

1974 REVISED CODE *of* WASHINGTON



Volume 3

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29.01.005 Scope of definitions. Words and phrases as defined in this chapter, wherever used in Title 29 RCW, shall have the meaning as in this chapter ascribed to them, unless where used the context thereof shall clearly indicate to the contrary or unless otherwise defined in the chapter of which they are a part. [1965 c 9 § 29.01.005. For like prior law see 1907 c 209 § 1, part; RRS § 5177, part.]

29.01.010 "City clerk". "City clerk" includes every officer, by whatever name designated, who performs the functions usually performed by a city or town clerk. [1965 c 9 § 29.01.010.]

29.01.020 "City council". "City council" includes the governing body of any city or town, by whatever name it may be designated. [1965 c 9 § 29.01.020.]

29.01.030 "City precinct". A "city precinct" is a voting precinct lying wholly or partly within a city or town. [1965 c 9 § 29.01.030. Prior: 1957 c 251 § 2; prior: 1939 c 15 § 1, part; 1933 c 1 § 3, part; RRS § 5114-3, part; prior: 1891 c 104 §§ 1, part, 2, part; RRS §§ 5116, part, 5117, part.]

29.01.040 "Constituency". A "constituency" is a body of voters having the right to take part in the election of a specific public officer or group of public officers. [1965 c 9 § 29.01.040.]

29.01.050 "Election". "Election" when used alone means a general election except where the context indicates that a special election is meant. "Election" when used without qualification never means a primary election. [1965 c 9 § 29.01.050. Prior: 1907 c 209 § 1, part; RRS § 5177(c). See also 1950 ex.s. c 14 § 3.]

Absentee service voters, election defined for purposes of: RCW 29.39.030.

Election defined for voting machine purposes: RCW 29.33.015.

29.01.060 "Election officer". "Election officer" includes any officer who has a duty to perform relating to elections under the provisions of any statute, charter, or ordinance. [1965 c 9 § 29.01.060.]

29.01.070 "General election". "General election" means an election required to be held on a fixed date recurring at regular intervals. [1965 c 9 § 29.01.070.]

29.01.080 "Infamous crime". An "infamous crime" is a crime punishable by death or imprisonment in the state penitentiary. [1965 c 9 § 29.01.080. Prior: Code 1881 § 3054; 1865 p 25 § 5; RRS § 5113.]

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29.01.090 "Major political party". "Major political party" means:

(1) In a state-wide election, a political party of which at least one nominee received at least ten percent of the total vote cast at the last preceding state-wide general election;

(2) In an election by a constituency confined to a political subdivision of the state, a political party of which at least one nominee received at least ten percent of the total vote cast in that political subdivision at the last preceding general election by that constituency;

(3) In a city or town election, a political party of which at least one nominee received at least ten percent of the total vote cast in the last preceding general city or town election therein. [1965 c 9 § 29.01.090. Prior: 1907 c 209 § 6, part; RRS § 5183, part.]

Partisan elections, cities and towns excepted from: RCW 29.18.010 (4), (5) and (6).

Political parties: Chapter 29.42 RCW.

29.01.100 "Minor political party". "Minor political party" means a political organization other than a major political party. [1965 c 9 § 29.01.100. Prior: 1955 c 102 § 8; prior: 1907 c 209 § 26, part; RRS § 5203, part.]

Minor party convention: Chapter 29.24 RCW.

Political parties: Chapter 29.42 RCW.

29.01.110 "Measures". "Measure" includes any proposition or question submitted to the voters of any specific constituency. [1965 c 9 § 29.01.110.]

29.01.120 "Precinct". "Precinct" means a geographical subdivision for voting purposes within or without the limits of a city or town, whether established by a board of county commissioners, by a city council, or by the board of supervisors of a township. [1965 c 9 § 29.01.120. Prior: 1933 c 1 § 2; RRS § 5114-2; prior: 1915 c 16 § 1; RRS § 5114.]

29.01.130 "Primary". "Primary" or "primary election" means a statutory procedure for nominating candidates to public office at the polls. [1965 c 9 § 29.01.130. Prior: 1907 c 209 § 1, part; RRS § 5177(a). See also 1950 ex.s. c 14 § 2.]

Absentee service voters, primary defined for purposes of: RCW 29.39.020.

Nonpartisan primaries: Chapter 29.21 RCW.

Partisan primaries: Chapter 29.18 RCW.

Times for holding primaries: Chapter 29.13 RCW.

29.01.140 "Residence". "Residence" for the purpose of registering and voting means a person's permanent address where he physically resides and maintains his abode: *Provided*, That no person gains residence by reason of his presence or loses his residence by reason of his absence:

(1) While employed in the civil or military service of the state or of the United States;

(2) While engaged in the navigation of the waters of this state or the United States or the high seas;

(3) While a student at any institution of learning;

(4) While confined in any public prison.

Absence from the state on business shall not affect the question of residence of any person unless the right to vote has been claimed or exercised elsewhere. [1971 ex.s. c 178 § 1; 1965 c 9 § 29.01.140. Prior: 1955 c 181 § 1; prior: (i) Code 1881 § 3051; 1865 p 25 § 2; RRS § 5110. (ii) Code 1881 § 3053; 1866 p 8 § 11; 1865 p 25 § 4; RRS § 5111.]

Severability—1971 ex.s. c 178: See RCW 29.72.910.

Residence, contingencies affecting: State Constitution Art. 6 § 4.

29.01.150 "Rural precinct". "Rural precinct" means a voting precinct lying wholly outside the limits of a city or town. [1965 c 9 § 29.01.150. Prior: 1957 c 251 § 3; prior: 1939 c 15 § 1, part; 1933 c 1 § 3, part; RRS § 5114-3, part; prior: 1891 c 104 §§ 1, part, 2, part; RRS §§ 5116, part, 5117, part.]

29.01.160 "September primary". "September primary" means the primary election held in September to nominate candidates to be voted for at the ensuing election. [1965 c 9 § 29.01.160. Prior: 1907 c 209 § 1, part; RRS § 5177(b).]

29.01.170 "Special election". "Special election" means any election that is not a general election. [1965 c 9 § 29.01.170. Prior: Code 1881 § 3056; 1865 p 27 § 2; RRS § 5155.]

Chapter 29.04 GENERAL PROVISIONS

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- 29.04.020 County auditor designated supervisor of certain elections.
- 29.04.030 Prevention and correction of election frauds and errors.
- 29.04.040 Precincts—Number of voters—Dividing, altering, or combining—Creating new precincts.
- 29.04.050 Restrictions on precinct boundaries.
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- 29.04.060 Publication of election laws by secretary of state.
- 29.04.070 Secretary of state designated chief election officer.
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- 29.04.100 Poll books, current lists of voters—As public records—Information to be furnished upon request—Restriction.
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- 29.04.120 Violations of restricted use of registered voter data—Penalties—Liabilities.

Elections and elective rights: State Constitution Art. 6.

29.04.010 Only registered voters may vote—
Exception. Only a registered voter shall be permitted to vote:

- (1) At any election held for the purpose of electing persons to public office;
- (2) At any recall election of a public officer;
- (3) At any election held for the submission of a measure to any voting constituency;
- (4) At any primary election.

The provisions of this section shall not apply to township elections. [1965 c 9 § 29.04.010. Prior: 1955 c 181 § 8; prior: (i) 1933 c 1 § 22, part; RRS § 5114–22, part. (ii) 1933 c 1 § 23; RRS § 5114–23. See also 1935 c 26 § 3; RRS § 5189.]

Subversive activities, disqualification from voting: RCW 9.81.040.

29.04.020 County auditor designated supervisor of certain elections. The county auditor of each county shall be ex officio the supervisor of all elections, general or special, and it shall be his duty to provide places for holding such elections; to appoint the precinct election officers; to provide for their compensation; to provide ballot boxes and ballots or voting machines, poll books or precinct lists of registered voters, and tally sheets, and deliver them to the precinct election officers at the polling places; to publish and post notices of calling such elections in the manner provided by law, and to apportion to each city, town, or district, its share of the expense of such elections: *Provided*, That this section shall not apply to general or special elections for any city, town, or district which is not subject to RCW 29.13.010 and 29.13.020, but all such elections shall be

held and conducted at the time, in the manner, and by the officials (with such notice, requirements for filing for office, and certifications by local officers) as provided and required by the laws governing such elections. [1971 ex.s. c 202 § 1; 1965 c 123 § 1; 1965 c 9 § 29.04.020. Prior: 1947 c 182 § 1, part; Rem. Supp. 1947 § 5166–10, part; prior: 1945 c 194 § 3, part; 1941 c 180 § 1, part; 1935 c 5 § 1, part; 1933 ex.s. c 29 § 1, part; prior: 1933 c 79 § 1, part; 1927 c 279 § 2, part; 1923 c 53 § 3, part; 1921 c 61 § 5, part; Rem. Supp. 1945 § 5147, part.]

Conduct of elections—Canvass: RCW 29.13.040.

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Oaths of officers, county auditor to provide forms for: RCW 29.45.080.

Procedure at primary—General election laws apply: RCW 29.18.120.

29.04.030 Prevention and correction of election frauds and errors. Any justice of the supreme court, judge of the court of appeals, or judge of the superior court in the proper county shall, by order, require any person charged with error, wrongful act or neglect to forthwith correct the error, desist from the wrongful act, or perform the duty and to do as the court orders or to show cause forthwith why the error should not be corrected, the wrongful act desisted from, or the duty or order not performed, whenever it is made to appear to such justice or judge by affidavit of an elector that:

- (1) An error or omission has occurred or is about to occur in printing the name of any candidate on official ballots; or
- (2) An error other than as provided in subsections (1) and (3) of this section has been committed or is about to be committed in printing the ballots; or
- (3) The name of any person has been or is about to be wrongfully placed upon the ballots; or
- (4) A wrongful act other than as provided for in subsections (1) and (3) of this section has been performed or is about to be performed by any election officer; or
- (5) Any neglect of duty on the part of an election officer other than as provided for in subsections (1) and (3) of this section has occurred or is about to occur.

An affidavit of an elector under subsections (1) and (3) above when relating to a primary election must be filed with the appropriate court no later than the second Friday following the closing of the filing period for nominations for such office and shall be heard and finally disposed of by the court not later than five days after the filing thereof. [1973 1st ex.s. c 165 § 1; 1971 c 81 § 74; 1965 c 9 § 29.04.030. Prior: (i) 1907 c 209 § 25, part; RRS § 5202, part. (ii) 1889 p 407 § 19; RRS § 5276.]

Certiorari, mandamus, and prohibition: Chapter 7.16 RCW.

Crimes and penalties: Chapter 29.85 RCW.

29.04.040 Precincts—Number of voters—Dividing, altering, or combining—Creating new precincts. No paper ballot precinct shall contain more than three hundred voters. If at any election three hundred or

more votes are cast at any such voting place, the secretary of state as ex officio chief election officer, shall report that fact to the city council, if it is a precinct lying within a first class city or to the board of county commissioners if it is any other precinct. The city council of the first class city or the board of county commissioners, as the case may be, shall divide, alter, or combine precincts so that, whenever practicable such over populated precincts shall contain no more than two hundred fifty registered voters in anticipation of future growth.

Precinct boundaries may be altered at any time as long as sufficient time exists prior to a given election for the necessary procedural steps to be honored: *Provided, however,* That no precinct boundaries shall be changed during the period starting as of the thirtieth day prior to the first day for candidates to file for the September primary election and ending with the day of the November general election held in the even-numbered years.

Precincts in which voting machines are used may contain as many as nine hundred registered voters: *Provided,* That there shall be at least one voting machine for each three hundred registered voters or major fraction thereof.

Each county auditor, when reporting the official election returns to the secretary of state as provided by RCW 29.62.090, shall indicate in such report which precincts are voted by paper ballots, or voting machines. In the instance of a voting machine precinct, the county auditor shall also indicate the number of such machines used so that the secretary of state will be able to determine that the requirements of this section are being honored.

On petition of ten or more voters resident more than ten miles from any place of election, the board of county commissioners shall establish a separate voting precinct therefor.

The board of county commissioners of each county in the state hereafter formed shall, at their first session, divide their respective counties into election precincts with two hundred fifty voters or less and establish the boundaries of the same; the county auditor shall thereupon designate the voting place for each such precinct. [1967 ex.s. c 109 § 1; 1965 c 9 § 29.04.040. Prior: (i) 1921 c 178 § 1, part; 1915 c 11 § 1, part; 1907 c 130 § 1, part; 1889 p 402 § 7, part; Code 1881 § 3067, part; 1865 p 30 § 1, part; RRS § 5171, part. (ii) 1907 c 130 § 2, part; 1889 p 408 § 21, part; RRS § 5278, part. (iii) Code 1881 § 2679; 1854 p 65 § 4, part; No RRS.]

"City precinct" defined: RCW 29.01.030.

"Precinct" defined: RCW 29.01.120.

"Rural precinct" defined: RCW 29.01.150.

29.04.050 Restrictions on precinct boundaries. Every voting precinct must be established so that it lies wholly within one senatorial or representative district and wholly within one county commissioner district. [1965 c 9 § 29.04.050. Prior: 1921 c 178 § 1, part; 1915 c 11 § 1, part; 1907 c 130 § 1, part; 1889 p 402 § 7, part; Code 1881 § 3067, part; 1865 p 30 § 1, part; RRS § 5171, part.]

29.04.055 Combining or dividing precincts—County, city, town, district elections. At any primary, regular, or special county, city, town, or district election, the election authority of any such municipality or district may combine, unite, or divide precincts for the purpose of holding such election: *Provided,* That in the event such election shall be held upon the day of any state primary or state general election held in an even-numbered year this section shall not apply. [1974 1st ex.s. c 127 § 1; 1965 c 9 § 29.04.055. Prior: 1963 c 200 § 23; 1951 c 70 § 1.]

Voting machines, creating, uniting, combining or dividing precincts for use of: RCW 29.33.160(5).

29.04.060 Publication of election laws by secretary of state. In every year in which state and county officers are to be elected, the secretary of state shall cause the election laws of the state then in force to be published in pamphlet form and distributed through the county auditors at least twenty days prior to the primary next preceding the election in sufficient number to place a copy thereof in the hands of all officers of elections. [1965 c 9 § 29.04.060. Prior: (i) 1907 c 209 § 16; RRS § 5193. (ii) 1889 p 413 § 34; RRS § 5299.]

Candidates' pamphlet, secretary of state's duties: Chapter 29.80 RCW.

Primaries, when held: RCW 29.13.070.

Voters' pamphlet, secretary of state to distribute to voters, officers and institutions: RCW 29.81.140 and 29.81.150.

29.04.070 Secretary of state designated chief election officer. The secretary of state through his election division shall be the chief election officer for all federal, state, county, city, town, and district elections and it shall be his duty to keep records of such elections held in the state and to make such records available to the public upon request. [1965 c 9 § 29.04.070. Prior: 1963 c 200 § 23; 1949 c 161 § 12; Rem. Supp. 1949 § 5147-2.]

Absentee service voters, secretary of state to administer chapter: RCW 29.39.190.

29.04.080 Secretary of state to make rules and regulations—Utilization of electronic or automatic data processing systems. The secretary of state shall make rules and regulations not inconsistent with the federal, state, county, city, town, and district election laws to facilitate the execution of their provisions in an orderly manner and to that end shall assist local election officers by devising uniform forms and procedures. He shall provide uniform regulations governing the maintenance of voter registration records on electronic or automatic data processing systems so that the records of counties using such systems shall be compatible. He shall supervise the development and use of such systems to insure that they conform to all the provisions of Title 29 RCW and the regulations provided for in this section. [1971 ex.s. c 202 § 2; 1965 c 9 § 29.04.080. Prior: 1963 c 200 § 24; 1949 c 161 § 13; Rem. Supp. 1949 § 5147-3.]

Absentee service voters, secretary of state to furnish forms and envelopes: RCW 29.39.150-29.39.160.

Absentee service voters, secretary of state to make rules and regulations relating to: RCW 29.39.190.

Candidates' pamphlets, secretary of state to make rules and regulations relating to: RCW 29.80.070.

Forms, report of deaths, secretary of state to furnish: RCW 29.10.095.

Forms, statement of change in residence of voter, secretary of state to design—Availability to public: RCW 29.10.150.

Forms, statement registered voter is dead, secretary of state to design: RCW 29.10.090.

Statutory recount proceedings, rules and regulations for: RCW 29.64.070.

Sworn statement of cancellations (registration), secretary of state to furnish: RCW 29.10.120.

Voters' pamphlet, secretary of state to make rules and regulations relating to: RCW 29.81.070.

29.04.095 Definitions for purposes of RCW 29.04.100 through 29.04.120. For purposes of RCW 29.04.100 through 29.04.120, the following words shall have the following meanings:

(1) "County auditor" means the county auditor in any noncharter county and in a charter county that county official having the overall responsibility to maintain voter registration information.

(2) "Person" means an individual, partnership, joint venture, public or private corporation, association, state or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

(3) "Political purpose" means a purpose concerned with the support of or opposition to any candidate for any partisan or nonpartisan office or concerned with the support of or opposition to any ballot proposition or issue; "political purpose" includes, but is not limited to, such activities as the advertising for or against any candidate or ballot measure or the solicitation of financial support. [1973 1st ex.s. c 111 § 1.]

29.04.100 Poll books, current lists of voters—As public records—Information to be furnished upon request—Restriction. All poll books or current lists of registered voters shall be public records and be made available for inspection under such reasonable rules and regulations as the county auditor may prescribe. The county auditor shall promptly furnish current lists or mailing labels of registered voters in his possession, at actual reproduction cost, to any person requesting such information: *Provided*, That such lists and labels shall not be used for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product or service or for the purpose of mailing or delivering any solicitation for money, services or anything of value: *Provided, however*, That such lists and books may be used for any political purpose. In the case of political subdivisions which encompass portions of more than one county, the request may be directed to the secretary of state who shall contact the appropriate county auditors and arrange for the timely delivery of the requested information: *Provided*, That the secretary of state shall promptly furnish, without cost and upon application therefor, an annual state-wide listing or computer tape of registered voters to the state central committee of any major political party that

received at least ten percent of the total votes cast for the office of president at the preceding presidential election. [1974 1st ex.s. c 127 § 2; 1973 1st ex.s. c 111 § 2; 1971 ex.s. c 202 § 3; 1965 ex.s. c 156 § 6.]

Forms, secretary of state to design—Availability to public: RCW 29.10.150.

Poll books—Auditor's copy: RCW 29.51.060.

29.04.110 Poll books and precinct lists—Furnishing of data upon request—Cost—Use restricted. A reproduction of any form of data storage, in the custody of the county auditor, for poll books and precinct lists of registered voters, including magnetic tapes or discs, punched cards, and any other form of storage of such books and lists, shall at the written request of any person be furnished to him by the county auditor pursuant to such reasonable rules and regulations as the county auditor may prescribe, and at a cost equal to the county's actual cost in reproducing such form of data storage. Any data contained in a form of storage furnished under this section shall not be used for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product or service or for the purpose of mailing or delivering any solicitation for money, services or anything of value: *Provided, however*, That such data may be used for any political purpose. Whenever the county auditor furnishes any form of data storage under this section, he shall also furnish the person receiving the same with a copy of RCW 29.04.120. [1973 1st ex.s. c 111 § 3.]

29.04.120 Violations of restricted use of registered voter data—Penalties—Liabilities. (1) Any person who uses registered voter data furnished under RCW 29.04.100 or 29.04.110 for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value shall be guilty of a felony punishable by imprisonment in the state penitentiary for a period of not more than five years or a fine of not more than five thousand dollars or both such fine and imprisonment, and shall be liable to each person provided such advertisement or solicitation, without his consent, for the nuisance value of such person having to dispose of it, which value is herein established at five dollars for each item mailed or delivered to his residence: *Provided*, That any person who mails or delivers any advertisement, offer or solicitation for a political purpose shall not be liable under this section, unless he is liable under subsection (2). For purposes of this subsection, two or more attached papers or sheets or two or more papers which are enclosed in the same envelope or container or are folded together shall be deemed to constitute one item. Merely having a mailbox or other receptacle for mail on or near his residence shall not be any indication that such person consented to receive the advertisement or solicitation. A class action may be brought to recover damages under this section and the court may award a reasonable attorney's fee to any party recovering damages under this section.

(2) It shall be the responsibility of each person furnished data under RCW 29.04.100 or 29.04.110 to take reasonable precautions designed to assure that the data is not used for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value: *Provided*, That such data may be used for any political purpose. Where failure to exercise due care in carrying out this responsibility results in the data being used for such purposes, then such person shall be jointly and severally liable for damages under the provisions of subsection (1) of this section along with any other person liable under subsection (1) of this section for the misuse of such data. [1974 1st ex.s. c 127 § 3; 1973 1st ex.s. c 111 § 4.]

Chapter 29.07 REGISTRATION OF VOTERS

Sections

- 29.07.010 County auditor as chief registrar of voters, custodian of records—Deputy registrars—Apportionment of registration expenses.
- 29.07.020 City clerk as deputy registrar.
- 29.07.030 Expense of registration.
- 29.07.040 Fees of deputy registrars.
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- 29.08.240 Computer file of voter registration records—Rules and regulations—Assistance.

Absentee service voter, voter's declaration deemed registration: RCW 29.39.140.

Eligibility to vote: RCW 42.04.021.

Registration: State Constitution Art. 6 § 7.

Registration law—Officer violating: RCW 29.85.190.

Registration law—Registering under false name: RCW 29.85.200.

Registration transfers and cancellations: Chapter 29.10 RCW.

Residence defined for purpose of registering and voting: RCW 29.01.140.

29.07.010 County auditor as chief registrar of voters, custodian of records—Deputy registrars—Apportionment of registration expenses. In all counties the county auditor shall be the chief registrar of voters for every precinct within the county. He shall appoint a deputy registrar for each precinct or for any number of precincts and shall appoint city or town clerks as deputy registrars to assist in registering voters residing in cities, towns, and rural precincts within the county.

A deputy registrar shall be a registered voter and, except for city and town clerks, shall hold office at the pleasure of the county auditor.

The county auditor shall be the custodian of the official registration records of each precinct within that county. The expenses of registration shall be apportioned between the county and cities or towns therein in the same manner as provided in RCW 29.07.030. [1971 ex.s. c 202 § 4; 1965 c 9 § 29.07.010. Prior: 1957 c 251 § 4; prior: 1939 c 15 § 1, part; 1933 c 1 § 3, part; RRS § 5114–3, part; prior: 1891 c 104 §§ 1, part, 2, part; RRS §§ 5116, part, 5117, part.]

Rural precinct defined: RCW 29.01.150.

29.07.020 City clerk as deputy registrar. The city clerk shall be a deputy registrar of voters in all precincts within the county. [1971 ex.s. c 202 § 5; 1965 c 9 § 29.07.020. Prior: 1957 c 251 § 5; prior: 1939 c 15 § 1, part; 1933 c 1 § 3, part; RRS § 5114–3, part; prior: 1891 c 104 §§ 1, part, 2, part; RRS §§ 5116, part, 5117, part.]

29.07.030 Expense of registration. The expense of registration in all rural precincts shall be paid by the county; in all precincts lying wholly within a city or town by the city or town. In precincts lying partly within and partly outside of a city or town, the expense of registration shall be apportioned between the county and city or town according to the number of voters registered in the precinct living within the city or town and the number living outside of it. [1965 c 9 § 29.07.030. Prior: 1939 c 82 § 1, part; 1933 c 1 § 4, part; RRS § 5114–4, part; prior: 1891 c 104 § 4; RRS § 5119.]

29.07.040 Fees of deputy registrars. Each deputy registrar, other than city or town clerks so deputized, shall be entitled to receive a fee of not less than twenty cents, the exact fee to be set by the board of county commissioners, for each elector registered: *Provided*, That no employee of the county receiving a salary shall be entitled to such fees. [1971 ex.s. c 202 § 6; 1965 c 9 § 29.07.040. Prior: 1957 c 251 § 7; prior: (i) 1945 c 74 § 1; 1933 c 1 § 28; Rem. Supp. 1945 § 5114–28; prior: 1915 c 16 § 14; RRS § 5132. (ii) 1933 c 1 § 10, part; RRS § 5114–10, part; prior: 1919 c 163 § 11, part; 1915 c 16 § 13, part; 1905 c 171 § 4, part; 1889 p 417 § 13, part; RRS § 5131, part.]

29.07.050 Oaths administered to registration officers. The registration officers, including such clerks in their office as the county auditor may deputize to take registrations, shall take and subscribe to the following oath or affirmation before taking any registrations: "I, A.B.,

do swear (or affirm) that I will truly, faithfully and impartially perform my duties as registration officer, to the best of my judgment and abilities, and that I will register no person except upon his personal application before me." This oath shall be administered and certified to by an officer legally authorized to administer oaths, and shall be filed with the county auditor. [1971 ex.s. c 202 § 7; 1965 c 9 § 29.07.050. Prior: 1939 c 82 § 1, part; 1933 c 1 § 4, part; RRS § 5114-4, part.]

29.07.060 Oaths—Registration officers may administer, certify. The registration officers including deputized clerks, after they themselves have taken and subscribed to the oath prescribed for them, may administer such oaths and certify to the oath on such affidavits as are required in the procedure of registration of voters. [1973 1st ex.s. c 21 § 1; 1971 ex.s. c 202 § 8; 1965 c 9 § 29.07.060. Prior: (i) 1939 c 82 § 1, part; 1933 c 1 § 4, part; RRS § 5114-4, part. (ii) 1947 c 68 § 3, part; 1933 c 1 § 11, part; Rem. Supp. 1947 § 5114-11, part; prior: 1921 c 177 § 7, part; 1915 c 16 § 8, part; 1901 c 135 § 4, part; 1893 c 45 § 3, part; 1889 p 416 § 8, part; RRS § 5126, part.]

29.07.065 Identity of applicant for registration—Establishment—Voting age proof. In addition to other information required by this chapter, each applicant for registration shall establish his identity, unless personally known by the registration officer, by producing at least one of the following items:

(1) A social security card containing the applicant's signature. Whenever the social security record is so used, the registration officer shall enter the applicant's social security number upon the appropriate registration forms;

(2) A driver's license which contains the signature and/or a photograph of the applicant;

(3) A valid Washington state identicard;

(4) A nationally or regionally known credit card containing the signature and/or photograph of the applicant;

(5) An identification card issued by the United States, any state or any agency of either, of a kind commonly used to identify the members or employees of such government agencies (including military I.D. cards), and which contain the signature and/or the photograph of the applicant.

In addition, whenever the registration officer has a doubt as to whether the applicant is of legal voting age, such officer may require the applicant to produce a record which establishes date of birth.

Failure to produce such identification at the time of registration as set forth in this section shall not deter the act of registration: *Provided*, That registration officials shall indicate on the registration form by checking either "identification produced" or "identification not produced". [1973 1st ex.s. c 21 § 2.]

29.07.070 Examination of voter as to qualifications. The registration officer shall interrogate the applicant for registration, concerning his qualifications as a voter of the state, and of the county, city, town, and precinct

in which he applies for registration, requiring him to state:

(1) The previous address of the last former registration of the applicant as a voter in the state;

(2) His full name;

(3) Date of birth;

(4) Place of residence, street and number, if any, or post office or rural mail route address;

(5) Whether he is a citizen of the United States.

Answers to all questions shall be inserted on a single registration form to be prescribed by the secretary of state. [1973 1st ex.s. c 21 § 3; 1971 ex.s. c 202 § 9; 1965 c 9 § 29.07.070. Prior: 1947 c 68 § 3, part; 1933 c 1 § 11, part; Rem. Supp. 1947 § 5114-11, part; prior: 1921 c 177 § 7, part; 1915 c 16 § 8, part; 1901 c 135 § 4, part; 1893 c 45 § 3, part; 1889 p 416 § 8, part; RRS § 5126, part.]

Civil disabilities of wife abolished: RCW 26.16.160.

Copy of instrument restoring civil rights as evidence: RCW 5.44.090.

Qualifications of electors: State Constitution Art. 6 § 1 (Amendment 5).

Residence defined: RCW 29.01.140.

Restoration of civil rights: Chapter 9.96 RCW.

Subversive activities as disqualification for voting: RCW 9.81.040.

United States constitutional amendment conventions, delegates, qualifications of voters: RCW 29.74.090.

Who disqualified: State Constitution Art. 6 § 3.

29.07.080 Oath of applicant—Registration form—Record. The registrar shall note the sex of the applicant on the registration form. He shall then require the applicant to sign an oath in the following form: "I, the undersigned, on oath or affirmation, do hereby declare that the facts set forth herein relating to my qualifications as a voter, recorded by the registration officer in my presence, are true. I further certify that I am not presently denied my civil rights as a result of being convicted of an infamous crime and that I will be at least eighteen years of age at the time of voting"; and the registration officer shall sign and date such oath in verification of the fact that the same was signed and sworn to before him in the following form: "Subscribed and sworn to before me this _____ day of _____, 19__, _____ Registration Officer".

Otherwise the registration officer shall refuse to register the applicant. Upon receipt of the registration record, the county auditor shall note on the record all of the identifying code numbers and precinct in which the applicant resides. [1973 1st ex.s. c 21 § 4; 1971 ex.s. c 202 § 10; 1965 c 9 § 29.07.080. Prior: 1933 c 1 § 12; RRS § 5114-12.]

29.07.090 Signature upon card for secretary of state's file. At the time of registering any voter, each registration officer shall require him to sign his name upon a card containing spaces for his surname followed by his given name or names and the name of the county and city or town, with post office and street address, and the name or number of the precinct, in which the voter is registered. [1973 1st ex.s. c 21 § 5; 1971 ex.s. c 202 § 11; 1965 c 9 § 29.07.090. Prior: 1933 c 1 § 13, part; RRS § 5114-13, part.]

29.07.092 New voter registration—Acknowledgment. The county auditor shall acknowledge each new voter registration by sending to the voter, by first class nonforwardable mail, a card identifying his current precinct and containing such other information as may be prescribed by the secretary of state. [1973 c 153 § 2.]

29.07.095 Registration of person temporarily residing outside county of permanent residence. Any person temporarily residing outside of the county of his permanent residence, but within the state of Washington, may register with the registration officer of the place where he is temporarily residing in the usual manner as required in this chapter. The registration officer administering the oath and receiving the application and registration forms as provided in RCW 29.07.060 through 29.07.090 shall transmit the same to the county auditor of the county where the applicant permanently resides for processing in the same manner as though the applicant had personally applied directly to the registration officer of his residence.

Notwithstanding the provisions of RCW 29.07.160 the registration application shall be received and acted upon immediately by the registration officer of the place of permanent residence of the applicant if the application was received and oath administered by the registration officer at the place of temporary residence not less than thirty days preceding the next election. [1973 1st ex.s. c 21 § 6; 1971 ex.s. c 202 § 12; 1965 c 9 § 29.07.095. Prior: 1957 c 251 § 13.]

29.07.100 Time and places for registration—Cities and towns. Registration officers in incorporated cities and towns shall keep their respective offices open for registration of voters during the days and hours when the same are open for the transaction of public business: *Provided*, That in cities of the first class, the county auditor shall establish on a permanent basis at least one registration office in each legislative district that lies wholly or partially within the city limits by appointing persons as deputy registrars who may register any eligible elector of such city.

Each such deputy registrar, except for city and town clerks, shall hold office at the pleasure of the county auditor and shall maintain a fixed place, conveniently located, for the registration of voters but nothing in this section shall preclude door-to-door registration including registration from a portable office as in a trailer. [1971 ex.s. c 202 § 13; 1965 c 9 § 29.07.100. Prior: 1957 c 251 § 10; prior: 1947 c 68 § 1, part; 1945 c 95 § 1, part; 1933 c 1 § 6, part; Rem. Supp. 1947 § 5114-6, part; prior: 1919 c 163 § 6, part; 1915 c 16 § 6, part; 1901 c 35 § 5, part; 1893 c 45 § 1, part; 1889 p 415 § 6, part; RRS § 5124, part.]

29.07.105 Time and places for registration—Additional temporary facilities in first, second, third class cities. In all cities of the first, second and third class, the governing body shall by ordinance with the consent of the county auditor provide for additional temporary

registration facilities during the fifteen day period, excepting Sundays, prior to the last day to register in order to be eligible to vote at a state primary election and during the fifteen day period, excepting Sundays, prior to the last day to register in order to be eligible to vote at a state general election by stationing deputy registrars at stores, public buildings or other temporary locations. The county auditor may deputize additional deputy registrars for the periods of temporary registration if so requested by the governing body of the city. The number of such temporary registration places to be so established and the hours to be maintained shall be, in the judgment of the governing body of the city concerned, adequate to afford ample opportunity for all qualified electors to register for voting, but in no event shall there be less than two such temporary registration places so established. Nothing in this section shall preclude door-to-door registration including registration from a portable office as in a trailer. [1971 ex.s. c 202 § 14; 1965 c 9 § 29.07.105. Prior: 1957 c 251 § 12.]

29.07.110 Time and places for registration—Deputy registrars located outside county courthouse. Every deputy registrar located outside the county courthouse shall keep registration supplies at his usual place of residence or usual place of business at reasonable hours and at the end of each week mail to the county auditor the cards of those who have registered during the week: *Provided*, That with the written consent of the county auditor a deputy registrar may designate some centrally located place for registration in lieu of the usual place where registration supplies are kept by giving notice thereof in such manner as he may deem expedient stating therein the days and hours when the place will be open for registration: *Provided further*, That such consent of the county auditor may include authorization for door-to-door registration including registration from a portable office as in a trailer and the person or persons so deputized may register all eligible electors residing in any precinct within the county concerned. [1971 ex.s. c 202 § 15; 1965 c 9 § 29.07.110. Prior: 1957 c 251 § 11; prior: 1947 c 68 § 1, part; 1945 c 95 § 1, part; 1933 c 1 § 6, part; Rem. Supp. 1947 § 5114-6, part; prior: 1919 c 163 § 6, part; 1915 c 16 § 6, part; 1901 c 135 § 5, part; 1893 c 45 § 1, part; 1889 p 415 § 6, part; RRS § 5124, part.]

29.07.115 Registration records—Weekly transmittal. Once weekly, the deputy registrars shall transmit all registration records properly completed to the county auditor. [1971 ex.s. c 202 § 23.]

29.07.120 Registrar's cards—Weekly transmittal. On each Monday next following the registration of any voter each county auditor shall transmit all cards required by RCW 29.07.090 which have been executed and received in his office during the prior week to the secretary of state for filing in his office. Each lot must be accompanied by the certificate of the registrar that the cards so transmitted are the original cards, that they were signed by the voters whose names appear thereon and that the voters are registered in the precincts and

from the addresses shown thereon. [1971 ex.s. c 202 § 16; 1965 c 9 § 29.07.120. Prior: 1933 c 1 § 13, part; RRS § 5114-13, part.]

29.07.130 Registrar's cards—Use and purpose of. The cards required by RCW 29.07.090 shall be kept on file in the office of the secretary of state in such manner as will be most convenient for, and for the sole purpose of, checking initiative and referendum petitions and mailing pamphlets required for constitutional amendments and by the initiative and referendum procedure. They shall not be open to public inspection or be used for any other purpose. [1971 ex.s. c 202 § 17; 1965 c 9 § 29.07.130. Prior: 1933 c 1 § 13, part; RRS § 5114-13, part.]

29.07.140 Specifications for supplies and equipment—Unified voter registration form—Cost. The secretary of state shall prescribe the specifications, including style, form, color, quality and dimensions, for the cards, records, forms, lists, binders, cabinets or other supplies to be used in recording and maintaining voter registration records.

The secretary of state shall design a unified voter registration form compatible with existing records which will allow the preparation, by the registration officer or other public officer from a single card or paper, of all the voter registration forms required by law, as of July 16, 1973, to be completed by the registering voter, so that the registering voter need sign only one form and need write out required information other than his signature no more than one time.

This form shall also contain the information necessary to permit the voter to transfer his registration as provided by RCW 29.10.020, as it now exists or is hereafter amended. All registration forms necessary to carry out the registration of voters as provided by RCW 29.07.060 through 29.07.095 shall be furnished by the state of Washington without cost to the respective county auditors.

He shall notify each county auditor what the specifications are, and they must in their procurement and use comply with them. [1973 1st ex.s. c 21 § 7; 1971 ex.s. c 202 § 18; 1965 c 9 § 29.07.140. Prior: (i) 1933 c 1 § 30; RRS § 5114-30. (ii) 1933 c 1 § 13, part; RRS § 5114-31, part.]

29.07.150 Precinct registration records—Type—Custody. The county auditor shall have custody of the registration records for each precinct within the county. These records shall be maintained as provided in either subsection (1) or (2) below.

(1) In cabinets or binders, arranged to permit the insertion and securely fastening therein by means of a lock and key, of cards or records for the separate registration of the individual voters of the precinct. In using this system, there shall be prepared for each voter registered two registration records, an original and a duplicate.

The original cards shall be filed alphabetically by the surnames of the voters by precincts and constitute the

official registration files of the voters of the various precincts and must contain spaces for recording the dates upon which the voter votes.

The duplicate cards shall bear the same information and signature of the voter and shall be filed alphabetically without regard to precincts in the office of the county auditor at all times, and shall not be open to public inspection.

(2) On a list containing such information required by RCW 29.07.080 as may be prescribed by the secretary of state as necessary and pertinent to the conduct of the elections and on which all the voters in the county shall be listed alphabetically by their surnames: *Provided*, That it shall be possible to prepare individual precinct lists of registered voters for each precinct containing only the names and other information required by RCW 29.07.080 of all the voters registered in that precinct listed alphabetically by their surnames. [1971 ex.s. c 202 § 19; 1965 c 9 § 29.07.150. Prior: 1933 c 1 § 8, part; RRS § 5114-8, part; prior: 1919 c 163 § 7, part; 1915 c 16 § 7, part; 1905 c 171 § 3, part; 1901 c 135 § 3, part; 1893 c 45 § 2, part; 1889 p 415 § 7, part; RRS § 5125, part.]

29.07.160 Closing registration files—Notice. The registration files of all precincts shall be closed against original registration or transfers for thirty days immediately preceding every election and primary to be held in such precincts, respectively.

The county auditor shall give notice of the closing of said files for original registration and transfer by one publication in a newspaper of general circulation in the county at least five days before such closing. [1974 1st ex.s. c 127 § 4; 1971 ex.s. c 202 § 20; 1965 c 9 § 29.07.160. Prior: 1947 c 68 § 2; 1933 c 1 § 9; Rem. Supp. 1947 § 5114-9.]

29.07.170 Delivery of certified registration records to polls. Immediately upon closing his registration files preceding an election, the county auditor shall insert therein his certificate as to the authenticity thereof. He shall then deliver the registration records for each precinct thus certified to the inspector or one of the judges thereof at the proper polling place before the polls open. [1971 ex.s. c 202 § 21; 1965 c 9 § 29.07.170. Prior: 1957 c 251 § 8; prior: 1933 c 1 § 10, part; RRS § 5114-10, part; prior: 1919 c 163 § 11, part; 1915 c 16 § 13, part; 1905 c 171 § 4, part; 1889 p 417 § 13, part; RRS § 5131, part.]

29.07.180 Return of registration records after election—As public records. The registration records of each precinct delivered to the precinct election officers for use on the day of an election held in that precinct shall be returned by them to the county auditor upon the completion of the count of the votes cast in the precinct at that election. While in possession of the county auditor they shall be open to public inspection under such reasonable rules and regulations as may be prescribed therefor. [1971 ex.s. c 202 § 22; 1965 c 9 § 29.07.180. Prior: 1933 c 1 § 8, part; RRS § 5114-8, part; prior: 1919 c 163 § 7, part; 1915 c 16 § 7, part;

1905 c 171 § 3, part; 1901 c 135 § 3, part; 1893 c 45 § 2, part; 1889 p 415 § 7, part; RRS § 5125, part.]

29.07.190 Return of registration files after canvass. See RCW 29.62.150.

29.07.200 Registration law—Officer violating. See RCW 29.85.190.

29.07.210 Registration law—Registering under false name. See RCW 29.85.200.

29.07.220 Computer file of voter registration records—Establishment—Duties of secretary of state. Each county auditor shall establish, on or before July 1, 1975, and maintain a computer file on magnetic tape or disk, punched cards, or other form of data storage containing the records of all registered voters within the county: *Provided*, That an auditor in a county with more than one hundred fifty thousand registered voters may decline to comply with the provisions of all or none of *sections 1, 4, 12, 13, and 14 of this act. Where it is necessary or advisable, the auditor may provide for the establishment and maintenance of such files by private contract or through interlocal agreement as provided by chapter 39.34 RCW, as it now exists or is hereafter amended. The computer file shall include, but not be limited to, each voter's name, residence address, sex, date of registration, applicable taxing district and precinct codes and the last date on which the individual voted. The county auditor shall subsequently record each consecutive date upon which the individual has voted and retain at least the last five such consecutive dates: *Provided*, That if the voter has not voted at least five times since establishing his current registration record, only the available dates shall be included. [1974 1st ex.s. c 127 § 12.]

*Reviser's note: "sections 1, 4, 12, 13, and 14 of this act" [1974 1st ex.s. c 127] are codified as RCW 29.04.055, 29.07.160, 29.07.220, 29.07.230 and 29.07.240, respectively.

29.07.230 Computer file of voter registration records—Voter registration assistance account—Established—Distributions to county auditors. There is established in the general fund an account, entitled the voter registration assistance account, to be used to compensate county auditors for unrecoverable costs incident to the establishment and maintenance of voter registration records on electronic data processing systems. For establishment of such systems, county auditors in counties with fewer than thirty thousand registered voters at the time of the most recent state general election shall be paid thirty cents per registered voter from the voter registration assistance account. For maintenance of such voter registration files, county auditors in counties with fewer than ten thousand registered voters at the time of the most recent state general election shall be paid thirty cents per registered voter per year from the voter registration assistance account: *Provided*, That prior to July 1, 1975, the secretary of state shall pro rate the maintenance subsidy for each

county under such rules and regulations as he may prescribe to reflect the portion of the year or years during which the information on the computer file must be updated and maintained. [1974 1st ex.s. c 127 § 13.]

29.07.240 Computer file of voter registration records—Rules and regulations—Assistance. The secretary of state, as chief election officer, shall adopt rules and regulations, not inconsistent with the provisions of this chapter to:

(1) Facilitate the establishment and maintenance of voter registration records by county auditors and the use of voter registration information in the conduct of elections; and

(2) Establish standards and procedures for the establishment and maintenance of voter registration records on electronic data processing systems.

He shall provide planning, coordination, training and other assistance in the conversion of voter registration files to maintenance by electronic data processing and he shall administer the voter registration assistance account. [1974 1st ex.s. c 127 § 14.]

Chapter 29.10 REGISTRATION TRANSFERS AND CANCELLATIONS

Sections

- 29.10.020 Transfers between precincts in same county—Authority—Request.
- 29.10.030 Transfers—Registrar's duties.
- 29.10.040 Reregistration on transfer to another county.
- 29.10.050 Reregistration upon change of name of voter.
- 29.10.060 Change of precinct boundaries—Transfer of registration.
- 29.10.080 Cancellation for failure to vote.
- 29.10.090 Cancellation for death.
- 29.10.095 Report of deaths to secretary of state.
- 29.10.100 Weekly report of transfers and cancellations.
- 29.10.110 Record of cancellations—Statement or index reference affixed to canceled duplicate registration record.
- 29.10.120 Sworn statement of cancellations—Filing.
- 29.10.130 Cancellation based on residence grounds—Preliminary request form.
- 29.10.140 Cancellation based on residence grounds—Necessary procedural steps before cancellation.
- 29.10.150 Cancellation based on residence grounds—Forms, secretary of state to design—Availability to public.
- 29.10.160 Cancellation due to address differing from that on permanent records—Necessary procedural steps before cancellation.

Registration of person temporarily residing outside county of residence: RCW 29.07.095.

Registration of voters: Chapter 29.07 RCW.

29.10.020 Transfers between precincts in same county—Authority—Request. Any registered voter who changes his residence from one precinct to another within the same county, shall have his registration transferred to his new address by sending to the county auditor a signed request stating his present address and precinct, and the address and precinct from which he was last registered, or by appearing in person before him to have his registration transferred, and signing such request. [1971 ex.s. c 202 § 24; 1965 c 9 § 29.10.020. Prior: 1955 c 181 § 4; prior: 1933 c 1 § 14, part;

RRS § 5114-14, part; prior: 1919 c 163 § 9, part; 1915 c 16 § 9, part; 1889 p 417 § 12, part; RRS § 5129, part.]

