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ENGROSSED SUBSTITUTE HOUSE BILL 2537

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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 pumping stations, drainage works, reserved works as may be transferred  
16 by contracts with the United States, and system interconnections, of  
17 two or more irrigation ((districts and others)) entities which are the  
18 owners of, have an ownership interest in, or are trustees for owners of  
19 water rights having the same ((natural)) source ((and)) or which use

1 (~~the same~~) common works for the diversion and either transportation,  
2 or drainage, or both, of all or any part of their respective irrigation  
3 water supplies(~~, may be created as hereinafter provided~~); and (2)  
4 activities and programs that promote more effective and efficient water  
5 management for the benefit of member entities of a board of joint  
6 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 **Sec. 3.** RCW 87.80.020 and 1949 c 56 s 2 are each amended to read  
27 as follows:

28 For the purpose of creating (~~such~~) a board of joint control a  
29 petition signed by (~~three~~) two or more (~~owners of~~) entities that  
30 are owners of or hold an ownership interest in water rights having the  
31 same (~~natural~~) source of water (~~and which owners~~) or use common  
32 works for the diversion (~~and~~), transportation, or drainage of all or  
33 any part of their respective irrigation water supplies, (~~as aforesaid,~~  
34 shall) must be filed with the board of county commissioners of the  
35 county in which the greater part of the land irrigated from (~~said~~)  
36 the source of water supply is situated. (~~No irrigation district shall~~

1 ~~be represented on said petition without the signatures of the entire~~  
2 ~~membership of its board of directors.))~~

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

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

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

1 Notice of the hearing on ~~((said))~~ the petition shall be given by  
2 the clerk of the board of county commissioners by publishing the same,  
3 at the cost of the board of control, if created, otherwise at the cost  
4 of the petitioners, in the official newspaper of the county in at least  
5 three weekly issues thereof(~~(:PROVIDED, That)~~). However, the time of  
6 the hearing shall not be less than thirty days from the date of the  
7 first publication of ~~((said))~~ the notice. A copy of ~~((said))~~ the  
8 notice shall be posted at the regular meeting place of the board of  
9 directors of each irrigation ~~((district))~~ entity concerned in the  
10 granting or denial of ~~((said))~~ the petition and a copy of the notice  
11 shall be mailed to the department of ecology at Olympia at least thirty  
12 days prior to the day of ~~((said))~~ the hearing.

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

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

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

1        If the board of county commissioners determine that the creation of  
2 a board of joint control is in the public interest and is of benefit to  
3 the ~~((lands))~~ irrigation entities concerned, it shall so find and adopt  
4 a resolution creating the board of joint control, designating it  
5 ~~((give [giving] the))~~ name of county) County Joint Control Board No.  
6 (specify number), and the county board at the same time shall appoint  
7 ~~((the president of the board of directors of each irrigation district~~  
8 ~~involved and the resident owner of each individual tract of land~~  
9 ~~involved or such other person as any said landowner shall designate in~~  
10 ~~writing, as))~~ the first members of ~~((said))~~ the board of joint control  
11 based on the board composition proposed in the petition and ~~((said))~~  
12 the board of joint control shall consist of ~~((said))~~ this membership.  
13 A copy of ~~((said))~~ the resolution creating the board of joint control  
14 certified by the clerk of the county board shall be filed with the  
15 county assessor of the county in which the board of joint control was  
16 created and with the county assessor in any other county in the state  
17 in which any lands involved are situated, within five days after  
18 ~~((said))~~ the resolution is adopted.

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

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

1 ~~designate in writing a person to represent their respective lands and~~  
2 ~~file the same with the board of joint control and that board shall~~  
3 ~~select from the list of persons so filed, one person to represent the~~  
4 ~~lands outside any irrigation district on the board of joint control for~~  
5 ~~the ensuing year.))~~ The persons ~~((so selected as aforesaid shall))~~  
6 designated under this section constitute the board of joint control for  
7 ~~((such))~~ the year and until their respective successors are selected  
8 and have qualified. Any irrigation ~~((district or owner of land not in~~  
9 ~~a district as the case may be, which))~~ entity that fails to designate  
10 its ~~((or his))~~ representative and to file the same as ~~((above))~~  
11 provided ~~((shall))~~ in this section is not ~~((be))~~ entitled to  
12 representation on the board unless and until ~~((such))~~ the requirements  
13 are complied with.

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

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

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

34 ~~Each member of the board of joint control shall ((receive not to~~  
35 ~~exceed ten dollars per day in attending meetings of the board to be~~  
36 ~~determined by the board, and such compensation, not exceeding ten~~  
37 ~~dollars per day for other services previously authorized and rendered~~

1 the board, and in addition thereto, the members shall receive necessary  
2 expenses in attending meetings or when otherwise engaged on the  
3 business of the board)) be compensated for services in accordance with  
4 the provisions of RCW 87.03.460. The amount must be fixed by  
5 resolution and entered in the minutes of the proceedings of the board.  
6 The board shall fix the compensation to be paid the secretary and all  
7 other agents and employees of the board.

