and shall accurately locate and describe where the crop alleged  
21 to be damaged is located. Such preliminary notice may be given by  
22 claimant or by anyone acting in his or her behalf and need not be  
23 verified. No action may be commenced against an irrigation district  
24 for crop damages unless claimant has complied with the provisions of  
25 RCW 4.96.020 and also with the preliminary notice requirements of this  
26 section.

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

29 The right to the use of water which has been applied to a  
30 beneficial use in the state shall be and remain appurtenant to the land  
31 or place upon which the same is used: PROVIDED, HOWEVER, That said  
32 right may be transferred to another or to others and become appurtenant  
33 to any other land or place of use without loss of priority of right  
34 theretofore established if such change can be made without detriment or  
35 injury to existing rights. The point of diversion of water for  
36 beneficial use or the purpose of use may be changed, if such change can  
37 be made without detriment or injury to existing rights. Before any  
38 transfer of such right to use water or change of the point of diversion

1 of water or change of purpose of use can be made, any person having an  
2 interest in the transfer or change, shall file a written application  
3 therefor with the department, and said application shall not be granted  
4 until notice of said application shall be published as provided in RCW  
5 90.03.280. If it shall appear that such transfer or such change may be  
6 made without injury or detriment to existing rights, the department  
7 shall issue to the applicant a certificate in duplicate granting the  
8 right for such transfer or for such change of point of diversion or of  
9 use. The certificate so issued shall be filed and be made a record  
10 with the department and the duplicate certificate issued to the  
11 applicant may be filed with the county auditor in like manner and with  
12 the same effect as provided in the original certificate or permit to  
13 divert water.

14 If an application for change proposes to transfer water rights from  
15 one irrigation district to another, the department shall, before  
16 publication of notice, receive concurrence from each of the irrigation  
17 districts that such transfer or change will not adversely affect the  
18 ability to deliver water to other landowners or impair the financial  
19 integrity of either of the districts.

20 A change in place of use by an individual water user or users of  
21 water provided by an irrigation district need only receive approval for  
22 the change from the board of directors of the district if the use of  
23 water continues within the irrigation district, and when water is  
24 provided by an irrigation entity that is a member of a board of joint  
25 control created under chapter 87.80 RCW, approval need only be received  
26 from the board of joint control if the use of water continues within  
27 the area of jurisdiction of the joint board and the change can be made  
28 without detriment or injury to existing rights.

29 This section shall not apply to trust water rights acquired by the  
30 state through the funding of water conservation projects under chapter  
31 90.38 RCW or RCW 90.42.010 through 90.42.070.

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

34 As used in this chapter, the term "water supply facilities" shall  
35 mean municipal, industrial, and agricultural water supply and  
36 distribution systems including, but not limited to, all equipment,  
37 utilities, structures, real property, and interests in and improvements  
38 on real property, necessary for or incidental to the acquisition,

1 construction, installation, or use of any municipal, industrial, or  
2 agricultural water supply or distribution system.

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

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

12 As used in this chapter, the term "water supply facilities" means  
13 domestic, municipal, industrial, and agricultural (and any associated  
14 fishery, recreational, or other beneficial use) water supply or  
15 distribution systems including but not limited to all equipment,  
16 utilities, structures, real property, and interests in and improvements  
17 on real property necessary for or incidental to the acquisition,  
18 construction, installation, or use of any such water supply or  
19 distribution system.

20 As used in this chapter, the term "public body" means the state of  
21 Washington or any agency, political subdivision, taxing district, or  
22 municipal or public corporation thereof; a board of joint control; an  
23 agency of the federal government; and those Indian tribes which may  
24 constitutionally receive grants or loans from the state of Washington.

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

27 A board of joint control created among irrigation entities  
28 utilizing waters of the Yakima river and tributaries shall, when  
29 undertaking water conservation projects, fully coordinate those  
30 projects with federal and state programs adopted under the Yakima river  
31 basin water enhancement project, P.L. 103-434. The projects shall be  
32 developed and implemented, consistent with the board's development  
33 schedule, within the framework of the Yakima river basin water  
34 enhancement project policies and procedures provided by the state and  
35 federal governments, as funds are available to the board of joint  
36 control for the projects. However, should there be no reasonable  
37 prospect of funding for construction by the federal and state

1 government within three years of the date of the publication of the  
2 Yakima river basin conservation plan under P.L. 103-434, the board of  
3 joint control may pursue the projects under alternative funding  
4 programs and conditions.

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

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

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

- 11 (1) RCW 87.80.170 and 1949 c 54 s 16;
- 12 (2) RCW 87.80.180 and 1949 c 56 s 17; and
- 13 (3) RCW 87.80.210 and 1949 c 56 s 20."

14 **ESHB 2537** - S AMD - 233  
15 By Senators Newhouse and Haugen

16 ADOPTED 2/29/96

17 On page 1, line 2 of the title, after "control;" strike the  
18 remainder of the title and insert "amending RCW 87.80.010, 87.80.020,  
19 87.80.030, 87.80.050, 87.80.060, 87.80.090, 87.80.100, 87.80.110,  
20 87.80.120, 87.80.130, 87.80.140, 87.80.160, 87.80.190, 87.80.200,  
21 87.03.440, 90.03.380, 43.83B.050, and 43.99E.030; adding new sections  
22 to chapter 87.80 RCW; and repealing RCW 87.80.170, 87.80.180, and  
23 87.80.210."

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