Rural precinct defined: RCW 29.01.150.

29.10.030 Transfers—Registrar's duties. The signature of the voter on the request shall be compared with the signature of the voter on the registration records of such voter, and if it appears that the signatures have been made by the same person, the new place of residence and precinct name or number shall be entered upon registration records of the voter signing such request, and they shall be removed from the files of the precinct of the former residence and inserted in the files of the precinct of the present residence or shall be so designated as to appear on the precinct lists of registered voters of the precinct of the present residence instead of the precinct of former residence on all such subsequent lists. [1971 ex.s. c 202 § 25; 1965 c 9 § 29.10.030. Prior: 1955 c 181 § 5; prior: 1933 c 1 § 14, part; RRS § 5114-14, part; prior: 1919 c 163 § 9, part; 1915 c 16 § 9, part; 1889 p 417 § 12, part; RRS § 5129, part.]

29.10.040 Reregistration on transfer to another county. A registered voter who changes his residence from one county to another county, shall be required to register anew. Before registering anew, the voter shall sign an authorization to cancel his present registration in substantially the following form: "I hereby authorize the cancellation of my registration in _____ precinct of _____ county." Such authorization shall be filed with the registration officer before whom the voter registers anew, and shall be forwarded promptly to the registrar of the county in which the voter was previously registered. Upon the receipt of such authorization, the registrar of the county where the previous registration was made, shall cause the signature on the authorization to be compared with the signature on the registration forms of such voter, and if it appears that the signatures were made by the same person, the former registration record shall be canceled forthwith; but if it shall not so appear, it shall be the duty of the registrar receiving such authorization to notify the registrar of the county forwarding such authorization of the apparent fraud, and the registrar receiving such notification shall cancel the new registration, and note on the cards or forms the reason for such cancellation, and shall notify the person so registered anew, by mail of such cancellation and the reason therefor. [1971 ex.s. c 202 § 26; 1965 c 9 § 29.10.040. Prior: 1933 c 1 § 15; RRS § 5114-15.]

City precinct defined: RCW 29.01.030.

Precinct defined: RCW 29.01.120.

Residence defined: RCW 29.01.140.

Rural precinct defined: RCW 29.01.150.

29.10.050 Reregistration upon change of name of voter. Any registered voter who changes his or her name by marriage, or otherwise in the manner provided by law, shall register anew. [1965 c 9 § 29.10.050. Prior: 1947 c 68 § 4; 1933 c 1 § 16; Rem. Supp. 1947 § 5114-16.]

29.10.060 Change of precinct boundaries—Transfer of registration. If the boundaries of any city, township, or rural precinct are changed in the manner provided by law, the county auditor shall transfer the registration cards of every registered voter whose place of residence is affected thereby to the files of the proper precinct, noting thereon the name or number of the new precinct, or change the addresses, the precinct names or numbers, and the special district designations for those registered voters on the voter registration lists of the county. It shall not be necessary for any registered voter whose residence has been changed from one precinct to another, by a change of boundary, to apply to the registration officer for a transfer of registration. The county auditor shall mail to each registrant in the new precinct a notice that his precinct has been changed from _____ to _____, and that thereafter he will be entitled to vote in the new precinct, giving the name or number. [1971 ex.s. c 202 § 27; 1965 c 9 § 29.10.060. Prior: 1933 c 1 § 17; RRS § 5114-17.]

29.10.080 Cancellation for failure to vote. On the first day of April of each odd-numbered year, or as soon thereafter as is practicable, every county auditor shall examine the registration records in his custody, and if, from such examination, he finds that any registered voter has failed, for a period of thirty months preceding April 1st of said odd-numbered year to vote in at least one election, he shall remove the registration cards of such voter from the original and duplicate files, and cancel the same by entering thereon over his signature the words "canceled for failure to vote for thirty months" and the date of such cancellation or shall remove the name and other registration information of such voter from the registration lists of the county and place them on a list identified with the date of cancellation and the words, "canceled for failure to vote for thirty months". He shall also notify the voter whose registration has been canceled, by mail, at his last registration address, of the fact that his registration has been canceled, and that he will not be entitled to vote at any election until he has registered anew. No voter's registration shall be canceled if his original registration was made less than thirty months prior to the cancellation date. The secretary of state shall be notified immediately of all such cancellations. [1971 ex.s. c 202 § 28; 1967 ex.s. c 109 § 3; 1965 c 9 § 29.10.080. Prior: 1945 c 30 § 1; 1933 c 1 § 19; Rem. Supp. 1945 § 5114-19.]

Cancellation due to address differing from that on permanent records—Necessary procedural steps before cancellation: RCW 29.10.160.

29.10.090 Cancellation for death. The local registrar of vital statistics in cities of the first class shall submit monthly to the county auditor a list of the names and addresses, if known, of all persons over twenty-one years of age who have died.

The registrar of vital statistics of the state shall supply such monthly lists for each county of the state, exclusive of cities of the first class, to the county auditor thereof. The county auditors shall compare such lists

with the registration records and cancel the registrations of deceased voters.

In addition to the above manner of canceling registration records of deceased voters, any registered voter may sign a statement, subject to the penalties of perjury, to the effect that to his personal knowledge or belief another registered voter is deceased. This statement may be filed with any registration officer and the deputy registrar shall promptly forward such statement to the county auditor. Upon the receipt of such signed statement, the county auditor shall cancel the registration records concerned and so notify the secretary of state. Upon receipt of such notice, the secretary of state shall in turn cancel his copy of said registration record.

The secretary of state as chief elections officer shall cause such form to be designed to carry out the provisions of this section. The county auditors shall have such forms available for public use. Further, each such public officer having jurisdiction of an election shall make available a reasonable supply of such forms for the use of the precinct election officers at each polling place on the day of an election. [1971 ex.s. c 202 § 29; 1965 c 9 § 29.10.090. Prior: 1961 c 32 § 1; 1933 c 1 § 20; RRS § 5114-20.]

29.10.095 Report of deaths to secretary of state. On or before the fifteenth day of July and quarterly thereafter, the local registrar of vital statistics in cities of the first class and the registrar of vital statistics of the state shall file a sworn statement with the secretary of state. The form of said statement shall be furnished by the secretary and shall recite the number of deaths that have occurred during the three months' period immediately preceding the date of said report and the fact that the county auditor has been notified. The number of deaths shall be further segregated as to city, town or rural areas. [1971 ex.s. c 202 § 30; 1965 c 9 § 29.10.095. Prior: 1951 c 250 § 1.]

29.10.100 Weekly report of transfers and cancellations. On the Monday next following the transfer or cancellation of the registration of any voter, each county auditor must certify to all transfers or cancellations made during the prior week to the secretary of state. The certificate shall set forth the name of each voter whose registration has been transferred or canceled, the county, city or town, and precinct in which he was registered and, in case of a transfer, also the name of the county and city or town, the name or number of the precinct and the post office address (including street and number) to which the registration of the voter was transferred. [1971 ex.s. c 202 § 31; 1965 c 9 § 29.10.100. Prior: 1933 c 1 § 13, part; RRS § 5114-13, part.]

29.10.110 Record of cancellations—Statement or index reference affixed to canceled duplicate registration record. Every county auditor shall carefully preserve in a separate file or list, to be kept in his office for that purpose, all original and duplicate registration records canceled. The files or lists for the preservation of canceled registration records shall be arranged and kept in alphabetical order irrespective of the precincts from

which the canceled records were taken. The signed statement or an index reference to file of such signed statements used as the authority for cancellation as provided in RCW 29.10.090, 29.10.110, 29.10.130 through 29.10.160, 29.04.100 and 29.51.060 shall be firmly affixed to the canceled registration record.

The county auditor may destroy all original registration forms after they have been canceled for a period of two years or more. [1971 ex.s. c 202 § 32; 1965 ex.s. c 156 § 1; 1965 c 9 § 29.10.110. Prior: 1961 c 32 § 2; 1947 c 85 § 5; 1933 c 1 § 21; Rem. Supp. 1947 § 5114-21.]

29.10.120 Sworn statement of cancellations—Filing. On or before August 1st of the odd-numbered year, each county auditor shall execute a sworn statement and file same with the secretary of state within ten days after date of execution. Said statement shall be furnished by the office of secretary of state and shall be in substantially the following form:

State of Washington }
County of ----- } ss.

I, -----, do solemnly swear that I have caused to be examined the permanent voting record of each registered voter under my jurisdiction and have canceled those registrations of said voters who have failed to cast a ballot at any election held during the thirty month period immediately prior to the first day of April of this year as provided by law.

Further, the number of said cancellations totaled ----- A notice has been mailed to each elector concerned and the office of the secretary has been notified of said cancellations as reported on Permanent Registration Form No. 8.

(Signature) (Title)
Subscribed and sworn to.

[1971 ex.s. c 202 § 33; 1965 c 9 § 29.10.120. Prior: 1951 c 208 § 1.]

29.10.130 Cancellation based on residence grounds—Preliminary request form. Any precinct committeeman, precinct election officer or registration officer may sign a preliminary request form, subject to the penalties of perjury, to the effect that to his personal knowledge and belief another registered voter does not actually reside and maintain his abode at the address as given on his registration record and that the voter in question is not protected by the provisions of Article VI, section 4, of the Constitution of the state of Washington: *Provided*, That (1) a precinct committeeman or precinct election officer may only challenge the residence of a voter registered in the precinct wherein such precinct committeeman or precinct election officer serves and (2) the person filing such challenge must furnish the address at which the challenged voter actually resides in order to assure that proper notice will be received by the challenged voter. [1967 c 225 § 2; 1965 ex.s. c 156 § 2.]

29.10.140 Cancellation based on residence grounds—Necessary procedural steps before cancellation. All such signed forms shall be delivered to the appropriate county auditor who shall cancel the registration records of the voters concerned on the thirtieth day following date of mailing or as soon thereafter as is practicable: *Provided*, That notice of intent to cancel the registration on account of a claimed change of residence shall be mailed by certified mail to that address at which the challenged voter actually resides in order to assure that proper notice will be received by the challenged voter.

Any voter, whose registration has been so questioned, who believes that the allegation is not true, shall within twenty days of such mailing or publication file a written protest with the county auditor. The county auditor shall immediately notify, by certified mail, the challenger and the challenged voter to appear at a meeting to be held at a place, day and hour certain to be stated in the notice, for determination of the validity of such registration: *Provided*, That should the challenged voter be unable to appear in person he may file a reply by means of an affidavit stating therein under oath the reasons he believes his registration to be valid and should the challenger be unable to appear in person he may file a statement by means of affidavit stating the reasons he believes the registration to be invalid.

The hearing shall take place at the time and place designated by the county auditor. In the event both the challenger and the challenged voter file affidavits instead of appearing in person, an evaluation of such affidavits by the county auditor shall constitute a hearing for the purposes of this section.

The county auditor shall hold a hearing at which time both parties shall present their facts and arguments. After reviewing the facts and arguments, the county auditor shall rule as to the validity or invalidity of the challenge. His ruling shall be final subject only to a petition for judicial review by the superior court under the provisions of chapter 34.04 RCW, as it is now or hereafter amended. If the challenger fails to appear at the meeting or fails to file an affidavit, the registration in question may remain in full effect as determined by the county auditor. If the challenged voter fails to appear at the meeting or fails to file an affidavit, then the registration shall be canceled and the voter so notified. [1971 ex.s. c 202 § 34; 1967 c 225 § 3; 1965 ex.s. c 156 § 3.]

29.10.150 Cancellation based on residence grounds—Forms, secretary of state to design—Availability to public. The secretary of state as chief elections officer shall cause appropriate forms to be designed to carry out the provisions of RCW 29.04.100, 29.10.110, 29.10.130 through 29.10.160 and 29.51.060. The county auditors and registrars shall have such forms available. Further, a reasonable supply of such forms shall be at each polling place on the day of a primary or election, general or special. [1971 ex.s. c 202 § 35; 1965 ex.s. c 156 § 4.]

29.10.160 Cancellation due to address differing from that on permanent records—Necessary procedural steps before cancellation. At the time the county auditor inspects the permanent registration records in his possession, to determine whether or not any voter's record should be canceled for failure to vote as provided in section RCW 29.10.080, as now or hereafter amended, he shall also compare the voter registration record with the signature and address of each voter as it appears in the poll book used at the most recent preceding state general election. If the address of any voter, as written by the voter, in the poll book does not agree with the address of the voter as stated on his permanent registration records, the registration officer shall:

(1) Send a notice, by certified mail to addressee only, with return receipt requested, showing address where delivered, to the voter, using the address as given in the poll book and advising him that he must either have his registration transferred or register anew, as the case may be. Such notice shall also contain a prepaid postcard form addressed to the county auditor for the convenience of the voter to indicate what action the voter intends to take.

(2) If the voter believes that his registration record should not be changed, he shall so notify the county auditor who, in turn, shall promptly arrange for a hearing unless it is manifestly apparent that the voter's reasons are valid for keeping his record unchanged. If a hearing is necessary, any ruling issued by the registration officer shall be final, subject only to a petition for judicial review by the superior court under the provisions of chapter 34.04 RCW, as now or hereafter amended.

(3) If the notice mailed by the county auditor is either returned as undeliverable or the voter does not respond within thirty days from the date of mailing, the county auditor shall cancel the registration record concerned and notify the secretary of state of such cancellation. If the voter received the notice, as evidenced by the return receipt, the county auditor shall further notify such voter by first class mail that his registration has been canceled. [1971 ex.s. c 202 § 36; 1965 ex.s. c 156 § 8.]

Forms, secretary of state to design—Availability to public: RCW 29.10.150.

Chapter 29.13 TIMES FOR HOLDING ELECTIONS AND PRIMARIES

Sections

- 29.13.010 State, county, city, town, and district general elections—State-wide general election—Exceptions—Special county elections.
- 29.13.015 1963 elections act defined.
- 29.13.020 City, town, and district general elections—Exceptions—Special elections.
- 29.13.021 Elections in first class cities under commission government whose charters provide for triennial elections.
- 29.13.023 Elections in first class cities under mayor-council government—Twelve councilmen.
- 29.13.024 Elections in first class cities under mayor-council government—Seven councilmen.
- 29.13.025 "Class A county" includes higher classifications.
- 29.13.040 Conduct of elections—Canvass.

- 29.13.045 Constituencies to bear all or share of election costs—
Procedure to recover.
- 29.13.047 State to assume share of election costs when state mea-
sures voted upon—Procedure.
- 29.13.050 Commencement of terms of city, town, and district offi-
cers elected—Organization of district boards of
directors.
- 29.13.060 Elections in first class school districts containing a city
of the first class, in class A and class AA counties.
- 29.13.070 Primaries, when held.
- 29.13.075 Elections to fill unexpired term—Primary dispensed
with, when.
- 29.13.080 Opening and closing polls.
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tions—Election of convention delegates—Date
for, how fixed.

County officers, generally, time of election: RCW 36.16.010.

District elections, time of holding, see under particular district.

Elections, time of holding: State Constitution Art. 6 § 8.

*School elections to be conducted according to Title 29 RCW: RCW
28A.58.521.*

29.13.010 State, county, city, town, and district general elections—State-wide general election—Exceptions—Special county elections. All state, county, city, town, and district general elections for the election of federal, state, legislative, judicial, county, city, town, district, and precinct officers, and for the submission to the voters of the state of any measure for their adoption and approval or rejection, shall be held on the first Tuesday after the first Monday of November, in the year in which they may be called. A state-wide general election shall be held on the first Tuesday after the first Monday of November of each year: *Provided*, That the state-wide general election held in odd-numbered years shall be limited to (1) city, town, and district general elections as provided for in RCW 29.13.020, or as otherwise provided by law; (2) the election of federal officers for the remainder of any unexpired terms in the membership of either branch of the congress of the United States; (3) the election of state and county officers for the remainder of any unexpired terms as provided for in Article II, section 15, Article III, section 10, and Article IV, sections 3 and 5 of the state Constitution and RCW 2.06.080; (4) the election of county officers in any county governed by a charter containing provisions calling for general county elections at this time; and (5) the approval or rejection of state measures, including proposed constitutional amendments, matters pertaining to any proposed constitutional convention, initiative measures and referendum measures proposed by the electorate, referendum bills, and any other matter provided by the legislature for submission to the electorate: *Provided further*, That this section shall not be construed as fixing the time for holding primary elections, or elections for the recall of county, city, town, or district officers: *Provided however*, That the board of county commissioners may, if they deem an emergency to exist, call a special county election at any time by presenting a resolution to the county auditor at least forty-five days prior to the proposed election date. Such county special election shall be noticed and conducted in the manner provided by law. [1973 2nd ex.s. c 36 § 1; 1973 c 4 § 1; 1965 c 123 § 2; 1965 c 9 § 29.13.010. Prior: 1955 c 151 § 1; prior: (i) 1923 c 53 §

1; 1921 c 61 § 1; RRS § 5143. (ii) 1921 c 61 § 3; RRS § 5145.]

29.13.015 1963 elections act defined. Wherever used in chapter 29.13 RCW, the term "1963 elections act" includes the following RCW sections: RCW 29.04.055, 29.04.070, 29.04.080, 29.13.020, 29.13.021, 29.13.022, 29.13.023, 29.13.024, 29.13.030, 29.13.040, 29.13.045, 29.13.050, 29.13.060, 29.13.061, 29.13.065, 29.13.070, 29.21.060, 29.24.110, 35.17.020, 35.17.400, 35.23.040, 35.24.050, 35.27.090, 36.69.090, 53.12.044, 53.12.046, 53.12.160, 53.12.210 and 56.12.020, as amended in the year 1963, or thereafter. [1965 c 9 § 29.13.015.]

Reviser's note: RCW 29.13.022, 29.13.061, 29.13.065, and 53.12.046 were repealed by 1963 c 200 § 26. RCW 29.13.030 was repealed by 1965 c 123 § 9(12); later enactment, see RCW 29.13.020.

29.13.020 City, town, and district general elections—Exceptions—Special elections. All city, town, and district general elections, except as hereinafter provided, shall be held throughout the state of Washington on the first Tuesday following the first Monday in November in the odd-numbered years: *Provided*, That there shall be no general city or town elections held under the provisions of the 1963 elections act as amended until 1967, and the positions that would have been voted upon in the year 1966, except for the provisions of the 1963 elections act as amended, shall be voted upon at the general election to be held on the first Tuesday following the first Monday in November in the year 1967 and each two years thereafter. All city and town elections to be held in 1964 under existing law shall be conducted as though the provisions of the 1963 elections act had not been enacted. All city and town officers elected in 1964 shall remain in office for their regular term and until their successors are elected and qualified under the provisions of the 1963 elections act.

There shall be no regular district elections held in the years 1964, 1966, 1968, and 1970, and the positions that would have been voted upon, except for the provisions of the 1963 elections act as amended, in the years 1964, 1966, 1968, and 1970 shall be voted upon at the general elections to be held on the first Tuesday following the first Monday in November in the years 1965, 1967, 1969, and 1971, respectively and each two years thereafter.

There shall be no regular school district elections held on the second Tuesday in March in the years 1965, 1967, and 1969 and the position[s] that would have been voted upon, except for the provisions of the 1963 elections act as amended, shall be voted upon at the general elections to be held on the first Tuesday following the first Monday in November in the years 1965, 1967, and 1969 respectively and each two years thereafter.

The purpose of this section is to change the time of holding all general city, town, and district elections to a common election date, throughout the state of Washington being the first Tuesday following the first Monday in November of the odd-numbered years.

All incumbent city, town, or district officers whose terms would have expired, except for the provisions of

the 1963 elections act as amended, shall remain in office until their successors are elected and qualified.

This section shall not apply to:

(1) Elections for the recall of city, town, or district officers,

(2) Public utility districts, or district elections whereat the ownership of property within said districts is a prerequisite to voting, all of which elections shall be held at the times prescribed in the laws specifically applicable thereto.

The county auditor, as ex officio supervisor of elections, upon request in the form of a resolution of the governing body of a city, town or district, presented to him at least forty-five days prior to the proposed election date, may, if he deems an emergency to exist, call a special election at any time in such city, town, or district and for the purpose of such special election he may combine, unite or divide precincts. Such special election shall be conducted and notice thereof given in the manner provided by law. [1965 c 123 § 3; 1965 c 9 § 29.13.020. Prior: 1963 c 200 § 1; 1955 c 55 § 1; 1951 c 101 § 1; 1949 c 161 § 1; 1927 c 182 § 1; 1923 c 53 § 2; 1921 c 61 § 2; Rem. Supp. 1949 § 5144.]

29.13.021 Elections in first class cities under commission government whose charters provide for triennial elections. All regular elections in cities of the first class under a commission form of government whose charters provide that elections shall be held triennially, shall hereafter be held quadrennially and shall be held on the Tuesday following the first Monday in November in the odd-numbered years: *Provided*, That no such regular city election shall be held under the provisions of this 1963 amendatory section until the Tuesday after the first Monday in November, 1969. The elections to be held in such cities in 1964 under existing law shall be conducted at the time and in the manner as though the provisions of the 1963 elections act had not been enacted. All city officials elected in 1964, or thereafter, shall be elected for terms of four years and until their successors are elected and qualified under the provisions of the 1963 elections act. [1965 c 9 § 29.13.021. Prior: 1963 c 200 § 4.]

29.13.023 Elections in first class cities under mayor-council government—Twelve councilmen. All regular elections in first class cities having a mayor-council form of government whose charters provide for twelve councilmen elected for a term of two years, two being elected from each of six wards, and for the election of a mayor, treasurer, and comptroller for terms of two years, shall be held biennially, and shall be held on the Tuesday following the first Monday in November in the odd-numbered years except as provided in RCW 29.13.020 and 29.13.030. The term of each councilman, mayor, treasurer and comptroller shall be four years and until their successors are elected and qualified. The terms of the councilmen shall be so staggered that six councilmen shall be elected to office at each regular election. [1965 c 9 § 29.13.023. Prior: 1963 c 200 § 2; 1957 c 168 § 1.]

Reviser's note: RCW 29.13.030 was repealed by 1965 c 123 § 9(12); later enactment, see RCW 29.13.020.

29.13.024 Elections in first class cities under mayor-council government—Seven councilmen. All regular elections in first class cities having a mayor-council form of government whose charters provide for seven councilmen, one to be elected from each of six wards and one at large, for a term of two years, and for the election of a mayor, comptroller, treasurer and attorney for two year terms, shall be held on the Tuesday following the first Monday in November on the odd-numbered years except as provided in RCW 29.13.020 and 29.13.030. The terms of the six councilmen to be elected by wards shall be four years and until their successors are elected and qualified and the term of the councilman to be elected at large shall be two years and until their successors are elected and qualified. The terms of the councilmen shall be so staggered that three ward councilmen and the councilman at large shall be elected at each regular election. The term of the mayor, attorney, treasurer, and comptroller shall be four years and until their successors are elected and qualified. [1965 c 9 § 29.13.024. Prior: 1963 c 200 § 3; 1957 c 168 § 2.]

Reviser's note: See note following RCW 29.13.023.

29.13.025 "Class A county" includes higher classifications. For the purposes of RCW 29.13.020, 29.13.030, 29.13.040, 29.21.060, 29.24.110, 29.27.040 and 29.27.080, "class A county" shall include counties of higher classification whenever such class or classes shall be established. [1965 c 9 § 29.13.025. Prior: 1951 c 101 § 8.]

Reviser's note: See note following RCW 29.13.023.

29.13.040 Conduct of elections—Canvass. All elections, whether special or general, held under RCW 29.13.010 and 29.13.020 as now or hereafter amended, shall be conducted by the county auditor as ex officio county supervisor of elections and except as provided in RCW 29.62.100 the returns thereof shall be canvassed by the county canvassing board. [1965 c 123 § 4; 1965 c 9 § 29.13.040. Prior: 1963 c 200 § 6; 1955 c 55 § 3; 1951 c 257 § 4; 1951 c 101 § 4; 1949 c 161 § 5; Rem. Supp. 1949 § 5153-1.]

County auditor designated as supervisor of certain elections: RCW 29.04.020.

29.13.045 Constituencies to bear all or share of election costs—Procedure to recover. Every city, town, and district shall be liable for its proportionate share of the costs when such elections are held in conjunction with other elections held under RCW 29.13.010 and 29.13.020.

Whenever any city, town, or district shall hold any primary or election, general or special, on an isolated date, all costs of such elections shall be borne by the city, town, or district concerned.

The purpose of this section is to clearly establish that the county is not responsible for any costs involved in the holding of any city, town, or district election.

In recovering such election expenses, including a reasonable pro-ration of administrative costs, the county auditor shall certify the cost to the county treasurer with a copy to the clerk or auditor of the city, town, or district concerned. Upon receipt of such certification, the county treasurer shall make the transfer from any available and appropriate city, town, or district funds to the county current expense fund or to the county election reserve fund if such a fund is established. Each city, town, or district shall be promptly notified by the county treasurer whenever such transfer has been completed: *Provided, however*, That in those districts wherein a treasurer, other than the county treasurer, has been appointed such transfer procedure shall not apply but the district shall promptly issue its warrant for payment of election costs. [1965 c 123 § 5; 1965 c 9 § 29.13.045. Prior: 1963 c 200 § 7; 1951 c 257 § 5.]

Absentee service voters, reimbursement for expenses of mailing: RCW 29.39.150.

Commercial waterway districts, election of commissioners in class A and first class counties, expense: RCW 91.04.022.

Diking districts, election to organize, costs: RCW 85.05.040.

Diking or drainage district, reorganization into improvement district, 1917 act, election on, costs: RCW 85.20.040.

Diking or drainage district, reorganization into improvement district, 1933 act, election on, costs: RCW 85.22.040.

Expense of printing and distributing ballots: RCW 29.30.130.

Expense of recount—Charges: RCW 29.64.070.

Port district elections, cost of election notice and ballots: RCW 53.12.190.

Port districts, formation of, election on, expense of: RCW 53.04.070.

Public utility district elections, expense of: RCW 54.12.010.

Reclamation districts of one million acres, election to form, expense: RCW 89.30.115.

School facilities as polling places, payment for: RCW 29.48.007.

Sewer districts, formation of, expense: RCW 56.04.080.

Soil and water conservation district, election to form, expense: RCW 89.08.140.

Water districts, annexation of territory by, election on, expense: RCW 57.24.050.

29.13.047 State to assume share of election costs when state measures voted upon—Procedure. Whenever state measures are voted upon at a state general election held in November of an odd-numbered year as provided for in RCW 29.13.010, the state of Washington shall assume its prorated share of such election costs. The county auditor shall apportion the state's share of such expenses when prorating election costs as provided under RCW 29.04.020 and 29.13.045 and shall file such expense claims with the state auditor. The state auditor shall compile such claims for presentation to the next succeeding legislature in the same manner as other legislative relief claims. [1973 c 4 § 2.]

29.13.050 Commencement of terms of city, town, and district officers elected—Organization of district boards of directors. The term of every city, town, and district officer elected to office on the first Tuesday following the first Monday in November of the odd-numbered years shall begin as of noon on the second Monday in January following his election: *Provided*, That school directors and any person elected to less

than a full term shall assume office as soon as the election returns have been certified.

Persons elected to office at the first regular elections held under the provisions of the 1963 elections act as amended shall assume office as soon as the election returns have been certified.

Each board of directors of every district shall be organized at the first meeting held after one or more newly elected directors take office. [1965 c 123 § 6; 1965 c 9 § 29.13.050. Prior: 1963 c 200 § 8; 1959 c 86 § 1; prior: 1951 c 257 § 6. (i) 1949 c 161 § 9; Rem. Supp. 1949 § 5146-1. (ii) 1949 c 163 § 1; 1921 c 61 § 4; Rem. Supp. 1949 § 5146.]

29.13.060 Elections in first class school districts containing a city of the first class, in class A and class AA counties. In class AA and class A counties, first class school districts containing a city of the first class shall hold their election biennially on the Tuesday following the first Monday in November of each odd-numbered year.

The directors to be elected shall be elected for terms of six years and until their successors are elected and qualified. [1965 c 9 § 29.13.060. Prior: 1963 c 200 § 9; 1943 c 10 § 1; Rem. Supp. 1943 § 4810-1.]

29.13.070 Primaries, when held. Nominating primaries for general elections to be held in November shall be held at the regular polling places in each precinct on the third Tuesday of the preceding September. [1965 ex.s. c 103 § 6; 1965 c 9 § 29.13.070. Prior: 1963 c 200 § 25; 1907 c 209 § 3; RRS § 5179.]

29.13.075 Elections to fill unexpired term—Primary dispensed with, when. Whenever it shall be necessary to hold a special election in an odd-numbered year to fill an unexpired term of any office which is scheduled to be voted upon for a full term in an even-numbered year, no September primary election shall be held in the odd-numbered year if, after the last day allowed for candidates to withdraw, either of the following circumstances exist:

(1) No more than one candidate of each qualified political party has filed a declaration of candidacy for the same partisan office to be filled; or

(2) No more than two candidates have filed a declaration of candidacy for a single nonpartisan office to be filled.

In either event, the officer with whom the declarations of candidacy were filed shall immediately notify all candidates concerned and the names of the candidates that would have been printed upon the September primary ballot, but for the provisions of this section, shall be printed as nominees for the positions sought upon the November general election ballot. [1973 c 4 § 3.]

29.13.080 Opening and closing polls. At all primaries and elections, general or special, in all counties the polls must be kept open from seven o'clock a.m. to eight o'clock p.m. All qualified electors who are at the polling place at eight o'clock p.m., shall be allowed to cast their

votes. [1973 c 78 § 1; 1965 ex.s. c 101 § 13; 1965 c 9 § 29.13.080. Prior: (i) 1921 c 61 § 7; RRS § 5149. (ii) 1921 c 170 § 5; RRS § 5154. (iii) 1921 c 178 § 7; 1907 c 235 § 1; 1889 p 413 § 35; RRS § 5319. (iv) 1919 c 163 § 16, part; 1907 c 209 § 17, part; RRS § 5194, part.]

Closing the polls: RCW 29.51.250.

District elections, hours, see particular districts.

No adjournment until polls close: RCW 29.51.240.

Proclamation of closing: RCW 29.51.260.

Proclamation opening the polls: RCW 29.48.100.

29.13.100 United States Constitutional amendment conventions—Election of convention delegates—Date for, how fixed. See RCW 29.74.030.

**Chapter 29.18
PARTISAN PRIMARIES**

Sections

- 29.18.010 To what candidates this chapter is applicable.
- 29.18.015 Officials to designate state representative positions, when—Effect.
- 29.18.020 What political parties may participate.
- 29.18.030 Declaration and affidavit of candidacy—Necessity—Form—Withdrawal.
- 29.18.035 Titles designating occupation prohibited.
- 29.18.040 Declaration of candidacy—Where filed.
- 29.18.050 Declarations of candidacy—Fees.
- 29.18.060 Declaration of candidacy—Duplication of names—Election ballots.
- 29.18.070 Duplication of, use of nonexistent or untrue names, as felony.
- 29.18.080 Duplication of names—Conspiracy—Criminal and civil liability.
- 29.18.090 Duplication of, use of nonexistent or untrue names—Call for meeting to adjust.
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- 29.18.110 Number of votes necessary to nominate.
- 29.18.120 Procedure at primary—General election laws apply.
- 29.18.150 Vacancies on ticket—How filled—Correcting ballots and labels—Counting votes already cast for person named to vacancy, when.
- 29.18.200 Blanket primary authorized.
- 29.18.210 Contest of nomination at primaries.

Contest, ineligibility to hold office at time declared elected as ground for: RCW 29.65.010.

Notice of primary election: RCW 29.27.030.

Political party conventions not to nominate candidates to be voted on in primary: RCW 29.42.010.

29.18.010 To what candidates this chapter is applicable. All candidates for state, congressional, legislative, county, municipal, and precinct elective offices shall be nominated at a partisan primary election held pursuant to the provisions of this chapter: *Provided*, That this chapter shall not apply to elections:

- (1) To fill unexpired terms occasioned by vacancies;
- (2) For nonpartisan elective offices;
- (3) For presidential electors;
- (4) In first class cities whose charters provide a nonpartisan method of nominating candidates;
- (5) In fourth class cities or towns;
- (6) In first, second and third class cities holding nonpartisan elections under RCW 29.21.010. [1965 c 9 § 29.18.010. Prior: 1911 c 101 § 2; 1909 c 82 § 1; 1907 c 209 § 2; RRS § 5178.]

29.18.015 Officials to designate state representative positions, when—Effect. Not less than ten days before the time for filing declarations of candidacy for the office of state representative in representative districts embracing more than one county, the secretary of state shall in each case designate the positions to be filled by consecutive number commencing with the number, "No. 1". The county auditor shall do likewise for state representative positions in counties wherein the representative districts are confined to the whole or part of a single county.

The state representative position so designated shall be dealt with as separate offices for all election purposes. The provisions of this section shall not apply to those representative districts assigned a single state representative position. [1965 c 52 § 1.]

29.18.020 What political parties may participate. Only the names of major political parties shall be entitled to appear upon the primary election ballot after the names of the candidates affiliated therewith. The name of no other political party shall appear thereon. [1965 c 9 § 29.18.020. Prior: 1907 c 209 § 6, part; RRS § 5183, part.]

Major political party defined: RCW 29.01.090.

29.18.030 Declaration and affidavit of candidacy—Necessity—Form—Withdrawal. The name of no candidate shall be printed upon the official ballot used at a state primary, unless not earlier than the last Monday of July nor later than the next succeeding Friday, a declaration of candidacy is filed in the form hereinafter set forth:

DECLARATION AND AFFIDAVIT OF
CANDIDACY

State of Washington }
County of _____ } ss.

DECLARATION

I, _____, declare upon honor that I am a registered voter residing at No. _____ street, _____ (city or town of) _____ (county of) _____, state of Washington, and am legally qualified to assume office if elected; that I hereby declare myself a candidate for nomination to the office of _____ or position No. _____ for the office of _____ (fill in whichever blank is applicable) to be made at the primary election to be held on the _____ day of _____, and hereby request that my name be printed upon the official primary ballots, as provided by law, as a candidate of the (do not fill this in if office sought is nonpartisan) _____ party, and I accompany herewith the sum of _____ dollars, the fee required by law of me for becoming a candidate.

AFFIDAVIT

FURTHER, I do solemnly swear (or affirm) that I will support the Constitution and laws of the United States and the Constitution and laws of the state of

Washington: that I do not advocate the overthrow, destruction, or alteration of the constitutional form of government of the United States or of the state of Washington or any political subdivision of either of them, by revolution, force or violence, and that I do not knowingly belong to any organization, foreign or otherwise, which engages in or advocates, the overthrow, destruction or alteration of the constitutional form of government of the United States or of the state of Washington or any political subdivision of either of them, by revolution, force or violence.

(Please print name to assure correct spelling)	(Signature of candidate as name to appear upon ballot)
Subscribed and sworn to before me this ----- day of -----, 19---	
----- (signature of official) ----- (Official title)	

Any candidate may in writing withdraw his declaration at any time to and including the first Wednesday after the last day allowed for filing declarations of candidacy. Should the candidate desire to mail his declaration of withdrawal it shall be honored if the instrument is postmarked no later than the last day allowed for withdrawals. There shall be no refund of the filing fee. [1965 ex.s. c 103 § 1; 1965 c 9 § 29.18.030. Prior: 1959 c 250 § 1; 1947 c 234 § 1; 1933 c 95 § 1; 1907 c 209 § 4; Rem. Supp. 1947 § 5180.]

Contests, grounds for: RCW 29.65.010.
Minor party conventions, certificate of nomination, declarations of candidacy of candidates nominated, to be filed, when: RCW 29.24.080.
Precinct committeeman—Declaration of candidacy: RCW 29.42-.040–29.42.050.
Subversive activities, candidate must file affidavit respecting: RCW 9.81.100.
Subversive activities, conviction of or plea of guilty to as disqualification for holding office: RCW 9.81.040.
Write-in voting, nominee to execute declaration of candidacy, pay fee: RCW 29.51.170.

29.18.035 Titles designating occupation prohibited. No person when filing as a candidate or nominee at any election shall be permitted to use any titles designating his present or past occupation or profession, including ranks in the armed forces: *Provided*, That the provisions of this section shall not prohibit the use of a nickname by which a candidate is commonly known: *Provided further*, That should a nickname be used it shall be in addition to the candidate's given name (for example: Richard A. "Dick" Roe or R. A. "Dick" Roe). [1965 c 9 § 29.18.035. Prior: 1955 c 169 § 1.]

29.18.040 Declaration of candidacy—Where filed. Declarations of candidacy shall be filed as follows:
 (1) For state offices, United States senate, United States house of representatives, and the state legislature

and superior court when electors from a district comprising more than one county vote upon the candidates, in the office of the secretary of state.

(2) For offices, except city and town offices, when electors from only one county vote upon the candidates, in the office of the county auditor.

(3) For city and town offices, in the office of the city clerk. [1965 c 9 § 29.18.040. Prior: 1907 c 209 § 7; RRS § 5184.]

Precinct committeeman, filing of declaration of candidacy with county auditor: RCW 29.42.040.
Public officials and candidates to file statement concerning private interests: RCW 42.21.060.

29.18.050 Declarations of candidacy—Fees. A fee of one dollar must accompany each declaration of candidacy for a precinct office without salary; a fee of ten dollars for any office with a compensation attached of one thousand dollars per annum or less; a fee equal to one percent of the annual compensation for any office with a compensation attached of more than one thousand dollars per annum.

When the candidacy is for:

(1) A state or congressional office the fee shall be paid to the secretary of state for deposit in the state treasury.

(2) A district office embracing more than one county the fee shall be paid to the secretary of state for equal division between the treasuries of the counties comprising the district.

(3) A county office or office for a district comprising part of one county the fee shall be paid to the county auditor for deposit in the county treasury.

(4) A city or town office the fee shall be paid to the clerk thereof for the city or town treasury. [1965 c 9 § 29.18.050. Prior: 1909 c 82 § 2; 1907 c 209 § 5; RRS § 5182.]

Precinct committeeman, declaration of candidacy, fee: RCW 29.42-.040–29.42.050.

29.18.060 Declaration of candidacy—Duplication of names—Election ballots. When two or more persons file for the same office in any primary election whose surnames are so similar in sound or spelling as to be confusing to the electors, the secretary of state, county auditor, city clerk or any other public officer with whom declarations of candidates are filed, shall, on his own initiative, or upon the request of any of the candidates for the same office, as hereinafter provided print on the ballot immediately after the surname of the candidates having similar surnames, the profession, business, trade, occupation or such other designation as may be required for the definite identification of each, as follows:

George Jones (Grocer)
 G. A. Jones (Laborer)

Provided, That if one of the candidates is the incumbent seeking reelection, immediately before his name shall be printed the word "Incumbent," and there shall be printed before the name of the other candidate having a similar surname the word "Opponent," and following his name a word descriptive of his occupation,

which for the purpose of illustration, can be printed in the following form:

"Incumbent"—George Jones

"Opponent"—G. A. Jones (Laborer)

If as a result of the primary, two or more candidates so identified are nominated, then such descriptive identification as appeared on the primary ballot shall also appear on the general election ballot. The same provisions shall also apply to any election not preceded by a primary. [1965 c 9 § 29.18.060. Prior: 1955 c 103 § 1; 1943 c 198 § 1; Rem. Supp. 1943 § 5213-10.]

29.18.070 Duplication of, use of nonexistent or untrue names, as felony. A person is guilty of a felony who files a declaration of candidacy for any public office of:

(1) A nonexistent or fictitious person; or

(2) The name of any person not his true name; or

(3) A name similar to that of an incumbent seeking reelection to the same office with intent to confuse and mislead the electors by taking advantage of the public reputation of the incumbent; or

(4) A surname similar to one who has already filed for the same office, and whose political reputation is widely known, with intent to confuse and mislead the electors by capitalizing on the public reputation of the candidate who had previously filed. [1965 c 9 § 29.18.070. Prior: (i) 1943 c 198 § 2; Rem. Supp. 1943 § 5213-11. (ii) 1943 c 198 § 3; Rem. Supp. 1943 § 5213-12.]

29.18.080 Duplication of names—Conspiracy—Criminal and civil liability. Any person who with intent to mislead or confuse the electors conspires with another person who has a surname similar to an incumbent seeking reelection to the same office, or to an opponent for the same office whose political reputation has been well established, by persuading such other person to file for such office with no intention of being elected, but to defeat the incumbent or the well known opponent, shall be guilty of a felony. In addition thereto such person or persons shall be subject to a suit for civil damages the amount of which shall not exceed the salary which the injured person would have received had he been elected or reelected. [1965 c 9 § 29.18.080. Prior: 1943 c 198 § 6; Rem. Supp. 1943 § 5213-15.]

29.18.090 Duplication of, use of nonexistent or untrue names—Call for meeting to adjust. Any candidate who believes that the electors will be misled or confused by the candidacy of any person who has filed for the same office as provided in RCW 29.18.060 and 29.18.070, shall, not more than three days after the time for the filings has expired, present in writing to the filing officer, the secretary of state, county auditor, or city clerk, as the case may be, a written request that a meeting of all the candidates for the same office whose names are the same or similar be held immediately for the purpose of eliminating the confusion. The written request shall state the objections of the candidate. The filing officer within two days following the receipt of such request shall mail a copy thereof to each candidate named in the request at the address set forth in the

declaration of the candidate and shall notify each candidate to be present at a meeting to be held in his office on a day and hour certain to be stated in the notice, which hearing shall take place not more than five days after the receipt of such request. [1965 c 9 § 29.18.090. Prior: 1943 c 198 § 4; Rem. Supp. 1943 § 5213-13.]

29.18.100 Duplication of, use of nonexistent or untrue names—Conduct of meeting to adjust. At the meeting to be held by the filing officer, he shall hear all objections to candidates, names and designations of candidates and shall pass upon all matters which may come before him pertaining to the enforcement of RCW 29.18.060 through 29.18.100. If any candidate fails to respond to the notice of the meeting, or if the filing officer is satisfied that the candidate is a fictitious or nonexistent person or that the declaration of candidacy was not filed in the true name of the person, the candidacy of such person shall be canceled and shall not be printed on the ballot. The filing officer shall decide all objections according to the facts and his rulings shall be final, unless ordered otherwise by a court of competent jurisdiction. [1965 c 9 § 29.18.100. Prior: 1943 c 198 § 5; Rem. Supp. 1943 § 5213-14.]

29.18.110 Number of votes necessary to nominate. No candidate for a partisan office shall be the party nominee unless he receives a number of votes equal to at least five percent of the total number cast for all candidates for the position sought.

Subject thereto, any person who receives a plurality of the votes cast for the candidates of his party for any office shall be his party's nominee for that office.

If there are two or more positions of the same kind to be filled and more candidates of a party receive a plurality of the votes cast for those positions than there are positions to be filled, the number of candidates equal to the number of positions to be filled who receive the highest number of votes shall be the nominees of their party for those positions. [1974 1st ex.s. c 127 § 5; 1965 c 9 § 29.18.110. Prior: 1963 c 189 § 1; 1961 c 130 § 16; prior: (i) 1919 c 163 § 18, part; 1907 c 209 § 23, part; RRS § 5199, part. (ii) 1933 c 21 § 1, part; 1919 c 163 § 24, part; RRS § 5200, part.]

First, second and third class cities, number of votes necessary to appear on general election ballot: RCW 29.21.010.

29.18.120 Procedure at primary—General election laws apply. So far as applicable, the provisions in relation to the holding of elections, the solicitation of voters at the polls, the challenging of voters, the manner of conducting elections, of counting the ballots and making returns and canvass thereof, and all other kindred subjects shall apply to all primaries and the election officers shall have the same powers for primary elections as they have for general elections. [1971 ex.s. c 112 § 1; 1965 c 9 § 29.18.120. Prior: (i) 1907 c 209 § 14; RRS § 5191. (ii) 1921 c 178 § 5; 1907 c 209 § 21; RRS § 5197. (iii) 1909 c 82 § 10; 1907 c 209 § 33; RRS § 5208.]

29.18.150 Vacancies on ticket—How filled—Correcting ballots and labels—Counting votes already cast for person named to vacancy, when. Should a place on a party ticket be vacant because no person filed for nomination as the candidate of that party, after the last day allowed for candidates to withdraw as provided by RCW 29.18.030, if the vacancy is for a state or county office to be voted on solely by the electors of a single county, the county central committee of the party may select and certify a candidate to fill the vacancy; if the vacancy is for any other office the state central committee of the party may select and certify a candidate to fill the vacancy; the certificate must set forth the cause of the vacancy, the name of the person nominated, the office for which he is nominated and other pertinent information required in an ordinary certificate of nomination and be filed in the proper office no later than the first Friday after the last day allowed for candidates to withdraw, together with the candidate's fee applicable to that office and a declaration of candidacy: *Provided*, That a vacancy caused by the death or disqualification of any nominee for a partisan office may be filled as set forth in this section at any time up to and including the day prior to the election.