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

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

32 (2) A board of joint control is authorized and encouraged to pursue  
33 conservation and system efficiency improvements to optimize the use of  
34 appropriated waters and to either redistribute the saved water within  
35 its area of jurisdiction, or, subject to state law, transfer the water  
36 to others, or both. Such a redistribution may be made if it can be  
37 made without detriment or injury to rights existing outside of the area  
38 of jurisdiction of the board of joint control. The redistribution

1 shall in no manner adversely impact water service to existing water  
2 users.

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

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

9 (5) Nothing contained in this chapter gives a board of joint  
10 control the authority to abridge the existing rights, responsibilities,  
11 and authorities of an individual irrigation entity or others within the  
12 area of jurisdiction; nor in a case where the board of joint control  
13 consists of representatives of two or more divisions of a federal  
14 reclamation project shall the board of joint control abridge any powers  
15 of an existing board of control created through federal contract; nor  
16 shall a board of joint control have any authority to abridge or modify  
17 a water right benefitting lands within its area of jurisdiction without  
18 consent of the party holding the ownership interest in the water right.

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

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

25 In September of each year the board of joint control shall prepare  
26 a budget of its estimated expenses and outlay for the ensuing calendar  
27 year and the apportionment thereof chargeable against the several  
28 irrigation ~~((districts and others))~~ entities coming within the  
29 jurisdiction of the board and shall fix a time and place when ~~((said))~~  
30 the budget shall be considered and adopted by the board. Notice of the  
31 hearing of the budget signed by the secretary of the board shall be  
32 published in at least two weekly issues of a newspaper of general  
33 circulation in each county in which any lands chargeable with ~~((said))~~  
34 the expense and outlay of the board are situated. The date of the  
35 first publication of ~~((such))~~ the notice shall be not less than ten  
36 days prior to the day of ~~((said))~~ the hearing.



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

3       Immediately after final adoption of the budget the secretary of the  
4 board shall mail or deliver a copy thereof showing the apportionment of  
5 the charge to each irrigation ((~~district~~)) entity, to the secretary of  
6 each irrigation ((~~district~~)) entity coming under the jurisdiction of  
7 the board of joint control and it shall be the duty of each irrigation  
8 ((~~district~~)) entity to include in its levy for the ensuing year, the  
9 amount apportioned and charged to it in the budget.

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

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

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

24       When the county treasurer serves as treasurer for the board of  
25 joint control, the board of joint control shall issue vouchers for its  
26 operations against ((~~said~~)) the control fund and the county treasurer  
27 shall pay out moneys from ((~~said~~)) the fund upon warrants drawn by the  
28 county auditor of said county.

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

31       A board of joint control created under this chapter is limited to  
32 the membership, area of jurisdiction, and other terms and conditions  
33 contained in the resolution of the board of county commissioners filed  
34 under RCW 87.80.090. Amendments may be proposed at any time by the  
35 board of joint control to the board of county commissioners and acted

1 upon through the petition process contained in RCW 87.80.030 through  
2 87.80.090.

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

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

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

19 The treasurer of the county in which is located the office of the  
20 district shall be ex officio treasurer of the district, and any county  
21 treasurer handling district funds shall be liable upon his or her  
22 official bond and to criminal prosecution for malfeasance and  
23 misfeasance, or failure to perform any duty as county or district  
24 treasurer. The treasurer of each county in which lands of the district  
25 are located shall collect and receipt for all assessments levied on  
26 lands within his or her county. There shall be deposited with the  
27 district treasurer all funds of the district. The district treasurer  
28 shall pay out such funds upon warrants issued by the county auditor  
29 against the proper funds of the district, except the sums to be paid  
30 out of the bond fund for interest and principal payments on bonds:  
31 PROVIDED, That in those districts which designate their own treasurer,  
32 the treasurer may issue the warrants or any checks when the district is  
33 authorized to issue checks. All warrants shall be paid in the order of  
34 their issuance. The district treasurer shall report, in writing, on  
35 the first Monday in each month to the directors, the amount in each  
36 fund, the receipts for the month preceding in each fund, and file the  
37 report with the secretary of the board. The secretary shall report to

1 the board, in writing, at the regular meeting in each month, the amount  
2 of receipts and expenditures during the preceding month, and file the  
3 report in the office of the board.

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

26 In those districts which have designated their own treasurers, the  
27 provisions of law pertaining to irrigation districts which require  
28 certain acts to be done and which refer to and involve a county  
29 treasurer or the office of a county treasurer or the county officers  
30 charged with the collection of irrigation district assessments, except  
31 RCW 87.56.110 and 87.56.210 shall be construed to refer to and involve  
32 the designated district treasurer or the office of the designated  
33 district treasurer.