Should such vacancy occur no later than the third Tuesday prior to the state general election concerned and the ballots and voting machine labels have been printed, it shall be mandatory that they be corrected by the appropriate election officers. In making such correction, it shall not be necessary to reprint complete ballots if any other less expensive technique can be used and the resulting correction is reasonably clear.

Should such vacancy occur after the third Tuesday prior to said state general election and time does not exist in which to correct paper ballots (including absentee ballots) or voting machine labels, either in total or in part, then the votes cast or recorded for the person who has died or become disqualified shall be counted for the person who has been named to fill such vacancy.

When the secretary of state is the person with whom the certificate of nomination is filed he shall in certifying nominations to the various county officers insert the name of the persons nominated to fill a vacancy.

In the event that the secretary of state has already sent forth his certificate when the certificate of nomination to fill a vacancy is filed with him, he shall forthwith certify to the county auditors of the proper counties the name and place of residence of the person nominated to fill a vacancy, the office he is nominated for, the party he represents and all other pertinent facts pertaining to the vacancy. [1965 c 9 § 29.18.150. Prior: 1961 c 130 § 17; prior: (i) 1933 c 21 § 1, part; 1919 c 163 § 24, part; RRS § 5200, part. (ii) 1889 p 404 § 12; RRS § 5176.]

29.18.200 Blanket primary authorized. All properly registered voters may vote for their choice at any primary election, for any candidate for each office, regardless of political affiliation and without a declaration of political faith or adherence on the part of the voter. [1965 c 9 § 29.18.200. Prior: 1935 c 26 § 5, part; No RRS.]

29.18.210 Contest of nomination at primaries. See RCW 29.65.130.

Chapter 29.21

NONPARTISAN PRIMARIES AND ELECTIONS

Sections

- 29.21.010 Primaries in first, second and third class cities.
- 29.21.015 When no city primary—Prerequisites—Procedure.
- 29.21.017 City councilmen positions to be numbered as separate offices—Exception—Exclusive method of nominating and electing.
- 29.21.020 Declarations of candidacy—Generally.
- 29.21.025 Titles designating occupation prohibited.
- 29.21.040 City offices in commission form cities.
- 29.21.060 Declarations of candidacy in first, second, third class cities and certain districts—Other statutes superseded.
- 29.21.070 Judicial offices.
- 29.21.080 Offices relative to administration of public schools as nonpartisan.
- 29.21.085 Superintendent of public instruction—Ballot arrangement where voting machines.
- 29.21.090 Arrangement of names on ballots.
- 29.21.100 Nonpartisan ballot—Place on regular ballot.
- 29.21.110 Supreme, superior court and court of appeals judges—Designation of position.
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Candidates' pamphlet: Chapter 29.80 RCW.

Contest, ineligibility to hold office at time declared elected as ground for: RCW 29.65.010.

Nominations in towns: RCW 29.24.110.

Notice of primary elections: RCW 29.27.030.

29.21.010 Primaries in first, second and third class cities. All primaries for all cities of the first, second and third class, irrespective of type or form of government shall be nonpartisan and held as provided in RCW 29-.13.070. All names of candidates to be voted upon at city primary elections shall be printed upon the official primary ballot alphabetically in groups under the designation of the respective titles of the offices for which they are candidates. The name of the person who receives the greatest number of votes and of the person who receives the next greatest number of votes for each position, shall appear in that order on the municipal general election ballot under the designation for each respective office. In the event there are two or more offices to be filled for the same position, then names of candidates receiving the highest number of votes equal in number to twice the offices to be filled shall appear on the municipal general election ballot so that the voter shall have a choice of two candidates for each position: *Provided*, That no name of any candidate shall appear on the city general election ballot unless said candidate shall receive at least ten percent of the total votes cast for that office. The sequence of names of candidates printed on the municipal general election ballot shall be in relation to the number of votes each candidate received at the primary. Names of candidates printed upon the municipal primary and general election ballot need not be rotated. [1965 c 123 § 7; 1965 c 9 § 29.21.010. Prior: 1951 c 257 § 7; 1949 c 161 § 3; Rem. Supp. 1949 § 5179-1.]

29.21.015 When no city primary—Prerequisites—Procedure. No primary shall be held in any city if, after the last day allowed for candidates to withdraw, there are no more than two candidates filed for each position to be filled. In such event, the city clerk shall immediately notify all candidates concerned and if the county auditor has jurisdiction of such primary election, he shall also be notified. Names of candidates that would have been printed upon the city primary ballot, but for the provisions of this section, shall be printed upon the city general election ballot alphabetically in groups under the designation of the respective titles of the offices for which they are candidates. [1965 c 9 § 29.21.015. Prior: 1955 c 101 § 2; 1955 c 4 § 1.]

29.21.017 City councilmen positions to be numbered as separate offices—Exception—Exclusive method of nominating and electing. Not less than ten days before the time for filing declarations of candidacy for councilmen in cities or towns operating under the mayor-council or council-manager form of government, except the position of councilman-at-large assigned a two year term in cities of the third class, the city clerk shall designate the positions to be filled by consecutive number, commencing with one. The positions so designated shall be dealt with as separate offices for all election purposes.

The provisions of this section shall be the exclusive method of nominating and electing councilmen for all

cities and towns the charter provisions of any city notwithstanding. [1965 c 9 § 29.21.017. Prior: 1961 c 109 § 1.]

29.21.020 Declarations of candidacy—Generally. Except as otherwise in this chapter provided, all statutory provisions relating to declarations of candidacy for primary nomination to partisan offices shall apply to candidates for nonpartisan offices: *Provided*, That no candidate for a nonpartisan office shall designate any party affiliation in his declaration of candidacy. [1965 c 9 § 29.21.020. Prior: (i) 1939 c 1 § 2, part; RRS § 5274-2, part. FORMER PART OF SECTION: 1947 c 234 § 1, part; 1933 c 95 § 1, part; 1915 c 52 § 2, part; 1907 c 209 § 4, part; Rem. Supp. 1947 § 5180, part, now codified in RCW 29.18.030.]

Minor party candidates, declarations of candidacy: Chapter 29.24 RCW.

Port district commissioners, declarations of candidacy, generally: Chapter 53.12 RCW.

Public officials and candidates to file statement concerning private interests: RCW 42.17.240 and 42.21.060.

Subversive activities act, requirements for candidates under: Chapter 9.81 RCW.

Towns, declaration of candidacy: RCW 29.24.110.

United States constitutional amendment conventions, delegates, declarations of candidacy: RCW 29.74.060.

29.21.025 Titles designating occupation prohibited. See RCW 29.18.035.

29.21.040 City offices in commission form cities. In cities operating under the commission form, the offices of mayor, commissioner of finance and accounting and commissioner of streets and public improvements shall be nonpartisan and the candidates therefor shall be nominated at a primary to be held as provided in RCW 29.21.010. The officers appointed for the municipal election shall be the officers of the primary election, which shall be held at the same places, so far as practicable, and the polls shall be opened and closed at the same hours as required for the municipal election. [1965 c 9 § 29.21.040. Prior: 1943 c 25 § 2, part; 1911 c 116 § 7, part; Rem. Supp. 1943 § 9096, part.]

Opening and closing polls: RCW 29.13.080.

Precinct election officer: Chapter 29.45 RCW.

29.21.060 Declarations of candidacy in first, second, third class cities and certain districts—Other statutes superseded. All candidates for offices to be voted on at any election in first, second, and third class cities shall file declarations of candidacy with the clerk thereof not earlier than the last Monday of July nor later than the next succeeding Friday in the year such regular city elections are held.

All candidates for district offices in port districts, which are located in class AA and class A counties, and first class school districts, shall file their declarations of candidacy with the county auditor of the county not earlier than the last Monday of July nor later than the next succeeding Friday in the year such regular district elections are held.

All candidates for district offices not subject to a primary election, other than irrigation districts, shall file declarations of candidacy not more than sixty nor less than forty-six days prior to the date of the election with the appropriate county auditor: *Provided*, That in the case of public utility districts, and in no other, nominations shall be made by means of nominating petitions: *Provided further*, That this chapter shall not change the method of nomination for first district officers at the formation of the district.

Any candidate for city or district offices may withdraw his declaration at any time to and including the first Wednesday after the last day allowed for filing declarations of candidacy.

The city clerks in all counties shall transmit to their county auditors at least thirty-five days before the date fixed for the primary, a certified list of the names and addresses of the candidates to be voted on thereat as represented by the declarations of candidacy filed in their offices.

All candidates required to file declarations of candidacy shall pay the same fees and be governed by the same rules as contained in RCW 29.18.030, 29.18.035, and 29.18.060: *Provided*, That no filing fee shall be charged in the event that the office sought is without salary.

This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for filing declarations of candidacy for such city, town, and district elections. [1969 ex.s. c 283 § 56; 1965 ex.s. c 103 § 2; 1965 c 9 § 29.21.060. Prior: 1963 c 200 § 10; 1959 c 247 § 2; 1959 c 175 § 7; 1951 c 101 § 5; 1949 c 161 § 6; 1947 c 234 § 3; 1945 c 194 § 5; Rem. Supp. 1949 § 5166-4.]

Severability—1969 ex.s. c 283: See note following RCW 28A.02.061.

29.21.070 Judicial offices. The offices of justice of the supreme court, judge of the court of appeals, judge of the superior court and justice of the peace shall be nonpartisan and the candidates therefor shall be nominated and elected as such. Not less than ten days before the time for filing declarations of candidacy, each county auditor shall designate how many justices of the peace are to be elected in each precinct in his county. [1971 c 81 § 75; 1965 c 9 § 29.21.070. Prior: (i) 1927 c 155 § 1, part; 1925 ex.s. c 68 § 1, part; 1921 c 116 § 1, part; 1919 c 85 § 1, part; 1911 c 101 § 1, part; 1909 c 82 § 11, part; 1907 c 209 § 38, part; RRS § 5212, part. (ii) 1933 c 85 § 1, part; RRS § 5213-1, part.]

Eligibility of judges: State Constitution Art. 4 § 17.

29.21.080 Offices relative to administration of public schools as nonpartisan. The office of superintendent of public instruction shall be nonpartisan and the candidates therefor shall be nominated and elected as such.

Offices relative to the administration of the public schools, including the office of school director, shall be nonpartisan. [1969 ex.s. c 176 § 87; 1965 c 9 § 29.21.080. Prior: (i) 1939 c 1 § 1; RRS § 5274-1. (ii) 1939 c 1 § 2, part; RRS § 5274-2, part.]

When no primary in certain offices—Prerequisites—Procedure: RCW 29.21.180.

29.21.085 Superintendent of public instruction—Ballot arrangement where voting machines. Where voting machines are legally used in any election for superintendent of public instruction, the ballot arrangement for the aforesaid office shall be substantially in the form as set out in RCW 29.21.090, 29.21.100 and 29.21.150, but may be so varied as to carry out the purposes required by the use of voting machines. [1969 ex.s. c 176 § 88; 1965 c 9 § 29.21.085. Prior: 1939 c 1 § 2, part; RRS § 5274-2, part.]

29.21.090 Arrangement of names on ballots. The names of candidates for nonpartisan office shall appear on election and primary ballots under the proper office designation followed by the instruction "vote for one" unless more than one position is to be filled for the same office in which case the proper word shall be substituted for the word "one." [1965 c 9 § 29.21.090. Prior: (i) 1927 c 155 § 1, part; 1925 ex.s. c 68 § 1, part; 1921 c 116 § 1, part; 1919 c 85 § 1, part; 1911 c 101 § 1, part; 1909 c 82 § 11, part; 1907 c 209 § 38, part; RRS § 5212, part. (ii) 1933 c 85 § 1, part; RRS § 5213-1, part. (iii) 1939 c 1 § 2, part; RRS § 5274-2, part. (iv) 1943 c 25 § 2, part; 1911 c 116 § 7, part; Rem. Supp. 1943 § 9096, part.]

Execution of affidavit as to subversive activities as prerequisite to placing name on ballot: RCW 9.81.100.

29.21.100 Nonpartisan ballot—Place on regular ballot. If at any election or primary, nonpartisan offices are to be filled, a section of the ballot shall be designated "NONPARTISAN BALLOT" and all nonpartisan offices to be filled and the names of all candidates therefor shall appear therein. [1965 c 9 § 29.21.100. Prior: (i) 1927 c 155 § 1, part; 1925 ex.s. c 68 § 1, part; 1921 c 116 § 1, part; 1919 c 85 § 1, part; 1911 c 101 § 1, part; 1909 c 82 § 11, part; 1907 c 209 § 38, part; RRS § 5212, part. (ii) 1933 c 85 § 1, part; RRS § 5213-1, part. (iii) 1939 c 1 § 2, part; RRS § 5274-2, part.]

29.21.110 Supreme, superior court and court of appeals judges—Designation of position. Not less than ten days before the time for filing declarations of candidacy for election to the supreme court, or to the court of appeals for a district comprising more than one county, or to a superior court for a judicial district comprising more than one county, the secretary of state shall in each case designate the positions to be filled by consecutive number commencing with one; the county auditor shall do likewise for the superior court positions and court of appeals positions in counties where a county and judicial district are coextensive.

The judicial positions so designated shall be dealt with as separate offices for all election purposes. [1970 ex.s. c 19 § 1; 1965 c 9 § 29.21.110. Prior: 1927 c 155 § 1, part; 1925 ex.s. c 68 § 1, part; 1921 c 116 § 1, part; 1919 c 85 § 1, part; 1911 c 101 § 1, part; 1909 c 82 § 11, part; 1907 c 209 § 38, part; RRS § 5212, part.]

29.21.120 Judicial ballots—Form. Judicial positions and the candidates therefor shall appear separately on the nonpartisan ballot in substantially the following form:

JUDICIAL ELECTION BALLOT

To vote for a person make a cross (X) in the square at the right of the name of the person for whom you desire to vote.

Form for Judicial Election Ballot with columns for Judges of the Supreme Court and Superior Court, and Justice(s) of the Peace. Includes sections for No. 1, 2, and 3, and options for vacancies or short terms.

[1965 c 9 § 29.21.120. Prior: (i) 1927 c 155 § 1, part; 1925 ex.s. c 68 § 1, part; 1921 c 116 § 1, part; 1919 c 85 § 1, part; 1911 c 101 § 1, part; 1909 c 82 § 11, part; 1907 c 209 § 38, part; RRS § 5212, part. (ii) 1933 c 85 § 1, part; RRS § 5213-1, part.]

29.21.130 Ballots in commission form cities. The ballots for primaries held in cities organized under the commission form of government shall be printed upon plain, substantial, white paper and shall have no party designation or mark whatever. The names of the candidates for each position shall be arranged alphabetically. The ballots shall be in substantially the following form:

OFFICIAL PRIMARY BALLOT

Candidates for nomination for mayor and commissioners of -----

at the PRIMARY ELECTION

(Date) -----

Place a cross in the square opposite the names of the persons you favor as candidates for the respective positions.

Form for Official Primary Ballot with sections for Mayor, Commissioner of Finance and Accounting, and Commissioner of Streets and Public Improvements. Each section includes a 'Vote for One' instruction and a list of dashed lines with squares for marking.

The ballots for the general election shall be in the same general form as for the primary election, so far as applicable. [1965 c 9 § 29.21.130. Prior: 1943 c 25 § 2, part; 1911 c 116 § 7, part; Rem. Supp. 1943 § 9096, part.]

29.21.140 Designation of short terms, unexpired terms, etc. If at the same election there are long terms and short terms or full terms and unexpired terms of office to be filled, the secretary of state or the county auditor, as the case may be, shall distinguish them and designate the short term, the long term, the full term and the unexpired term separately as such, or by use of the words "two year term" or "four year term" as the case may be.

In filing his declaration of candidacy in such cases the candidate shall specify that his candidacy is for the short term, the long term, the full term or the unexpired term as the case may be. [1965 c 9 § 29.21.140. Prior: (i) 1927 c 155 § 1, part; 1925 ex.s. c 68 § 1, part; 1921 c 116 § 1, part; 1919 c 85 § 1, part; 1911 c 101 § 1, part; 1909 c 82 § 11, part; 1907 c 209 § 38, part; RRS § 5212, part. (ii) 1933 c 85 § 1, part; RRS § 5213-1, part.]

Term of person elected to fill vacancy: RCW 42.12.030.

Vacancies in public office, how filled: RCW 42.12.010.

29.21.150 Determining nominees for single positions.

The name of the person who receives the greatest number of votes and of the person who receives the next greatest number of votes at the primary for a single nonpartisan position shall appear on the general election ballot under the designation therefor: *Provided*, That in elections for justices of the supreme court, judges of the court of appeals and judges of the superior court, for justices of the peace, and for state superintendent of public instruction, and for directors of first class school districts, if any candidate in the primary receives a majority of all the votes cast for the position, only the name of the person receiving the highest vote shall be printed on the general election ballot under the designation for that position, followed by a space for the writing in of any other name by a voter: *Provided further*, That the provisions of Article IV, Section 29 of the Washington Constitution shall apply to offices of judges of the court of appeals. [1970 ex.s. c 10 § 1. Prior: 1969 ex.s. c 283 § 57; 1969 ex.s. c 221 § 11; 1965 c 9 § 29.21.150; prior: (i) 1939 c 1 § 2, part; RRS § 5274-2, part. (ii) 1927 c 155 § 1, part; 1925 ex.s. c 68 § 1, part; 1921 c 116 § 1, part; 1919 c 85 § 1, part; 1911 c 101 § 1, part; 1909 c 82 § 11, part; 1907 c 209 § 38, part; RRS § 5212, part. (iii) 1943 c 25 § 2, part; 1911 c 116 § 7, part; Rem. Supp. 1943 § 9096, part. (iv) 1933 c 85 § 1, part; RRS § 5213-1, part.]

Municipal courts—Cities over five hundred thousand: Chapter 35-20 RCW.

Municipal departments: Chapter 3.46 RCW.

Municipal departments—Alternate provision: Chapter 3.50 RCW.

Police courts, first class cities: Chapter 35.22 RCW.

Police courts, second class cities: Chapter 35.23 RCW.

Police courts, third class cities: Chapter 35.24 RCW.

Police courts, towns: Chapter 35.27 RCW.

29.21.160 Determining nominees for multiple positions. If there are two or more places to be filled for nonpartisan office, the number of candidates equalling the number of positions to be filled who receive the highest number of votes at the primary and an equal number who receive the next highest number of votes shall appear under the designation for that office: *Provided*, That the names of any candidates therefor who receive a majority of all of the votes cast at the primary for that office, shall be printed separately as candidates for that office under the designation "Vote for -----" followed by blank spaces equaling the number of such majority candidates for the writing in of any other name by a voter. [1965 c 9 § 29.21.160. Prior: 1933 c 85 § 1, part; RRS § 5213-1, part.]

Reviser's note: RCW 29.21.160 and 29.21.170 as presently constituted were derived from a 1933 act dealing specifically with justices of the peace; the 1941 code committee revised these sections so as to be applicable to all nonpartisan offices. Subsequent legislation providing for multiple positions to be filled, and enacted with apparent reliance upon the validity of the substantive content of said sections, necessitated retaining the 1941 code committee version in the 1965 elections code reenactment act.

29.21.170 Determining nominees for multiple positions—Quota necessary for placement on ticket as unopposed. The quota necessary to constitute a majority of votes cast in a nonpartisan primary for multiple places in the same office is one more than the quotient obtained by dividing the sum of all votes cast for all candidates for that office by twice the number of places to be filled. If it appears that a number of candidates equal to, or exceeding, the number of places to be filled have received this quota, there shall be printed on the ballot only the names of the candidates who received the highest number of votes and equal to the number of places to be filled. [1965 c 9 § 29.21.170. Prior: 1933 c 85 § 1, part; RRS § 5213-1, part.]

Reviser's note: See note following RCW 29.21.160.

29.21.180 When no primary in certain offices—Prerequisites—Procedure. No primary shall be held relating to the office of state superintendent of public instruction or, except for school districts of the first class having an enrollment of fifty thousand pupils or more in class AA counties, officers of other first class school districts if, after the last day allowed for candidates to withdraw, there are no more than two candidates filed for each position to be filled. In such event all candidates concerned shall be notified. Names of candidates that would have been printed upon the primary ballot, but for the provisions of this section, shall be printed upon the general election ballot alphabetically in groups under the designation of the respective titles of the offices for which they are candidates. [1973 2nd ex.s. c 21 § 7; 1970 ex.s. c 10 § 2. Prior: 1969 ex.s. c 283 § 58; 1969 c 131 § 1; 1965 c 9 § 29.21.180; prior: 1959 c 247 § 1; 1955 c 101 § 1.]

Severability—1973 2nd ex.s. c 21: See note following RCW 28A.57.312.

29.21.190 School directors in district embracing city over one hundred thousand—Nonpartisan. The office of school director for school districts embracing a city of over one hundred thousand population shall be nonpartisan and the candidates therefor shall be nominated and elected as such. [1965 c 9 § 29.21.190. Prior: 1959 c 247 § 3.]

Directors—Elections—Terms—Number—Declaration of candidacy: RCW 28A.57.312.

29.21.200 School directors in district embracing city over one hundred thousand—Declarations of candidacy—Designation of positions. Candidates for school director in school districts embracing a city of over one hundred thousand population shall file their declarations of candidacy as provided in RCW 29.21.060. Not less than ten days before the time of filing such declarations of candidacy, the county auditor shall designate the positions to be filled by consecutive number, commencing with one. The positions so designated for school directors in each district shall be dealt with as separate offices for all election purposes, and where more than one position is to be filled, each candidate shall file for one of the positions so designated: *Provided*, That in first class school districts nominating and

electing school directors by director districts, candidates shall file for such director districts. [1965 c 9 § 29.21-200. Prior: 1959 c 247 § 4.]

29.21.210 School directors in district embracing city over one hundred thousand—Ballots—Form. Except for school districts of the first class having an enrollment of fifty thousand pupils or more in class AA counties, the positions of school directors for school districts embracing a city of over one hundred thousand population and the candidates therefor shall appear separately on the nonpartisan ballot in substantially the following form:

SCHOOL DIRECTOR ELECTION BALLOT

To vote for a person make a cross (X) in the square at the right of the name of the person for whom you desire to vote.

School District Directors
----- to be nominated.

No. 1
Vote for One

No. 2
Vote for One

To Fill Unexpired Term
No. -----
2 (or 4) year term
Vote for One

[1973 2nd ex.s. c 21 § 8; 1969 c 131 § 2; 1965 c 9 § 29-21.210. Prior: 1959 c 247 § 5.]

Severability—1973 2nd ex.s. c 21: See note following RCW 28A.57.312.

29.21.220 School directors in district embracing city over one hundred thousand—When nominating primary held—Costs. Nominating primaries for school directors in school districts embracing a city of over one hundred thousand population shall be held as provided in RCW 29.13.070, and such school districts shall bear their share of the primary election costs as provided in RCW 29.13.045. [1965 c 7 § 29.21.220. Prior: 1959 c 247 § 6.]

29.21.230 School directors in district embracing city over one hundred thousand—Names of candidates to appear on general election ballot. Except for school districts of the first class having an enrollment of fifty thousand pupils or more in class AA counties, the name of the person who receives the greatest number of votes

and of the person who receives the next greatest number of votes at the primary for a school district position of school director for school districts embracing a city of over one hundred thousand population shall appear on the general election ballot under the designations therefor: *Provided*, That if any candidate for a position receives a majority vote, his name alone shall be placed on the general election ballot for that position. [1973 2nd ex.s. c 21 § 9; 1969 c 131 § 3; 1965 c 9 § 29.21.230. Prior: 1959 c 247 § 7.]

Severability—1973 2nd ex.s. c 21: See note following RCW 28A.57.312.

29.21.300 Procedure at primary—General election laws apply. See RCW 29.18.120.

29.21.310 Statement of expense of candidate—Penalty. See RCW 42.17.030-42.17.140, 42.17.390 and 42.17.400.

29.21.320 Contest of nomination at primaries. See RCW 29.65.130.

29.21.330 County freeholders—Designation of positions—Rotation of names on ballots. Not less than ten days before the time for filing declarations of candidacy for election as freeholders under Article XI, section 4, of the state Constitution, and after the county commissioners have determined the number of positions to be filled in either the legislative or county commissioner districts, the county auditor shall designate the positions to be filled by consecutive number, commencing with one. The positions to be designated shall be dealt with as separate offices for all election purposes, and each candidate shall file for one, but only one, of the positions so designated.

In the printing of ballots the positions of the names of candidates for each numbered position shall be changed as many times as there are candidates for the numbered position, following insofar as applicable the procedure provided for in RCW 29.30.040 for the rotation of names on primary ballots, the intention being that ballots at the polls will reflect as closely as practicable the rotation procedure as provided for herein. [1967 ex.s. c 130 § 1.]

29.21.350 Void in candidacy—When occurs. A void in candidacy for a nonpartisan office occurs when an election for such office has been scheduled and no valid declaration of candidacy has been filed for the position or all persons filing such valid declarations of candidacy have died or been disqualified. [1972 ex.s. c 61 § 1.]

Severability—1972 ex.s. c 61: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 61 § 8.] This applies to RCW 29.21.350-29.21.410.

29.21.360 Later filing period due to void in candidacy, vacancy in office or nominee for court of appeals or superior court dies or disqualified. Filings for a nonpartisan office shall be opened for a period of three normal

business days, such three day period to be fixed by the election officer with whom such declarations of candidacy are filed and notice thereof given by notifying press, radio, and television in the county and by such other means as may now or hereafter be provided by law whenever before the fourth Tuesday prior to a primary:

(1) A void in candidacy occurs;

(2) A vacancy occurs in any nonpartisan office leaving an unexpired term to be filled by an election for which filings have not been held; or

(3) A nominee for judge of the court of appeals or of the superior court entitled to a certificate of election pursuant to Article 4, section 29, Amendment 41 of the state Constitution, dies or is disqualified.

Candidacies validly filed within said three-day period shall appear on the ballot as if made during the earlier filing period. [1972 ex.s. c 61 § 2.]

29.21.370 Reopening of filings due to void in candidacy or nominee for court of appeals or superior court dies or disqualified. Filings for a nonpartisan office (other than judge of the supreme court or superintendent of public instruction) shall be reopened for a period of three normal business days, such three day period to be fixed by the election officer with whom such declarations of candidacy are filed and notice thereof given by notifying press, radio, and television in the county and by such other means as may now or hereafter be provided by law, when:

(1) A void in candidacy for such nonpartisan office occurs on or after the fourth Tuesday prior to a primary but prior to the fourth Tuesday before an election; or

(2) A nominee for judge of the court of appeals or of the superior court eligible after a contested primary for a certificate of election by Article 4, section 29, Amendment 41 of the state Constitution, dies or is disqualified within the ten day period when a petition for write-in candidacy may be received.

The candidate receiving a plurality of the votes cast for that office in the general election shall be deemed elected. [1972 ex.s. c 61 § 3.]

29.21.380 Scheduled election lapses, when. A scheduled election shall be lapsed, the office deemed stricken from the ballot, no purported write-in votes counted, and no candidate certified as elected, when:

(1) In an election for judge of the supreme court or superintendent of public instruction, a void in candidacy occurs on or after the fourth Tuesday prior to a primary, public filings and the primary being an indispensable phase of the election process for such offices;

(2) Except as otherwise specified in RCW 29.21.370, a nominee for judge of the court of appeals or of the superior court entitled to a certificate of election pursuant to Article 4, section 29, Amendment 41 of the state Constitution dies or is disqualified on or after the fourth Tuesday prior to a primary;

(3) In other elections for nonpartisan office a void in candidacy occurs on or after the fourth Tuesday prior to an election. [1972 ex.s. c 61 § 4.]

29.21.390 Notice of void in candidacy. The election officer with whom declarations of candidacy are filed shall give notice of a void in candidacy for a nonpartisan office, by notifying press, radio, and television in the county and by such other means as may now or hereafter be provided by law. The notice shall state the office, and the time and place for filing declarations of candidacy. [1972 ex.s. c 61 § 5.]

29.21.400 Filings to fill void in candidacy—How made. Filings to fill a void in candidacy for nonpartisan office shall be made in the same manner and with the same official as required during the regular filing period for such office: *Provided*, That nominating signature petitions which may be required of candidates filing for certain district offices during the normal filing period shall not be required of candidates filing during the special three day filing period. [1972 ex.s. c 61 § 6.]

29.21.410 Special election in cities, towns or districts to fill unexpired term to be held in concert with next general election. Whenever it shall be necessary to hold a special election to fill an unexpired term of an elective office of any city, town, or district, such special election shall be held in concert with the next general election which is to be held by the respective city, town, or district concerned for the purpose of electing officers to full terms: *Provided*, That this section shall not apply to any city of the first class whose charter provision relating to elections to fill unexpired terms are inconsistent herewith. [1972 ex.s. c 61 § 7.]

Chapter 29.24

NOMINATIONS OTHER THAN BY PRIMARY

Sections

29.24.010	Definition—"Convention"
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29.24.030	Minor party convention—Procedure.
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29.24.090	Transmittal of minor party nominations.
29.24.110	Nominations in towns.

29.24.010 Definition—"Convention". A "convention" for the purposes of this chapter, is an organized assemblage of at least one hundred registered voters representing a new or minor political party, organization or principle, or in lieu thereof ten registered voters from each congressional district in the state of Washington. [1965 c 9 § 29.24.010. Prior: 1955 c 102 § 2; prior: 1937 c 94 § 2, part; RRS § 5168, part.]

Congressional districts: Chapter 29.68 RCW.

Minor political party defined: RCW 29.01.100.

Registration of voters: Chapter 29.07 RCW.

29.24.020 Minor parties must hold convention on state primary day. Any new or minor political party is not entitled to participate in a state primary election but must nominate candidates for public office in a

convention held on the same day that state primary elections are held. [1965 c 9 § 29.24.020. Prior: 1955 c 102 § 3; prior: (i) 1937 c 94 § 1; RRS § 5167. (ii) 1937 c 94 § 4; RRS § 5170. (iii) 1937 c 94 § 10; RRS § 5170-6. (iv) 1907 c 209 § 26, part; RRS § 5203, part.]

Reviser's note: Former laws embodying primary elections for the nomination of minor party candidates for public office may be found in 1889 p 400 § 2, 1889 pp 419-427 §§ 1-26 and 1895 c 145 §§ 1-19.

Primaries, when held: RCW 29.13.070.

29.24.030 Minor party convention—Procedure. To be valid, a minor party convention must:

(1) Be attended by at least one hundred registered voters; or in lieu thereof ten registered voters from each congressional district in the state of Washington;

(2) Have been called by a notice published in a newspaper of general circulation published in the county in which the convention is to be held at least ten days before the date of the primary election stating the date, hour, place of meeting and a general statement of the principles of the organization. [1965 c 9 § 29.24.030. Prior: 1955 c 102 § 4; prior: (i) 1937 c 94 § 2, part; RRS § 5168, part. (ii) 1937 c 94 § 3; RRS § 5169.]

29.24.040 Certificate of nomination—Requisites. A certificate evidencing nominations made at a minority party convention must:

(1) Be in writing;

(2) Contain the name of each person nominated, his residence, his business, and the office for which he is named; together with a sworn statement of each nominee giving his consent to the said nominations;

(3) Designate in not more than five words the party or principle which the convention represents;

(4) Be verified by the oath of the presiding officer and secretary;

(5) Be signed by at least one hundred registered voters present at the convention and who did not vote at the primary election held on that day, or in lieu thereof be signed by at least ten registered voters from each congressional district in the state of Washington present at a convention, and who did not vote at the primary election held on that day;

(6) Show the voting addresses of all signers;

(7) Contain proof of publication of the notice of calling the convention. [1965 c 9 § 29.24.040. Prior: 1955 c 102 § 5; prior: 1937 c 94 § 5, part; RRS § 5170-1, part.]

Requirements of candidates for public office under subversive activities act: Chapter 9.81 RCW.

29.24.050 Certificate of nomination—What signatures invalid. The signature of a minor party nominating certificate of a person who voted in the primary held on the day of the convention is invalid. [1965 c 9 § 29.24.050. Prior: 1955 c 102 § 6; prior: 1937 c 94 § 5, part; RRS § 5170-1, part.]

29.24.060 Certificate of nomination—Checking signatures. Upon the receipt of the certificate of nomination of a minor party nominating convention, the secretary of state shall check from the records the required signatures thereto to ascertain if the signers are

registered voters and whether said signers voted at the primary election held on the same day as said convention. If the secretary of state finds that the certificate is defective or does not comply with law he shall refuse to file the same and any declarations of candidacy of candidates nominated by such convention. [1965 c 9 § 29.24.060. Prior: 1937 c 94 § 6; RRS § 5170-2.]

29.24.070 Declarations of candidacy required. If the nominating certificate is valid, each candidate nominated by a minor party convention may file with the secretary of state a declaration of candidacy as nearly as possible in the form prescribed for candidates subject to primary election, and each candidate must at the time of filing such declaration pay to the secretary of state the fee prescribed by law for candidates subject to primary election. The name of a candidate nominated at a minor party convention shall not be printed upon the election ballot unless he pays the fee required by law to be paid by candidates for the same office to be nominated at a primary election. [1965 c 9 § 29.24.070. Prior: 1955 c 102 § 7; prior: (i) 1937 c 94 § 7, part; RRS § 5170-3, part. (ii) 1907 c 209 § 26, part; RRS § 5203, part.]

29.24.080 Filing dates for certificates and declarations. The certificate of nominations made by a minor party convention, and the declarations of candidacy of the individual candidates nominated may be filed with the secretary of state at any time after said convention is held, but such filing must be complete not later than the first Tuesday after the date of the September primaries. [1965 c 9 § 29.24.080. Prior: 1961 c 130 § 14; prior: (i) 1937 c 94 § 8; RRS § 5170-4. (ii) 1950 ex.s. c 14 § 19.]

29.24.090 Transmittal of minor party nominations. If any nominations made by such convention are intended for county, district or other local offices and valid declarations of candidacy have been filed, the secretary of state shall transmit the same to the appropriate county officers for printing upon the official ballot at the same time and in the same manner as nominations for other offices are transmitted, and shall at the same time transmit the filing fees of such county, district or local candidates to the respective county treasurers. [1965 c 9 § 29.24.090. Prior: 1937 c 94 § 9; RRS § 5170-5.]

29.24.110 Nominations in towns. Fourth class municipalities shall not hold primaries and the election of town officers shall be nonpartisan. Not less than ninety days prior to the holding of a town election, the town council shall by ordinance prescribe as the method for nominating candidates, either the holding of a caucus or caucuses, in which case it shall further prescribe regulations therefor, or the filing of declarations of candidacy.

If caucuses are provided for, the town clerk shall publish once in a newspaper having general circulation within the county at least ten days prior to the date thereof, a notice of any caucus. If there be no such newspaper, notice shall be posted ten days prior to date

of the caucus. at the three most prominent places in town.

If declarations of candidacy are provided for, they shall be filed with the town clerk not more than sixty nor less than forty-six days prior to the election, and shall be accompanied by a filing fee equal to one percent of the annual salary of the office: *Provided*, That no filing fee shall be charged in the event that the office sought is without salary.

Declarations of candidacy shall substantially conform to the form set forth in RCW 29.18.030. Any candidate may withdraw his declaration at any time to and including the first Friday after the last day allowed for filing declarations of candidacy.

If, by law, the county auditor, as ex officio supervisor of elections, has jurisdiction over such town election, the town clerk shall at least thirty-five days prior thereto, submit to him a certified list of candidates. [1965 c 9 § 29.24.110. Prior: 1963 c 200 § 11; 1951 c 101 § 3; 1949 c 161 § 4; Rem. Supp. 1949 § 5179-2.]

Filing list of nominees—Towns: RCW 29.27.040.

Publication of legal notices: Chapter 65.16 RCW.

Requirements of candidates for public office under subversive activities act: Chapter 9.81 RCW.

Chapter 29.27 CERTIFICATES AND NOTICES

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29.27.010 Certifying list of offices for consolidated elections in counties. The governing board of every city, town or district subject to RCW 29.13.010, 29.13.020 or 29.13.030, shall certify to the county auditor as ex officio county supervisor of elections a list of the offices to be filled at an election at least forty-five days before the date of election. [1965 c 9 § 29.27.010. Prior: 1923 c 53 § 6, part; RRS § 5148–2, part.]

Reviser's note: RCW 29.13.030 was repealed by 1965 c 123 § 9(12); later enactment, see RCW 29.13.020.

29.27.020 Certifying candidates before primary by secretary of state. Prior to any September primary, on or before the first Wednesday following the last day for political parties to fill vacancies in the ticket as provided by RCW 29.18.150, the secretary of state shall transmit to each county auditor a certified list of the candidates for office to be voted for in each county as represented by the declarations of candidacy and nomination papers filed in his office. The certificate shall set forth the name of each candidate, his post office address, the office for which he is a candidate and his party designation. [1965 ex.s. c 103 § 4; 1965 c 9 § 29.27.020. Prior: 1949 c 161 § 10, part; 1947 c 234 § 2, part; 1935 c 26 § 1, part; 1921 c 178 § 4, part; 1907 c 209 § 8, part; Rem. Supp. 1949 § 5185, part.]

Minor party nominations, transmittal by secretary of state: RCW 29.24.090.

29.27.030 Notice of primary election. Not more than ten nor less than three days prior to the primary election the county auditor shall publish notice of such primary in one or more newspapers of general circulation within the county. Said notice shall contain the proper party designations, the names and addresses of all persons who have filed a declaration of candidacy to be voted upon at that primary election, the hours during which the polls will be open, and that the election will be held in the regular polling place in each precinct, giving the address of each polling place: *Provided*, That the names of all candidates for nonpartisan offices shall be published separately with designation of the offices for which they are candidates but without party designation. This shall be the only notice required for the holding of any primary election. [1965 c 9 § 29.27.030. Prior: 1949 c 161 § 10, part; 1947 c 234 § 2, part; 1935 c 26 § 1, part; 1921 c 178 § 4, part; 1907 c 209 § 8, part; Rem. Supp. 1949 § 5185, part.]

29.27.040 Filing list of nominees—Towns. Clerks of fourth class towns shall certify and file a list of nominees with the county auditor not less than thirty-five days before the election. [1965 c 9 § 29.27.040. Prior: 1951 c 101 § 6; 1949 c 161 § 7; 1947 c 234 § 4; 1921 c 178 § 2; 1889 p 403 § 8; Rem. Supp. 1949 § 5172.]

29.27.045 Proclamation of offices to be filled at general election. It shall be the duty of the governor, at least sixty days before any general election, to issue his proclamation, designating the offices to be filled by the state at large at such election, and to transmit a copy thereof to the county auditor of each county. [1965 c 9 § 29.27.045. Prior: Code 1881 § 3058; 1865 p 27 § 4; RRS § 5156.]

29.27.050 Certification of nominees by secretary of state. As soon as possible but in any event no later than the fifth day following official certification of the returns of any primary election as made by the canvassing board, the secretary of state shall certify to the county auditor of each county within which any of the electors may by law vote for candidates for such office, the name and place of residence of each person nominated

for such office, as specified in the certificates of nomination filed with the secretary of state. [1965 ex.s. c 103 § 7; 1965 c 9 § 29.27.050. Prior: 1961 c 130 § 19; 1889 p 403 § 9; RRS § 5173.]

29.27.060 Certification of measures generally—Ballot titles. When a proposed constitution or constitutional amendment or other question is to be submitted to the people of the state for state-wide popular vote, the attorney general shall prepare a concise statement posed as a question and not exceeding twenty words containing the essential features thereof expressed in such a manner as to clearly identify the proposition to be voted upon.

Questions to be submitted to the people of a county or municipality shall also be advertised as provided for nominees for office, and in such cases there shall also be printed on the ballot a concise statement posed as a question and not exceeding twenty words containing the essential features thereof expressed in such a manner as to clearly identify the proposition to be voted upon, which statement shall be prepared by the city attorney for the city, and by the prosecuting attorney for the county or any other political subdivision of the state, other than cities, situated in the county.

Such concise statement shall constitute the ballot title. The secretary of state shall certify to the county auditors the ballot title for a proposed constitution, constitutional amendment or other state-wide question at the same time and in the same manner as the ballot titles to initiatives and referendums. [1973 1st ex.s. c 118 § 1; 1965 c 9 § 29.27.060. Prior: 1953 c 242 § 1; 1913 c 135 § 1; 1889 p 405 § 14; RRS § 5271.]

Ballot titles to initiatives and referendums: RCW 29.79.040–29.79.070. Review of proposed initiatives by code reviser: RCW 29.79.015.

29.27.065 Certification of measures generally—Notice of ballot title to persons proposing measure. Upon the filing of a ballot title as defined in RCW 29.27.060, the secretary of state, in event it is a state question, or the county auditor in the event it is a county or other local question, shall forthwith notify the persons proposing the measure of the exact language of the ballot title. [1965 c 9 § 29.27.065. Prior: 1953 c 242 § 3.]

29.27.067 Certification of measures generally—Ballot title—Appeal to superior court. If the persons filing any state or local question covered by RCW 29.27.060 are dissatisfied with the ballot title formulated by the attorney general, city attorney, or prosecuting attorney preparing the same, they may at any time within ten days from the time of the filing of the ballot title appeal to the superior court of Thurston county if it is a state-wide question, or to the superior court of the county where the question is to appear on the ballot, if it is a county or local question, by petition setting forth the measure, the ballot title objected to, their objections to the ballot title and praying for amendment thereof. The time of the filing of the ballot title, as used herein in determining the time for appeal, is the time the ballot title is first filed with the secretary of state, if concerning a state-wide question, or the county auditor,

if a local question, the secretary of state or the county officer being herein called the "filing officer."

A copy of the petition on appeal together with a notice that an appeal has been taken shall be served upon the filing officer and the official preparing the ballot title. Upon the filing of the petition on appeal, the court shall forthwith, or at the time to which a hearing may be adjourned by consent of the appellants, examine the proposed measure, the ballot title filed and the objections thereto and may hear arguments thereon, and shall as soon as possible render its decision and certify to and file with the filing officer such ballot title as it determines will meet the requirements of this chapter. The decision of the superior court shall be final, and the title so certified shall be the established ballot title. Such appeal shall be heard without cost to either party. [1965 c 7 § 29.27.067. Prior: 1953 c 242 § 4.]

29.27.072 Notice of constitutional amendments and laws authorizing state debts—Publication in newspapers and on radio and television. The secretary of state shall cause notice of the proposed constitutional amendments and laws authorizing state debts that are to be submitted to the people to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state and shall supplement publication thereof by radio and television broadcast as provided in RCW 65.16.130, 65.16.140, and 65.16.150. [1967 c 96 § 1; 1965 c 9 § 29.27.072. Prior: 1961 c 176 § 1.]

29.27.074 Notice of constitutional amendments and laws authorizing state debts—Contents. The notice provided for in RCW 29.27.072 shall set forth the following information:

- (1) A legal identification of the state measure to be voted upon.
- (2) The official ballot title of such state measure.
- (3) A brief statement explaining the constitutional provision or state law as it presently exists.
- (4) A brief statement explaining the effect of the state measure should it be approved.
- (5) The total number of votes cast for and against the measure in both the state senate and house of representatives. [1967 c 96 § 2; 1965 c 9 § 29.27.074. Prior: 1961 c 176 § 2.]

29.27.076 Notice of constitutional amendments and laws authorizing state debts—Attorney general to prepare explanatory statement for notice, judicial appeal. The attorney general shall, by the first day of July preceding each general election, prepare the explanatory statements required in RCW 29.27.074. Such statements shall be prepared in clear and concise language and shall avoid the use of legal and other technical terms insofar as possible. Any person dissatisfied with the explanatory statement so prepared may at any time within ten days from the filing thereof in the office of the secretary of state appeal to the superior court of Thurston county by petition setting forth the proposed state measure, the explanatory statement prepared by the attorney general, and his objection thereto and praying for

the amendment thereof. A copy of the petition and a notice of such appeal shall be served on the secretary of state and the attorney general. The court shall, upon filing of the petition, examine the proposed state measure, the explanatory statement, and the objections thereto and may hear argument thereon and shall, as soon as possible, render its decision and certify to and file with the secretary of state such explanatory statement as it determines will meet the requirement of RCW 29.27.072 through 29.27.076. The decision of the superior court shall be final and its explanatory statement shall be the established explanatory statement. Such appeal shall be heard without costs to either party. [1967 c 96 § 3; 1965 c 9 § 29.27.076. Prior: 1961 c 176 § 3.]

29.27.080 Notice of election—Certification of measures. Notice for any state, county, district, or municipal election, whether special or general, shall be given by at least one publication not more than ten nor less than three days prior to the election by the county auditor or the officer conducting the election as the case may be, in one or more newspapers of general circulation within the county. Said legal notice shall contain the title of each office under the proper party designation, the names and addresses of all officers who have been nominated for an office to be voted upon at that election, together with the ballot titles of all measures, the hours during which the polls will be open, and that the election will be held in the regular polling places in each precinct, giving the address of each polling place: *Provided*, That the names of all candidates for nonpartisan offices shall be published separately with designation of the offices for which they are candidates but without party designation. This shall be the only notice required for a state, county, district or municipal general or special election and shall supersede the provisions of any and all other statutes, whether general or special in nature, having different requirements for the giving of notice of any general or special elections. [1965 c 9 § 29.27.080. Prior: 1955 c 153 § 1; 1951 c 101 § 7; 1949 c 161 § 11; Rem. Supp. 1949 § 5148-3a.]

Publication of diagrams: RCW 29.33.180.

29.27.090 Preservation of nominating certificates. The secretary of state, county auditor of each county, and clerks of the several municipal corporations shall preserve all certificates of nomination filed in their respective offices for six months. All certificates shall be open to public inspection under proper regulations made by the officer with whom they are filed. [1965 c 9 § 29.27.090. Prior: 1921 c 178 § 1, part; 1915 c 11 § 1, part; 1907 c 130 § 1, part; 1889 p 402 § 7, part; Code 1881 § 3067, part; 1865 p 30 § 1, part; RRS § 5171, part.]

29.27.100 Certificates of election to officers elected in county or lesser constituency. Immediately after the ascertainment of the result of an election for an office to be filled by the voters of a single county, or of a precinct, or of a constituency within a county for which he serves as supervisor of elections, the county auditor

shall notify the person elected, and upon his demand issue to him a certificate of his election. [1965 c 9 § 29-27.100. Prior: 1961 c 130 § 8; prior: Code 1881 § 3096, part; 1866 p 6 § 2, part; 1865 p 39 § 7, part; RRS § 5343, part.]

Tie votes in final election: RCW 29.62.080.

29.27.110 Certificates of election to other officers. Except as provided in the state Constitution, the governor shall issue certificates of election to those elected as senator or representative in the congress of the United States and to state offices. The secretary of state shall issue certificates of election to those elected to the office of judge of the superior court in judicial districts comprising more than one county and to those elected to either branch of the state legislature in legislative districts comprising more than one county. [1965 c 9 § 29-27.110. Prior: (i) 1933 c 92 § 1; RRS § 5343-1. (ii) Code 1881 § 3100, part; No RRS.]

Judges of their own election and qualification—Quorum: State Constitution Art. 2 § 8.

Returns of elections, canvass, etc.: State Constitution Art. 3 § 4.

Tie votes in final election: RCW 29.62.080.

29.27.120 Certificate not withheld for informality in returns. No certificate shall be withheld on account of any defect or informality in the returns of any election, if it can with reasonable certainty be ascertained from such return what office is intended, and who is entitled to such certificate, nor shall any commission be withheld by the governor on account of any defect or informality of any return made to the office of the secretary of state. [1965 c 9 § 29.27.120. Prior: Code 1881 § 3102; 1865 p 41 § 13; RRS § 5347.]

29.27.130 Certificates of nomination and ballots—Fraud as to. See RCW 29.85.100.

Chapter 29.30 BALLOTS

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29.30.010 Primary ballots—General form. Every primary ballot shall be uniform in color and size, shall be white and printed in black ink. Across the head of each ballot shall be printed in plain, black type, first, the words, "Primary Election Ballot," and below that, the county, in which the ballot is to be used. Then shall follow the words "To vote for a person mark a cross in the first square at the right of the name of the person for whom you desire to vote." Beginning at the top of the left hand column, at the left of the line, in black type, shall appear the name of the position for which the names following are candidates, and to the extreme right of the same line the words, "Vote for," then the words "One," "Two," or a spelled number designating how many persons under that head are to be voted for. Following this shall come the names of all candidates for that position inclosed in a light faced rule, each followed by the name of the political party, if any, with which the candidate desires to affiliate, with a square to the right, said square being separated by a heavy black face rule, the parallel rules containing the names and squares to be one-sixth of an inch apart. Each position with the names running for that office, shall be separated from the following one by a black face rule. There shall be no printing upon the back of the ballots nor any mark thereon to distinguish them. [1965 c 9 § 29.30.010. Prior: (i) 1935 c 26 § 2, part; 1933 c 95 § 2, part; 1917 c 71 § 1, part; 1909 c 82 § 3, part; 1907 c 209 § 10, part; RRS § 5187, part. (ii) 1909 c 82 § 5, part; 1907 c 209 § 13, part; RRS § 5190, part.]

29.30.020 Primary ballots—Arrangement of positions. The positions on a primary ballot shall be arranged substantially as follows: First, United States senator; next, congressional; next, justices of supreme court; next, judges of the court of appeals; next, judges of superior court; next, other state officers; next, legislative; next, county officers; next, precinct officers; next, justice of the peace; next, precinct committeemen.

There shall be a blank space left following the list of names of candidates for each office for writing in the name of a candidate, if desired. [1971 c 81 § 76; 1965 c 9 § 29.30.020. Prior: 1935 c 26 § 2, part; 1933 c 95 § 2, part; 1917 c 71 § 1, part; 1909 c 82 § 3, part; 1907 c 209 § 10, part; RRS § 5187, part.]

29.30.030 Primary ballots—Suggested model. The form of primary ballots shall be substantially as follows:

(FORM OF BALLOT)
PRIMARY ELECTION BALLOT
----- County

To vote for a person make a cross in the square to the RIGHT of the name of the person for whom you desire to vote.

UNITED STATES SENATOR	Vote for One
Adams, Frank C.	Democrat <input type="checkbox"/>
Haddock, R. A.	Republican <input type="checkbox"/>
Johnson, Oscar F.	Republican <input type="checkbox"/>

(and so on with the other officers in order.)

Where voting machines are legally used in any county, city, or other municipality, the ballot arrangement of candidates to be voted on at the primary shall be substantially in form with that heretofore set forth in this section, but may be varied so as to carry out the purposes required by use of voting machines. [1965 c 9 § 29.30.030. Prior: 1935 c 26 § 2, part; 1933 c 95 § 2, part; 1917 c 71 § 1, part; 1909 c 82 § 3, part; 1907 c 209 § 10, part; RRS § 5187, part.]

29.30.040 Primary ballots—Rotating names of candidates. The names of candidates for each office upon primary ballots under the heading designating each official position upon the ballots to be used in voting, shall be first arranged in the order in which their declarations of candidacy were filed. In printing each set of ballots for the several counties, the positions of the names of candidates shall be changed in each office division as many times as there are candidates in the office division in which there are the most names. As nearly as possible an equal number of ballots shall be printed after each change. In making the changes of position, the printer shall take the line of type at the head of each office division and place it at the bottom of the division and shove up the column so that the name that before was second, shall be first, after the change. After the ballots are printed they shall be kept in separate piles, one pile for each change of position, and shall then be gathered by taking one from each pile; the intention being that every other ballot at the polls shall have the names in a different position. [1965 c 9 § 29.30.040. Prior: 1909 c 82 § 5, part; 1907 c 209 § 13, part; RRS § 5190, part.]

29.30.050 Primary ballots—Numbering. After the ballots have been gathered as provided in RCW 29.30.040, they shall be numbered consecutively, said numbering to be perforated and torn off by the election

officers on the voting of the ballot. [1965 c 9 § 29.30.050. Prior: 1909 c 82 § 5, part; 1907 c 209 § 13, part; RRS § 5190, part.]

29.30.060 Primary ballots—Samples. On the fifteenth day before a primary election, the county auditor shall prepare at once a sample ballot which he shall post in a conspicuous place in his office for public inspection. Sample ballots shall be substantially in the same form as the official ballots but upon colored paper and the names of the candidates for each office shall be arranged thereon in the order in which their declarations of candidacy were filed and need not be alternated. [1965 c 9 § 29.30.060. Prior: (i) 1935 c 26 § 2, part; 1933 c 95 § 2, part; 1917 c 71 § 1, part; 1909 c 82 § 3, part; 1907 c 209 § 10, part; RRS § 5187, part. (ii) 1909 c 82 § 5, part; 1907 c 209 § 13, part; RRS § 5190, part.]

29.30.075 Primary ballots for absentee voters, date prepared. At least twenty days before any primary, each county auditor shall have prepared sufficient ballots for use by absentee voters. [1965 ex.s. c 103 § 5; 1965 c 9 § 29.30.075. Prior: 1949 c 161 § 10, part; 1947 c 234 § 2, part; 1935 c 26 § 1, part; 1921 c 178 § 4, part; 1907 c 209 § 8, part; Rem. Supp. 1949 § 5185, part.]

Absentee service voter's ballots to be printed as soon as possible: RCW 29.39.180.

29.30.080 General election ballots—Form. All general election ballots prepared under the provisions of this title shall conform to the following requirements:

(1) Shall be of white and a good quality of paper, and the names shall be printed thereon in black ink.

(2) Every ballot shall contain the name of every candidate whose nomination for any office specified in the ballot has been filed according to the provisions of this title and no other names.

(3) All nominations of any party or group of petitioners shall be placed under the title of such party of petitioners as designated by them in their certificate of nomination or petition, and the name of each nominee shall be placed under the designation of the office for which he has been nominated.

(4) There shall be a at the right of the name of each of its nominees so that a voter may clearly indicate the candidate or the candidates for whom he wishes to cast his ballot. The square shall be one-fourth of an inch. The size of type for the designation of the office shall be nonpareil caps; that of the candidates not smaller than brevier or larger than small pica caps and shall be connected with squares by leaders.

(5) The list of candidates of the party whose candidate for president of the United States received the highest number of votes from the electors of this state in the preceding presidential election shall be placed in the first column of the left hand side of the ballot, the party whose candidates for presidential electors or candidates received the next highest number of votes from the electors of this state in the preceding presidential election the second column and of other parties in the order in which certificates of nomination have been filed.

(6) No candidate's name shall appear more than once upon the ballot, unless the name appears once for the office of precinct committeeman, in which case the name may appear not more than twice: *Provided*, That any candidate who has been nominated by two or more political parties may, upon a written notice filed with the county auditor at least twenty days before the election is to be held, designate the political party under whose title he desires to have his name placed.

(7) Under the designation of the office if more than one candidate is to be voted for there shall be indicated the number of candidates to such office to be voted for at such election.

(8) Upon each official ballot a perforated line one-half inch from the left hand edge of said ballot shall extend from the top of said ballot towards the bottom of the same two inches thence to the left hand edge of the ballot and upon the space thus formed there shall be no printing except the number of such ballot which shall be upon the back of such space in such position that it shall appear on the outside when the ballot is folded. The county auditor shall cause official ballots to be numbered consecutively beginning with number one, for each separate voting precinct.

(9) Official ballots for a given precinct shall not contain the names of nominees for justices of the peace and constables of any other precinct except in cases of municipalities where a number of precincts vote for the same nominee for justices of the peace and constables and in the latter case the ballots shall contain only the names to be voted for by the electors of such precinct. Each party column shall be two and five-eighths inches wide.

(10) If the election is in a year in which a president of the United States is to be elected, in spaces separated from the balance of the party tickets by a heavy black line, shall be the names and spaces for voting for candidates for president and vice president. The names of candidates for president and vice president for each political party shall be grouped together, each group enclosed in brackets with one three-eighths inch square to the right in which the voter indicates his choice.

(11) On the top of each of said ballots and extending across the party groups, there shall be printed instructions directing the voters how to mark the ballot before the same shall be deposited with the judges of election. Next after the instructions and before the party group shall be placed the questions of adopting constitutional amendments or any other question authorized by law to be submitted to the voters of such election. The arrangement of the ballot shall in general conform as nearly as possible to the form hereinafter given.

Instructions: If you desire to vote for any candidate, place X in at the right of the name of such candidate.

(Here place any state or local questions to be voted on.)

REPUBLICAN PARTY	DEMOCRATIC PARTY	OTHER PARTY
PRESIDENT AND VICE PRESIDENT (Name of candidate)... <input type="checkbox"/>	PRESIDENT AND VICE PRESIDENT (Name of candidate)... <input type="checkbox"/>	
UNITED STATES SENATOR (Name of candidate)... <input type="checkbox"/>	UNITED STATES SENATOR (Name of candidate)... <input type="checkbox"/>	
REPRESENTATIVE IN CONGRESS 3rd Congressional District (Name of candidate)... <input type="checkbox"/>	REPRESENTATIVE IN CONGRESS 3rd Congressional District (Name of candidate)... <input type="checkbox"/>	
GOVERNOR (Name of candidate)... <input type="checkbox"/>	GOVERNOR (Name of candidate)... <input type="checkbox"/>	
LIEUTENANT GOVERNOR (Name of candidate)... <input type="checkbox"/>	LIEUTENANT GOVERNOR (Name of candidate)... <input type="checkbox"/>	
SECRETARY OF STATE (Name of candidate)... <input type="checkbox"/>	SECRETARY OF STATE (Name of candidate)... <input type="checkbox"/>	
STATE TREASURER (Name of candidate)... <input type="checkbox"/>	STATE TREASURER (Name of candidate)... <input type="checkbox"/>	
STATE AUDITOR (Name of candidate)... <input type="checkbox"/>	STATE AUDITOR (Name of candidate)... <input type="checkbox"/>	
ATTORNEY GENERAL (Name of candidate)... <input type="checkbox"/>	ATTORNEY GENERAL (Name of candidate)... <input type="checkbox"/>	
COMMISSIONER OF PUBLIC LANDS (Name of candidate)... <input type="checkbox"/>	COMMISSIONER OF PUBLIC LANDS (Name of candidate)... <input type="checkbox"/>	
INSURANCE COMMISSIONER (Name of candidate)... <input type="checkbox"/>	INSURANCE COMMISSIONER (Name of candidate)... <input type="checkbox"/>	
STATE SENATOR (1st District) (Name of candidate)... <input type="checkbox"/>	STATE SENATOR (1st District) (Name of candidate)... <input type="checkbox"/>	
STATE REPRESENTATIVE (31st District) Position No. 1 (Name of candidate)... <input type="checkbox"/>	STATE REPRESENTATIVE (31st District) Position No. 1 (Name of candidate)... <input type="checkbox"/>	
STATE REPRESENTATIVE (31st District) Position No. 2 (Name of candidate)... <input type="checkbox"/>	STATE REPRESENTATIVE (31st District) Position No. 2 (Name of candidate)... <input type="checkbox"/>	
STATE REPRESENTATIVE (31st District) Position No. 3 (Name of candidate)... <input type="checkbox"/>	STATE REPRESENTATIVE (31st District) Position No. 3 (Name of candidate)... <input type="checkbox"/>	

(Names of other candidates should follow on the ballot in the same form.) [1971 c 18 § 1; 1965 c 52 § 2; 1965 c 9 § 29.30.080. Prior: (i) 1947 c 77 § 1; 1935 c 20 § 3; 1901 c 89 § 1; 1895 c 116 § 4; 1891 c 106 § 1; 1889 p 406 § 17; Rem. Supp. 1947 § 5274. (ii) 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part.]

29.30.090 General election ballots—Size—Uniformity. The ballots shall be eight inches in width and of such length as shall be necessary to print the names of all the candidates entitled to appear thereon. All of the official ballots shall be of the same size for each and every precinct, and shall not vary one-eighth of an inch in breadth from the above specification. No ballot shall bear any impression, device, color, or thing designated

to distinguish such ballot from other legal ballots, or whereby the same may be known or designated. [1965 c 9 § 29.30.090. Prior: 1895 c 156 § 11, part; 1886 p 128 § 1, part; Code 1881 § 3079, part; 1865 p 34 § 4, part; RRS § 5323, part.]

29.30.100 General election ballots—What names to appear. The names of the persons certified as the nominees resulting from a primary election by the state canvassing board or the county canvassing board shall be printed on the official ballot prepared for the ensuing election.

No name of any candidate whose nomination at a primary is required by law shall be placed upon the ballot unless it appears upon the certificate of either (1) the state canvassing board, or (2) the county canvassing board, or (3) a minor party convention, or (4) of the state or county central committee of a major political party to fill a vacancy on its ticket occasioned by any cause on account of which it is lawfully authorized so to do. [1965 c 9 § 29.30.100. Prior: 1961 c 130 § 9; prior: 1907 c 209 § 24, part; RRS § 5201, part.]

29.30.110 Nominee at primary precluded from being candidate of another party at general. No person who has offered himself as a candidate for the nomination of one party at the primary shall have his name printed on the ballot of the succeeding general election as the candidate of another political party. [1965 c 9 § 29.30.110. Prior: 1961 c 130 § 18; prior: 1919 c 163 § 18, part; RRS § 5199, part.]

29.30.130 Expense of printing and distributing ballots. The printing of ballots and cards of instruction for electors and the delivery of the same to election officers shall be a charge against the county, city, town or other political subdivision by or for which the election is held. [1965 c 9 § 29.30.130. Prior: 1889 p 400 § 1; RRS § 5269.]

Absentee service voters, reimbursement for costs of mailing: RCW 29.39.150.

Constituencies to bear all or share of election costs—Procedure to recover: RCW 29.13.045.

29.30.140 Titles designating occupation prohibited. See RCW 29.18.035.

29.30.150 Declaration of candidacy—Duplication of names—Election ballots. See RCW 29.18.060.

29.30.160 Certification of measures generally—Ballot titles. See RCW 29.27.060.

29.30.165 Certification of measures generally—Notice of ballot title to persons proposing measure. See RCW 29.27.065.

29.30.167 Certification of measures generally—Ballot title—Appeal to superior court. See RCW 29.27.067.

29.30.170 Destroying surplus ballots. See RCW 29.54.010.

29.30.180 United States presidential electors—Nomination—What names on ballots—How counted. See RCW 29.71.020.

29.30.190 United States constitutional amendment conventions—Delegates—Ballots. See RCW 29.74.080.

29.30.200 Initiative, referendum—Ballot title—Formulation by attorney general. See RCW 29.79.040.

29.30.201 Initiative, referendum—Ballot title—Notice to proponents. See RCW 29.79.050.

29.30.203 Initiative, referendum—Ballot title—Appeal to superior court. See RCW 29.79.060.

29.30.205 Initiative, referendum—Ballot title—Mailed to proponents. See RCW 29.79.070.

29.30.207 Initiative, referendum—Referendum bills by legislature—Ballot title. See RCW 29.79.260.

29.30.209 Initiative, referendum—Substitute for rejected initiative—Ballot title. See RCW 29.79.290.

29.30.211 Initiative, referendum—Printing ballot titles on ballots—Order and form. See RCW 29.79.300.

29.30.213 Initiative, referendum—Printing provisions on ballots for voting except on alternative measures. See RCW 29.79.310.

29.30.215 Initiative, referendum—Printing provisions on ballots for voting on alternative measures. See RCW 29.79.320.

29.30.220 Recall—Ballot synopsis. See RCW 29.82.020.

29.30.221 Recall—Conduct of election—Form of ballot. See RCW 29.82.130.

29.30.230 Ballots—Counterfeiting or unlawful possession. See RCW 29.85.010.

29.30.231 Ballots—Officer tampering with. See RCW 29.85.020.

29.30.233 Ballots—Opening, disclosing choice of voter. See RCW 29.85.030.

29.30.235 Ballots—Unlawful printing or distribution. See RCW 29.85.040.

29.30.237 Ballots—Misleading voters in marking. See RCW 29.85.050.

29.30.239 Certificates of nomination and ballots—Fraud as to. See RCW 29.85.100.

29.30.240 Divulging ballot count—Penalty. See RCW 29.54.035.

**Chapter 29.33
VOTING MACHINES**

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29.33.010 Definitions. The following words used in this chapter have the meaning given them in this section:

- (1) "Ballot label" means the paper containing the names of offices and candidates and the statements of propositions to be voted upon;
- (2) "Candidate counters" and "question counters" mean the counters on which are registered the votes cast for candidates and on questions respectively;
- (3) "Public counter" means a counter or other device, which shall at all times publicly indicate how many times the machine has been voted on at an election;
- (4) "Protective counter" or "protective devices" means a counter or device that will register each time the machine is operated and shall be so constructed, and so connected that it cannot be reset, altered or operated, except by operating the machine;
- (5) "Diagram" means illustration of a voting machine complete with ballot labels prepared for a particular election or primary;
- (6) "Irregular ballot" means a ballot cast by means of a voting machine by the use of a label which is a ballot label with no printing thereon;
- (7) "Statement of canvass" means a statement in book form of the votes cast upon a voting machine together with suitable certificates of correctness or, if the voting machine is equipped with printed election returns mechanism, the printed returns therefrom, together with suitable certificates thereon;
- (8) "Vote indicator" means the lever over each ballot label;
- (9) "Voting machine booth" means the inclosure occupied by a voter while operating a voting machine;
- (10) "Printed election returns" means the papers, original and duplicates, which are produced by the voting machine after the close of the polls and which have imprinted and inscribed thereon the complete record of votes cast in the election in the precincts where voting machines equipped with printed election returns mechanism are used. [1965 c 9 § 29.33.010. Prior: 1957 c 195 § 2; prior: 1913 c 58 § 3, part; RRS § 5302, part.]

29.33.015 Election defined. "Election" when used in this chapter shall include primaries, general and special elections except where the context indicates otherwise. [1965 c 9 § 29.33.015. Prior: 1913 c 58 § 1, part; RRS § 5300, part.]

29.33.020 Authority for use—Applicability of statutes, city charters and ordinances. At all elections, ballots or votes may be cast, registered, recorded and counted by means of voting machines, paper ballots, ballot cards, voting devices and vote tallying systems. The provisions of all statutes, charters and ordinances relating to elections and primaries shall apply to the use of voting machines, paper ballots, ballot cards, voting devices and vote tallying systems insofar as they are consistent with the provisions of this 1967 amendatory act: insofar as they are inconsistent, they shall be of no force and effect in precincts where voting machines, paper ballots, ballot cards, voting devices and vote tallying systems are used. [1967 ex.s. c 109 § 12; 1965 c 9 § 29.33.020. Prior: (i) 1913 c 58 § 1, part; RRS § 5300, part. (ii) 1913 c 58 § 18; RRS § 5318.]

Reviser's note: "this 1967 amendatory act", see note following RCW 29.34.010.

Voting devices and vote tallying systems: Chapter 29.34 RCW.

29.33.030 State voting machine committee—Members. The secretary of state, the state superintendent of public instruction and the insurance commissioner, ex officio, shall constitute the state voting machine committee. [1965 c 9 § 29.33.030. Prior: 1921 c 7 § 11, part; RRS § 10769, part.]

29.33.040 State voting machine committee—General duties. The state voting machine committee shall examine all voting machines, voting devices and vote tally systems submitted to it and determine whether they conform to the statutory requirements and appropriate administrative rules and regulations issued by the secretary of state and can be safely used by voters. [1967 ex.s. c 109 § 13; 1965 c 9 § 29.33.040. Prior: (i) 1913 c 58 § 2, part; RRS § 5301, part. (ii) 1921 c 7 § 11, part; RRS § 10769, part.]

Voting devices and vote tallying systems: Chapter 29.34 RCW.

29.33.050 State voting machine committee—Submitting machines, voting devices or vote tally systems. Any owner of a voting machine, voting device or vote tally system or any person or corporation interested therein may submit it to the state voting machine committee for examination and the committee must publicly examine and report upon the voting machine, voting device or vote tally system so submitted. [1967 ex.s. c 109 § 14; 1965 c 9 § 29.33.050. Prior: 1913 c 58 § 2, part; RRS § 5301, part.]

Voting devices and vote tallying systems: Chapter 29.34 RCW.

29.33.060 State voting machine committee—Employees authorized. The voting machine committee may employ not more than three experts in one or more of the fields of mechanical or electrical engineering, or data processing machinery to assist it in examining the

voting machines, voting devices or vote tally systems. Such experts shall receive reasonable compensation in an amount to be established by the committee in its discretion to be paid by the person or corporation who submits the voting machine, voting device or vote tally system for examination. [1967 ex.s. c 109 § 15; 1965 c 9 § 29.33.060. Prior: 1913 c 58 § 2, part; RRS § 5301, part.]

Voting devices and vote tallying systems: Chapter 29.34 RCW.

29.33.070 State voting machine committee—Reports on machines, voting devices or vote tallying systems. Within thirty days after completing the examination of a voting machine, voting device or vote tally system, the voting machine committee shall make and file with the secretary of state its report thereon together with such description, drawings, and photographs as will clearly identify the voting machine, voting device or vote tally system examined and the operation thereof. [1967 ex.s. c 109 § 16; 1965 c 9 § 29.33.070. Prior: 1913 c 58 § 2, part; RRS § 5301, part.]

Voting devices and vote tallying systems: Chapter 29.34 RCW.

29.33.080 Reports on machines, voting devices or vote tallying systems—Transmittal to county commissioners and county auditor. Within ten days after receiving a report on a voting machine, voting device or vote tally system from the state voting machine committee, the secretary of state shall send a copy thereof to the board of county commissioners and county auditor of each county, and to all other persons upon request.

Only voting machines, voting devices and vote tally systems which have the approval of the state voting machine committee may be used for conducting any election, but any change or improvement thereon that does not impair their accuracy, efficiency, or capacity may be made without the necessity of a reexamination or reapproval. [1967 ex.s. c 109 § 17; 1965 c 9 § 29.33.080. Prior: 1913 c 58 § 2, part; RRS § 5301, part.]

Voting devices and vote tallying systems: Chapter 29.34 RCW.

29.33.090 Requirements of voting machines for approval. No voting machine shall be approved by the state voting machine committee unless it is constructed so as to fulfill the following requirements:

(1) It shall secure to the voter secrecy in the act of voting;

(2) It shall provide facilities for voting for the candidates of as many political parties or organizations as may make nominations, and for or against as many measures as may be submitted;

(3) Except at primary elections the voting devices for the candidates shall be arranged in separate parallel party lines, one or more lines for each party and in parallel office rows transverse thereto;

(4) It shall permit the voter to vote for any person for any office that he shall have the right to vote for but none other;

(5) It shall permit the voter to vote for all the candidates of one party or in part for the candidates of one

party and in part for the candidates of one or more other parties;

(6) It shall permit the voter to vote for as many persons for an office as he is lawfully entitled to vote for but no more;

(7) It shall prevent the voter from voting for the same person more than once for the same office;

(8) It shall permit the voter to vote for or against any measure he may have the right to vote on but none other;

(9) It shall correctly register or record all votes cast for any and all persons and for or against any and all measures;

(10) It shall be provided with a lock or locks by which all operation of the registering mechanism can be prevented as soon as the polls of the election are closed;

(11) It shall be provided with a protective counter whereby any operating or tampering with the machine before or after the election will be detected;

(12) It shall be provided with a counter which will show at all times during an election how many persons have voted;

(13) It shall be provided with a mechanical model, illustrating the manner of voting on the machine suitable for the instruction of voters;

(14) It shall be provided with one device for each party for voting for the presidential and vice presidential candidates of said party in the years in which said officers are elected. [1965 c 9 § 29.33.090. Prior: 1935 c 20 § 4; 1913 c 58 § 4; RRS § 5303.]

29.33.100 Purchase of machines, voting devices or vote tallying systems—Authority for. The governing body of any public corporation may adopt and provide for the use of voting machines, and/or voting devices and vote tallying systems approved by the state voting machine committee in any or all of the election precincts thereof. [1967 ex.s. c 109 § 20; 1965 c 9 § 29.33.100. Prior: 1957 c 195 § 3; prior: 1915 c 114 § 1, part; 1913 c 58 § 5, part; RRS § 5304, part.]

Voting devices and vote tallying systems: Chapter 29.34 RCW.

29.33.110 Purchase of machines, voting devices or vote tallying systems—Joint use and purchase authorized. In purchasing or leasing voting machines, and/or voting devices and vote tallying systems, the board of county commissioners of a county, and the governing body of one or more of the public corporations within or without the state may enter into an agreement to provide for the joint purchase and subsequent ownership thereof and/or for the care, maintenance and use of the same. [1967 ex.s. c 109 § 21; 1965 c 9 § 29.33.110. Prior: 1913 c 58 § 17; RRS § 5317.]

Voting devices and vote tallying systems: Chapter 29.34 RCW.

29.33.120 Purchase of machines, voting devices or vote tallying systems—Manner of payment or rental. The governing body of a public corporation for the purpose of paying for or leasing voting machines, and/or voting devices and vote tallying systems may

provide for the payment or rental thereof in such manner as it may deem for its best interest, may issue or sell at not less than par negotiable obligations bearing interest at a rate not to exceed six percent per annum and may make their payment a charge upon the corporation or may pay for the same in cash out of its general or current expense fund or otherwise; and may contract for the purchase of such machines with regard to price, manner of purchase and time of payment as to it shall seem proper, and in estimating the amount of taxes for the general or current expense fund, if any, such amount shall be added, extending over such time as may be required to pay for such machines. [1967 ex.s. c 109 § 22; 1965 c 9 § 29.33.120. Prior: 1913 c 58 § 6; RRS § 5305.]

Voting devices and vote tallying systems: Chapter 29.34 RCW.

29.33.130 Custodians. The county auditor of a county, the city clerk, or proper officer of a district, in which voting machines are to be used shall cause them to be properly prepared therefor; and for that purpose shall employ for such time as is necessary one or more competent persons who shall be election officers known as the voting machine custodians. Voting machine custodians shall be sworn to perform their duties honestly and faithfully, and shall be paid for the time actually spent in the discharge of their duties. One custodian shall be employed for each twenty machines; if more than one is employed they shall be selected from the political parties entitled to representation on a board of election officers. [1965 c 9 § 29.33.130. Prior: 1955 c 323 § 2; prior: 1935 c 85 § 1, part; 1919 c 163 § 23, part; 1915 c 114 § 5, part; 1913 c 58 § 10, part; RRS § 5309, part.]

Out of order machines, custodian to repair or substitute another machine for: RCW 29.51.160.

Recanvass of machine votes—Procedure to test counting mechanism—Statement: RCW 29.62.070.

29.33.140 Chief custodian. The county auditor of a county, the clerk of a city or district, having two hundred voting machines or more, shall appoint a permanent employee who shall be a competent mechanic. He shall be known as the chief custodian of voting machines, shall be sworn to perform his duties honestly and faithfully, and shall furnish a corporate surety bond in the sum of five thousand dollars for the honest and faithful performance of his duties. His salary shall be set by the board of county commissioners, paid out of the current expense fund of the county or the general fund of the city or district, as the case may be.

The chief custodian of voting machines shall supervise the work of all other voting machine custodians, and shall instruct and supervise them and have general charge of the preparation and approval of voting machines for elections.

He shall also have charge of the instruction schools for election officials, and of the procuring and rental of all polling places in precincts where voting machines are to be used. He shall have continuous charge of the maintenance, upkeep and care of the voting machines in his jurisdiction. [1965 c 9 § 29.33.140. Prior: 1955 c

323 § 3; prior: 1935 c 85 § 1, part; 1919 c 163 § 23, part; 1915 c 114 § 5, part; 1913 c 58 § 10, part; RRS § 5309, part.]

29.33.150 Preparation of machine for use. In preparing a voting machine for an election, the custodian shall arrange the machine and labels therefor according to the printed directions furnished by the auditor or clerk so that it will in every particular meet the requirements for voting and counting at such elections, thoroughly test same, and certify thereto to the said auditor or clerk. A voting machine may be so arranged for an election that the names of candidates nominated independently may be placed in the same party row with those nominated by a major political party, if such placing does not prevent such independently nominated candidates from being voted for individually. It may also be so arranged that candidates nominated independently, or by political organizations which nominated but one candidate, are placed in the same party row and voted for individually; in which event the party voting device of the party row shall be locked against movement, and the political designation of each candidate shall be printed upon the ballot labels in connection with his name. The auditor or clerk shall direct the arrangement of all ballot labels on a voting machine in case of nonpartisan primaries and elections in cities of the first class operating under freeholders' charters, so that the arrangement of the names of candidates shall conform as nearly as practicable to the provisions for the arrangement of names on paper ballots. In all other cases of nonpartisan primaries and elections, and in all cases of party primaries and elections, the arrangement of names of candidates upon the ballot labels shall conform as nearly as practicable to the statutory provisions for the arrangement of names on paper ballots.

After being prepared for a primary or an election, each machine shall be examined by the auditor or clerk, and if it was prepared in accordance with law for use thereat, he shall file a certificate thereof in his office. The custodian shall cause all voting machines to be delivered to the polling places in charge of an authorized official who shall certify to their delivery in good order on the certificate furnished therefor. After such delivery the auditor or clerk shall provide proper protection therefor. The custodian shall provide a lantern or proper light for every machine, which light shall be in good order and give sufficient light to enable voters while in the booth to read the ballot labels, and suitable for use by the election officers in examining the counters. [1965 c 9 § 29.33.150. Prior: 1955 c 323 § 4; prior: 1935 c 85 § 1, part; 1919 c 163 § 23, part; 1915 c 114 § 5, part; 1913 c 58 § 10, part; RRS § 5309, part.]

29.33.160 General provisions for use. General provisions with reference to use of voting machines are:

(1) The list of offices and candidates and the statements of measures when properly arranged and affixed by ballot labels to a voting machine shall be deemed an official ballot.

(2) A "diagram" as in this chapter defined shall be deemed a sample ballot.

(3) The protective counter on a voting machine must be so constructed that it cannot be reset, altered, or operated except by operating the machine in the manner it is operated when actually voting.

(4) Statements of canvass take the place of tally-keepers, statements, and returns provided for in connection with voting in precincts where voting machines are not used.

(5) Not later than forty days before any primary or election, for the purpose of using one or more voting machines therein, the election authority may create, unite, combine or divide election precincts. More than one voting machine may be used in the same precinct. There shall be at least one machine in each precinct: *Provided*, That where precincts have been combined under the provisions of this chapter, there shall be used at such combined polling place a number of voting machines no less than the number of precincts so combined.

(6) No voting machine shall be used at any election unless each party voting device thereon is locked against movement, and the machine has been prepared in such a way that the voter cannot by a single operation vote for all the candidates of one party. [1965 c 9 § 29.33.160. Prior: 1957 c 195 § 4; prior: 1955 c 323 § 5. (i) 1913 c 58 § 3, part; RRS § 5302, part. (ii) 1915 c 114 § 1, part; 1913 c 58 § 5, part; RRS § 5304, part. (iii) 1947 c 77 § 3, part; Rem. Supp. 1947 § 5318-1.]

Combining or dividing precincts—County, city, town, district, elections: RCW 29.04.055.

29.33.170 Exhibiting specimen machines. Before each election at which voting machines are to be used the custodian shall place on public exhibition a suitable number of machines for the proper instruction of voters. Such machines shall be so arranged and so equipped with ballot labels as to best illustrate the method of voting at that election, and so far as practical shall contain the names of the offices to be filled, the names of the candidates to be voted for, together with their proper party designations, in case of party elections, and statements of the measures to be voted on. [1965 c 9 § 29.33.170. Prior: 1915 c 114 § 3, part; 1913 c 58 § 8, part; RRS § 5307, part.]

29.33.180 Publication of diagrams. Not more than ten nor less than three days before each election at which voting machines are to be used the board or officer charged with the duty of providing ballots shall publish in newspapers representing at least two political parties a diagram of reduced size showing the face of the voting machine after the official ballot labels are arranged thereon, together with illustrated instructions how to vote and a statement of the locations of voting machines which are on public exhibition. In lieu of publication thereof, the board or officer may send by mail or otherwise at least three days before the elections a printed copy of the diagram to each registered voter. [1965 c 9 § 29.33.180. Prior: 1915 c 114 § 3, part; 1913 c 58 § 8, part; RRS § 5307, part.]

Posting of diagrams: RCW 29.48.060 and 29.48.080(3).

29.33.190 Printed matter and supplies. The board or officer charged with the duty of providing ballots shall provide for each voting machine for each election the following printed matter and supplies:

(1) Suitable printed or written directions to the custodian for testing and preparing the voting machines for the election;

(2) One certificate on which the custodian can certify that he has properly tested and prepared the voting machine for the election;

(3) One certificate on which some person other than the custodian can certify that the voting machine has been examined and found to have been properly prepared for the election;

(4) One certificate on which the party representatives can certify that they have witnessed the testing and preparation of the machines;

(5) One certificate on which the deliverer of the machines can certify that he has delivered the machines to the polling places in good order;

(6) One card stating the penalty for tampering with or injuring a voting machine;

(7) Two seals for sealing a voting machine;

(8) One envelope in which the keys to the voting machine can be sealed and delivered to the election officers, said envelope to have printed or written thereon the designation and location of the election precinct in which the machine is to be used, the number of the machine, the number shown on the protective counter thereof after the machine has been prepared for the election and the number or other designation on such seal as the machine is sealed with; said envelope to have attached to it a detachable receipt for the delivery of the keys to the voting machine to the inspector of election;

(9) One envelope in which the keys to the voting machine can be returned by the inspector of election;

(10) One card stating the name and telephone address of the custodian on the day of election;

(11) One statement of canvass on which the election officers can report the canvass of the votes as shown on the voting machine together with other necessary information relating to the election;

(12) Two diagrams;

(13) Five suitable printed instructions to the inspector of election;

(14) Three notices to inspectors and judges of election to attend the instruction meetings;

(15) Three certificates that the inspector and judges of an election have attended the instruction meeting, have received the necessary instruction, and are qualified to conduct the election with the machine;

(16) A sufficient number of paper ballots or extra diagrams for use in case it shall be impossible to make use of the voting machine in any such precinct or precincts;

(17) Three complete sets of the ballot labels; the ballot labels shall be printed in black ink on clear white material of such size and arrangements as to suit the construction of the machine. The titles of the offices on the ballot labels shall be printed in type as large as the space for such office will reasonably permit, and where

more than one candidate can be voted for an office, there shall be printed below the office title the words "vote for any two," or such number as the voter is lawfully entitled to vote for out of the whole number of candidates nominated.

The ballot labels for measures may contain a condensed statement of each measure to be voted on, accompanied by the words "Yes" and "No". [1965 c 9 § 29.33.190. Prior: 1935 c 20 § 5, part; 1921 c 178 § 6, part; 1915 c 114 § 2, part; 1913 c 58 § 7, part; RRS § 5306, part.]

Delivery of supplies, use of voting machines as affecting: RCW 29.48.030.

Destroying or defacing election supplies and notices: RCW 29.85.110.

29.33.195 Additional supplies for voting machines. See RCW 29.48.040.

29.33.197 Receipt for key to voting machine. See RCW 29.48.050.

29.33.200 Samples of printed matter provided for first elections. Within a proper and reasonable time before the first election at which voting machines are used, the secretary of state shall prepare samples of the printed matter and supplies to be used in connection with voting by voting machines. The samples must meet the requirements and suit the construction of the machine to be used. One sample of each piece of material must be furnished to the board or officer in charge of the election in each public corporation in which voting machines are to be used. [1965 c 9 § 29.33.200. Prior: 1935 c 20 § 5, part; 1921 c 178 § 6, part; 1915 c 114 § 2, part; 1913 c 58 § 7, part; RRS § 5306, part.]

29.33.210 Precinct officers—Variation in number and character. If more than one machine is to be used in a precinct, one additional inspector of election shall be appointed for each additional machine. In any voting precinct where the number of registered voters is less than one hundred the election board may consist of one inspector, one judge and one clerk. [1965 c 9 § 29.33.210. Prior: 1955 c 168 § 2; prior: 1915 c 114 § 4, part; 1913 c 58 § 9, part; RRS § 5308, part.]

Judges of election to act as clerks in precincts where voting machines are used: RCW 29.45.020.

Precinct election officers: Chapter 29.45 RCW.

29.33.220 Precinct officers—Instruction in use of voting machines or voting devices—Compensation. Before each primary election at which voting machines or voting devices are to be used or more frequently as the custodian deems necessary, the custodian shall instruct all inspectors, judges, and clerks of election who are to serve thereat in the use of the machine or voting device and their duties in connection therewith. He shall give to each inspector and judge who has received instruction and is fully qualified to conduct the election with a machine or voting device a certificate to that effect. For the purpose of instruction, the custodian shall call such

meetings of the inspectors and judges as may be necessary. Every inspector and judge shall attend the meetings and receive instruction in the proper conduct of the election with a machine or voting device. As compensation for the time spent in receiving instruction each inspector and judge who qualifies and serves in the election shall receive an additional two hours' compensation to be paid to him at the same time and in the same manner as compensation is paid him for his services on election day. No inspector or judge of election shall serve in any primary or general election at which a voting machine or voting device is used unless he has received the required instruction and is fully qualified to perform his duties in connection with the machine or voting device and has received a certificate to that effect from the custodian of the machines or voting devices: *Provided*, That this shall not prevent the appointment of an inspector, or judge of election to fill a vacancy in an emergency. [1973 c 102 § 1; 1971 ex.s. c 124 § 1; 1965 c 9 § 29.33.220. Prior: 1955 c 168 § 3; prior: 1915 c 114 § 4, part; 1913 c 58 § 9, part; RRS § 5308, part.]

Severability—1971 ex.s. c 124: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 124 § 3.] This applies to RCW 29.33.220 and 29.45.120.

29.33.225 Inspection of voting machine. See RCW 29.48.080.

29.33.230 Machines kept locked after election—Exceptions. Except for reopening to make a recanvass, the registering mechanism of each machine used in any primary or election shall remain locked and sealed against operation for thirty days following any state or county primary or election and for eight days following any primary or election held by a city or other constituency not greater than a county. [1965 c 9 § 29.33.230. Prior: 1917 c 7 § 1, part; 1913 c 58 § 15, part; RRS § 5315, part.]

29.33.240 Voting machine—Help in use. See RCW 29.51.130 and 29.51.200.

29.33.243 Voting machine—When all voters do not vote on all offices. See RCW 29.51.140.

29.33.245 Voting machine—Periodic examination. See RCW 29.51.150.

29.33.247 Voting machine—Out of order. See RCW 29.51.160.

29.33.250 Voting machine count—Method. See RCW 29.54.090.

29.33.251 Voting machine count—Verification and certification. See RCW 29.54.100.

29.33.253 Voting machine count—Public announcement. See RCW 29.54.110.

29.33.255 Voting machine count—Closing machines—Delivery of key. See RCW 29.54.120.

29.33.260 Recanvass of machine votes—Authorized—Procedure. See RCW 29.62.050.

29.33.263 Recanvass of machine votes—Notice—Representation—Relocking. See RCW 29.62.060.

29.33.265 Recanvass of machine votes—Procedure to test counting mechanism—Statement. See RCW 29.62.070.

29.33.270 Time for contesting primary or elections based on voting machine count. See RCW 29.65.030.

29.33.280 Officers where voting machines are used—Violations at the polls. See RCW 29.85.160.

29.33.290 Voting machines—Tampering with—Extra keys. See RCW 29.85.260.

Chapter 29.34 VOTING DEVICES AND VOTE TALLYING SYSTEMS

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Challenge vote, procedure where vote tallying system used: RCW 29.59.040.

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Violations at the polls by election officers where voting devices and vote tallying systems are used: RCW 29.85.160.

Write-in voting, procedure when voting devices or ballot cards are used: RCW 29.51.170.

29.34.010 Definitions. As used in this 1967 amendatory act:

(1) "Ballot card" means the tabulating card or cards or paper ballot of any size upon which the voter records his vote and shall also include the envelope issued to each voter at ballot card precincts for the voter to enclose his voted ballot to insure secrecy and to provide a space for the voter to cast write-in votes if he so desires;

(2) "Ballot label" means the cards, papers, booklet or other material containing the names of offices, candidates, and measures to be voted on;

(3) "Election" means all state, county, city, town, and district elections, general or special, including primaries;

(4) "Voting device" means any device into which a ballot card may be inserted and which is so designed and constructed that the vote for any candidate or for and against any measure may be indicated by punching or marking the ballot card;

(5) "Vote tally system" means one or more machines used for the purpose of automatically examining and counting votes as cast by paper ballots or ballot cards. Such apparatus may be operated manually, electrically, or electronically and may include data processing machines;

(6) "Precinct election officers" shall mean the inspectors, judges, and clerks as provided by chapter 29.45 RCW as it now exists or may hereafter be amended. [1967 ex.s. c 109 § 11.]