34 Any claim against the district for which it is liable under  
35 existing laws shall be presented to the board as provided in RCW  
36 4.96.020 and upon allowance it shall be attached to a voucher and  
37 approved by the chairman and signed by the secretary and directed to  
38 the proper official for payment: PROVIDED, That in the event  
39 claimant's claim is for crop damage, the claimant in addition to filing

1 his or her claim within the applicable period of limitations within  
2 which an action must be commenced and in the manner specified in RCW  
3 4.96.020 must file with the secretary of the district, or in the  
4 secretary's absence one of the directors, not less than three days  
5 prior to the severance of the crop alleged to be damaged, a written  
6 preliminary notice pertaining to the crop alleged to be damaged. Such  
7 preliminary notice, so far as claimant is able, shall advise the  
8 district; that the claimant has filed a claim or intends to file a  
9 claim against the district for alleged crop damage; shall give the name  
10 and present residence of the claimant; shall state the cause of the  
11 damage to the crop alleged to be damaged and the estimated amount of  
12 damage; and shall accurately locate and describe where the crop alleged  
13 to be damaged is located. Such preliminary notice may be given by  
14 claimant or by anyone acting in his or her behalf and need not be  
15 verified. No action may be commenced against an irrigation district  
16 for crop damages unless claimant has complied with the provisions of  
17 RCW 4.96.020 and also with the preliminary notice requirements of this  
18 section.

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

21 The right to the use of water which has been applied to a  
22 beneficial use in the state shall be and remain appurtenant to the land  
23 or place upon which the same is used: PROVIDED, HOWEVER, That said  
24 right may be transferred to another or to others and become appurtenant  
25 to any other land or place of use without loss of priority of right  
26 theretofore established if such change can be made without detriment or  
27 injury to existing rights. The point of diversion of water for  
28 beneficial use or the purpose of use may be changed, if such change can  
29 be made without detriment or injury to existing rights. Before any  
30 transfer of such right to use water or change of the point of diversion  
31 of water or change of purpose of use can be made, any person having an  
32 interest in the transfer or change, shall file a written application  
33 therefor with the department, and said application shall not be granted  
34 until notice of said application shall be published as provided in RCW  
35 90.03.280. If it shall appear that such transfer or such change may be  
36 made without injury or detriment to existing rights, the department  
37 shall issue to the applicant a certificate in duplicate granting the  
38 right for such transfer or for such change of point of diversion or of

1 use. The certificate so issued shall be filed and be made a record  
2 with the department and the duplicate certificate issued to the  
3 applicant may be filed with the county auditor in like manner and with  
4 the same effect as provided in the original certificate or permit to  
5 divert water.

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

12 A change in place of use by an individual water user or users of  
13 water provided by an irrigation district need only receive approval for  
14 the change from the board of directors of the district if the use of  
15 water continues within the irrigation district, and when water is  
16 provided by an irrigation entity that is a member of a board of joint  
17 control created under chapter 87.80 RCW, approval need only be received  
18 from the board of joint control if the use of water continues within  
19 the area of jurisdiction of the joint board and the change can be made  
20 without detriment of injury to existing rights.

21 This section shall not apply to trust water rights acquired by the  
22 state through the funding of water conservation projects under chapter  
23 90.38 RCW or RCW 90.42.010 through 90.42.070.

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

26 As used in this chapter, the term "water supply facilities" shall  
27 mean municipal, industrial, and agricultural water supply and  
28 distribution systems including, but not limited to, all equipment,  
29 utilities, structures, real property, and interests in and improvements  
30 on real property, necessary for or incidental to the acquisition,  
31 construction, installation, or use of any municipal, industrial, or  
32 agricultural water supply or distribution system.

33 As used in this chapter, the term "public body" means the state of  
34 Washington, or any agency, political subdivision, taxing district, or  
35 municipal corporation thereof, a board of joint control, an agency of  
36 the federal government, and those Indian tribes now or hereafter  
37 recognized as such by the federal government for participation in the

1 federal land and water conservation program and which may  
2 constitutionally receive grants or loans from the state of Washington.

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

5 As used in this chapter, the term "water supply facilities" means  
6 domestic, municipal, industrial, and agricultural (and any associated  
7 fishery, recreational, or other beneficial use) water supply or  
8 distribution systems including but not limited to all equipment,  
9 utilities, structures, real property, and interests in and improvements  
10 on real property necessary for or incidental to the acquisition,  
11 construction, installation, or use of any such water supply or  
12 distribution system.

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

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

20 A board of joint control created among irrigation entities  
21 utilizing waters of the Yakima river and tributaries shall, when  
22 undertaking water conservation projects, fully coordinate those  
23 projects with federal and state programs adopted under the Yakima river  
24 basin water enhancement project, P.L. 103-434. The projects shall be  
25 developed and implemented, consistent with the board's development  
26 schedule, within the framework of the Yakima river basin water  
27 enhancement project policies and procedures provided by the state and  
28 federal governments, as funds are available to the board of joint  
29 control for the projects. However, should the federal and state  
30 governments be unable to support the projects of the board in a timely  
31 manner, the board may pursue projects under alternative funding  
32 programs and conditions.

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

35 A board of joint control created under this chapter does not have  
36 the power to authorize a change in any water right that would change

1 the point or points of diversion for the water right without the  
2 approval of the department of ecology. No change in a water right may  
3 be authorized by or approved by such a board of joint control except as  
4 authorized under RCW 90.03.380. A board of joint control shall not  
5 authorize or approve a change in a water right unless the change can be  
6 made without injury or detriment to existing rights.

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

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

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