Reviser's note: "this 1967 amendatory act" [1967 ex.s. c 109], is codified as chapter 29.34 RCW, RCW 29.04.040, 29.10.080, 29.33.020-29.33.080, 29.33.100, 29.33.110, 29.33.120, 29.36.120, 29.36.130, 29.36.140, 29.39.010, 29.39.030, 29.51.060, 29.51.170, 29.54.043, 29.54.070, 29.59.040, 29.65.030 and 29.85.160.

29.34.020 Authority for use—Applicability of statutes, city charters and ordinances. See RCW 29.33.020.

29.34.030 State voting machine committee—General duties. See RCW 29.33.040.

29.34.040 State voting machine committee—Submitting machines, voting devices or vote tallying systems. See RCW 29.33.050.

29.34.050 State voting machine committee—Employees authorized. See RCW 29.33.060.

29.34.060 State voting machine committee—Reports on machines, voting devices or vote tallying systems. See RCW 29.33.070.

29.34.070 Reports on machines, voting devices or vote tallying systems—Transmittal to county commissioners and county auditor. See RCW 29.33.080.

29.34.080 Requirements of voting devices for approval. No voting device shall be approved by the state voting machine committee unless it is constructed so that it:

- (1) Secures to the voter secrecy in the act of voting;
- (2) Provides facilities for voting for the candidate of as many political parties or organizations as may make nominations, and for or against as many measures as may be submitted;
- (3) Permits the voter to vote for any person for any office and upon any measure that he has the right to vote for;
- (4) Permits the voter to vote for all the candidates of one party or in part for the candidates of one or more other parties;
- (5) Correctly registers or records all votes cast for any and all persons and for or against any and all measures;
- (6) Provides that a vote for more than one candidate cannot be cast by one single operation of the voting device or vote tally system except when voting for president and vice president of the United States;
- (7) Voting devices shall list all candidates for any office in every primary and election, special or general, in the manner shown in RCW 29.30.030 after an arrangement of positions as provided in RCW 29.30.020: *Provided*, That at partisan general elections the candidate or candidates of the major political party which received the highest number of votes from the electors of this state for the office of president of the United States at the last presidential election shall appear first under the position designation, the candidate or candidates of the other major political parties shall follow according to the votes cast for their nominees for president at the last presidential election, and the candidate or candidates of all other parties shall follow in the order of their qualification with the secretary of state. [1971 ex.s. c 6 § 1; 1967 ex.s. c 109 § 18.]

Severability—1971 ex.s. c 6: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 6 § 3.] This applies to RCW 29.34.080 and 29.34.180.

29.34.090 Requirements of vote tallying systems for approval. No vote tallying system shall be approved by the state voting machine committee unless it is constructed so that it is:

(1) Capable of correctly counting votes on ballots or ballot cards on which the proper number of votes have been marked for any office or question or issue that has been voted;

(2) Capable of ignoring the votes marked for any office or question or issue where more than the allowable number of votes have been marked, but shall correctly count the properly voted portions of the ballot or ballot card;

(3) Capable of accumulating a count of the specific number of ballots or ballot cards tallied for a precinct, accumulating total votes by candidate for each office, and accumulating total votes for and against each question and issue of the ballots or ballot cards tallied for a precinct;

(4) Capable of accommodating rotation of candidates' names on the ballot or ballot card, provided that all ballots or ballot cards from one precinct shall be of the same rotation sequence;

(5) Capable of automatically producing precinct totals in either printed, marked, or punched form, or combinations thereof. [1967 ex.s. c 109 § 19.]

29.34.100 Purchase of machines, voting devices or vote tallying systems—Authority for. See RCW 29.33.100.

29.34.110 Purchase of machines, voting devices or vote tallying systems—Joint use and purchase authorized. See RCW 29.33.110.

29.34.120 Purchase of machines, voting devices or vote tallying systems—Manner of payment or rental. See RCW 29.33.120.

29.34.130 Materials, supplies and procedures—Secretary of state to prescribe. (1) Pursuant to RCW 29.04.080, the secretary of state shall by appropriate regulation devise and prescribe the form, size, weight of paper or material, kind of ballot cards, and other materials and supplies and procedures necessary in the use of voting devices or vote tally systems as provided in this 1967 amendatory act and in the process of counting and tabulating the ballots by mechanical, electrical, or electronic devices or equipment.

(2) The secretary of state shall follow the provisions of the Administrative Procedure Act, chapter 34.04 RCW, in adopting the rules and regulations authorized by this 1967 amendatory act. [1967 ex.s. c 109 § 23.]

Reviser's note: "this 1967 amendatory act", see note following RCW 29.34.010.

29.34.140 Appointment of precinct election officers. The appointment of election officers to serve precincts at which ballot cards and voting devices are used shall be in the same manner as the appointment of precinct election officers to serve paper ballot precincts as provided in chapter 29.45 RCW. [1967 ex.s. c 109 § 24.]

29.34.150 Application of statutes relating to preparation and use of voting machines to preparation and use of voting devices. Insofar as practicable, the statutes relating to the preparation and use of voting machines, including the schools of instruction for precinct election officers, shall also apply to the preparation and use of voting devices. [1967 ex.s. c 109 § 25.]

29.34.160 Vote tallying systems—Locations—Ballot cards pick up, delivery and counting center procedure. The county auditor shall determine the location of each vote tallying system under his jurisdiction and the number of ballot card precincts assigned to each. Such facility shall be known as the "counting center" and may be located wherever in the judgment of the county auditor best serves the voters.

The procedure for picking up voted ballot cards at the respective polling places, the delivery of same to the counting centers, and the procedure at the counting centers shall include but not be limited to the following provisions:

(1) On the day of the election and at the direction of the county auditor, a representative of each major political party shall together stop at each polling place and pick up one or more metal boxes, previously sealed by the precinct election officers, and containing the voted ballot cards for the delivery of same to the counting center. There may be as many as two such stops at each polling place provided that the first stop is not made prior to 2:00 p.m. and the second stop is made after the polls have been closed to voting.

(2) All proceedings at the counting center shall be under the direction of the county auditor and under the observation of two election officers, who shall not be of the same political party. After the polls have been closed to voting, such proceedings shall be open to the public, but no persons except those employed and authorized for the purpose shall touch any ballot card or ballot container. If upon breaking the seals and opening the containers, it is found that any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, a true duplicate copy shall be made of the damaged ballot in the presence of witnesses and substituted for the damaged ballot. All such damaged ballots shall be kept by the county auditor until sixty days after the primary or election concerned.

The ballot cards picked up during the polling hours may subsequently be counted before the polls have closed: *Provided*, That all such election returns must be held in secrecy in the same manner as the count of paper ballots during polling hours as provided by RCW 29.54.030. Any person revealing any election returns to unauthorized persons prior to the close of the polls shall be subject to the same penalties as provided by RCW 29.54.035;

(3) The secretary of state shall prescribe rules and regulations for the testing of the vote tallying system prior to the day of the election to ascertain that the equipment will correctly count the votes cast for all offices and on all measures. However, such test shall be observed by at least two election officers, who shall not

be of the same political party, and shall be open to representatives of the political parties, candidates, the press and the public. The test shall be conducted by processing a pre-audited group of ballots so punched or marked as to record a predetermined number of valid votes for each candidate and on each measure, and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made before the automatic tabulating equipment is approved. The test shall be repeated immediately before the start of the official count of the ballots in the same manner as set forth above.

On the day of the election, two election officers, not of the same political party, shall be stationed at the counting center throughout the official count. Such persons, upon mutual agreement, may request that the tabulating equipment be stopped as many as three times during the official count so that the accuracy of the proceedings can be again verified at such unscheduled stops by the count of the pre-audited group of ballots.

(4) The returns printed by the automatic tabulating equipment, to which has been added the count of written and absentee votes, shall constitute the official returns of each precinct or election district. [1973 1st ex.s. c 70 § 1; 1967 ex.s. c 109 § 27.]

29.34.170 Guidance manuals. The secretary of state, upon promulgating the rules and regulations necessary for carrying out the purpose of this 1967 amendatory act, shall publish manuals containing the applicable rules and regulations and statutes for the guidance of the county auditor relating to the printing of ballot cards and preparation of the vote tallying systems, for the guidance of precinct election officers serving ballot card precincts, and for the guidance of election officers and operators of tabulating equipment at counting centers.

There shall be no charge for such manuals and the number to be printed and the distribution thereof shall be determined by the secretary of state. [1967 ex.s. c 109 § 32.]

Reviser's note: "this 1967 amendatory act", see note following RCW 29.34.010.

29.34.180 Voting devices and vote tallying systems may be used in all counties. Voting devices and vote tally systems as defined in RCW 29.34.010, may be used in all primaries and elections, general or special, in all counties. [1971 ex.s. c 6 § 2; 1967 ex.s. c 130 § 2.]

Severability—1971 ex.s. c 6: See note following RCW 29.34.080.

Chapter 29.36 ABSENTEE VOTING

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29.36.140	Districts or cities with less than five hundred voters—Organization or addition of territory elections—Voting by mail ballot may be ordered—Procedure.

Absentee ballots, county auditor to prepare, time for: RCW 29.30.075.

Absentee service voters: Chapter 29.39 RCW.

Irrigation district elections, absentee voting provisions: RCW 87.03-020-87.03.110.

Recount of absentee ballots: RCW 29.64.010.

United States presidential elections, new resident voting: Chapter 29-72 RCW.

29.36.010 When permissible—Application. Any duly registered voter may vote an absentee ballot for any primary or election in the manner provided in this chapter.

A voter desiring to cast an absentee ballot must apply in writing to his county auditor no earlier than forty-five days nor later than the day prior to any election or primary: *Provided*, That an application honored for a primary ballot shall also be honored as an application for a ballot for the following election if the voter so indicates on his application.

Such applications must contain the voter's signature and may be made in person or by mail or messenger: *Provided*, That no application for an absentee ballot shall be approved unless the voter's signature upon the certificate or application compares favorably with the voter's signature upon his permanent registration record. [1974 1st ex.s. c 35 § 1; 1971 ex.s. c 202 § 37; 1965 c 9 § 29.36.010. Prior: 1963 ex.s. c 23 § 1; 1955 c 167 § 2; prior: (i) 1950 ex.s. c 8 § 1; 1943 c 72 § 1; 1933 ex.s. c 41 § 1; 1923 c 58 § 1; 1921 c 143 § 1; 1917 c 159 § 1; 1915 c 189 § 1; Rem. Supp. 1943 § 5280. (ii) 1933 ex.s. c 41 § 2, part; 1923 c 58 § 2, part; 1921 c 143 § 2, part; 1917 c 159 § 2, part; 1915 c 189 § 2, part; RRS § 5281, part.]

Absentee service voters, certain time limits shall not apply: RCW 29.39.170.

29.36.020 Certificates. The certificate to be issued by a county auditor honoring a request for an absentee ballot shall state that:

(1) The registrar can identify the applicant by his signature;

(2) The applicant is a voter, registered and qualified to vote, giving the county, city or town, if any, and precinct in which he is qualified to vote and also his place of residence;

(3) The applicant has affixed his signature to the certificate in the place provided therefor in the presence of the registrar; or the registrar has identified the applicant from the signature on his written application.

The certificate must be made in duplicate. If the voter is making his application in person, he shall sign both copies of said certificate. If the voter is making application by mail, the original certificate shall be affixed to his application.

All original certificates, together with applications affixed thereto, must be delivered to the officer having jurisdiction of the election, or his duly authorized representative, before an absentee ballot can be issued.

The duplicate certificate shall be securely attached to the applicant's permanent registration record or a notation to this effect shall be made by the applicant's name on the appropriate precinct lists of registered voters until after the election. [1971 ex.s. c 202 § 38; 1965 c 9 § 29.36.020. Prior: 1963 ex.s. c 23 § 2; 1955 c 167 § 3; prior: 1933 ex.s. c 41 § 2, part; 1923 c 58 § 2, part; 1921 c 143 § 2, part; 1917 c 159 § 2, part; 1915 c 189 § 2, part; RRS § 5281, part.]

29.36.030 Issuance of ballots and other materials—

Envelopes. Upon receipt of the certificate, either signed by the voter or attached to the voter's signed application, the officer having jurisdiction of the election, or his duly authorized representative, shall issue an absentee ballot for the election concerned.

At each general election in the even-numbered year, each absentee voter shall also be given a separate ballot containing the names of the candidates that have filed for the office of precinct committeeman provided that two or more candidates have filed for the same political party in the absentee voter's precinct and providing space for writing in the name of additional candidates.

In addition, if other elections, including special or general, are also being held on the same day and it can be determined that the absentee voter is qualified to vote at such elections, such additional absentee ballots shall be automatically issued to the end that, whenever possible, each absentee voter receives the ballots for all elections he would have received if he had been able to vote in person.

The election officer, or his duly authorized representative, shall include the following additional items when issuing an absentee ballot:

- (1) Instructions for voting.
- (2) A size #9 envelope, capable of being sealed and free of any identification marks, for the purpose of containing the voted absentee ballot.
- (3) A size #10 envelope, capable of being sealed and preaddressed to the issuing officer, for the purpose of returning the #9 envelope containing the marked absentee ballot.

Upon the left hand portion of the face of the larger envelope shall also be printed a blank statement in the following form:

State of _____ }
County of _____ } ss.

I, _____, do solemnly swear under the penalty as set forth in RCW 29.36.110 (see below), that I am a resident of and qualified voter in _____ precinct of _____ city in _____ county, Washington; that I have the legal right to vote at the election to be held in said precinct on the _____ day of _____, 19__; That I have not voted another ballot and have herein enclosed my ballot for such election.

(signed) _____
Voter

PENALTY PROVISION: Any person who violates any of the provisions, relating to swearing and voting, shall be guilty of a felony and shall be punished by imprisonment for not more than five years or a fine of not more than five thousand dollars, or by both such fine and imprisonment. [1974 1st ex.s. c 73 § 1; 1965 c 9 § 29.36.030. Prior: 1963 ex.s. c 23 § 3; 1955 c 167 § 4; prior: (i) 1933 ex.s. c 41 § 2, part; 1923 c 58 § 2, part; 1921 c 143 § 2, part; 1917 c 159 § 2, part; 1915 c 189 § 2, part; RRS § 5281, part. (ii) 1933 ex.s. c 41 § 3, part; 1923 c 58 § 3, part; 1921 c 143 § 3, part; 1917 c 159 § 3, part; 1915 c 189 § 3, part; RRS § 5282, part.]

29.36.035 Qualifications to delivery of ballot. The delivery of an absentee ballot for any primary or election shall be subject to the following qualifications:

- (1) Only the voter, himself, or a member of his family may pick up an absentee ballot at the office of the issuing officer.
- (2) Except as noted in subsection (1) above, the issuing officer shall mail the absentee ballot directly to each applicant.
- (3) No absentee ballot shall be issued on the day of the primary or election concerned. [1965 c 9 § 29.36.035. Prior: 1963 ex.s. c 23 § 4.]

29.36.040 Instructions for voting absentee ballot. Enclosed with the ballot, small envelope and large envelope sent to the absent voter shall be separate printed instructions which the absent voter must observe as follows:

"Upon receipt of this ballot you must mark it and transmit it in accordance with these instructions according to law:

- (1) Having marked the ballot, fold it and enclose it in the smaller envelope, sealing the envelope.
- (2) Fill out and sign the statement on the larger envelope.
- (3) Place the small envelope containing the ballot in the larger one, seal that, attach sufficient first class postage and mail it so that it will be postmarked the day of election or sooner or instead of mailing you may send it by any means which will enable it to reach the county auditor or other issuing officer on or before election day." [1965 c 9 § 29.36.040. Prior: 1955 c 167 § 5; prior: 1933 ex.s. c 41 § 3, part; 1923 c 58 § 3, part; 1921 c 143 § 3, part; 1917 c 159 § 3, part; 1915 c 189 § 3, part; RRS § 5282, part.]

29.36.050 Prohibition against voting in home precinct. No voter to whose permanent registration card there is attached a duplicate of an absentee voter's certificate of registration for any election shall be allowed to vote at such election in the precinct from which he is registered. [1965 c 9 § 29.36.050. Prior: 1955 c 167 § 6; prior: 1933 ex.s. c 41 § 4; 1921 c 143 § 5; RRS § 5284.]

29.36.060 How incoming absentee ballots are handled. The opening and canvassing of absentee ballots cast at any primary or election, special or general, may begin on or after the tenth day prior to such primary or election: *Provided*, That the opening of the inner envelopes and actual counting of such absentee ballots shall not commence until after 8:00 o'clock p.m. on the day of the primary or election but must be completed on or before the tenth day following the primary or election: *Provided*, That when a state general election is held, the canvassing period shall be extended to and including the fifteenth day following such election.

This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for counting and canvassing of absentee ballots.

The canvassing board or its duly authorized representatives shall examine the postmark, receipt mark and statement on the outer envelope containing the absentee ballot and verify that the voter's signature thereon is the same as that on the original application. The board then shall open each outer envelope postmarked or received (if not delivered by mail) not later than the primary or election day and upon which the statement has been executed according to law in such a way as not to mar the statement, and remove therefrom the inner envelope containing the ballot.

The inner envelopes shall be initialed by the canvassing board or its duly authorized representatives. The inner envelopes thus initialed must be filed by the county auditor under lock and key. The outer envelopes to which must be attached the corresponding original absentee voters' certificates shall be sealed securely in one package and shall be kept by the auditor for future use in case any question should arise as to the validity of the vote. [1973 c 140 § 1; 1965 c 9 § 29.36.060. Prior: 1963 ex.s. c 23 § 5; 1955 c 167 § 7; 1955 c 50 § 2; prior: 1933 ex.s. c 41 § 5, part; 1921 c 143 § 6, part; 1917 c 159 § 4, part; 1915 c 189 § 4, part; RRS § 5285, part.]

Absentee service voters, certain time limits shall not apply: RCW 29.39.170.

29.36.065 How incoming absentee ballots are handled—Alternate method. As an alternative to the procedure set forth in RCW 29.36.060, the county canvassing board, or its duly authorized representatives, may elect not to initial the inner envelope but instead place all such envelopes in containers that can be secured with a numbered metal seal and such sealed containers shall be stored in the most secure vault available within the courthouse until after 8:00 o'clock p.m. of the day of the primary or election: *Provided*, That in the instance of punchcard absentee ballots, such ballots

may be taken from the inner envelopes and all the normal procedural steps performed necessary to prepare punchcard ballots for computer count and then placed in said sealed containers. [1973 c 140 § 2.]

29.36.070 Canvassing absentee ballots. Upon the canvass of the votes, if there are on file one or more absentee ballot inner envelopes, the canvassing authority shall cause such envelopes to be opened and the absentee precinct committeeman ballot, if any, shall be physically separated from the remainder of the absentee ballot. The absentee precinct committeeman ballot shall be, subject to the provisions of RCW 29.36.075 and 29.36.077, counted separately. The remainder of the absentee ballot shall be grouped and counted without regard as to precinct by legislative districts if the election is a state primary or state election, special or general.

These ballots shall be made a part of the returns and handled accordingly. [1974 1st ex.s. c 73 § 2; 1965 c 9 § 29.36.070. Prior: 1955 c 50 § 3; prior: 1933 ex.s. c 41 § 5, part; 1921 c 143 § 6, part; 1917 c 159 § 4, part; 1915 c 189 § 4, part; RRS § 5285, part.]

29.36.075 Uncontested offices—Ballots not to be tabulated—Voter credited with voting—Retention of uncounted ballots. Canvassing boards of any primary or election, including a state primary or state general election, shall not tabulate or record votes cast by absentee ballots on any uncontested office.

Each voter casting an absentee ballot not counted as provided in this section, nevertheless, shall be credited with voting on his permanent voting history record. Further, such uncounted absentee ballots shall be retained for the same length of time and in the same manner as paper ballots cast in person as provided by RCW 29.54.070. [1965 c 9 § 29.36.075. Prior: 1961 c 78 § 1.]

29.36.077 Uncontested offices—Counting of uncounted ballots on candidate's request. If the official canvass of any primary or election has been completed and the statutory time has elapsed in which to file a recount or contested election, should any candidate desire to have such uncounted absentee ballots counted which were cast on his position, such request shall be honored under the following conditions:

(1) The request must be made in writing and filed within sixty days following such primary or election with the officer who conducted the election.

(2) The count of such absentee ballots is to be done informally and at the convenience of the election officer concerned but in no event shall the count be delayed more than sixty days from the time the application is filed. [1965 c 9 § 29.36.077. Prior: 1961 c 78 § 2.]

29.36.095 List of absentee voters—Precinct office not to appear on ballot. After the completion of the canvass of the election returns of any primary or election, the canvassing authority shall cause the names of the persons casting absentee ballots to be listed alphabetically and by precincts. Such lists of absentee voters

shall be used to enter on the respective voters registration record in the space provided for that purpose, the month, day and year of the primary or election (for example 11/2:54) or otherwise credit the voter with having participated in that election. [1974 1st ex.s. c 73 § 3; 1971 ex.s. c 202 § 39; 1965 c 9 § 29.36.095. Prior: 1955 c 50 § 4.]

29.36.097 List of applications for absentee ballots. Each county auditor shall maintain in his office, open for public inspection, lists of the applications he has received for absentee ballots under the provisions of this chapter and of chapter 29.39 RCW.

Such applications shall be listed no later than twenty-four hours after their receipt and the lists thereof shall be available until the day of the election for which the absentee ballot application was made.

The lists shall be organized first according to the date of application, then by legislative district, if appropriate, and then by precinct. They shall also indicate the name of each applicant and the address to which the ballot is to be mailed.

The auditor shall make copies of such lists available to the public for the actual cost of copying such list. [1973 1st ex.s. c 61 § 1.]

29.36.100 Challenges. The vote of any absent voter may be challenged for any cause at the time the same is canvassed by the canvassing board which shall have all the power and authority given by law to officers of election to determine the legality of such ballot. [1965 c 9 § 29.36.100. Prior: 1917 c 159 § 5; 1915 c 189 § 5; RRS § 5286.]

29.36.110 Violations and penalty. Any person who violates any of the provisions of this chapter, relating to swearing and voting, shall be guilty of a felony and shall be punished by imprisonment for not more than five years or a fine of not more than five thousand dollars, or by both such fine and imprisonment. [1965 c 9 § 29.36.110. Prior: 1963 ex.s. c 23 § 7; 1917 c 159 § 7; 1915 c 189 § 7; RRS § 5287.]

29.36.120 Precincts with less than one hundred voters—Voting by mail ballot may be ordered—Notice—Application form. The county auditor, as ex officio supervisor of elections, or other officer having jurisdiction of the election, may, with regard to any precinct having less than one hundred registered voters at the time of closing of the registration files as provided in RCW 29.07.160, order the voting in said precinct for the next ensuing election, whether a primary election, general election, special election, or any other election, be by mail ballot only.

Whenever such officer shall so order, he shall, not less than fifteen days prior to the date of such election, mail or deliver to each registered voter within said precinct his notice that voting within said precinct shall be by mail voting only. Accompanied with such notice shall be an application form together with a postage prepaid envelope preaddressed to the issuing officer. In order to be honored such application form, properly executed,

must reach the issuing officer no later than the day of the election concerned.

The county auditor may continue to honor such application for all subsequent elections held in the same manner as long as the voter concerned remains qualified to vote at such elections. [1974 1st ex.s. c 35 § 2; 1967 ex.s. c 109 § 6.]

29.36.130 Precincts with less than one hundred voters—Ballots—Contents—Counting—Secrecy enjoined. All such absentee ballots as authorized by RCW 29.36.120 shall contain the same offices, names of candidates and propositions (if any) to be voted upon, including precinct offices, as if the ballot had been voted in person at the polling place. Except as otherwise provided in RCW 29.36.120 through 29.36.140, such absentee ballots shall be issued, completed, returned, received, opened, counted, canvassed, recorded and handled as any absentee ballot issued pursuant to the request of the voter: *Provided*, That the county canvassing board, at the request of the county auditor, may direct that such ballots be counted on the day of the election. If such count is made it must be done in secrecy and the results not revealed to any unauthorized person until the polls have closed. Any violation of the secrecy of such count shall be subject to the same penalties as provided for in RCW 29.54.035. [1967 ex.s. c 109 § 7.]

Reviser's note: "RCW 29.36.120 through 29.36.140" has been substituted for the phrase "this act". For disposition of "this act" [1967 ex.s. c 109], see note following RCW 29.34.010.

29.36.140 Districts or cities with less than five hundred voters—Organization or addition of territory elections—Voting by mail ballot may be ordered—Procedure. Whenever an election is to be held for the organization of a new district, including but not limited to the organization of a water, fire, or sewer district, or for the purpose of addition of territory to an existing city, town, or district and the total number of registered voters qualified to vote at such election is less than five hundred, and the names and addresses of all such voters can be determined not less than fifteen days prior to the election concerned, the county auditor, as ex officio supervisor of elections, or other officer having jurisdiction of the election, may order that all voting be done by mail ballot in the same manner and with like penalties as provided in RCW 29.36.120 and 29.36.130 as now or hereafter amended. [1974 1st ex.s. c 35 § 3; 1967 ex.s. c 109 § 8.]

Chapter 29.39 ABSENTEE SERVICE VOTERS

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 29.39.200 Penalties for false statements and violations.
 29.39.900 Liberal construction.

29.39.010 "Service voter", "armed forces", "members of the merchant marine of the United States", "dependent" defined. "Service voter" means an elector who comes within any of the following categories:

(1) Members of the armed forces while in the active service, and their spouses and dependents, including students and faculty members of the United States military academies.

(2) Members of the merchant marine of the United States, and their spouses and dependents.

(3) Civilian employees of the United States in all categories, including members of the Peace Corps, serving outside the territorial limits of the several states of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them, whether or not the employee is subject to the civil service laws and the Classification Act of 1949, and whether or not paid from funds appropriated by the congress.

(4) Members of religious groups or welfare agencies assisting members of the armed forces, who are officially attached to and serving with the armed forces, and their spouses and dependents.

(5) Citizens of the United States and of the state of Washington temporarily residing outside of the state of Washington and their spouses and dependents when residing with or accompanying them.

The term "armed forces" means the uniformed services as defined in section 102 of the Career Compensation Act of 1949 (63 Stat. 804), as amended.

The term "members of the merchant marine of the United States" means persons (other than members of the armed forces) employed as officers or members of crews of vessels documented under the laws of the United States, and persons (other than members of the armed forces) enrolled with the United States for employment, or for training for employment, or maintained by the United States for emergency relief service, as officers or members of crews of any such vessels; but does not include persons so employed, or enrolled for such employment or for training for such employment, or maintained for such emergency relief service, on the Great Lakes or the inland waterways.

The term "dependent" means any person who is in fact a dependent. [1973 c 56 § 1; 1967 ex.s. c 109 § 4; 1965 c 9 § 29.39.010. Prior: 1957 c 169 § 1; 1950 ex.s. c 14 § 1.]

*Residence, contingencies affecting: State Constitution Art. 6 § 4.
 Residence for voting purposes defined: RCW 29.01.140.*

29.39.020 "Primary," "primary election" defined. "Primary" or "primary election" means a method provided by statute for nominating candidates to office. [1965 c 9 § 29.39.020. Prior: 1950 ex.s. c 14 § 2.]

29.39.030 "Election", "primary" defined—Absentee voters' ballots. "Election" used alone means a general election except where the context indicates that a special election is meant or included. "Election" used without qualification never means a primary.

In addition to the above, for the purpose of this chapter, the term "primary" means the primary elections held on the third Tuesday in September of each year. The term "election" means the general elections held on the first Tuesday following the first Monday in November of each year.

The purpose of this section is to authorize absentee voters qualifying as service voters as defined by RCW 29.39.010, as now existing or hereafter amended, to cast the same ballots, including those for special elections, as any registered voter would receive under the provisions of RCW 29.36.030 for any September primary or November general election. [1973 c 4 § 4; 1967 ex.s. c 109 § 5; 1965 c 9 § 29.39.030. Prior: 1950 ex.s. c 14 § 3.]

29.39.040 "Date of mailing the ballot" defined. "Date of mailing the ballot" means the date stated on the declaration on the larger envelope and not the date of the postal cancellation thereon. [1965 c 9 § 29.39.040. Prior: 1950 ex.s. c 14 § 4.]

29.39.050 "Territorial limits of the United States" defined. "Territorial limits of the United States" means the fifty states of the United States and the District of Columbia. [1965 c 9 § 29.39.050. Prior: 1950 ex.s. c 14 § 5.]

29.39.060 Absentee voting under federal law to be valid. Whenever by any statute of the United States, provision is made for absentee voting, an application for an absent voter's ballot made under the provisions of that law may be given the same effect as an application for an absent voter's ballot made under this chapter. [1965 c 9 § 29.39.060. Prior: 1950 ex.s. c 14 § 6.]

29.39.070 Must coordinate with federal authority. All public officers having duties to perform under this chapter shall coordinate their efforts with the action of any federal authority now or hereafter established by act of congress for the purpose of facilitating voting by service voters to the end that such voters may cast their ballots with the least possible interference with the performance of their duties in the armed forces. [1965 c 9 § 29.39.070. Prior: 1950 ex.s. c 14 § 7.]

29.39.080 Name variations not to invalidate ballot. A variation on any absent voter's ballot cast by a service voter between the signature on the large envelope and that on the service voter's request and/or that on the

voter's permanent registration card caused by the substitution of initials instead of the first or middle names or both shall not invalidate the ballot if the surname and handwriting are the same. [1965 c 9 § 29.39.080. Prior: 1950 ex.s. c 14 § 8.]

29.39.090 Application deemed to be for next election. Whenever an application for an absent voter's ballot is made by a service voter, the application shall be deemed an application for an absent voter's ballot for the primary and the election, or such of them as would be required to be held subsequent to the date of application. [1965 c 9 § 29.39.090. Prior: 1950 ex.s. c 14 § 9.]

29.39.100 Application for absent voter's ballot. Any service voter may secure an absent voter's ballot by mailing a signed request to the registration office of the county, city or town of the service voter's residence or to the secretary of state requesting such ballot. If the ballot request is addressed to the secretary of state such request shall be forwarded by such officer immediately to the appropriate registration officer. The request shall be signed by the applicant and shall state his last home address, the address to which he wishes the absent voter's ballot mailed and the facts qualifying him as a service voter. [1965 c 9 § 29.39.100. Prior: 1950 ex.s. c 14 § 10.]

29.39.110 Action upon application. Upon receipt of a request made by or on behalf of a service voter for an absent voter's ballot, the registration officer shall immediately check his records and ascertain if the person by, or on whose behalf the request is made, is a duly registered voter as provided by chapter 29.07 RCW, and the registration officer shall make notation on his records to that effect. If such person is a resident of an incorporated city or precinct lying partly within and partly without such incorporated city, the registration officer, after completing such check, shall immediately forward the request to the county auditor noting thereon whether or not such person is a registered voter. If it is determined that such person is not a registered voter, the county auditor shall nevertheless send the absent voter's ballot requested, it being the intent of this section that the county auditor shall upon request send absent voter's ballots to all eligible service voters who make application therefor. [1965 c 9 § 29.39.110. Prior: 1950 ex.s. c 14 § 11.]

29.39.120 Mailing ballot and voter's pamphlet to voter—Declaration—Penalty. In mailing absent voter's ballots to service voters, the county auditor shall send a copy of the official voters' pamphlet with the ballot and a small envelope and letter of instructions together with a larger envelope addressed to the county auditor and upon which there shall be plainly printed a form in substantially the following language:

"DECLARATION

"I do hereby declare under penalty of perjury that I am a citizen of the United States; that I will be at least eighteen (18) years of age on the day of this election;

that I have been a legal resident of the state of Washington for at least thirty days; and that I am a service voter under the laws of the state of Washington. I further declare that I am not voting any other ballot of the state of Washington or of any other state of the United States at this election."

Legislative District ----- Precinct -----
Dated this ----- day of -----, 19---

Print name for Signature
positive of applicant
identification

Any person making a false statement in his declaration is guilty of perjury. [1974 1st ex.s. c 127 § 6; 1971 ex.s. c 178 § 2; 1965 c 9 § 29.39.120. Prior: 1950 ex.s. c 14 § 12.]

Severability—1971 ex.s. c 178: See RCW 29.72.910.

29.39.130 Ballot sent air mail and free postage when possible. Whenever the county auditor is requested to mail an absent voter's ballot to a service voter, he shall mail the ballot to the service voter by air mail when practicable, and, if by any law of the United States, official election ballots may be mailed without the payment of postage, he shall do so. [1965 c 9 § 29.39.130. Prior: 1950 ex.s. c 14 § 14.]

29.39.140 Voter's declaration deemed registration—Mailing of ballot by voter. A properly executed declaration on the larger envelope is hereby declared to be a full and complete voter's registration for the election for which it is submitted. After the declaration is fully executed the service voter shall proceed to mark the ballot; then fold it and enclose it in the smaller envelope, sealing that and enclosing it in the larger envelope which shall then be sealed and mailed to the county auditor whose name and address are printed thereon, by air mail, postage to be paid by the addressee, unless the laws of the United States provide for air mail transmission of such ballot without charge. [1965 c 9 § 29.39.140. Prior: 1950 ex.s. c 14 § 13.]

29.39.150 Ballots and envelopes—Forms—Expense. Notwithstanding any provision of law relating to the size and weight of the ballot or the envelopes in which absent voters' ballots are sent for either the primary or election, the secretary of state may reduce the size and weight of the ballot. He shall furnish uniform envelopes and all forms other than ballots for use in connection with ballots for service voters, and shall reimburse the respective county auditors for expenses of mailing. Each county auditor shall, through the respective boards of county commissioners, present such expenses listed upon state voucher forms in duplicate. The secretary of state, after the approval of the vouchers, shall then present them to the state treasurer for payment. [1965 c 9 § 29.39.150. Prior: 1950 ex.s. c 14 § 15.]

29.39.160 Instructions to voters—Preparation—Enclosure. The secretary of state shall prepare letters of instructions to service voters and shall furnish them to

all county auditors. The county auditors shall enclose one copy of such instructions with the ballot sent to all service voters. [1965 c 9 § 29.39.160. Prior: 1950 ex.s. c 14 § 16.]

29.39.170 Certain time limits shall not apply. All procedure governing the receipt and subsequent handling of absent voters' ballots shall be governed by the provisions of chapter 29.36 RCW, but the respective time limits within which some specific act on the part of the county auditors and canvassing boards is required to be done shall not apply to absent voters' ballots cast by service voters, it being the intent of this section that every facility shall be given to such absent voters' ballots cast by service voters so that such ballots shall be counted if possible. [1965 c 9 § 29.39.170. Prior: 1950 ex.s. c 14 § 17.]

29.39.180 Officials shall expedite service voting. The state canvassing board, all county canvassing boards and all county auditors and registration officials shall make no undue delay in performing any of the specific actions hereby imposed upon them. All ballots shall be printed as soon as possible after the same can be made up in order that there may be no delay in the forwarding of absent voters' ballots to service voters so as to afford ample time to all service voters for voting as herein provided. [1965 c 9 § 29.39.180. Prior: 1950 ex.s. c 14 § 21.]

29.39.190 Secretary of state shall administer chapter. The secretary of state shall administer this chapter. He shall direct all election officials in respect to their duties under this chapter, publicize the provisions of the election laws, and make such rules and regulations as will facilitate the operation and the accomplishment of the purposes of this chapter. [1965 c 9 § 29.39.190. Prior: 1950 ex.s. c 14 § 22.]

29.39.200 Penalties for false statements and violations. Any person who makes a false statement in his declaration upon the larger envelope used to transmit his ballot shall be guilty of perjury in the second degree and punished accordingly. Any person violating any other provision of this chapter shall be guilty of a misdemeanor. [1965 c 9 § 29.39.200. Prior: 1950 ex.s. c 14 § 23.]

29.39.900 Liberal construction. This chapter shall be liberally construed to accomplish its purposes and so that all service voters may be afforded an opportunity to fully exercise their voting rights granted herein. [1965 c 9 § 29.39.900. Prior: 1950 ex.s. c 14 § 24.]

**Chapter 29.42
POLITICAL PARTIES**

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29.42.070 Legislative district chairman—Election—Term—Removal.

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Voting machine votes, recanvassing of, party participation: RCW 29.62.060.
Write-in voting, political party affiliation to appear: RCW 29.51.100, 29.51.170.

29.42.010 Authority—Generally. Each political party organization shall have the power to:

- (1) Make its own rules and regulations;
- (2) Call conventions;
- (3) Elect delegates to conventions, state and national;
- (4) Fill vacancies on the ticket;
- (5) Provide for the nomination of presidential electors; and

(6) Perform all functions, inherent in such an organization: *Provided*, That in no instance shall any convention have the power to nominate any candidate to be voted for at any primary election. [1965 c 9 § 29.42.010. Prior: 1961 c 130 § 2; prior: 1943 c 178 § 1, part; 1939 c 48 § 1, part; 1927 c 200 § 1, part; 1925 ex.s. c 158 § 1, part; 1909 c 82 § 6, part; 1907 c 209 § 22, part; Rem. Supp. 1943 § 5198, part.]

Vacancies on ticket—How filled: RCW 29.18.150.

29.42.020 State committee. The state committee of each major political party shall consist of one committeeman and one committeewoman from each county elected by the county committee at its organization meeting. It shall have a chairman and vice chairman who must be of opposite sexes. This committee shall meet during January of each odd-numbered year for the purpose of organization at a time and place designated by a sufficient notice to all the newly elected state committeemen and committeewomen by the authorized officers of the retiring committee. For the purpose of

this section a notice mailed at least one week prior to the date of the meeting shall constitute sufficient notice. At its organizational meeting it shall elect its chairman and vice chairman, and such officers as its bylaws may provide, and adopt bylaws, rules and regulations. It shall have power to:

(1) Call conventions at such time and place and under such circumstances and for such purposes as the call to convention shall designate. The manner, number and procedure for selection of state convention delegates shall be subject to the committee's rules and regulations duly adopted;

(2) Provide for the election of delegates to national conventions;

(3) Fill vacancies on the ticket for any federal or state office to be voted on by the electors of more than one county;

(4) Provide for the nomination of presidential electors; and

(5) Perform all functions inherent in such an organization.

Notwithstanding any provision of this chapter, the committee shall not set rules which shall govern the conduct of the actual proceedings at a party state convention. [1972 ex.s. c 45 § 1; 1965 c 9 § 29.42.020. Prior: 1961 c 130 § 3; prior: 1943 c 178 § 1, part; 1939 c 48 § 1, part; 1927 c 200 § 1, part; 1925 ex.s. c 158 § 1, part; 1909 c 82 § 6, part; 1907 c 209 § 22, part; Rem. Supp. 1943 § 5198, part.]

29.42.030 County central committee—Organization meetings. The county central committee of each major political party shall consist of the precinct committeemen of the party from the several voting precincts of the county. Following each state general election held in even-numbered years, this committee shall meet for the purpose of organization at an easily accessible location within the county, subsequent to the certification of precinct committeemen by the county auditor and no later than the second Saturday of the following January. The authorized officers of the retiring committee shall cause notice of the time and place of such meeting to be mailed to each precinct committeeman at least seventy-two hours prior to the date of the meeting.

At its organization meeting, the county central committee shall elect a chairman and vice chairman who must be of opposite sexes; it shall also elect a state committeeman and a state committeewoman. [1973 c 85 § 1; 1973 c 4 § 5; 1965 c 9 § 29.42.030. Prior: 1961 c 130 § 4; prior: 1943 c 178 § 1, part; 1939 c 48 § 1, part; 1927 c 200 § 1, part; 1925 ex.s. c 158 § 1, part; 1909 c 82 § 6, part; 1907 c 209 § 22, part; Rem. Supp. 1943 § 5198, part.]

Precinct election officers appointed from list furnished by chairman of county central committee: RCW 29.45.010 and 29.45.030.

29.42.040 Precinct committeeman, who is eligible. Any member of a major political party who is a registered voter in the precinct may upon payment of a fee of one dollar file his declaration of candidacy with the county auditor for the office of precinct committeeman of his party in that precinct. When elected he shall

serve so long as he remains an eligible voter in that precinct and until his successor has been elected at the next ensuing state general election in the even-numbered year. [1973 c 4 § 6; 1965 c 9 § 29.42.040. Prior: 1961 c 130 § 5; prior: 1943 c 178 § 1, part; 1939 c 48 § 1, part; 1927 c 200 § 1, part; 1925 ex.s. c 158 § 1, part; 1909 c 82 § 6, part; 1907 c 209 § 22, part; Rem. Supp. 1943 § 5198, part.]

Precinct election officers, precinct committeeman to certify list of persons qualified: RCW 29.45.030.

29.42.050 Precinct committeeman—Election—Declaration of candidacy, fee—Term—Vacancy. The statutory requirements for filing as a candidate at the primaries shall apply to candidates for precinct committeeman except that the filing period for this office alone shall be extended to and include the Friday immediately following the last day for political parties to fill vacancies in the ticket as provided by RCW 29.18.150, and the office shall not be voted upon at the primaries, but the names of all candidates must appear under the proper party and office designations on the ballot for the general November election for each even-numbered year and the one receiving the highest number of votes shall be declared elected: *Provided*, That to be declared elected, a candidate must receive at least ten percent of the number of votes cast for the candidate of his party receiving the greatest number of votes in his precinct. Any person elected to the office of precinct committeeman who has not filed a declaration of candidacy shall pay the fee of one dollar to the county auditor for a certificate of election. The term of office of precinct committeeman shall be for two years, commencing upon completion of the official canvass of votes by the county canvassing board of election returns. Should any vacancy occur in this office by reason of death, resignation, or disqualification of the incumbent, or because of failure to elect, the respective county chairman of the county central committee shall be empowered to fill such vacancy by appointment: *Provided, however*, That in legislative districts having a majority of its precincts in a class AA county, such appointment shall be made only upon the recommendation of the legislative district chairman: *Provided*, That the person so appointed shall have the same qualifications as candidates when filing for election to such office for such precinct: *Provided further*, That when a vacancy in the office of precinct committeeman exists because of failure to elect at a state general election, such vacancy shall not be filled until after the organization meeting of the county central committee and the new county chairman selected as provided by RCW 29.42.030. [1973 c 4 § 7; 1967 ex.s. c 32 § 2; 1965 ex.s. c 103 § 3; 1965 c 9 § 29.42.050. Prior: 1961 c 130 § 6; prior: 1953 c 196 § 1; 1943 c 178 § 1, part; 1939 c 48 § 1, part; 1927 c 200 § 1, part; 1925 ex.s. c 158 § 1, part; 1909 c 82 § 6, part; 1907 c 209 § 22, part; Rem. Supp. 1943 § 5198, part.]

29.42.060 Precinct office to appear on separate absentee ballot. See RCW 29.36.030 and 29.36.070.

29.42.070 Legislative district chairman—Election—Term—Removal. Within forty-five days after the state-wide general election in even-numbered years, or within thirty days following the effective date of this 1967 enactment for the biennium ending with the 1968 general elections, the county chairman of each major political party shall call separate meetings of all elected precinct committeemen in each legislative district a majority of the precincts of which are within a class AA county for the purpose of electing a legislative district chairman in such district. The district chairman shall hold his office until the next legislative district reorganizational meeting two years later, or until his successor is elected.

The legislative district chairman can only be removed by the majority vote of the elected precinct committeemen in his district. [1967 ex.s. c 32 § 1.]

Effective date—1967 ex.s. c 32: The effective date of this section is July 30, 1967, see preface to 1967 session laws.

Severability—1967 ex.s. c 32: "If any provision of this 1967 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the 1967 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1967 ex.s. c 32 § 3.] This applies to RCW 29.42.050 and 29.42.070.

Precinct committeeman, appointment to fill vacancy in office of to be made on recommendation of legislative district chairman: RCW 29.42.050.

Chapter 29.45 PRECINCT ELECTION OFFICERS

Sections

- 29.45.010 Appointment of judges and inspector.
- 29.45.020 Appointment of clerks—Party representation—Hour to report.
- 29.45.030 Nomination of eligibles for judges and inspector.
- 29.45.040 Vacancies—How filled—Inspector's authority.
- 29.45.050 Two or more sets of precinct election officers, when—Counting board or boards—Receiving board.
- 29.45.060 Duties—Generally.
- 29.45.065 Application of RCW 29.45.050 and 29.45.060 to other primaries or elections.
- 29.45.070 Inspector to be chairman—Authority.
- 29.45.080 Oaths of officers required.
- 29.45.090 Oath of inspectors, form of.
- 29.45.100 Oath of judges, form of.
- 29.45.110 Oath of clerks, form of.
- 29.45.120 Compensation.
- 29.45.130 Precinct officers where voting machines are used—Variation in number and character.
- 29.45.135 Precinct officers where voting machines are used—Instruction in use of machines—Compensation.
- 29.45.140 Vacancy in United States house of representatives, primary or election to fill—Precinct election officers—Who to serve.

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Contests, misconduct of precinct election board—Number of votes affected—Enough to change result: RCW 29.65.070.

Contests, misconduct of precinct election board members as grounds for: RCW 29.65.010.

District election officials, see particular district, elections in.

Forms for declaration of death of registered voter, precinct election officers to have: RCW 29.10.090.

Precinct election officers' duties before, during and after polls open: Chapters 29.48, 29.51 and 29.54 RCW.

Request for cancellation of registration on ground voter's residence no longer in precinct, precinct committeemen and election officers may make: RCW 29.10.130.

Term of county and precinct officers: RCW 36.16.020.

Townships, duties of town officers at elections: Chapter 45.40 RCW.

Violations by election officers, penalties: Chapter 29.85 RCW.

Voting machine precincts, precinct election officers' duties: RCW 29.48.080.

Voting machines, preparation for voting: Chapter 29.33 RCW.

29.45.010 Appointment of judges and inspector. At least ten days prior to any primary or election, the officer having jurisdiction of the election shall appoint one inspector and two judges of election for each precinct (or each combination of precincts temporarily consolidated as a single precinct for an election) from among the names contained on the lists therefor furnished by the chairman of the county central committee of the political parties entitled to representation thereon.

Such precinct election officers, whenever possible, should be residents of the precinct in which they serve, but if extenuating circumstances arise, they may be assigned to serve in a different precinct.

The officer having jurisdiction of the election shall designate the inspector and one judge in each precinct from that political party which polled the highest number of votes in the county for its candidate for president at the last preceding general election at which a president of the United States was voted for, and one judge from that political party polling the next highest number of votes in the county for its candidate for president at the same election.

This shall be the exclusive method for the appointment of inspectors and judges to serve as precinct election officers at any primary or election and shall supersede the provisions of any and all other statutes, whether general or special in nature, having different requirements. [1965 ex.s. c 101 § 1; 1965 c 9 § 29.45.010. Prior: (i) 1935 c 165 § 2, part; RRS § 5147-1, part. (ii) Code 1881 § 3068, part; 1865 p 30 § 2, part; RRS § 5158, part. (iii) 1907 c 209 § 15, part; RRS § 5192, part. (iv) 1895 c 156 § 6, part; 1889 p 407 § 20, part; RRS § 5277, part. (v) 1947 c 182 § 1, part; Rem. Supp. 1947 § 5166-10, part; prior: 1945 c 164 § 3, part; 1941 c 180 § 1, part; 1935 c 5 § 1, part; 1933 ex.s. c 29 § 1, part; prior: 1933 c 79 § 1, part; 1927 c 279 § 2, part; 1923 c 53 § 3, part; 1921 c 61 § 5, part; Rem. Supp. 1945 § 5147, part.]

29.45.020 Appointment of clerks—Party representation—Hour to report. At the same time the officer having jurisdiction of the election appoints the inspector and two judges as provided in RCW 29.45.010, he may appoint one or more persons to act as clerks if in his judgment such additional persons are necessary, except that in precincts in which voting machines are used, the judges of election shall perform the duties required to be performed by clerks.

Each clerk appointed shall represent a major political party: *Provided*, That the political party representation

of a single set of precinct election officers shall, whenever possible, be equal but, in any event, no single political party shall be represented by more than a majority of one at each polling place.

The election officer having jurisdiction of the election may designate at what hour the clerks shall report for duty. The hour may vary among the precincts according to the judgment of the appointing officer. [1965 ex.s. c 101 § 2; 1965 c 9 § 29.45.020. Prior: 1955 c 168 § 4; prior: (i) 1915 c 114 § 4, part; 1913 c 58 § 9, part; RRS § 5308, part. (ii) 1895 c 156 § 1, part; Code 1881 § 3069, part; 1865 p 31 § 3, part; RRS § 5159, part.]

29.45.030 Nomination of eligibles for judges and inspector. The precinct committeeman of each major political party shall certify to his county chairman a list of those persons belonging to his political party qualified to act upon the election board in his precinct.

At least sixty days prior to the primary or election the chairman of the county central committee of each major political party shall certify to the officer having jurisdiction of the election, a list of those persons belonging to his political party in each precinct who are qualified to act on the election board therein.

The county chairman shall compile this list from the names certified by his various precinct committeemen unless no names or not sufficient names have been certified from a precinct, in which event he may include therein the names of qualified members of his party selected by him. The county chairman shall also have the authority to substitute names of persons recommended by his precinct committeemen if in his judgment such persons are not qualified to serve as precinct election officers. [1965 ex.s. c 101 § 3; 1965 c 9 § 29.45.030. Prior: (i) 1907 c 209 § 15, part; RRS § 5192, part. (ii) 1935 c 165 § 2, part; RRS § 5147-1, part.]

29.45.040 Vacancies—How filled—Inspector's authority. If no election officers have been appointed for a precinct, or if at the hour for opening the polls none of those appointed is present at the polling place therein, the voters present may appoint the election board for that precinct. One of the judges may perform the duties of clerk of election. The inspector shall have the power to fill any vacancy that may occur in the board of judges, or by absence or refusal to serve of either of the clerks after the polls shall have been opened. [1965 c 9 § 29.45.040. Prior: (i) Code 1881 § 3075, part; 1865 p 32 § 9, part; RRS § 5165, part. (ii) Code 1881 § 3068, part; 1865 p 30 § 2, part; RRS § 5158, part. (iii) 1907 c 209 § 15, part; RRS § 5192, part.]

29.45.050 Two or more sets of precinct election officers, when—Counting board or boards—Receiving board. There shall be but one set of election officers in each precinct except as provided in this section.

In every precinct using paper ballots having two hundred or more registered voters there shall be appointed, and in every precinct having less than two hundred registered voters there may be appointed, at a state primary or state general election, two or more sets

of precinct election officers as provided in RCW 29.04-.020 and 29.45.010. The officer in charge of the election may appoint one or more counting boards at his discretion, when he decides that because of a long or complicated ballot or because of the number of expected voters, there is need of additional counting board or boards to improve the speed and accuracy of the count.

In making such appointments, one or more sets of precinct election officers shall be designated as the counting board or boards, the first of which shall consist of an inspector, two judges, and a clerk and the second set, if activated, shall consist of two judges and two clerks. The duties of the counting board or boards shall be the count of ballots cast and the return of the election records and supplies to the officer having jurisdiction of the election.

One set of precinct election officers shall be designated as the receiving board which shall have all other powers and duties imposed by law for such elections. [1973 c 102 § 2; 1965 ex.s. c 101 § 4; 1965 c 9 § 29.45-.050. Prior: 1955 c 148 § 2; prior: (i) 1923 c 53 § 4, part; 1921 c 61 § 6, part; RRS § 5148, part. (ii) 1921 c 170 § 4, part; RRS § 5153, part.]

29.45.060 Duties—Generally. The inspector and judges of election in each precinct shall conduct the elections therein and receive, deposit, and count the ballots cast thereat and make returns to the proper canvassing board or officer except that when two or more sets of precinct election officers are appointed as provided in RCW 29.45.050, the ballots shall be counted by the counting board or boards as provided in RCW 29.54.030, 29.54.043, and 29.54.045. [1973 c 102 § 3; 1965 ex.s. c 101 § 5; 1965 c 9 § 29.45.060. Prior: 1955 c 148 § 3; prior: (i) 1923 c 53 § 4, part; 1921 c 61 § 6, part; RRS § 5148, part. (ii) 1921 c 170 § 4, part; RRS § 5153, part.]

29.45.065 Application of RCW 29.45.050 and 29.45-.060 to other primaries or elections. All of the provisions of RCW 29.45.050 and 29.45.060 relating to counting boards may be applied on an optional basis to any other primary or election, regular or special, at the discretion of the officer in charge of the election. [1973 c 102 § 5.]

29.45.070 Inspector to be chairman—Authority. The inspector shall be chairman of the board and after its organization shall have power to administer all necessary oaths which may be required in the progress of the election. [1965 c 9 § 29.45.070. Prior: Code 1881 § 3075, part; 1865 p 32 § 9, part; RRS § 5165, part.]

29.45.080 Oaths of officers required. The inspector, judges, and clerks of election, before entering upon the duties of their offices, shall take and subscribe the prescribed oath or affirmation which shall be administered to them by any person authorized to administer oaths and verified under the hand of the person by whom such oath or affirmation is administered. If no such person is present, the inspector shall administer the

same to the judges and clerks, and one of the judges shall administer the oath to the inspector.

The county auditor shall furnish two copies of the proper form of oath to each precinct election officer, one copy thereof, after execution, to be placed and transmitted with the election returns. [1965 c 9 § 29.45-.080. Prior: (i) Code 1881 § 3070; 1865 p 31 § 4; RRS § 5160. (ii) 1895 c 156 § 2, part; Code 1881 § 3074, part; 1865 p 32 § 8, part; RRS § 5164, part.]

29.45.090 Oath of inspectors, form of. The following shall be the form of the oath or affirmation to be taken by each inspector:

"I, A B, do swear (or affirm) that I will duly attend to the ensuing election, during the continuance thereof, as an inspector, and that I will not receive any ballot or vote from any person other than such as I firmly believe to be entitled to vote at such election, without requiring such evidence of the right to vote as is directed by law; nor will I vexatiously delay the vote of, or refuse to receive, a ballot from any person whom I believe to be entitled to vote; but that I will in all things truly, impartially, and faithfully perform my duty therein to the best of my judgment and abilities; and that I am not, directly nor indirectly, interested in any bet or wager on the result of this election." [1965 c 9 § 29.45.090. Prior: Code 1881 § 3071; 1865 p 31 § 5; RRS § 5161.]

29.45.100 Oath of judges, form of. The following shall be the oath or affirmation of each judge:

"We, A B, do swear (or affirm) that we will as judges duly attend the ensuing election, during the continuance thereof, and faithfully assist the inspector in carrying on the same; that we will not give our consent to the receipt of any vote or ballot from any person, other than one whom we firmly believe to be entitled to vote at such election; and that we will make a true and perfect return of the said election and will in all things truly, impartially, and faithfully perform our duty respecting the same to the best of our judgment and abilities; and that we are not directly nor indirectly interested in any bet or wager on the result of this election." [1965 c 9 § 29.45.100. Prior: Code 1881 § 3072; 1865 p 31 § 6; RRS § 5162.]

29.45.110 Oath of clerks, form of. The following shall be the form of the oath to be taken by the clerks:

"We, and each of us, A B, do swear (or affirm) that we will impartially and truly write down the name of each elector who votes at the ensuing election, and also the name of the county and precinct wherein the elector resides; that we will carefully and truly write down the number of votes given for each candidate at the election as often as his name is read to us by the inspector and in all things truly and faithfully perform our duty respecting the same to the best of our judgment and abilities, and that we are not directly nor indirectly interested in any bet or wager on the result of this election." [1965 c 9 § 29.45.110. Prior: Code 1881 § 3073; 1865 p 32 § 7; RRS § 5163.]

29.45.120 Compensation. The fees of officers of election shall be as follows:

To the judges and clerks of an election not less than the minimum hourly wage per hour as provided under RCW 49.46.020 as now or hereafter amended, the exact amount to be fixed by the respective boards of county commissioners for each county. To inspectors, the rate paid to judges and clerks plus an additional two hours' compensation. The precinct election officer picking up the election supplies and returning the election returns to the county auditor shall be entitled to additional compensation, the exact amount to be determined by the respective boards of county commissioners for each county. [1971 ex.s. c 124 § 2; 1965 c 9 § 29.45.120. Prior: 1961 c 43 § 1; 1951 c 67 § 1; 1945 c 186 § 1; 1919 c 163 § 13; 1895 c 20 § 1; Code 1881 § 3151; 1866 p 8 § 9; 1865 p 52 § 12; Rem. Supp. 1945 § 5166. See also 1907 c 209 § 15; RRS § 5192.]

29.45.130 Precinct officers where voting machines are used—Variation in number and character. See RCW 29.33.210.

29.45.135 Precinct officers where voting machines are used—Instruction in use of machines—Compensation. See RCW 29.33.220.

29.45.140 Vacancy in United States house of representatives, primary or election to fill—Precinct election officers—Who to serve. See RCW 29.68.110.

Chapter 29.48

POLLING PLACE REGULATIONS BEFORE POLLS OPEN

Sections

29.48.005	Polling place—May be located outside precinct.
29.48.007	Polling place—Use of school facilities.
29.48.010	Preparation of voting compartments.
29.48.020	Time for arrival of officers.
29.48.030	Delivery of supplies.
29.48.040	Additional supplies for voting machines.
29.48.050	Receipt for key to voting machine.
29.48.060	Posting of instructions.
29.48.070	Inspection of ballot box.
29.48.080	Inspection of voting machine.
29.48.090	Duty to display flag.
29.48.100	Proclamation opening the polls.

Delivery of registration files: RCW 29.07.170.

Election laws to be in hands of officers of election: RCW 29.04.060.

Forms to be available when polls open

statements that registered voter is deceased: RCW 29.10.090.

statements that voter has changed residence: RCW 29.10.130-29.10.150.

Placing advertisements upon property without consent of owner: RCW 9.61.040.

Poll books: RCW 29.04.100.

Precinct election officers, appointment of and oaths: Chapter 29.45 RCW.

Violations and penalties for actions taken before polls open: Chapter 29.85 RCW.

Voting machines, protection of after delivery, and lighting: RCW 29.33.150.

29.48.005 Polling place—May be located outside precinct. Polling places for the various voting precincts may be located outside the boundaries of the respective precincts, when the officers conducting the primary or election shall deem it feasible: *Provided*, That such polling places shall be located within a reasonable distance of their respective precincts. The purpose of this section is to furnish adequate voting facilities at readily accessible and identifiable locations and nothing herein shall be construed as affecting the number, method of selection or duties of precinct election officers. [1965 c 9 § 29.48.005. Prior: 1951 c 123 § 1.]

29.48.007 Polling place—Use of school facilities. The board of directors of each school district shall cooperate with the county auditor by making schools available for use as polling places on the dates on which state primary and state general elections are held. When in the judgment of the county auditor the voters will be best served thereby, he shall notify the board of directors of the school district of the number of schoolrooms desired for use as polling places. The board of directors in cooperation with the county auditor shall designate the schools, schoolrooms or school facilities to be made available for use as such polling places and shall make such schools, schoolrooms or school facilities available for that purpose. Payment for said polling places shall be made as provided by law. [1965 c 9 § 29.48.007. Prior: 1955 c 201 § 1.]

29.48.010 Preparation of voting compartments. The inspectors of election at the expense of the county or other constituency shall provide in their respective polling places a sufficient number of booths or compartments, which shall be furnished with the supplies and conveniences necessary to enable the voter conveniently to prepare his ballot for voting, and in which electors may mark their ballots, screened from observation, and a guardrail so constructed that only persons within the rail can approach within fifty feet of the ballot boxes, or compartments. The number of compartments shall not be less than one for every fifty electors or fraction thereof registered in the precinct or voting at the last preceding election where there is no registration. In precincts containing less than twenty-five voters, the election may be conducted without the preparation of compartments. [1965 c 9 § 29.48.010. Prior: 1907 c 130 § 2, part; 1889 p 408 § 21, part; RRS § 5278, part.]

29.48.020 Time for arrival of officers. The election officers of each precinct shall meet at the polling place thereof at least forty-five minutes before the time set for opening the polls. [1965 c 9 § 29.48.020. Prior: 1957 c 195 § 6; prior: 1913 c 58 § 12, part; RRS § 5312, part.]

Clerks, hour to report: RCW 29.45.020.

29.48.030 Delivery of supplies. Before the hour for opening the polls at any primary or election and allowing a reasonable time for preparation thereof, the county auditor or other officer in charge of such primary or

election shall deliver to the inspector or one of the judges of each precinct:

(1) Two poll books or two copies of the precinct list of registered voters for use in recording the names and signatures of all persons who vote at the election;

(2) Ballots equal in number to one hundred ten percent of the number of voters registered therein or such further number as the county auditor or other officer in charge of such primary or election may certify to be necessary, except where voting machines are used in which case a less number may be delivered;

(3) A suitable ballot box (except when voting machines are in use), with lock and key, having an opening through the lid thereof of no larger size than sufficient to admit a single folded ballot;

(4) Two cards of instructions to voters printed in English in large clear type containing full instruction to voters as to how:

(a) To obtain ballots for voting;

(b) To prepare the ballots for deposit in the ballot boxes;

(c) To obtain a new ballot in the place of one spoiled by accident or mistake;

(5) The voters' registration files or precinct lists of registered voters pertaining to the precinct;

(6) Two tallying books which must be printed in relation to the sample ballots: *Provided*, That at primary elections (except where machines are used) there must be furnished to each precinct two sets of tally books for each political party having candidates to be voted for and the first sheet of each tally book shall be headed:

"Tally book for _____ (name of political party) _____ (name of city) _____ (county)

_____ (ward) _____ (precinct) for the primary election held _____ (date)." The names of the candidates shall be placed on the tally sheets in the order in which they appear on the sample ballots and in each case have the proper party designation at the head thereof;

(7) Two certificates printed in relation to the sample ballots or two sample ballots prepared as blanks, for certification of the result by the precinct election officers;

(8) Sample ballots;

(9) Two oaths for each inspector, each judge and each clerk;

(10) Three pamphlets containing arguments on measures for submission to voters;

(11) One U.S. flag;

(12) All other supplies necessary for conducting the election or primary. [1971 ex.s. c 202 § 40; 1965 c 9 § 29.48.030. Prior: (i) 1921 c 178 § 8; Code 1881 § 3078; 1865 p 34 § 3; RRS § 5322. (ii) 1919 c 163 § 20, part; 1895 c 156 § 9, part; 1889 p 411 § 28, part; RRS § 5293, part. (iii) 1907 c 209 § 20; RRS § 5196. (iv) 1913 c 138 § 29, part; RRS § 5425, part. (v) 1915 c 124 § 1; 1895 c 156 § 5; 1893 c 91 § 1; 1889 p 407 § 18; RRS § 5275. (vi) 1921 c 68 § 1, part; RRS § 5320, part. (vii) 1895 c 156 § 6, part; 1889 p 407 § 20; RRS § 5277, part. (viii) 1895 c 156 § 2, part; Code 1881 § 3074; 1865 p 32 § 8; RRS § 5164, part. (ix) 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part. (x) 1935 c 20 § 5, part; 1921

c 178 § 6, part; 1915 c 114 § 2, part; 1913 c 58 § 7, part; RRS § 5306, part. (xi) 1854 p 67 § 16; No RRS. (xii) 1854 p 67 § 17, part; No RRS. (xiii) 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part. (xiv) 1915 c 14 § 6, part; 1913 c 58 § 11, part; RRS § 5311, part. (xv) 1933 c 1 § 10, part; RRS § 5114–10, part. (xvi) Code 1881 § 3093, part; RRS § 5338, part. (xvii) 1903 c 85 § 1, part; RRS § 3339, part.]

29.48.040 Additional supplies for voting machines.

When voting machines are used the county auditor or other officer shall deliver to the inspector or one of the judges of each precinct not later than forty–five minutes before the time for opening the polls the following additional supplies:

- (1) The key for each voting machine, sealed in an envelope upon which is written the designation and location of the polling place, the number of the voting machine, the number or other designation mark of the seal on the machine, and the number registered on the protective counter thereof as reported by the custodian;
- (2) Two diagrams;
- (3) One extra set of ballot labels;
- (4) One envelope containing a seal for sealing the machine after the polls are closed;
- (5) One envelope for the return of the keys;
- (6) Two statements of canvass. [1965 c 9 § 29.48.040. Prior: 1915 c 114 § 6, part; 1913 c 58 § 11, part; RRS § 5311, part.]

Duties of election officers where machines used: RCW 29.51.130–29.51.160.

Voting machines: Chapter 29.33 RCW.

Voting machines, printed matter and supplies: RCW 29.33.190.

29.48.050 Receipt for key to voting machine. At the time of delivering the key to a voting machine, the county auditor or other officer shall require a receipt therefor bearing upon it the identical information required to be placed upon the envelope in which it is delivered. [1965 c 9 § 29.48.050. Prior: 1915 c 114 § 6, part; 1913 c 58 § 11, part; RRS § 5311, part.]

29.48.060 Posting of instructions. The judges of election shall post in and about the polling place at least two voters' instruction cards and where voting machines are used at least two diagrams of the voting machine. [1965 c 9 § 29.48.060. Prior: (i) 1919 c 163 § 20, part; 1895 c 116 § 9, part; 1889 p 411 § 28, part; RRS § 5293, part. (ii) 1913 c 58 § 12, part; RRS § 5312, part.]

29.48.070 Inspection of ballot box. Before opening the polls, the ballot box shall be carefully examined by the judges of election that nothing may remain therein; it shall then be locked and the key thereof delivered to one of the judges, to be designated by the auditor or other officer and shall not be opened during the election except in the manner and for the purposes otherwise provided by law. [1965 c 9 § 29.48.070. Prior: 1854 p 67 § 17, part; No RRS.]

Reviser's note: As part of the 1965 reenactment of Title 29 RCW, the phrase "except in the manner and for the purposes otherwise provided by law" was added to harmonize with other sections. See, for example, RCW 29.54.030 and 29.54.045.

29.48.080 Inspection of voting machine. In precincts where machines are used the election officers before unlocking the machine for voting shall proceed as follows:

(1) They shall see that the voting machine is placed where it can be conveniently attended by the election officers and conveniently operated by the voters, and where, unless its construction requires otherwise, the ballot labels thereon can be plainly seen by the election officers and the public when not being voted on;

(2) They shall see that the model is placed where each voter can conveniently operate it and receive instructions thereon as to the manner of voting, before entering the machine booth;

(3) They shall post one diagram inside the polling room and one outside, in places where the voters can conveniently examine them;

(4) They shall see that the lantern or other means provided for giving light is in such condition that the voting machine is sufficiently lighted to enable voters to readily read the names on the ballot labels;

(5) They shall see that the ballot labels are in the proper places on the machine;

(6) They shall see whether the number or other designating mark on the seal sealing the machine, also the number registered on the protective counter agree with the number written on the envelope containing the keys. If they do not agree they shall at once notify the custodian and delay unlocking the machine, and opening the polls until he has reexamined the machine;

(7) If the numbers or marks on the envelope containing the keys and upon the machine do agree, they shall proceed to see whether the public counter and all the candidate and question counters register "000." If any of the counters are found to register a number other than "000", one of the judges shall at once notify the custodian who shall set such counter at "000;"

(8) Where voting machines equipped with printed election returns mechanism are used, they shall proceed to operate the mechanism provided to produce one imprinted "before election inspection sheet" showing whether the candidate and question counters register "000". If said sheet has imprinted thereon any numbers below any candidate's name or below any question's designation other than "000" one of the judges shall, after the polls close, under the scrutiny of the other members of the board of election officials, deduct that number from that candidate's or question's total in the space provided for on the return sheet.

After performing their duties as provided in this section, the election officers shall certify thereto in the appropriate places on the statement of canvass as provided thereon. When the polls are declared open, one of the election officers shall break the seal and unlock the machine for voting. [1965 c 9 § 29.48.080. Prior: 1957 c 195 § 7; prior: 1913 c 58 § 12, part; RRS § 5312, part.]

29.48.090 Duty to display flag. At all primaries and elections the flag of the United States shall be conspicuously displayed in front of each polling place. [1965 c 9 § 29.48.090. Prior: 1921 c 68 § 1, part; RRS § 5320, part.]

29.48.100 Proclamation opening the polls. The precinct election board, before they commence receiving ballots, shall cause it to be proclaimed aloud at the place of voting that the polls are now open. [1965 c 9 § 29.48.100. Prior: Code 1881 § 3077; 1865 p 34 § 2; RRS § 5321.]

Opening and closing polls: RCW 29.13.080.

Chapter 29.51 POLLING PLACE REGULATIONS DURING VOTING HOURS

Sections

- 29.51.010 Preventing interference with balloting.
- 29.51.020 Electioneering within the polls forbidden—Prohibited practices as to ballots—Penalty.
- 29.51.030 Electioneering by election officers forbidden—Penalty.
- 29.51.040 Preservation of order—Penalty.
- 29.51.050 Request and delivery of ballot to voter.
- 29.51.060 Signing poll book or precinct list as requisite to vote—Comparison of signature—Copy in second poll book or precinct list.
- 29.51.070 Entry on registration card or precinct list.
- 29.51.080 Transcribing name on poll book when registration not a prerequisite.
- 29.51.090 Marking ballot at primaries.
- 29.51.100 Marking ballot at final election—Write-in voting.
- 29.51.110 Redelivery of ballot after voting.
- 29.51.120 Record of voters having voted.
- 29.51.125 Determination of who has and who has not voted.
- 29.51.130 Voting machine—Help in use.
- 29.51.140 Voting machine—When all voters do not vote on all offices.
- 29.51.150 Voting machine—Periodic examination.
- 29.51.160 Voting machine—Out of order.
- 29.51.170 Write-in voting—Party affiliation, when—Nominee to execute declaration of candidacy, pay fee.
- 29.51.175 Votes by stickers, printed label, rejected.
- 29.51.180 Taking papers into compartment or booth.
- 29.51.190 Vote only once—Spoiled ballots.
- 29.51.200 Physically disabled voters.
- 29.51.210 Blind voters.
- 29.51.215 Blind voters—Penalty.
- 29.51.220 Time allowed each voter to vote.
- 29.51.230 Unlawful acts by voters—Penalty.
- 29.51.240 No adjournment until polls close.
- 29.51.250 Closing the polls.
- 29.51.260 Proclamation of closing.

Candidate giving or purchasing liquor during voting hours prohibited: RCW 66.44.265.

Polling place regulations during voting hours and after closing: Chapter 29.54 RCW.

Subversive activities, disqualification from voting or holding office: RCW 9.81.040.

Violations and penalties for acts committed during voting hours: Chapter 29.85 RCW.

Voting machines, use of during voting hours: Chapter 29.33 RCW.

29.51.010 Preventing interference with balloting. No person other than voters engaged in receiving, preparing, or depositing their ballots or a person present for the purpose of challenging a voter about to receive his ballot shall be permitted within the rail.

In the case of small precincts where compartments are not required, no person engaged in preparing his ballot shall be interfered with in any way except by some person authorized to assist him in preparing his ballot. [1965 c 9 § 29.51.010. Prior: 1907 c 130 § 2, part; 1889 p 408 § 21, part; RRS § 5278, part.]

29.51.020 Electioneering within the polls forbidden—Prohibited practices as to ballots—Penalty. No person shall do any electioneering, or circulate cards or handbills of any kind, or solicit signatures to any kind of petition on primary or election day within any polling place, or any building in which an election is being held, or within one hundred feet thereof, nor obstruct the doors or entries thereto, or prevent free ingress to and egress from said building. Any election officer, sheriff, constable, or other peace officer shall have power to and shall clear the passageway and prevent such obstruction, and arrest any person creating such obstruction.

No person shall remove any ballot from the polling place before the closing of the polls; nor shall any person solicit the elector to show his ballot; nor shall any person except a judge of election receive from any elector a ballot prepared for voting; nor shall any person other than such inspector or judges of election deliver a ballot to such elector. Whoever violates any provision of this section shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding one hundred dollars, and adjudged to pay the costs of prosecution. [1965 c 9 § 29.51.020. Prior: (i) 1947 c 35 § 1, part; 1889 p 412 § 33, part; Rem. Supp. 1947 § 5298, part. (ii) 1895 c 156 § 7, part; 1889 p 409 § 22, part; Code 1881 § 3079, part; 1865 p 34 § 4, part; RRS § 5279, part.]

29.51.030 Electioneering by election officers forbidden—Penalty. Any election officer who does any electioneering on primary or election day, shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding one hundred dollars and pay the costs of prosecution. [1965 c 9 § 29.51.030. Prior: 1947 c 35 § 1, part; 1889 p 412 § 33, part; Rem. Supp. 1947 § 5298, part.]

29.51.040 Preservation of order—Penalty. For the preservation of order, a precinct election board may enforce a fine not exceeding ten dollars on any person who conducts himself in a disorderly manner at the polls and persists therein after being warned of the consequences.

Upon his refusal to pay, the board may commit him to the county jail for any time not exceeding twenty-four hours or until the fine is paid.

All constables, sheriffs and other peace officers shall execute the order of the board, and if none is present at the time, the board may appoint special constables to execute the order. [1965 c 9 § 29.51.040. Prior: 1854 p 68 § 21; No RRS.]

29.51.050 Request and delivery of ballot to voter. A voter desiring to vote shall give his name to one of the election officers, who shall then in an audible tone announce it. A challenge may then be interposed. If no challenge is interposed or if it is overruled, the voter shall be given a ballot or permitted to enter a voting machine booth as the case may be. If a ballot is given the number thereof must be called to the clerks of election. [1965 c 9 § 29.51.050. Prior: (i) 1895 c 156 § 7, part; 1889 p 409 § 22, part; Code 1881 § 3079, part; 1865 p 34 § 4, part; RRS § 5279, part. (ii) 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part.]

29.51.060 Signing poll book or precinct list as requisite to vote—Comparison of signature—Copy in second poll book or precinct list. If any person appears and offers or demands the right to vote at any primary or election, as a registered voter in the precinct where the primary or election is held, the election officers shall require him to sign his name and current address subject to penalties of perjury in one of the official poll books or in a space provided on one of the precinct lists of registered voters, which shall be designated the county auditor's copy: *Provided*, That if the person registered using a cross or mark, and being identified by the signature of some other person, the election officers must require the person offering to vote to be identified by the person who so signed, or by a registered voter of the precinct. Unless the identifying witness is personally known to the election officers, or to some of them, they may require the identifying witness to sign his name in the presence of the election officers for the purpose of identification.

As soon as it is determined that the person is qualified to vote, one of the precinct election officers shall copy the voter's name and address on the corresponding line in a second poll book or precinct list of registered voters which shall be identified as the inspector's copy. [1971 ex.s. c 202 § 41; 1967 ex.s. c 109 § 9; 1965 ex.s. c 156 § 5; 1965 c 9 § 29.51.060. Prior: 1933 c 1 § 24; RRS § 5114–24.]

Forms, secretary of state to design—Availability to public: RCW 29.10.150.

Poll books—As public records—Copies to representatives of major political parties: RCW 29.04.100.

29.51.070 Entry on registration card or precinct list. At every primary and election whereat only registered voters may vote, as each voter casts his vote, and, where voting machines are used, before each voter enters the voting machine booth, each clerk shall insert in his list of voters, opposite the voter's name, the letter "V" and the number of his vote or ballot and the inspector or one of the judges shall enter on the voter's registration card or beside his name on the precinct list of registered voters, in the space provided for that purpose, the month, day and year of the primary or election (for example 11/4/30) or such other notation as may be prescribed to credit the voter with having participated in the election. [1971 ex.s. c 202 § 42; 1965 c 9 § 29.51.070. Prior: (i) 1895 c 156 § 7, part; 1889 p 409 § 22, part; Code 1881 § 3079, part; 1865 p 34 § 4, part; RRS §

5279, part. (ii) 1933 c 1 § 25; RRS § 5114–25. (iii) 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part.]

Absentee voters credited with voting: RCW 29.36.075, 29.36.095.

29.51.080 Transcribing name on poll book when registration not a prerequisite. At primaries or elections where registration is not a prerequisite the clerks of election shall transcribe the names of the voters in the poll books and enter against each name the number of the ballot delivered to that voter. [1965 c 9 § 29.51.080. Prior: 1895 c 156 § 7, part; 1889 p 409 § 22, part; Code 1881 § 3079, part; 1865 p 34 § 4, part; RRS § 5279, part.]

29.51.090 Marking ballot at primaries. At primaries, the voter, upon receiving his ballot, without leaving the polling place shall enter a compartment alone and there designate his choice on his ballot by making a cross in each of the small squares nearest the names of the candidates for whom he desires to vote and shall not vote for more candidates for an office than there are positions to be filled by the election following the primary as indicated on the ballot "vote for one" (or whatever number may be indicated). Having marked his ballot, he shall fold it so that the number appears upon the outside and its face is concealed and deliver it to the inspector of election. [1965 c 9 § 29.51.090. Prior: (i) 1935 c 26 § 3, part; 1921 c 177 § 1, part; 1919 c 163 § 15, part; 1917 c 71 § 2, part; 1909 c 82 § 4, part; 1907 c 209 § 12, part; RRS § 5189, part. (ii) 1947 c 77 § 2, part; 1895 c 156 § 8, part; 1889 p 409 § 23, part; Rem. Supp. 1947 § 5288, part.]

Primary ballots—Numbering: RCW 29.30.050.

29.51.100 Marking ballot at final election—Write-in voting. On receipt of his ballot in an election the elector shall forthwith and without leaving the polling place retire alone to one of the places, booths, or apartments provided to prepare his ballot. Each elector shall prepare his ballot by marking a cross "X" after the name of every person or candidate for whom he wishes to vote.

In case of a ballot containing a constitutional amendment or other question to be submitted to the vote of the people the voter shall mark a cross "X" after the question, for or against the amendment or proposition, as the case may be. Any elector may write in the blank spaces the name of any person for whom he may wish to vote: *Provided*, That where a partisan office is concerned, the voter must not only write in the name of the candidate but also the party affiliation of such person pursuant to the provisions of RCW 29.51.170 as now or hereafter amended.

Before leaving the booth or compartment the elector shall fold his ballot in such a manner that the number of the ballot shall appear on the outside thereof, without displaying the marks on the face thereof, and deliver it to the inspector of election. [1965 ex.s. c 101 § 15; 1965 c 9 § 29.51.100. Prior: (i) 1947 c 77 § 2, part; 1895 c 156 § 8, part; 1889 p 409 § 23, part; Rem. Supp. 1947

§ 5288, part. (ii) 1889 p 410 § 24, part; RRS § 5289, part.]

29.51.110 Redelivery of ballot after voting. Upon delivery of each ballot after being marked and folded by a voter, the inspector in an audible tone shall repeat the name of the voter and the number of the ballot. The election clerks having in charge the registration cards and poll books or precinct lists of registered voters, if they find that the number marked opposite the voter's name thereon corresponds with the number of the ballot handed to the inspector, shall mark the word "voted" or check a spot so designated opposite the name of such voter and one of the clerks shall call back in an audible tone the name of the voter and the number of his ballot. The inspector shall then separate the slip containing the number of the ballot from the ballot and shall deposit the ballot in the ballot box. The numbers removed from the ballots shall be destroyed immediately. [1971 ex.s. c 202 § 43; 1965 c 9 § 29.51.110. Prior: 1947 c 77 § 2, part; 1895 c 156 § 8, part; 1889 p 409 § 23, part; Rem. Supp. 1947 § 5288, part.]

29.51.120 Record of voters having voted. The name of each voter whose ballot has been marked, folded and delivered to the inspector shall be immediately entered by each clerk in the column of his poll list headed "Names of voters," numbering each name in the additional column as it is taken down, so that it may be seen at any time whether the two lists agree. [1965 c 9 § 29.51.120. Prior: Code 1881 § 3080, part; 1865 p 34 § 5, part; RRS § 5324, part.]

29.51.125 Determination of who has and who has not voted. Each major political party, at any general election, may assign any one of its precinct election officers at each polling place to check a list of registered voters of the precinct so that they may determine who has and who has not voted: *Provided*, That such lists shall be furnished by the major political parties concerned. [1965 c 9 § 29.51.125. Prior: 1963 ex.s. c 24 § 1.]

Major political party defined: RCW 29.01.090.

Poll books—As public records—Copies to representatives of major political parties: RCW 29.04.100.

29.51.130 Voting machine—Help in use. If voting machines are being used, the election officers shall inform the voter as clearly as possible how to operate the machine and illustrate its use upon the model, calling his attention to the diagram. If after entering the booth, any voter asks for information regarding its operation, the election officers must give him the necessary information. [1965 c 9 § 29.51.130. Prior: 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part.]

29.51.140 Voting machine—When all voters do not vote on all offices. Whenever a voter enters the booth who has the right to vote only on certain offices and measures, an election officer shall adjust the machine so that he can vote on such offices and measures and no others. [1965 c 9 § 29.51.140. Prior: 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part.]

29.51.150 Voting machine—Periodic examination. The election officers shall occasionally examine the face of the machine and the ballot labels to determine whether they have been injured or tampered with. [1965 c 9 § 29.51.150. Prior: 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part.]

29.51.160 Voting machine—Out of order. If a voting machine installed in an election precinct becomes inoperative in any particular, the inspector or a judge shall give immediate notice to the custodian who must repair the machine or substitute another machine. If a substituted machine is used, the records of that and the machine for which it was substituted must be added in ascertaining the results of the primary or election.

If the defective machine cannot be repaired or no effective machine can be substituted immediately a ballot box must be furnished and the officers of election shall use diagrams of the machine if available or the regular printed ballots furnished precincts where machines are not used and count them with the votes registered on the voting machine and the result declared as though a voting machine had been used throughout the primary or election. Any marking of the diagrams or ballots by the voters which clearly indicates their intention shall be sufficient. The diagrams or ballots thus voted must be preserved and returned to the county election officer with a certificate setting forth how and why the same came to be voted. [1965 c 9 § 29.51.160. Prior: 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part.]

29.51.170 Write-in voting—Party affiliation, when—Nominee to execute declaration of candidacy, pay fee. At any election or primary, any voter may write in on the ballot the name of any person for whom he desires to vote for any office and such vote shall be counted the same as if the name had been printed on the ballot and marked by the voter: *Provided*, That no write-in vote for a partisan office at a general election shall be valid for any person who has offered himself as a candidate for such position for the nomination at the preceding primary: *Provided, further*, That when voting machines or voting devices and ballot cards are used, no write-in vote for any candidate for a partisan office at either a state primary election or state general election shall be valid unless a political party affiliation is also written by the voter after the candidate's name: *And provided further*, That in the instance of a write-in candidate for a partisan office only those write-in votes constituting the greatest number of a single political party designation shall be valid for counting purposes when the canvassing authority certifies the official election returns. The same procedure must be followed when paper ballots are used for partisan offices at a state primary election. For such write-in voting, it shall not be necessary for a voter to write the full name of the political party concerned. Any abbreviation including the first letter of the political party name shall be acceptable as long as the precinct election officers can determine to their satisfaction the person voted for and the political party intended.

Any person who is nominated at any primary election as a write-in candidate for any public office but who has not previously paid the regular filing fee shall not have his name printed on the official ballot for the general election unless, within five days after the official canvass of the primary vote, he executes a declaration of candidacy and pays the same fee required by law to be paid by candidates for filing for the office for which he has been nominated. [1973 1st ex.s. c 121 § 1; 1967 ex.s. c 109 § 28; 1965 ex.s. c 101 § 14; 1965 c 9 § 29-.51.170. Prior: (i) 1931 c 14 § 1; 1909 c 82 § 12; RRS § 5213. (ii) 1933 c 85 § 2; RRS § 5213-2. (iii) 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part.]

Voting devices and vote tallying systems, use limited to second class counties: Chapter 29.34 RCW.

29.51.175 Votes by stickers, printed label, rejected. Votes cast by stickers or printed label shall not be valid for any purpose and shall be rejected: *Provided*, That such action shall not jeopardize the remaining portion of the voter's ballot. [1965 ex.s. c 101 § 16.]

29.51.180 Taking papers into compartment or booth. Any voter may take with him into the polling place any printed or written memorandum or paper to assist him in marking or preparing his ballot. [1965 c 9 § 29.51-.180. Prior: 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part.]

29.51.190 Vote only once—Spoiled ballots. No voter shall be permitted to enter a voting machine booth or move the operating lever more than once; or, if ballots are used, no ballots shall be cast other than those printed by the respective county auditors or other authorized election officials as provided by law, and no voter shall be entitled to vote more than one ballot: *Provided*, That if a voter spoils a ballot, he shall return it and get a new ballot; the election officers shall immediately destroy the spoiled ballots returned. [1965 c 9 § 29.51.190. Prior: (i) 1889 p 410 § 25; RRS § 5290. (ii) 1935 c 26 § 3, part; 1921 c 177 § 1, part; 1919 c 163 § 15, part; 1917 c 71 § 2, part; 1909 c 82 § 4, part; 1907 c 209 § 12, part; RRS § 5189, part. (iii) 1895 c 156 § 7, part; 1889 p 409 § 22, part; Code 1881 § 3079, part; 1865 p 34 § 4, part; RRS § 5279, part. (iv) 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part. (v) 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part.]

29.51.200 Physically disabled voters. The operation of voting shall be secret except to the extent necessary to assist physically disabled voters.

If any voter declares in the presence of the election officers that by reason of physical disability, he is unable to register or record his vote upon the machine, (1) he may designate his spouse or any near relative who is also a registered voter to enter the voting machine booth with him and mark his ballot, or (2) two election officers who must be of opposite political parties in case of partisan elections or primaries, shall enter the voting machine booth with him and register his vote for such candidates and for or against such measures as he may designate. [1965 ex.s. c 101 § 17; 1965 c 9 § 29.51.200.]

Prior: (i) 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part. (ii) 1947 c 35 § 1, part; 1889 p 412 § 33, part; Rem. Supp. 1947 § 5298, part. Former law: 1901 c 135 § 6; 1889 p 410 § 26.]

29.51.210 Blind voters. A blind person or one with such defective vision that he cannot see to mark his ballot and who is otherwise qualified to vote may designate his spouse or any near relative, who can see and is also a registered voter to mark his ballot: *Provided*, That the foregoing shall not prevent any such person from designating election officers for that purpose, as now provided by law, but no election officer shall prevent such person from exercising his choice as heretofore set forth. [1965 c 9 § 29.51.210. Prior: 1935 c 100 § 1; RRS § 5291-1. Former law: 1901 c 135 § 6; 1889 p 410 § 26.]

29.51.215 Blind voters—Penalty. Any person violating any provision of RCW 29.51.210 shall be punished as for a misdemeanor. [1965 c 9 § 29.51.215. Prior: 1935 c 100 § 2; RRS § 5291-2. Formerly RCW 29.85.250.]

29.51.220 Time allowed each voter to vote. No voter shall remain within a voting machine booth longer than two minutes unless there are no other voters waiting to vote, nor in a compartment arranged for voting by ballot longer than five minutes unless there are no other voters waiting to vote. If he refuses to leave at the end of his allotted time, the precinct election officers may remove him by force. [1965 c 9 § 29.51.220. Prior: (i) 1889 p 410 § 24, part; RRS § 5289, part. (ii) 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part. (iii) 1935 c 26 § 3, part; 1921 c 177 § 1, part; 1919 c 163 § 15, part; 1917 c 71 § 2, part; 1909 c 82 § 4, part; 1907 c 209 § 12, part; RRS § 5189, part.]

29.51.230 Unlawful acts by voters—Penalty. It shall be unlawful for a voter to:

- (1) Show his ballot after it is marked to any person in such a way as to reveal the contents thereof or the name of any candidate for whom he has marked his vote;
- (2) Receive a ballot from any person other than the election officer having charge of the ballots;
- (3) Vote or offer to vote any ballot except one that he has received from the election officer having charge of the ballots;
- (4) Place any mark upon his ballot by which it may afterward be identified as the one voted by him;
- (5) Fail to return to the election officers any ballot he received from an election officer.

A violation of any provision of this section shall be a misdemeanor, punishable by a fine not exceeding one hundred dollars, plus costs of prosecution. [1965 c 9 § 29.51.230. Prior: 1947 c 35 § 1, part; 1889 p 412 § 33, part; Rem. Supp. 1947 § 5298, part.]

29.51.240 No adjournment until polls close. No adjournment or intermission whatever shall take place until the polls are closed and until all the votes cast at the

polls have been counted and the result publicly announced. [1965 c 9 § 29.51.240. Prior: 1919 c 163 § 16, part; 1907 c 209 § 17, part; RRS § 5194, part.]

Opening and closing polls: RCW 29.13.080.

29.51.250 Closing the polls. If at the hour of closing, there are any voters in the polling place who have not voted, the polls must be kept open after the hour for closing to enable them to do so, but this shall not include any voter who was not present at the exact time of closing. [1965 c 9 § 29.51.250. Prior: 1919 c 163 § 16, part; 1907 c 209 § 17, part; RRS § 5194, part.]

Opening and closing polls: RCW 29.13.080.

29.51.260 Proclamation of closing. When the polls are closed, proclamation thereof shall be made at the place of voting and no votes shall be afterwards received. [1965 c 9 § 29.51.260. Prior: Code 1881 § 3087; 1865 p 36 § 12; RRS § 5331.]

Chapter 29.54 POLLING PLACE REGULATIONS DURING VOTING HOURS AND AFTER CLOSING

Sections

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29.54.020	Removing ballots from box—Stringing.
29.54.030	Counting while polls open to be private—Party observers.
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29.54.140	Duplicate copies of unofficial results—Posting—Transmittal.
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Polling place regulations during voting hours: Chapter 29.51 RCW.

Return of registration files after election: RCW 29.07.180.

Violations and penalties for acts during voting hours and after closing: Chapter 29.85 RCW.

Voting machines kept locked after election—Exceptions: RCW 29.33.230.

29.54.010 Destroying surplus ballots. At paper ballot precincts served by a single set of precinct election officers, the inspector and judges of election for each election precinct immediately upon the closing of the polls, and before the ballots are counted, shall destroy all unused ballots furnished for use at such precinct.

At paper ballot precincts served by two sets of precinct election officers, the members of the receiving board shall destroy all unused ballots upon the closing

of the polls. [1965 ex.s. c 101 § 6; 1965 c 9 § 29.54.010. Prior: 1893 c 91 § 2; RRS § 5332.]

29.54.020 Removing ballots from box—Stringing. At paper ballot precincts served by a single set of precinct election officers, as soon as the polls are finally closed, the inspector, judges, and clerk of election shall immediately open the ballot boxes at their polling place and proceed to take therefrom the ballots. Said officers shall count the number of ballots cast and shall then string them together. As soon as the inspector and judges have fastened together the ballots they shall take the tally sheets or tally books provided by the election officer, and shall count all the ballots until the count is completed in the manner set forth in RCW 29.54.030 and 29.54.043.

The tally sheets shall be so kept that the sheets shall show the number of votes, cast for and against each proposition, the total votes cast for each candidate, and the total of all ballots cast. [1965 ex.s. c 101 § 7; 1965 c 9 § 29.54.020. Prior: (i) 1945 c 90 § 1, part; Code 1881 § 3092, part; 1868 p 19 § 2, part; Rem. Supp. 1945 § 5337, part. (ii) 1935 c 26 § 4; 1919 c 163 § 17; 1907 c 209 § 19; RRS § 5195. (iii) Code 1881 § 3088, part; 1865 p 37 § 1, part; RRS § 5333, part.]

29.54.030 Counting while polls open to be private—Party observers. At paper ballot precincts served by two sets of precinct election officers, the counting of ballots by the counting board while the polls are open shall in all cases be conducted in private except that any recognized political party may appoint a duly accredited representative to witness the counting of ballots: *Provided*, That such representatives shall first sign an oath of secrecy and shall not leave the polling place during the polling hours.

At every polling place, after the polls have closed for voting, the counting of ballots shall be public and any citizen may then witness the proceedings: *Provided*, That such person does not touch a ballot, or voting machine, or official records and does not distract the precinct election officers from performing their duties. [1965 ex.s. c 101 § 8; 1965 c 9 § 29.54.030. Prior: 1955 c 148 § 4; Code 1881 § 3089; 1865 p 37 § 1, part; RRS § 5334.]

29.54.035 Divulging ballot count—Penalty. No election officer or any other person authorized by law to be present while votes are being counted, shall divulge the result of the count of the ballots at any time prior to the closing of the polls. Violation of this section is punishable, upon conviction, by a fine of not less than one hundred dollars nor more than five hundred dollars or imprisonment in the county jail not less than three nor more than six months, or by both such fine and imprisonment. [1965 c 9 § 29.54.035. Prior: 1955 c 148 § 6.]

29.54.040 Count continuous—Duties complete, when. The ballot box shall not be removed from the polls nor shall the counting of the votes be discontinued until all are counted.

The duties of the precinct election officers counting ballots shall not be complete until it is determined that:

(1) A recheck of the tally marks accurately reflect the total vote credited to each candidate and the total vote credited for and against each proposition.

(2) The total number of votes cast for all candidates for a single position to be filled does not exceed the number of voters who have signed the poll book.

(3) The records of the votes in each tally book are the same. [1965 ex.s. c 101 § 9; 1965 c 9 § 29.54.040. Prior: (i) Code 1881 § 3088, part; 1865 p 37 § 1, part; RRS § 5333, part. (ii) Code 1881 § 3090; 1865 p 37 § 1, part; RRS § 5335.]

29.54.043 Counting ballots—Procedure. The procedure for counting of paper ballots at every September primary or November general election shall be as follows:

(1) The inspector shall carefully examine each ballot and read aloud the name of each person receiving a vote, the office for which every such person is voted for, and the vote for or against each proposition on the ballot.

(2) The judge, representing the opposite political party of the inspector, shall observe such reading.

(3) The second judge shall tally the votes as read in the tally books to be returned to the election officer having jurisdiction of the election.

(4) The clerk representing the opposite political party of the second judge shall, at the same time, tally the votes as read in the tally book to be retained by the inspector.

(5) The inspector and judge observing the reading aloud of the ballots may rotate their duties from time to time, upon agreement.

(6) The same basic rules in the counting of paper ballots at the polling places as enumerated in the above subsections (1), (2), (3), (4), and (5) of this section shall apply to the counting of paper ballots under the jurisdiction of the county auditor at the court house, it being the intention of this subsection that after the county canvassing board has approved as valid the absentee ballots and challenged or questioned ballots, the actual count and tallying of such ballots shall be done by persons selected by the county auditor on a bipartisan basis. [1967 ex.s. c 109 § 2; 1965 ex.s. c 101 § 12.]

29.54.045 Counting ballots—Procedure when two or more sets of inspectors and judges appointed. When two or more sets of precinct election officers have been appointed as provided in RCW 29.45.050 the following procedure shall apply:

(1) The set or sets designated as the counting board or boards shall commence tabulation of any state primary or state general election at a time set by the officer in charge of the election.

(2) A second ballot box for receiving ballots shall be used, and the first ballot box shall be closed and delivered to the counting board or boards: *Provided*, That there have been at least ten ballots cast. The counting board or boards shall at a time set by the officer in charge of the election proceed to the place provided for

them and at once count the votes. When counted they shall return the emptied ballot box to the inspector and judges conducting the election and the latter shall then deliver to the counting board or boards the second ballot box, if there have been at least ten ballots cast, who shall then proceed as before. The counting of ballots and exchange of ballot boxes shall continue until the polls are closed after which the election board conducting the election shall conclude their duties and the counting board or boards shall continue until all ballots are counted.

(3) The receiving board conducting the election shall perform all of the duties as now provided by law except for the counting of the ballots, the posting and certification of the unofficial returns and the delivery of the official returns, together with the election supplies to the county auditor.

(4) Suitable oaths of office for all precinct election officials, when two or more sets of officials are employed, shall be prepared by the secretary of state as ex officio chief election officer. [1973 c 102 § 4; 1965 ex.s. c 101 § 10; 1965 c 9 § 29.54.045. Prior: 1955 c 148 § 5.]

29.54.050 Rejection of ballots or parts of ballots. Ballots must be rejected if:

(1) Two are found folded together;

(2) Marked so as to identify who the voter is: *Provided*, That this subsection (2) shall not apply to absentee ballots;

(3) Printed other than by the respective county auditors or other authorized election officials as provided by law.

Those parts of ballots must not be counted which:

(1) Designate more persons for an office than are to be elected to that office;

(2) Are not in compliance with RCW 29.51.170;

(3) Are not marked with sufficient definiteness to determine the voter's choice or intention: *Provided*, That no ballot or part thereof shall be rejected for want of form or mistake in initials of names if the election board can determine to their satisfaction the person voted for and the office intended. [1973 1st ex.s. c 121 § 2; 1965 ex.s. c 101 § 11; 1965 c 9 § 29.54.050. Prior: (i) Code 1881 § 3091; 1865 p 38 § 2; RRS § 5336. (ii) 1895 c 156 § 10; 1889 p 411 § 29; RRS § 5294. (iii) 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part. (iv) 1895 c 156 § 11, part; 1886 p 128 § 1, part; Code 1881 § 3079, part; 1865 p 34 § 4, part; RRS § 5323, part.]

29.54.060 Questions on legality of ballots—Preservation and return of all ballots. Whenever a question arises in the precinct election board as to the legality of a ballot or any part thereof, its action thereon together with a concise statement of the facts that gave rise to the objection must be indorsed upon the ballot and signed by a majority of the board. All ballots must be preserved whether rejected or counted in whole or in part and returned in the same manner as other ballots. [1965 c 9 § 29.54.060. Prior: Code 1881 § 3080, part; 1865 p 34 § 5, part; RRS § 5324, part.]

29.54.070 Sealing and return of counted ballots. After all the ballots have been counted, strung, and tallied it shall be the duty of the inspector to place them in a sealed envelope and write thereon, "Ballots of _____ precinct _____ county, state of Washington, of election held this _____ day of _____, 19___," and send said sealed envelope to the auditor of the county or other election official. The county auditor or other officer shall keep the sealed envelope containing said ballots unopened for the period of two months, to be used only as evidence in case or cases of contest when called for. At the end of that time he shall burn or make such disposition of said ballots, as he may deem expedient, in the presence of two other officers. [1967 ex.s. c 109 § 10; 1965 c 9 § 29.54.070. Prior: 1945 c 90 § 1, part; Code 1881 § 3092, part; 1868 p 19 § 2, part; Rem. Supp. 1945 § 5337, part.]

29.54.080 Certification of result and of returns. As soon as all the ballots have been counted two sets of the following papers shall be assembled:

- (1) One poll list;
- (2) One tally book or set of tally sheets, or one statement of canvass where voting machines are used;
- (3) One each of the duplicate oaths of the inspector, the judges and the clerks.

To each set of papers shall be attached a certificate signed by the inspector, the judges and the clerks designating, in the order in which they appear upon the sample ballots, each candidate, the number of votes he received, and the office for which he is a candidate. The number of votes in each case must be written in words and figures (for example five thousand four hundred and fifty-two—(5452)).

One set shall constitute the "returns" to be made to the canvassing board or official; the other set shall be retained by the inspector and preserved by him for at least six months. [1965 c 9 § 29.54.080. Prior: 1957 c 195 § 9; prior: (i) Code 1881 § 3093, part; 1865 p 38 § 3, part; RRS § 5338, part. (ii) 1903 c 85 § 1, part; Code 1881 § 3094, part; 1865 p 38 § 4, part; RRS § 5339, part.]

29.54.090 Voting machine count—Method. At any election or primary where machines are used, as soon as the last voter has voted, the election officers shall lock and seal the machine, unlock and open the doors of the counter compartment, and canvass the votes registered on the counters therein and the votes recorded on or in the device or devices for voting for persons not nominated, and shall make two statements of canvass thereof in the following manner:

(1) One election officer shall call the designating number and letter of each candidate's counter in the order given on the statement of canvass, and another election officer shall repeat such number and letter as it is read, and announce the vote registered on such counter, which shall thereupon be entered in ink on each of the statements of canvass;

(2) The canvass of each office shall be completed before proceeding to the next;

(3) The vote on each question shall be canvassed in the same manner;

(4) The votes cast on the irregular ballots and paper ballots shall then be canvassed;

(5) All votes for persons or questions, the names or propositions of which appear on the ballot labels, must be cast on the proper counters therefor. All votes for persons or questions, whose names or propositions do not appear upon the ballot labels must be cast in the proper places or in the device for irregular ballots. Any votes not so cast shall not be counted, except in case of the use of paper ballots;

(6) In precincts where voting machines equipped with printed election returns mechanism are used, the original and duplicate originals of the printed returns sheet of the votes cast for questions and for candidates regularly nominated, or who have duly filed, together with the tabulation and inclusion of any votes written in on the paper roll for those not regularly nominated, or who have not filed, shall constitute the "election returns" and "statement of canvass" from each such precinct when properly certified by the board of election officials.

During the canvassing said printed return sheets shall be available for public inspection and opportunity shall be given any person lawfully present to examine the return sheets to ascertain the record of votes cast. [1965 c 9 § 29.54.090. Prior: 1957 c 195 § 10; prior: 1935 c 20 § 6, part; 1915 c 114 § 8, part; 1913 c 58 § 14, part; RRS § 5314, part.]

Voting machine law: Chapter 29.33 RCW.

29.54.100 Voting machine count—Verification and certification. After completing and writing down the canvass of the votes cast, the election officers shall verify it by comparing the figures on the statement of canvass with the figures on the counters in the machine and the names recorded on a device for voting for persons not nominated. They shall then certify, in the appropriate place on each of the statements of canvass:

(1) The number of voters that voted at the election as shown by the poll-list and by the number registered on the public counter;

(2) The number registered on the protective counter; and

(3) The number or other designating marks on the seal with which the machine has been sealed. [1965 c 9 § 29.54.100. Prior: 1957 c 195 § 11; prior: 1935 c 20 § 6, part; 1915 c 114 § 8, part; 1913 c 58 § 14, part; RRS § 5314, part.]

29.54.110 Voting machine count—Public announcement. After completing and certifying to the statements of canvass, the inspector or a judge shall read therefrom in a distinct voice the name of each candidate, the designating number and letter of his counter as stated thereon, and the vote entered for each; also the vote for or against each question. One copy thereof shall then be placed in an envelope and sealed to become part of the returns. During the canvassing and announcing of the vote, the counter compartment shall remain open, and opportunity shall be

given any person lawfully present to examine the counters to determine the correctness of the vote as announced: *Provided*, That where voting machines equipped with printed election returns mechanism are used, during the canvassing the printed returns sheets shall be available for public inspection and opportunity shall be given any person lawfully present to examine the returns sheets to ascertain the record of votes cast. [1965 c 9 § 29.54.110. Prior: 1957 c 195 § 12; prior: 1935 c 20 § 6, part; 1915 c 114 § 8, part; 1913 c 58 § 14, part; RRS § 5314, part.]

29.54.120 Voting machine count—Closing machines—Delivery of key. The counter compartment shall then be locked and all keys of the machine shall be delivered in a sealed envelope to the county auditor or other election officer. [1965 c 9 § 29.54.120. Prior: 1957 c 195 § 13; prior: 1935 c 20 § 6, part; 1915 c 114 § 8, part; 1913 c 58 § 14, part; RRS § 5314, part.]

29.54.130 Transmittal of returns—Penalty. The returns from each election precinct shall be transmitted to the county auditor or other election officer either by registered mail or in person by one of the judges or the inspector.

Failure to transmit the returns is a misdemeanor punishable by a fine of not less than five dollars nor more than fifteen dollars. [1965 c 9 § 29.54.130. Prior: 1957 c 195 § 14; prior: (i) 1935 c 20 § 6, part; 1915 c 114 § 8, part; 1913 c 58 § 14, part; RRS § 5314, part. (ii) Code 1881 § 3093, part; 1865 p 38 § 3, part; RRS § 5338, part. (iii) 1903 c 85 § 1, part; Code 1881 § 3094, part; 1865 p 38 § 4, part; RRS § 5339, part.]

29.54.140 Duplicate copies of unofficial results—Posting—Transmittal. Following every primary and election, before adjourning, every precinct election board shall enter the unofficial results in duplicate upon sample ballots furnished for that purpose by the county auditor or other election officer. One copy shall be posted conspicuously on the outside of the polling place and the other transmitted to the county election officer. [1965 c 9 § 29.54.140. Prior: (i) 1935 c 108 § 2; RRS § 5339-2. (ii) 1935 c 108 § 1; RRS § 5339-1.]

29.54.150 United States constitutional amendment convention—Delegates—Ascertaining election result. See RCW 29.74.100.

29.54.160 Recall elections—Ascertaining the results. See RCW 29.82.140.

**Chapter 29.59
CHALLENGING**

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Challenges on grounds of residence: RCW 29.10.130, 29.10.140 and 29.59.010.

Subversive activities as disqualification from voting or holding public office: RCW 9.81.040.

Townships, challenges, how regulated: RCW 45.12.160.

29.59.010 Right to challenge registered voter—Conditions. Registration of a person as a voter shall be presumptive evidence of his right to vote at any primary or election, general or special, but any person's right to vote may be challenged at the polls and he may be required then and there to establish his right to vote: *Provided*, That challenges on grounds of residence alone initiated by a registered voter shall be offered at the office of the appropriate registration officer in the manner provided in RCW 29.10.130, 29.10.140, and 29.10.150 subject to the following conditions:

(1) Such challenge must be filed not later than sixty days prior to any primary or election, special or regular.

(2) The registered voter filing such challenge must furnish the address at which the challenged voter actually resides in order to assure that proper notice will be received by the challenged voter. [1967 c 225 § 1; 1965 c 9 § 29.59.010. Prior: 1955 c 181 § 7; prior: 1933 c 1 § 22, part; RRS § 5114-22, part.]

Registration of voters: Chapter 29.07 RCW.

Time of challenge: RCW 29.51.050.

29.59.020 Party challengers. Each of the recognized political parties may have one challenger at the polls of each voting precinct. [1965 c 9 § 29.59.020. Prior: 1955 c 168 § 5; prior: 1895 c 156 § 1, part; Code 1881 § 3069, part; 1865 p 31 § 2, part; RRS § 5159, part.]

29.59.030 Who may challenge—Legal voter—Officials. Any person offering to vote may be challenged as unqualified by the inspector or either of the judges, or by any legal voter, and it shall in all cases be the duty of the inspector and each of the judges to challenge any person offering to vote whom they know or suspect to be not qualified as a voter. [1965 c 9 § 29.59.030. Prior: Code 1881 § 3081; 1865 p 34 § 6; RRS § 5325.]

29.59.040 Procedure upon challenge—Canvass of challenged vote. Whenever the right to vote of any person presenting himself as a voter at any polling place for any primary or election, general or special, has been challenged and the officers conducting the election at such polling place have refused to accept the vote of such person because of such challenge, or otherwise, a ballot shall be voted by such challenged person and placed in a sealed envelope. The sealed ballots of challenged voters shall be transmitted at the close of the election to the canvassing board or other authority charged by law with canvassing the returns of the particular election. The board or such other authority shall upon request of the challenger, at the time the vote is canvassed, consider the case of each challenge and shall decide whether or not the ballot in each case shall be accepted or rejected: *Provided*, That should the challenger fail to make such request, the challenged ballot

shall be accepted as valid and counted. The decision of the board or such other authority shall be final.

In precincts where voting machines or vote tally systems are used, any person whose right to vote is properly challenged shall be furnished with a paper ballot, and such ballot, after said person has marked it, shall be sealed and disposed of as hereinabove provided. [1967 ex.s. c 109 § 29; 1965 c 9 § 29.59.040. Prior: 1961 c 225 § 1; 1947 c 77 § 4; Rem. Supp. 1947 § 5332-1.]

Voting devices and vote tallying systems: Chapter 29.34 RCW.

29.59.050 Grounds for refusal. The right to vote shall be refused to any person whose right to vote has been challenged if:

(1) He refuses to take the oath to answer truly as to his qualifications as a voter;

(2) He fails to answer any and all pertinent questions relating to his qualifications;

(3) A majority of the precinct election board is satisfied that he is not a legal voter. [1965 c 9 § 29.59.050. Prior: (i) Code 1881 § 3083; 1865 p 34 § 8; RRS § 5327. (ii) 1905 c 39 § 2; 1893 c 114 § 1; Code 1881 § 3085; 1865 p 36 § 10; RRS § 5329.]

29.59.060 Infamous crime—Ground for challenge—Procedure. If the vote of any person is challenged, on the ground that he has been convicted of an infamous crime, by a court of competent jurisdiction and remains unpardoned or disfranchised he shall not be required to answer any questions respecting such alleged conviction. In the absence of any authenticated record of such fact, it may be competent for two disinterested witnesses, upon oath, to prove it. [1965 c 9 § 29.59.060. Prior: Code 1881 § 3086; 1865 p 36 § 11; RRS § 5330.]

Infamous crime defined: RCW 29.01.080.

Who disqualified: State Constitution Art. 6 § 3.

29.59.100 Absentee ballots—Challenges. See RCW 29.36.100.

Chapter 29.62

CANVASSING THE RETURNS

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29.62.010 Manner of canvassing election returns—
Generally. Every official body or officer upon whom is imposed the duty of canvassing the returns of any primary or election shall:

(1) Prepare and certify a statement separately setting forth for each office the returns as to which it or he is required by law to canvass, and the vote each candidate received therefor;

(2) If required to canvass returns from a primary, prepare and certify a statement separately setting forth each office the returns as to which it or he is required by law to canvass, and the member of each political party participating therein who received the highest number of votes for each office: *Provided*, That if there is more than one position to be filled for the same office the number of candidates of each political party participating therein equaling the number of positions to be filled who received the highest number of votes shall be listed as the nominees;

(3) If, at a partisan primary, two or more candidates of the same party are tied for the same office, determine the tie then and there by lot;

(4) If, at a nonpartisan or judicial primary, two or more candidates have received an equal number of votes and such number is barely sufficient for nomination, but as a consequence, the number of persons so nominated exceeds twice the number of positions to be filled, determine the tie then and there by lot so as to reduce the field of candidates to the proper number.

(5) After each election, prepare and certify a statement separately setting forth each office the returns as to which it or he is required by law to canvass, and the person who received the highest number of votes for each office: *Provided*, That if there is more than one position to be filled for the same office, the number of persons equaling the number of positions to be filled who receive the highest number of votes shall be listed as having been elected. [1965 c 9 § 29.62.010. Prior: 1961 c 130 § 10; prior: (i) 1907 c 209 § 24, part; RRS § 5201, part. (ii) Code 1881 § 3096, part; 1866 p 6 § 2, part; 1865 p 39 § 7, part; RRS § 5343, part.]

29.62.020 County canvassing board—Meeting to canvass returns. On the tenth day after each election or primary or as soon as he has received the returns from all the precincts included therein, the county auditor shall call a meeting of the county canvassing board at his office on a day and hour certain, for the purpose of canvassing the votes cast therein. The canvassing board shall consist of the county auditor, the chairman of the board of county commissioners and the prosecuting attorney. [1965 c 9 § 29.62.020. Prior: 1957 c 195 § 15; prior: 1919 c 163 § 21, part; Code 1881 § 3095, part; 1868 p 20 § 1, part; 1865 p 39 § 6, part; RRS § 5340, part.]

29.62.030 Special canvass for county auditor. If the primary or election is one at which the county auditor is to be nominated or elected, canvass of the returns for that office shall be made by the other two members of the board; if the two disagree, the returns for that office

shall be canvassed by the presiding judge of the superior court of the county. [1965 c 9 § 29.62.030. Prior: 1957 c 195 § 16; prior: (i) Code 1881 § 3098; 1865 p 39 § 8; RRS § 5345. (ii) 1919 c 163 § 21, part; Code 1881 § 3095, part; 1868 p 20 § 1, part; 1865 p 39 § 6, part; RRS § 5340, part.]

29.62.040 County canvassing board—Canvassing procedure—Penalty. The county canvassing board at any meeting for canvassing the returns of a primary or election shall proceed as follows:

(1) The chairman of the board of county commissioners shall administer the following oath to the county auditor:

"I do solemnly swear that the primary (or election) returns of the several precincts included in the primary (or election) last held in ----- (here name the county or any other governmental unit not larger than a county if the election was held for it) have been in no wise altered by additions or erasures and that they are the same as when they were deposited in my office, so help me God." This oath, the signature and certificate must be in writing and filed with the papers pertaining to the election;

(2) The county auditor with the assistance of the other members of the canvassing board shall proceed to count the vote of the precincts, precinct by precinct;

(3) Neither the tally books and sheets, the poll lists nor the certificate returned for any primary or election from any precinct shall be rejected for want of form or substance if it can be satisfactorily understood;

(4) File a certificate of their canvass signed by all the members with the county auditor;

(5) If there is a vacancy in the county canvassing board, the remaining members of the board shall choose one of the other county officers to act during the canvass;

(6) Failure to return the total votes counted, if they can be ascertained with reasonable certainty shall be a misdemeanor. [1965 c 9 § 29.62.040. Prior: 1957 c 195 § 17; prior: (i) 1919 c 163 § 21, part; Code 1881 § 3095, part; 1868 p 20 § 1, part; 1865 p 39 § 6, part; RRS § 5340, part. (ii) 1893 c 112 § 2; RRS § 5342. (iii) 1903 c 85 § 1, part; Code 1881 § 3094, part; 1865 p 38 § 4, part; RRS § 5339, part.]

29.62.050 Recanvass of machine votes—Authorized—Procedure. Whenever the board authorized to canvass the returns finds, in its discretion, that there is an apparent discrepancy or an inconsistency in the primary or election returns such board may order that recanvass of the voting machines be made of all, or of any number less than all, of the precincts of the county, and said recanvass may, in the discretion of said board, be made as to all, or as to any number less than all, of the candidates or measures voted upon. In conducting such recanvass said board, or any duly authorized representative or employee of the board, may open the counter compartment of any voting machine without unlocking the machine against voting and recheck the vote cast thereon. If in the course of such recanvass the board determines that there is an error in the return of

any precinct said board shall summon the inspector and judges of the precinct and the inspector and judges shall correct such error by making notation thereof in the poll book and shall initial such notation: *Provided*, That in the event that the election officials do not appear, or fail or refuse to make the correction as indicated, the canvassing board shall correct such error in the poll book and initial such correction. [1965 c 9 § 29.62.050. Prior: 1951 c 193 § 1; 1917 c 7 § 1, part; 1913 c 58 § 15, part; RRS § 5315, part.]

Voting machine law generally: Chapter 29.33 RCW.

29.62.060 Recanvass of machine votes—Notice—Representation—Relocking. Before recanvassing the votes cast on a voting machine, the canvassing board or officer shall give notice in writing to the custodian and to each political party participating in the primary or that nominated candidates for the election, of the time and place where the canvass is to be made, and may invite representatives of organizations or other persons involved or interested in any candidate or measure voted upon to be present at the time any such recanvass or recount be made. Each political party may send two representatives to be present at the recanvass. After the recanvass shall have been made the voting machines shall be immediately reclosed and the counter compartments relocked. [1965 c 9 § 29.62.060. Prior: 1951 c 193 § 2; 1917 c 7 § 1, part; 1913 c 58 § 15, part; RRS § 5315, part.]

29.62.070 Recanvass of machine votes—Procedure to test counting mechanism—Statement. If upon such recanvass, it should be found that the original canvass of the returns has been correctly made from the machine, and that the discrepancy still remains unaccounted for, the canvassing board, with the assistance of the custodian shall in the presence of such said inspector and judges of election and the authorized representatives of the several political parties or organizations who are attendant, make a record of the number or other designating mark on the seal, and the number on the protective counter and unlock the voting and counting mechanism of said machine and proceed to thoroughly examine and test the machine to determine and reveal the true cause or causes, if any, of the discrepancy in the returns from said machine. Before being tested the counter shall be set at "000," after which each counter shall be operated at least one hundred times. After the completion of said examination and test, the custodian shall then and there prepare a statement in writing giving in detail the result thereof and said statement shall be witnessed by the persons present and shall be filed with the county auditor or other election officer. [1965 c 9 § 29.62.070. Prior: 1951 c 193 § 3; 1917 c 7 § 1, part; 1913 c 58 § 15, part; RRS § 5315, part.]

29.62.080 Tie votes in final election. If the requisite number of any federal, state, county, city, district, or precinct officers shall not be elected by reason of two or more persons having an equal and highest number of

votes for one and the same office, the official empowered by state law to issue the original certificate of election shall give notice to the several persons so having the highest and equal number of votes to attend at the appropriate office at the time to be appointed by said official, who shall then and there proceed publicly to decide by lot which of the persons so having an equal number of votes shall be declared duly elected, and the said official shall make out and deliver to the person thus duly declared elected a certificate of his election as hereinbefore provided. [1965 c 9 § 29.62.080. Prior: 1961 c 130 § 13; prior: (i) Code 1881 § 3097; 1866 p 7 § 3; RRS § 5344. (ii) Code 1881 § 3104; 1865 p 41 § 15; RRS § 5349.]

29.62.090 Abstract of votes by auditor—Transmittal to secretary of state. Immediately after the results of an election or primary in his county are ascertained the county auditor shall make an abstract of all the votes cast in his county at such election for county officers, state officers, national officers and officers elected by districts, on blanks furnished by the secretary of state, and transmit to the secretary of state by registered mail a certified copy thereof. [1965 c 9 § 29.62.090. Prior: (i) 1895 c 156 § 12; Code 1881 § 3101; 1865 p 40 § 12; RRS § 5346. (ii) Code 1881 § 3103; 1865 p 41 § 14; RRS § 5348.]

29.62.100 State canvassing board—Primary returns—State offices, etc. The state canvassing board shall consist of the secretary of state, the state treasurer and the state auditor. It shall canvass the returns of all primary elections as to candidates for state offices, United States senators and representatives in congress and all other candidates whose district extends beyond the limits of a single county. [1965 c 9 § 29.62.100. Prior: 1961 c 130 § 11; prior: 1907 c 209 § 24, part; RRS § 5201, part.]

29.62.110 State canvassing board—Meeting—Certificate. The state canvassing board shall meet at the office of the secretary of state as soon as possible but in any event not later than the third Tuesday next succeeding a primary election the returns of which they are required by law to canvass, and proceed to canvass the returns.

They shall file the certificate of their canvass signed by all members with the secretary of state who shall immediately publish a copy thereof in a legal newspaper published at the state capital. [1965 c 9 § 29.62.110. Prior: 1961 c 130 § 12; prior: 1907 c 209 § 24, part; RRS § 5201, part.]

29.62.120 Secretary of state to canvass final returns—Scope. As soon as the returns have been received from all the counties of the state, but not later than the thirtieth day after the election, the secretary of state shall make a canvass of such of the returns as are not required to be canvassed by the legislature and make out a statement thereof, file it in his office and transmit a certified copy thereof to the governor. [1965

c 9 § 29.62.120. Prior: Code 1881 § 3100, part; No RRS.]

29.62.130 Canvass of vote on statewide measures.

The votes on proposed amendments to the state Constitution, recommendations for the calling of constitutional conventions and other questions submitted to the people shall be counted, canvassed and returned by the regular precinct election officers and by the county auditors and canvassing boards in the manner provided by law for counting, canvassing and returning votes for candidates for state offices. It shall be the duty of the secretary of state in the presence of the governor, within thirty days after any such election, to canvass the votes upon each question and certify to the governor the result thereof, and the governor shall forthwith issue his proclamation giving the whole number of votes cast in the state for and against such measure and declaring the result: *Provided*, That if the vote cast upon an initiative or referendum measure is equal to less than one-third of the total vote cast at the election, the governor shall proclaim the measure to have failed for that reason. [1965 c 9 § 29.62.130. Prior: (i) 1913 c 138 § 30; RRS § 5426. (ii) 1917 c 23 § 1; RRS § 5341.]

29.62.140 Canvass in commission form cities. In cities operating under the commission form of government the election officers, after counting the ballots, shall make their returns to the county auditor upon forms furnished by him within six hours after the closing of the polls; and at such time as provided by RCW 29.62-.020, the county canvassing board shall canvass the returns of the primary or election, and the county auditor, upon receipt of the certificate of canvass shall make and publish in all newspapers of the city, at least once, the result thereof. The canvass shall be publicly made. In the primary, the two candidates receiving the highest number of votes for each of the offices to be filled shall be declared nominated and their names shall be placed as candidates on the general election ballot. [1965 c 9 § 29.62.140. Prior: 1943 c 25 § 2, part; 1911 c 116 § 7, part; Rem. Supp. 1943 § 9096, part. See also RCW 29-.04.010 and 29.13.040.]

29.62.150 Return of registration records after canvass. All officers charged by law with the duty of canvassing the returns of primaries or elections, upon the completion of the canvass of any primary or election shall transmit to the registration officer of each county the registration records used at the primary or election and by law required to be returned by the precinct election officers to the officials charged with the duty of canvassing the primary or election returns. [1971 ex.s. c 202 § 44; 1965 c 9 § 29.62.150. Prior: 1933 c 1 § 29; RRS § 5114-29]

29.62.160 Vacancy in United States house of representatives, primary to elect nominees—Canvass of—Certification of nominees. See RCW 29.68.120.

29.62.170 United States constitutional amendment conventions—Delegates—Ascertaining election result. See RCW 29.74.100.

Chapter 29.64

STATUTORY RECOUNT PROCEEDINGS

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29.64.010 Application for recount—Scope of chapter. An officer of a political party or any person for whom votes were cast in a primary election for nomination as a candidate for election to an office who was not declared nominated may file with the appropriate canvassing board or boards a written application for a recount of the votes cast at such primary in any precinct for all persons for whom votes were cast in such precinct for such nomination.

An officer of a political party or any person who was a candidate at any general election for election to an office or position who was not declared elected, may file with the appropriate canvassing board or boards a written application for a recount of the votes cast at such election in any precinct in such county for all candidates for election to such office or position.

Any group of five or more registered voters may file with the appropriate canvassing board or boards a written application for a recount of the votes cast at any election, regular or special, in any precinct upon any question or issue, provided that the members of such group shall state in such application that they voted on such question or proposition. Such group of electors shall, in such application, designate one of the members of the group as chairman, and shall indicate therein the voting residence of each member of such group. In the event the recount requested concerns a regular or special district election whereat the precincts were combined and the election results of the individual precincts impossible to determine, the application for the recount shall embrace all ballots cast at such district election.

All applications for recount shall be filed within three days, excluding Saturdays and Sundays, after the canvassing board has declared the official results of the primary or election, as the case may be.

The provisions of this chapter shall apply to the recounting of votes cast by paper ballots and counted at the polling places and to the recheck of votes recorded on voting machines. The provisions of this chapter shall neither apply to votes cast by absentee ballot and counted by the canvassing authority, nor to votes cast

on voting machines printing election returns: *Provided*, That this chapter shall apply to votes cast by absentee and counted by the canvassing authority if specific request for such recount is made at the time the application is filed and the additional deposit is made as provided in RCW 29.64.020. [1965 c 9 § 29.64.010. Prior: 1963 ex.s. c 25 § 1; 1961 c 50 § 1; 1955 c 215 § 1.]

29.64.015 Mandatory recount when margin not more than one-half of one percent. If the official canvass of the returns of any primary or election reveals that the difference in the number of votes cast for a candidate apparently nominated or elected to office, as the case may be, and the number of votes cast for his closest apparently defeated opponent is not more than one-half of one percent of the total number of votes cast for both candidates, the canvassing board shall, of its own motion, make a recount of all votes cast on such position in the manner provided by RCW 29.64.030 and 29.64.040, and no cost of such recount shall be charged to either candidate concerned. [1965 c 9 § 29.64.015. Prior: 1963 ex.s. c 25 § 2.]

29.64.020 Deposit of fees—Notice of time and place of recount—Attendance. Each application for recount shall separately list each precinct as to which a recount of the votes therein is requested, and the person filing an application shall at the same time deposit with the canvassing board the sum of five dollars in cash or by certified check for each precinct so listed in such application as security for the payment of charges for the making of the recount therein applied for, which charges shall be fixed by the canvassing board as provided in RCW 29.64.060. In the event the application for a recount applies to a special or regular district election then the deposit to be made with the canvassing board shall be five dollars in cash or by certified check for each precinct completely or partially within said district. If at said special or regular district election paper ballots were used and the precincts were combined and the election results of the individual precincts impossible to determine, then the deposit shall be a sum of money equal to the total number of ballots cast at such district election multiplied by the factor of two cents; and if a specific request is made for the recount of absentee ballots, then an additional deposit shall be made in a sum of money equal to the total number of such absentee ballots to be counted multiplied by the factor of two cents.

If at said special or regular district election voting machines were used and the precincts were combined and the election results of the individual precincts impossible to determine, then the deposit shall be five dollars for each voting machine used.

Upon the filing of an application, the canvassing board shall promptly fix the time when and the place at which the recount will be made, which time shall be not later than five days after the day upon which such application is filed. The clerk of the board shall mail notice of the time and place so fixed to the applicant. If the application requests a recount of votes cast for a nomination or a candidacy for election, the clerk shall

also mail such notice to each person for whom votes were cast for such nomination or election. Such notice shall be mailed by registered mail not later than two days before the date fixed for the commencement of the recount. Each person entitled to receive such notice may attend and witness the recount and may be accompanied by counsel.

In the case of a recount of votes cast upon a question or proposition, a second group of five or more registered voters, who voted upon such question or proposition other than those voters requesting the recount, may file with the canvassing board a written statement to that effect, may designate therein one of their number as chairman of such group and an attorney as their legal counsel, and may request that the persons so designated be permitted to attend and witness the recount. Thereupon the persons so designated may attend and witness the recount. [1965 c 9 § 29.64.020. Prior: 1961 c 50 § 2; 1955 c 215 § 2.]

29.64.030 Recounting the ballots—Request to stop. At the time and place fixed for making a recount of paper ballots, the canvassing board or their duly authorized representatives, in the presence of all witnesses who may be in attendance, shall open the sealed containers containing the ballots to be recounted, and shall recount them. Ballots shall be handled only by the members of the canvassing board, their duly authorized representatives or by the clerk or other employees of the board. Witnesses shall be permitted to see the ballots but they shall not be permitted to touch them, and the canvassing board shall not permit the counting or tabulation of votes shown on the ballots for any nomination, or for election to any office or position, or upon any question or proposition, other than the votes shown on such ballots for the nomination, election, or question or proposition concerning which a recount of ballots was applied for.

At the time and place fixed for making a recheck of the votes cast on voting machines the canvassing board or their duly authorized representatives in the presence of all witnesses who may be in attendance, shall open the voting machines to be rechecked, and shall recheck them. Witnesses shall be permitted to watch the recheck of the voting machines, and the canvassing board shall not permit the rechecking of votes for any nomination, or for election to any office or position, or upon any question or proposition, other than the votes shown on such voting machines for the nomination, election, or question or proposition concerning which a recount of voting machines was applied for.

At any time before the ballots from all of the precincts listed in the application for the recount have been recounted, the applicant may file with the board a written request to stop the recount and not recount the ballots from the precincts so listed and which have not been recounted prior to the time of such request: *Provided*, That this provision shall not apply to a recount when a recount is being made of any regular or special district election whereat the precincts were consolidated and as a result thereof the application for a recount embraced all ballots cast at such election.

If, upon such request, the board finds that the results of the votes in the precincts recounted, if substituted for the results of the votes in such precincts as shown in the abstract of the votes in such precincts, would not cause the applicant, if a person for whom votes were cast for nomination or election, to be declared nominated or elected or if an election upon a question or proposition would not cause a result contrary to the result thereof as declared prior to such recount, it shall grant such request and shall not recount the ballots of the precincts listed in the application for recount which have not been recounted prior to such time. If the board finds otherwise, it may deny such request and shall continue to recount ballots until the ballots from all of the precincts listed in the application for recount have been recounted: *Provided*, That if such request is denied it may be renewed from time to time. Upon any such renewal the board shall consider and act upon the request in the same manner as provided in this section in connection with an original request. [1965 c 9 § 29.64.030. Prior: 1961 c 50 § 3; 1955 c 215 § 3.]

29.64.040 Amended abstracts and declarations. Upon completion of the recount of the ballots, or upon stopping the recount prior to such time, the canvassing board shall promptly prepare and certify an amended abstract showing the votes cast in each precinct in which the nomination, election, or question or proposition was submitted to the electors, which amended abstract shall embody the votes of the precincts, the ballots of which were recounted, as shown by such recount. Copies of such certified amended abstracts shall be mailed to such other boards or election officials as required in the case of the original abstract which such amended abstract amends.

If the nomination, election, or question or proposition concerning which such recount was made was submitted only to the electors within a county, the board shall make an amended declaration of the result of such election in the same manner required in the making of its original declaration of the result of such election.

If the nomination, election, or question or proposition concerning which a recount was made was submitted to the electors of more than one county, the secretary of state shall canvass all amended abstracts received from the canvassing board of each county in which a recount was made, and shall make an amended declaration of the results of such election in the same manner required in the making of his original declaration of the results of such election. [1965 c 9 § 29.64.040. Prior: 1955 c 215 § 4.]

29.64.050 Further recount where partial recount changes results. If a person was declared nominated as a candidate for election to an office or elected to an office or position and if it subsequently appears by the amended declaration of the results of such election made following a recount of votes cast in such election that such person was not so nominated or elected, such person may, within three days after the date of such amended declaration of the results of such election, file an application with the appropriate canvassing board

for a recount of the votes cast at such primary or election for such nomination or election in any precinct, the ballots of which have not been recounted.

If, following a recount of votes cast at an election, regular or special, upon any question or proposition, the amended declaration of the results of such election shows the result of such election to be contrary to the result thereof as declared in the original declaration of the results thereof, any group of five or more registered voters which has filed a statement with the board as provided in RCW 29.64.020 may, within three days after the date of the amended declaration, file an application with the board for a recount of the votes cast at such election upon such question or proposition in any precinct, the votes of which have not been recounted.

RCW 29.64.010, 29.64.020 and 29.64.030 are applicable to any application provided for in this section and to the recount had pursuant thereto. [1965 c 9 § 29.64.050. Prior: 1955 c 215 § 5.]

29.64.060 Expenses of recount—Charges. The charges for making a recount of votes of precincts listed in an application for recount filed with the board of elections shall be fixed by the board and shall include all expenses incurred by such board because of such application other than the regular operating expenses which the board would have incurred if the application had not been filed.

The total amount of charges so fixed divided by the number of precincts listed in such application, the votes of which were recounted, shall be the charge per precinct for the recount of the votes of the precincts listed in such application, the votes of which were recounted: *Provided*, That the charges per precinct so fixed shall not be more than five dollars for each precinct concerned or in the event of a recount of a regular or special district election whereat all ballots were requested to be recounted irrespective of precincts, the maximum charge shall not exceed two cents per ballot.

Such charge shall be deducted by the board from the money deposited with the board by the applicant for the recount at the time of filing his application, and the balance of the money so deposited shall be returned to such applicant: *Provided*, That no such charges shall be deducted by the board from the money deposited for a recount of votes cast for a nomination or for an election to an office or position in any precinct, if upon the completion of a recount the applicant is declared nominated or elected, or if upon completion of a recount concerning a question or proposition, the result of such election is declared to be opposite to the original declaration of the result of such election. All moneys deposited with the board by an applicant not returned to him shall be paid by such board into the general fund of the political subdivision concerned. [1965 c 9 § 29.64.060. Prior: 1955 c 215 § 6.]

29.64.070 Rules and regulations. The secretary of state, as chief election officer, shall make rules and regulations, not inconsistent with this chapter, to facilitate and clarify any procedures contained herein. [1965 c 9 § 29.64.070. Prior: 1955 c 215 § 7.]

29.64.080 State-wide measures—Mandatory recount—Cost at state expense. When the official canvass of returns of any election reveals that the difference in the number of votes cast for the approval of a state-wide measure and the number of votes cast for the rejection of such measure is not more than one-half of one percent of the total number of votes cast on such measure, the secretary of state shall direct that a recount of all votes cast on such measure be made on such measure, in the manner provided by RCW 29.64.030 and 29.64.040, and the cost of such recount shall be at state expense. [1973 c 82 § 1.]

29.64.090 State-wide measures—Claims for expenses incurred. Each county auditor shall file with the state auditor a statement listing only the additional expenses incurred whenever a mandatory recount of the votes cast on a state measure is made as provided in RCW 29.64.080. The state auditor shall compile such claims for presentation to the next succeeding session, regular or extraordinary, of the legislature in the same manner as other legislative relief claims. [1973 c 82 § 2.]

29.64.900 Short title—Construction. This chapter shall be known as the statutory recount act and shall in no way affect or supersede the election contest statutes as contained in chapter 29.65 RCW. [1965 c 9 § 29.64.900. Prior: 1955 c 215 § 8.]

Chapter 29.65 CONTESTS

Sections	
29.65.010	County, district, precinct officers—Registered voter may start contest—Grounds for.
29.65.020	Commencement of contest—Time for—Statement.
29.65.030	Time for contesting primary or elections based on voting machine, voting device or vote tallying system count.
29.65.040	Hearing date—Citation to issue—Service.
29.65.050	Witnesses to attend—Hearing of contest—Judgment.
29.65.055	Costs, how awarded.
29.65.060	Misconduct of board—Irregularity must be material to result.
29.65.070	Misconduct of board—Number of votes affected—Enough to change result.
29.65.080	Illegal votes—Allegation of in statement of contest.
29.65.090	Illegal votes—Testimony on premises on delivery of list of.
29.65.100	Illegal votes—Number of votes affected—Enough to change result.
29.65.110	Appeal to supreme court—Time—Method.
29.65.120	Nullification of election certificate—When effective.
29.65.130	Contest of nomination at primaries.

Statutory recount act not to affect, supersede, election contest statutes: RCW 29.64.900.

29.65.010 County, district, precinct officers—Registered voter may start contest—Grounds for. Any registered voter may contest the right of any person declared elected to an office to be exercised in the county, district or precinct of his residence, for any of the following causes:

(1) For malconduct on the part of any member of any precinct election board involved therein;

(2) Because the person whose right is being contested was not at the time he was declared elected eligible to that office;

(3) Because the person whose right is being contested was previous to the election convicted of a felony by a court of competent jurisdiction, his conviction not having been reversed nor his civil rights restored after the conviction;

(4) Because the person whose right is being contested gave a bribe or reward to a voter or to an inspector, judge or clerk of election for the purpose of procuring his election, or offered to do so;

(5) On account of illegal votes. [1965 c 9 § 29.65.010. Prior: 1959 c 329 § 26; prior: (i) Code 1881 § 3105; 1865 p 42 § 1; RRS § 5366. (ii) Code 1881 § 3109; 1865 p 43 § 5; RRS § 5370.]

29.65.020 Commencement of contest—Time for—Statement. To commence an election contest, the contestant must file with the clerk of the superior court of his residence a verified written statement of contest within ten days after the person whose right is being contested has been declared elected, setting forth specifically:

(1) The name of the contestant and that he is a registered voter in the county, district or precinct, as the case may be, in which the office is to be exercised;

(2) The name of the person whose right is being contested;

(3) The office;

(4) The particular causes of the contest. No statement of contest shall be dismissed for want of form if the particular causes of contest are alleged with sufficient certainty to advise the defendant of the particular proceedings or cause for which such election is contested. [1965 c 9 § 29.65.020. Prior: (i) Code 1881 § 3110; 1865 p 43 § 6; RRS § 5371. (ii) Code 1881 § 3112; 1865 p 44 § 8; RRS § 5373.]

29.65.030 Time for contesting primary or elections based on voting machine, voting device or vote tallying system count. The time for filing an election contest the result of which is in whole or in part of the canvass of votes registered on a voting machine, voting device or vote tally system shall expire thirty days following any state or county primary or election and eight days following any such election held by a city or other governmental unit not larger than a county. [1967 ex.s. c 109 § 30; 1965 c 9 § 29.65.030. Prior: 1917 c 7 § 1, part; 1913 c 58 § 15, part; RRS § 5315, part.]

29.65.040 Hearing date—Citation to issue—Service. Upon such statement being filed, it shall be the duty of the clerk to inform the judge of the superior court, who may give notice, and order a session of the court to be held at the usual place of holding said court, on some day to be named by him, not less than ten nor more than twenty days from the date of such notice, to hear and determine such contested election: *Provided*, That if no session be called for the purpose, such contest shall be determined at the first regular session of court after such statement is filed.

The clerk of the court shall also at the time issue a citation for the person whose right to the office is contested, to appear at the time and place specified in the notice, which citation shall be delivered to the sheriff or constable, and be served upon the party in person; or if he cannot be found, by leaving a copy thereof at the house where he last resided. [1965 c 9 § 29.65.040. Prior: (i) Code 1881 § 3113; 1865 p 44 § 9; RRS § 5374. (ii) Code 1881 § 3114; 1865 p 45 § 10; RRS § 5375.]

29.65.050 Witnesses to attend—Hearing of contest—Judgment. The clerk shall issue subpoenas for witnesses in such contested election at the request of either party, which shall be served by the sheriff or constable, as other subpoenas, and the superior court shall have full power to issue attachments to compel the attendance of witnesses who shall have been duly subpoenaed to attend if they fail to do so.

The court shall meet at the time and place designated to determine such contested election by the rules of law and evidence governing the determination of questions of law and fact, so far as the same may be applicable, and may dismiss the proceedings if the statement of the cause or causes of contest is insufficient, or for want of prosecution. After hearing the proofs and allegations of the parties, the court shall pronounce judgment in the premises, either confirming or annulling and setting aside such election, according to the law and right of the case.

If in any such case it shall appear that another person than the one returned has the highest number of legal votes, said court shall declare such person duly elected. [1965 c 9 § 29.65.050. Prior: (i) Code 1881 § 3115; 1865 p 45 § 11; RRS § 5376. (ii) Code 1881 § 3116; 1865 p 45 § 12; RRS § 5377. (iii) Code 1881 § 3117; 1865 p 45 § 13; RRS § 5378. FORMER PARTS OF SECTION: (i) Code 1881 § 3119; 1865 p 45 § 15; RRS § 5379, now codified in RCW 29.65.055. (ii) Code 1881 § 3120; 1865 p 45 § 16; RRS § 5380, now codified in RCW 29.65.055.]

29.65.055 Costs, how awarded. If the proceedings are dismissed for insufficiency, want of prosecution, or the election is by the court confirmed, judgment shall be rendered against the party contesting such election for costs, in favor of the party whose election was contested.

If such election is annulled and set aside, judgment for costs shall be rendered against the party whose election was contested, in favor of the party contesting the same. [1965 c 9 § 29.65.055. Prior: (i) Code 1881 § 3119; 1865 p 45 § 15; RRS § 5379; formerly RCW 29.65.050, part. (ii) Code 1881 § 3120; 1865 p 45 § 16; RRS § 5380, formerly RCW 29.65.050, part.]

29.65.060 Misconduct of board—Irregularity must be material to result. No irregularity or improper conduct in the proceedings of any election board or any member thereof shall amount to such malconduct as to annul or set aside any election unless the irregularity or improper conduct was such as to procure the person

whose right to the office may be contested, to be declared duly elected although he did not receive the highest number of legal votes. [1965 c 9 § 29.65.060. Prior: Code 1881 § 3106; 1865 p 43 § 2; RRS § 5367.]

29.65.070 Misconduct of board—Number of votes affected—Enough to change result. When any election for an office exercised in and for a county is contested on account of any malconduct on the part of any election board, or any member thereof, the election shall not be annulled and set aside upon any proof thereof, unless the rejection of the vote of such precinct or precincts will change the result as to such office in the remaining vote of the county. [1965 c 9 § 29.65.070. Prior: Code 1881 § 3107; 1865 p 43 § 3; RRS § 5368.]

29.65.080 Illegal votes—Allegation of in statement of contest. When the reception of illegal votes is alleged as a cause of contest, it shall be sufficient to state generally that illegal votes were cast, which, if given to the person whose election is contested in the specified precinct or precincts, will, if taken from him, reduce the number of his legal votes below the number of legal votes given to some other person for the same office. [1965 c 9 § 29.65.080. Prior: Code 1881 § 3111, part; 1865 p 44 § 7, part; RRS § 5372, part.]

29.65.090 Illegal votes—Testimony on premised on delivery of list of. No testimony shall be received as to any illegal votes unless the party contesting the election delivers to the opposite party, at least three days before trial, a written list of the number of illegal votes and by whom given, which he intends to prove on such trial. No testimony shall be received as to any illegal votes, except as to such as are specified in the list. [1965 c 9 § 29.65.090. Prior: Code 1881 § 3111, part; 1865 p 44 § 7, part; RRS § 5372, part.]

29.65.100 Illegal votes—Number of votes affected—Enough to change result. No election shall be set aside on account of illegal votes, unless it appears that an amount of illegal votes has been given to the person whose right is being contested, which, if taken from him, would reduce the number of his legal votes below the number of votes given to some other person for the same office, after deducting therefrom the illegal votes which may be shown to have been given to such other person. [1965 c 9 § 29.65.100. Prior: Code 1881 § 3108; 1865 p 43 § 4; RRS § 5369.]

29.65.110 Appeal to supreme court—Time—Method. Within ten days after the entry of final judgment, either party, feeling himself aggrieved by the judgment of the superior court in an election contest, may appeal therefrom to the supreme court as in other cases. [1965 c 9 § 29.65.110. Prior: (i) Code 1881 § 3122; 1865 p 46 § 18; RRS § 5381. (ii) Code 1881 § 3123, part; 1865 p 46 § 19, part; RRS § 5382, part.]

29.65.120 Nullification of election certificate—When effective. If an election is set aside by the judgment of the superior court and if no appeal is taken

therefrom within ten days, the certificate issued shall be thereby rendered void. [1965 c 9 § 29.65.120. Prior: Code 1881 § 3123, part; 1865 p 46 § 19, part; RRS § 5382, part.]

29.65.130 Contest of nomination at primaries. Any candidate at a primary election who may desire to contest the nomination of any candidate for the same office thereat may proceed by affidavit presented to any justice of the supreme court, any judge of the court of appeals, or any judge of the superior court of the county in which any error or omission occurred. The affidavit shall be presented within five days after the completion of the canvass by the canvassing board, and not later, and the candidate whose nomination is so contested shall by the order of such judge or justice, duly served, be required to appear and abide the orders of the court to be made therein. [1971 c 81 § 77; 1965 c 9 § 29.65.130. Prior: 1907 c 209 § 25, part; RRS § 5202, part.]

Chapter 29.68

UNITED STATES CONGRESSIONAL ELECTIONS

Sections

- 29.68.070 Vacancy in senatorship—Filling.
- 29.68.080 Vacancy in United States house of representatives—Special election.
- 29.68.090 Vacancy in United States house of representatives—Order calling election—Requisites—Filing period.
- 29.68.100 Vacancy in United States house of representatives—Notices of special primary and special election.
- 29.68.110 Vacancy in United States house of representatives—Precinct election officers—Who to serve.
- 29.68.120 Vacancy in United States house of representatives—Canvass of primary—Certification of nominees.
- 29.68.130 Vacancy in United States house of representatives—General, primary election laws to apply.

Reviser's note: United States congressional district boundaries for this state are presently described by order of the United States district court, western district of Washington at Seattle, in case 9668, filed April 21, 1972, at Seattle, Washington. See Appendix following chapter digest of chapter 44.07A RCW.

29.68.070 Vacancy in senatorship—Filling. When a vacancy happens in the representation of this state in the senate of the United States the governor shall make a temporary appointment until the people fill the vacancy by election at the next ensuing general state election. [1965 c 9 § 29.68.070. Prior: 1921 c 33 § 1; RRS § 3798.]

Vacancies in public office, how caused: RCW 42.12.010.

29.68.080 Vacancy in United States house of representatives—Special election. Whenever there is a vacancy existing by death, resignation, disability or failure to qualify or impending vacancy in the office of representative in the congress of the United States from this state or any congressional district in this state, the governor shall order a special election to fill the vacancy. Within ten days of such vacancy occurring he shall fix as the date for the special election a day not less than ninety days after the issuance of the writ. He shall fix as the date for the primary for nominating candidates for the special election, a day not less than thirty

days before the day fixed for holding the special election. If the vacancy occurs between or on a date six months prior to a general state election and the second Friday following the close of the filing period, the special primary and special general elections shall be held in concert with the regular primary and regular general elections. If the vacancy occurs on or after the first day for filing specified in RCW 29.18.030 and on or before the second Friday following the close of the filing period, a special filing period of three normal business days shall be fixed by the secretary of state and notice thereof given by notifying all media including press, radio and television within the congressional district concerned to the end that, insofar as possible, all interested persons will be aware of such filing period: *Provided, however,* That the last day of such filing period shall be no later than the third Tuesday prior to the primary election concerned. Such declarations of candidacy validly filed within said three day period shall appear on the approaching primary ballot as if made during the earlier filing period. If the vacancy should occur later than the second Friday following the close of the filing period, a special primary and special general election to fill such vacancy shall be held after the regular annual general election but, in any event, no later than the ninetieth day following the said November election. [1973 2nd ex.s. c 36 § 3; 1965 c 9 § 29.68.080. Prior: 1915 c 60 § 1; 1909 ex.s. c 25 § 1; RRS § 3799.]

Vacancies in public office, how caused: RCW 42.12.010.

29.68.090 Vacancy in United States house of representatives—Order calling election—Requisites—Filing period. The order shall name the district and the term or part of the term for which the vacancy exists or is about to exist as well as the dates for holding the special primary and the special election to fill it, together with naming the filing period, and if the date fixed for the special primary is the day for holding the regular primary, or if the day fixed for the special election is the day for holding the regular election, the order shall provide that the names of the candidates to fill the vacancy may be placed upon the regular ballots to be used thereat. No name shall be printed on the primary ballots that shall not have been filed with the secretary of state during the applicable filing period as set forth in this section. [1973 2nd ex.s. c 36 § 4; 1965 c 9 § 29.68.090. Prior: (i) 1909 ex.s. c 25 § 2, part; RRS § 3800, part. (ii) 1909 ex.s. c 25 § 3, part; RRS § 3801, part.]

29.68.100 Vacancy in United States house of representatives—Notices of special primary and special election. Upon calling a special primary and special election to fill a vacancy or impending vacancy in the office of representative in the congress of the United States, the governor shall immediately notify the secretary of state who shall, in turn, immediately notify each county auditor within the district in which the vacancy exists or is about to exist.

Each county auditor in the district shall publish notices of the special primary and of the special election at least once in any legal newspaper published in the

county, as provided by RCW 29.27.030 and 29.27.080 respectively. [1973 2nd ex.s. c 36 § 5; 1965 c 9 § 29.68-.100. Prior: 1909 ex.s. c 25 § 2, part; RRS § 3800, part.]

29.68.110 Vacancy in United States house of representatives—Precinct election officers—Who to serve. If either the special election for the election of a United States congressman or the special primary relating thereto is held at a time other than the regular election or primary, the same election officers shall serve at both such special primary and special election. [1973 2nd ex.s. c 36 § 6; 1965 c 9 § 29.68.110. Prior: 1909 ex.s. c 25 § 3, part; RRS § 3801, part.]

29.68.120 Vacancy in United States house of representatives—Canvass of primary—Certification of nominees. Canvass of the votes at a special primary held in relation to a special election for a United States congressman shall be made in each county within the district within ten days after the primary and the returns sent immediately to the secretary of state who shall immediately convene the state canvassing board to certify said returns in the same manner as provided by RCW 29.62.110 and as soon as possible thereafter certify the names of the successful nominees to the county auditors of the counties within the district. [1973 2nd ex.s. c 36 § 7; 1965 c 9 § 29.68.120. Prior: 1909 ex.s. c 25 § 3, part; RRS § 3801, part.]

29.68.130 Vacancy in United States house of representatives—General, primary election laws to apply. The general election laws and laws relating to primaries shall apply to the special elections provided for in RCW 29.68.080 through 29.68.120 in so far as they are not inconsistent therewith, and shall be construed with and as a part thereof for the purpose of carrying out the spirit and intent thereof. [1965 c 9 § 29.68.130. Prior: 1909 ex.s. c 25 § 4; RRS § 3802.]

Chapter 29.71

UNITED STATES PRESIDENTIAL ELECTORS

Sections

- 29.71.010 Date of election—Number.
- 29.71.020 Nomination—What names on ballots—How counted.
- 29.71.030 Counting and canvassing the returns.
- 29.71.040 Meeting—Time—Procedure.
- 29.71.050 Compensation.

29.71.010 Date of election—Number. On the Tuesday next after the first Monday of November in the year in which a president of the United States is to be elected there shall be elected as many electors of president and vice president of the United States as there are senators and representatives in congress allotted to this state. [1965 c 9 § 29.71.010. Prior: 1891 c 148 § 1; RRS § 5138.]

29.71.020 Nomination—What names on ballots—How counted. In the years in which presidential elections are held, each political party nominating candidates for president and vice president of the United States shall nominate their presidential electors for this

state and file with the secretary of state certificates of nomination for such candidates at the time and in the manner and number provided by law. The secretary of state shall certify to the county auditors the names of the candidates for president and vice president of the several political parties, which shall be printed on the ballot. The names of candidates for electors of president and vice president shall not be printed upon the ballots. The votes cast for candidates for president and vice president of each political party shall be counted for the candidates for presidential electors of such political party, whose names have been filed with the secretary of state. [1965 c 9 § 29.71.020. Prior: 1935 c 20 § 1; RRS § 5138-1.]

29.71.030 Counting and canvassing the returns. The votes for candidates for president and vice president shall be given, received, returned and canvassed as the same are given, returned, and canvassed for candidates for congress. The secretary of state shall prepare three lists of names of electors elected and affix the seal of the state to the same. Such lists shall be signed by the governor and secretary of state and by the latter delivered to the college of electors at the hour of their meeting. [1965 c 9 § 29.71.030. Prior: 1935 c 20 § 2; RRS § 5139; prior: 1891 c 148 § 2.]

29.71.040 Meeting—Time—Procedure. The electors of the president and vice president shall convene at the seat of government on the day fixed by federal statute, at the hour of twelve o'clock noon of that day. If there is any vacancy in the office of an elector occasioned by death, refusal to act, neglect to attend, or otherwise, the electors present shall immediately proceed to fill it by viva voce, and plurality of votes. When all of the electors have appeared and the vacancies have been filled they shall constitute the college of electors of the state of Washington, and shall proceed to perform the duties required of them by the Constitution and laws of the United States. [1965 c 9 § 29.71.040. Prior: 1909 c 22 § 1; 1891 c 148 § 3; RRS § 5140.]

29.71.050 Compensation. Every presidential elector who attends at the time and place appointed, and gives his vote for president and vice president, shall be entitled to receive from this state, five dollars for each day's attendance at the meeting of the college of electors, and ten cents per mile for travel by the usually traveled route in going to and returning from the place where the electors meet. [1965 c 9 § 29.71.050. Prior: 1891 c 148 § 4; RRS § 5141.]

Chapter 29.72

PRESIDENTIAL AND VICE PRESIDENTIAL ELECTIONS—NEW RESIDENT VOTING

Sections

- 29.72.010 "New resident" defined.
- 29.72.020 "New resident"—Qualifications.
- 29.72.030 Voting procedure—Counting—Tallying vote.
- 29.72.040 New resident ballot application form.
- 29.72.050 Voter's affidavit—Declaration.
- 29.72.060 Applications open to public inspection.
- 29.72.070 Election supplies.

29.72.080 Rules and regulations.
29.72.910 Severability—1971 ex.s. c 178.

29.72.010 "New resident" defined. As used in this chapter:

"New resident" means a person qualified to vote for presidential and vice-presidential electors as provided by this chapter and the laws of the United States. [1974 1st ex.s. c 127 § 7; 1971 ex.s. c 178 § 3; 1967 ex.s. c 73 § 1.]

Absentee voting: Chapter 29.36 RCW.

29.72.020 "New resident"—Qualifications. A new resident who moves into the state of Washington less than one year but more than thirty days from an approaching presidential election and intends to make this state his permanent residence and is eighteen years of age or older, shall be entitled to vote for presidential and vice-presidential electors or for the office of president and vice president of the United States, as the case may be, but no other office, provided he meets the following qualifications:

- (1) He possesses the qualifications required of other voters as contained in Article VI, section 1 of the state Constitution except as to residence, the ability to read and speak the English language, and age;
- (2) He is not excluded from suffrage under any other provision of law;
- (3) He has followed the voting procedure as hereinafter in this chapter provided. [1971 ex.s. c 178 § 4; 1967 ex.s. c 73 § 2.]

29.72.030 Voting procedure—Counting—Tallying vote. All voting as provided by this chapter shall be by mail through the use of a new resident presidential ballot issued by the secretary of state.

Insofar as applicable, the voting procedure for a new resident to cast a presidential ballot shall be substantially the same as for civilian absentee voting as provided in chapter 29.36 RCW but the secretary of state shall make such revisions that are necessary to carry out the purpose of this chapter, including but not limited to, the following:

- (1) A new resident must execute an official application form as prescribed by RCW 29.72.040, as now or hereafter amended, as a prerequisite to obtaining a ballot;
- (2) All such signed application forms must be received by the secretary of state no later than the day prior to the election concerned. In order to be valid, all ballots must be voted and postmarked no later than the day of the election and received by the secretary of state no later than the fifteenth day following the election;
- (3) The state canvassing board as prescribed in RCW 29.62.100 shall perform the preliminary tasks and be responsible for the count of the new resident presidential ballots in the same manner as the county canvassing board performs in the count of absentee ballots as provided in chapter 29.36 RCW. In the event any member of the state canvassing board cannot appear in person, his assistant or deputy may serve in his place;

(4) The actual count of the new resident presidential ballots shall be done by teams, each consisting of four persons, and equally representing each major political party as provided by RCW 29.54.043. The secretary of state shall determine the number of such counting teams to be used and shall employ such persons as needed from lists of names submitted by the state chairman of each major political party. The compensation of such persons shall be the same as those employed by the Thurston county canvassing board to count absentee ballots: *Provided*, That all votes allowed to be cast by the provisions of this chapter may be cast by "ballot card" and counted by "vote tally system" as those terms are defined in chapter 29.34 RCW, as now or hereafter amended; and

(5) The tallying of the new resident presidential ballot shall be by county and upon the conclusion and certification of such count, the appropriate election figures shall be added to the vote cast on each position as reported to the secretary of state by each county auditor. Such adjusted totals shall then constitute the official election returns of the respective counties. [1974 1st ex.s. c 127 § 8; 1971 ex.s. c 178 § 6; 1967 ex.s. c 73 § 3.]

29.72.040 New resident ballot application form. The official application form to be used by a new resident desiring to vote shall be issued by the secretary of state. It shall be of a distinctive color and shall be substantially as follows:

APPLICATION FOR A NEW RESIDENT'S
PRESIDENTIAL BALLOT

I do solemnly swear (or affirm) under penalty as set forth in RCW 29.36.110 (see below), that I am a citizen of the United States; that I will be at least eighteen (18) years of age on the day of the approaching presidential election; that I intend to make the state of Washington my permanent residence, that I have resided in this state for less than one year but will have resided here for more than thirty (30) days immediately preceding the approaching presidential election.

I further swear that I will not vote any other ballot of the state of Washington or of any other state at this election; that my last voting address before entering the state of Washington was:

(Street) (City) (County) (State)

I hereby make application for a new resident's presidential ballot to vote for presidential and vice-presidential electors only at the approaching presidential election and request that such ballot be sent to the following address:

(Street) (City)

(Print name for positive identification) (Signature)

PENALTY PROVISION

Any person who violates any of the provisions, relating to swearing and voting, shall be guilty of a felony and shall be punished by imprisonment for not more than five years or a fine of not more than five thousand dollars, or by both such fine and imprisonment.

A supply of the above described application forms shall be distributed at least three months prior to the election concerned by the secretary of state to each city and town clerk, county auditor, county chairman of each political party, and to all other persons or organizations requesting the same. [1971 ex.s. c 178 § 7; 1967 ex.s. c 73 § 4.]

29.72.050 Voter's affidavit—Declaration. The wording of the voter's affidavit appearing upon the pre-addressed return envelope shall be substantially the same as the wording of the official application as contained in RCW 29.72.040.

Such declaration properly executed is hereby declared to be a full and complete registration of the new resident concerned but only for the purposes of this chapter and the election for which it is submitted. [1974 1st ex.s. c 127 § 9; 1971 ex.s. c 178 § 9; 1967 ex.s. c 73 § 5.]

29.72.060 Applications open to public inspection. The signed applications of the new residents received by the secretary of state shall be available for public inspection under such reasonable rules and regulations as may be prescribed therefor. [1974 1st ex.s. c 127 § 10; 1971 ex.s. c 178 § 10; 1967 ex.s. c 73 § 6.]

29.72.070 Election supplies. The secretary of state shall be responsible for furnishing all election supplies necessary to carry out the purposes of this chapter, including but not limited to ballots, envelopes, voting instructions and application forms.

The sets of envelopes used for mailing such ballots shall be patterned after the envelopes as provided by RCW 29.36.030 for the voting of absentee ballots.

The secretary of state shall determine the size of envelopes, dimensions of ballots and voting instructions, and may revise the wording of forms and affidavits whenever in his judgment such changes shall best serve the voting procedure for new residents. [1974 1st ex.s. c 127 § 11; 1971 ex.s. c 178 § 11; 1967 ex.s. c 73 § 7.]

29.72.080 Rules and regulations. The secretary of state as chief election officer may make such rules and regulations as will facilitate the operation, accomplishment and purpose of RCW 29.01.140, 29.39.120 and this chapter. [1971 ex.s. c 178 § 12; 1967 ex.s. c 73 § 8.]

29.72.910 Severability—1971 ex.s. c 178. If any provision of RCW 29.01.140, 29.39.120 and this chapter, or its application to any person or circumstance is held invalid, the remainder of RCW 29.01.140, 29.39.120 and this chapter, or the application of the provision to other

persons or circumstances is not affected. [1971 ex.s. c 178 § 14.]

Chapter 29.74 UNITED STATES CONSTITUTIONAL AMENDMENT CONVENTIONS

Sections	
29.74.010	Governor's proclamation calling convention—When.
29.74.020	Governor's proclamation calling convention—Publication of.
29.74.030	Election of convention delegates—Date for, how fixed.
29.74.040	Time and place for holding convention.
29.74.050	Delegates—Number and qualifications.
29.74.060	Delegates—Declarations of candidacy.
29.74.070	Election of convention delegates—General procedure.
29.74.080	Election of convention delegates—General procedure—Ballots.
29.74.090	Election of convention delegates—General procedure—Qualifications of voters.
29.74.100	Election of convention delegates—General procedure—Ascertaining election result.
29.74.110	Meeting—Organization.
29.74.120	Quorum—Proceedings—Record.
29.74.130	Certification and transmittal of result.
29.74.140	Expenses—How paid—Delegates receive filing fee.
29.74.150	Federal statutes controlling.

29.74.010 Governor's proclamation calling convention—When. Within thirty days after the state is officially notified that the congress of the United States has submitted to the several states a proposed amendment to the Constitution of the United States to be ratified or rejected by a convention, the governor shall issue a proclamation fixing the time and place for holding the convention and fixing the time for holding an election to elect delegates to the convention. [1965 c 9 § 29.74-.010. Prior: 1933 c 181 § 1, part; RRS § 5249-1, part.]

29.74.020 Governor's proclamation calling convention—Publication of. The proclamation shall be published once each week for two successive weeks in one newspaper published and of general circulation in each of the congressional districts of the state. The first publication of the proclamation shall be within thirty days of the receipt of official notice by the state of the submission of the amendment. [1965 c 9 § 29.74.020. Prior: 1933 c 181 § 1, part; RRS § 5249-1, part.]

29.74.030 Election of convention delegates—Date for, how fixed. The date for holding the election of delegates shall be not less than one month nor more than six weeks prior to the date of holding the convention: *Provided*, That if a general state election is to be held not more than six months nor less than three months from the date of official notice of submission to the state of the proposed amendment, the governor must fix the date of the general election as the date for the election of delegates to the convention. [1965 c 9 § 29.74-.030. Prior: (i) 1933 c 181 § 1, part; RRS § 5249-1, part. (ii) 1933 c 181 § 9; RRS § 5249-9.]

29.74.040 Time and place for holding convention. The convention shall be held not less than five nor more than eight months from the date of the first publication of the proclamation provided for in RCW 29.74.020. It shall be held in the chambers of the state house of representatives unless the governor shall select some other place at the state capitol. [1965 c 9 § 29.74.040. Prior: 1933 c 181 § 1, part; RRS § 5249-1, part.]

29.74.050 Delegates—Number and qualifications. Each state representative district shall be entitled to as many delegates in the convention as it has members in the house of representatives of the state legislature. No person shall be qualified to act as a delegate in said convention who does not possess the qualifications required of representatives in the state legislature from the same district. [1965 c 9 § 29.74.050. Prior: 1933 c 181 § 2; RRS § 5249-2.]

Qualifications of legislators: State Constitution Art. 2 § 7.

Subversive activities, disqualification from holding public office: RCW 9.81.040.

29.74.060 Delegates—Declarations of candidacy. Anyone desiring to file as a candidate for election as a delegate to said convention shall, not less than thirty nor more than sixty days prior to the date fixed for holding the election, file his declaration of candidacy with the secretary of state. Filing shall be made on a form to be prescribed by the secretary of state and shall include a sworn statement of the candidate that he is either for or against, as the case may be, the amendment which will be submitted to a vote of the convention and that he will, if elected as a delegate, vote in accordance with his declaration. The form shall be so worded that the candidate must give a plain unequivocal statement of his views as either for or against the proposal upon which he will, if elected, be called upon to vote. No candidate shall in any such filing make any statement or declaration as to his party politics or political faith or beliefs. The fee for filing as a candidate shall be ten dollars and shall be transmitted to the secretary of state with the filing papers and be by the secretary of state transmitted to the state treasurer for the use of the general fund. [1965 c 9 § 29.74.060. Prior: 1933 c 181 § 3; RRS § 5249-3.]

29.74.070 Election of convention delegates—General procedure. The election of delegates to such convention shall as far as practicable, be called, held and conducted, except as otherwise in this chapter provided, in the same manner as a general election under the election laws of this state. [1965 c 9 § 29.74.070. Prior: 1933 c 181 § 4, part; RRS § 5249-4, part.]

29.74.080 Election of convention delegates—General procedure—Ballots. The ballot shall be headed "Delegate to convention for ratification or rejection of proposed amendment to the United States Constitution, relating _____ (stating briefly the substance of amendment proposed for adoption or rejection)." The names of all candidates who have filed for a district shall be printed on the ballots for that district in

two separate groups. In one group under the heading, "For the amendment" shall be printed in alphabetical order of their surnames, the names of all candidates, who in their filed declaration of candidacy have declared themselves to be in favor of the amendment; and in the other group under the heading, "Against the amendment" shall be printed in alphabetical order of their surnames, the names of all candidates, who in their filed declaration of candidacy have declared themselves to be against the amendment. The wording of the headings for the two groups may be varied from that prescribed above if the nature of the proposal submitted by congress requires a different heading in order to clearly and briefly express the attitude of the candidates as disclosed in their declarations of candidacy. One of said groups shall occupy the left, and the other the right, column on said ballot. At the top of the ballot preceding the list of names shall be the statement, "Vote for" then the word, "two" or a spelled number designating the number of delegates to which the district is entitled, and "To vote for a person, make a cross (X) in the square at the right of the name of each person for whom you desire to vote." In all other respects the ballots shall follow the form prescribed by general law. [1965 c 9 § 29.74.080. Prior: 1933 c 181 § 4, part; RRS § 5249-4, part.]

Ballot: Chapter 29.30 RCW.

29.74.090 Election of convention delegates—General procedure—Qualifications of voters. Every person possessing the qualifications entitling him to vote at an election for state representatives, on the date of the election, shall be entitled to vote thereat. [1965 c 9 § 29.74.090. Prior: 1933 c 181 § 5; RRS § 5249-5.]

Only registered voters may vote—Exception: RCW 29.04.010.

Registration, examination of voter as to qualifications: RCW 29.07.070.

Subversive activities, disqualification from voting: RCW 9.81.040.

29.74.100 Election of convention delegates—General procedure—Ascertaining election result. The election officials shall count and determine the number of votes cast for each individual; and shall also count and determine the aggregate number of votes cast for all candidates whose names appear under each of the respective headings. Where more than the required number have been voted for, the ballot shall be rejected. The figures determined by the various counts shall be entered in the poll books of the respective precincts. The vote shall be canvassed in each county by the county canvassing board and certificate of results shall within twelve days after the election be transmitted to the secretary of state. Upon receiving such certificate, the secretary of state shall have power to require returns or poll books from any county precinct to be forwarded for his examination.

Where a district embraces precincts of more than one county, the secretary of state shall combine the votes from all the precincts included in each district. The delegates elected in each district shall be the number of candidates, corresponding to the number of state representatives from the district, who receive the highest

number of votes in the group (either "for" or "against"), which received an aggregate number of votes for all candidates in the group greater than the aggregate number of votes for all the candidates in the other group, and the secretary of state shall issue certificates of election, to the delegates so elected. [1965 c 9 § 29.74.100. Prior: 1933 c 181 § 6; RRS § 5249-6.]

29.74.110 Meeting—Organization. The convention shall meet at the time and place fixed in the governor's proclamation. It shall be called to order by the secretary of state, who shall then call the roll of the delegates and preside over the convention until its president is elected. The oath of office shall then be administered to the delegates by the chief justice of the supreme court. As far as practicable, the convention shall proceed under the rules adopted by the last preceding session of the state senate. The convention shall elect a president and a secretary and shall thereafter and thereupon proceed to vote viva voce upon the proposition submitted by the congress of the United States. [1965 c 9 § 29.74.110. Prior: 1933 c 181 § 7, part; RRS § 5249-7, part.]

29.74.120 Quorum—Proceedings—Record. Two-thirds of the elected members of said convention shall constitute a quorum to do business, and a majority of those elected shall be sufficient to adopt or reject any proposition coming before the convention. If such majority votes in favor of the ratification of the amendment submitted to the convention, the said amendment shall be deemed ratified by the state of Washington; and if a majority votes in favor of rejecting or not ratifying the amendment, the same shall be deemed rejected by the state of Washington. [1965 c 9 § 29.74.120. Prior: 1933 c 181 § 8, part; RRS § 5249-8, part.]

29.74.130 Certification and transmittal of result. The vote of each member shall be recorded in the journal of the convention, which shall be preserved by the secretary of state as a public document. The action of the convention shall be enrolled, signed by its president and secretary and filed with the secretary of state and it shall be the duty of the secretary of state to properly certify the action of the convention to the congress of the United States as provided by general law. [1965 c 9 § 29.74.130. Prior: (i) 1933 c 181 § 7, part; RRS § 5249-7, part. (ii) 1933 c 181 § 8, part; RRS § 5249-8, part.]

29.74.140 Expenses—How paid—Delegates receive filing fee. The delegates attending the convention shall be paid the amount of their filing fee, upon vouchers approved by the president and secretary of the convention and state warrants issued thereon and payable from the general fund of the state treasury. The delegates shall receive no other compensation or mileage. All other necessary expenses of the convention shall be payable from the general fund of the state upon vouchers approved by the president and secretary of the convention. [1965 c 9 § 29.74.140. Prior: 1933 c 181 § 10; RRS § 5249-10.]

29.74.150 Federal statutes controlling. If a congressional measure, which submits to the several states an amendment to the Constitution of the United States for ratification or rejection, provides for or requires a different method of calling and holding conventions to ratify or reject said amendment, the requirements of said congressional measure shall be followed so far as they conflict with the provisions of this chapter. [1965 c 9 § 29.74.150. Prior: 1933 c 181 § 11; RRS § 5249-11.]

Chapter 29.79

INITIATIVE AND REFERENDUM

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	<i>Notice of constitutional amendments—Publication in newspapers and on radio and television: RCW 29.27.072-29.27.076.</i>

Vote necessary to validate initiative or referendum: RCW 29.62.130.

Voters' pamphlet: Chapter 29.81 RCW.

29.79.010 Filing proposed measures with secretary of state. If any legal voter or organization of legal voters of the state desires to petition the legislature to enact a proposed measure, or to submit a proposed initiative measure to the people, or to order that a referendum of any act, bill or law, or any part thereof, passed by the legislature be submitted to the people, he or they shall file in the office of the secretary of state five printed or typewritten copies of the measure proposed, or of the act or part thereof on which a referendum is desired, accompanied by the name and post office address of the proposer, and by an affidavit that the proposer (if an individual) is, or that the members of the proposer (if an organization), are legal voters. [1965 c 9 § 29.79.010. Prior: 1913 c 138 § 1, part; RRS § 5397, part.]

29.79.015 Review of initiative measures by code reviser's office—Certificate of review prerequisite to assignment of serial number. Upon receipt of any petition proposing an initiative to the people or an initiative to the legislature, and prior to giving a serial number thereto, the secretary of state shall submit a copy thereof to the office of the code reviser and give notice to the petitioner of such transmittal. Upon receipt of the measure, the assistant code reviser to whom it has been assigned may confer with the petitioner and shall within ten working days from receipt thereof review the proposal for matters of form and style, and such matters of substantive import as may be agreeable to the petitioner, and shall recommend to the petitioner such revision or alteration of the measure as may be deemed necessary and appropriate. The recommendations of the reviser's office shall be advisory only, and the petitioner may accept or reject them in whole or in part. The code reviser shall issue a certificate of review certifying that he has reviewed the measure for form and style and that the recommendations thereon, if any, have been communicated to the petitioner, and such certificate shall issue whether or not the petitioner accepts such recommendations. Within fifteen working days after notification of submittal of the petition to the reviser's office, the petitioner, if he desires to proceed with his sponsorship, shall file the measure together with the certificate of review with the secretary of state for assignment of serial number and the secretary of state shall thereupon submit to the reviser's office a certified copy of the measure filed. Upon submitting the proposal to the secretary of state for assignment of a serial number the secretary of state shall refuse to make such assignment unless the proposal is accompanied by a certificate of review. [1973 c 122 § 2.]

Legislative finding: "The legislature finds that the initiative process reserving to the people the power to propose bills, laws and to enact or reject the same at the polls, independent of the legislature, is finding increased popularity with citizens of our state. The exercise of this power concomitant with the power of the legislature requires coordination to avoid the duplication and confusion of laws. This legislation is enacted especially to facilitate the operation of the initiative process." [1973 c 122 § 1.]

29.79.020 Time for filing various types. Initiative measures proposed to be submitted to the people must be filed with the secretary of state within ten months prior to the election at which they are to be submitted, and the petitions therefor must be filed with the secretary of state not less than four months before the next general state-wide election.

Initiative measures proposed to be submitted to the legislature must be filed with the secretary of state within ten months prior to the next regular session of the legislature at which they are to be submitted and the petitions therefor must be filed with the secretary of state not less than ten days before such regular session of the legislature.

A petition ordering that any act or part thereof passed by the legislature be referred to the people must be filed with the secretary of state within ninety days after the final adjournment of the legislative session at which the act was passed. It may be submitted at the next general state-wide election or at a special election ordered by the legislature. [1965 c 9 § 29.79.020. Prior: (i) 1913 c 138 § 1, part; RRS § 5397, part. (ii) 1913 c 138 § 6, part; RRS § 5402, part. (iii) 1913 c 138 § 5, part; RRS § 5401, part. (iv) 1913 c 138 § 7, part; RRS § 5403, part.]

Initiative, referendum, time for filing: State Constitution Art. 2 § 1(a) and (d).

Petitions—Time for filing: RCW 29.79.140.

29.79.030 Numbering—Transmittal to attorney general. The secretary of state shall give a serial number to each initiative or referendum measure, using a separate series for initiative and referendum measures, and forthwith transmit one copy of the measure proposed bearing its serial number to the attorney general. Thereafter a measure shall be known and designated on all petitions, ballots and proceedings as "Initiative Measure No. _____" or "Referendum Measure No. _____". [1965 c 9 § 29.79.030. Prior: 1913 c 138 § 1, part; RRS § 5397, part.]

29.79.040 Ballot title—Formulation by attorney general. Within ten days after the receipt of an initiative or referendum measure the attorney general shall formulate therefor and transmit to the secretary of state a concise statement posed as a question and not to exceed twenty words, bearing the serial number of the measure. The statement may be distinct from the legislative title of the measure, and shall express, and give a true and impartial statement of the purpose of the measure; it shall not be intentionally an argument, nor likely to create prejudice, either for or against the measure. Such concise statement shall constitute the ballot title. The ballot title formulated by the attorney general shall be the ballot title of the measure unless changed on appeal. [1973 1st ex.s. c 118 § 2; 1965 c 9 § 29.79.040. Prior: 1953 c 242 § 2; 1913 c 138 § 2; RRS § 5398.]

Ballot titles to constitutional amendments and other measures: RCW 29.27.060–29.27.067.

29.79.050 Ballot title—Notice to proponents. Upon the filing of the ballot title for an initiative or referendum measure in his office, the secretary of state shall forthwith notify the persons proposing the measure by telephone and by mail of the exact language thereof. [1973 1st ex.s. c 118 § 3; 1965 c 9 § 29.79.050. Prior: 1913 c 138 § 3, part; RRS § 5399, part.]

29.79.060 Ballot title—Appeal to superior court. If the proposers are dissatisfied with the ballot title formulated by the attorney general, they may at any time within ten days from the filing thereof in the office of the secretary of state appeal to the superior court of Thurston county by petition setting forth the measure, the title formulated by the attorney general and their objections thereto and praying for amendment thereof.

A copy of the petition on appeal together with a notice that an appeal has been taken shall be served upon the secretary of state and upon the attorney general. Upon the filing of the petition on appeal, the court shall forthwith, or at the time to which the hearing may be adjourned by consent of the appellants, examine the proposed measure, the title prepared by the attorney general and the objections thereto and may hear argument thereon, and shall as soon as possible render its decision and certify to and file with the secretary of state such ballot title as it determines will meet the requirements of this chapter. The decision of the superior court shall be final, and the title so certified shall be the established ballot title. Such appeal shall be heard without costs to either party. [1965 c 9 § 29.79.060. Prior: 1913 c 138 § 3, part; RRS § 5399, part.]

29.79.070 Ballot title—Mailed to proponents. When the ballot title has been finally established, the secretary of state shall file the instrument establishing it with the proposed measure and transmit a copy thereof by mail to the persons proposing the measure. Thereafter such ballot title shall be the title of the measure in all petitions, ballots and other proceedings in relation thereto. [1965 c 9 § 29.79.070. Prior: 1913 c 138 § 4, part; RRS § 5400, part.]

29.79.080 Petitions—Paper—Size—Margins. Upon the ballot title being established, the persons proposing the measure may prepare blank petitions and cause them to be printed upon single sheets of paper of good writing quality twelve inches in width and fourteen inches in length, with a margin of one and three-quarters inches at the top for binding. Each petition at the time of circulating, signing, and filing with the secretary of state shall consist of not more than one sheet with numbered lines for not more than twenty signatures on each sheet, with the prescribed warning, title and form of petition on each sheet, and a full, true and correct copy of the proposed measure referred to therein printed on the reverse side of said petition or on sheets of paper of like size and quality as the petition, firmly fastened together. [1973 1st ex.s. c 118 § 4; 1965 c 9 § 29.79.080. Prior: (i) 1913 c 138 § 4, part; RRS § 5400, part. (ii) 1913 c 138 § 9; RRS § 5405.]

29.79.090 Petitions to legislature—Form. Petitions for proposing measures for submission to the legislature at its next regular session, shall be substantially in the following form:

WARNING

Every person who signs this petition with any other than his true name, or who knowingly signs more than one of these petitions, or who signs this petition when he is not a legal voter, or who makes herein any false statement, shall be punished by fine or imprisonment or both.

INITIATIVE PETITION FOR SUBMISSION TO THE LEGISLATURE

To the Honorable -----, Secretary of State of the State of Washington:

We, the undersigned citizens of the State of Washington and legal voters of the respective precincts set opposite our names, respectfully direct that this petition and the proposed measure known as Initiative Measure No. ----- and entitled (here set forth the established ballot title of the measure), a full, true and correct copy of which is hereto attached, shall be transmitted to the legislature of the State of Washington at its next ensuing regular session, and we respectfully petition the legislature to enact said proposed measure into law; and each of us for himself says: I have personally signed this petition; I am a legal voter of the State of Washington in the precinct, city (or town) and county written after my name, and my residence address is correctly stated.

Petitioner's signature	Residence address, street and number, if any	Precinct name or number	City or Town	County
------------------------	--	-------------------------	--------------	--------

(Here follow 20 numbered lines divided into columns as below.)

1	-----	-----	-----	-----
2	-----	-----	-----	-----
3	-----	-----	-----	-----
etc.				

[1965 c 9 § 29.79.090. Prior: 1913 c 138 § 5, part; RRS § 5401, part.]

29.79.100 Petitions to people—Form. Petitions for proposing measures for submission to the people for their approval or rejection at the next ensuing general election, shall be substantially in the following form:

WARNING

Every person who signs this petition with any other than his true name, or who knowingly signs more than one of these petitions, or who signs this petition when he is not a legal voter, or who makes herein any false statement, shall be punished by fine or imprisonment or both.

INITIATIVE PETITION FOR SUBMISSION TO THE PEOPLE

To the Honorable _____, Secretary of State of the State of Washington:

We, the undersigned citizens of the State of Washington and legal voters of the respective precincts set opposite our names, respectfully direct that the proposed measure known as Initiative Measure No. _____, entitled (here insert the established ballot title of the measure), a full, true and correct copy of which is here-to attached shall be submitted to the legal voters of the State of Washington for their approval or rejection at the general election to be held on the _____ day of _____, A.D. 19__; and each of us for himself says: I have personally signed this petition; I am a legal voter of the State of Washington, in the precinct, city (or town) and county written after my name, and my residence address is correctly stated.

Table with 5 columns: Petitioner's signature, Residence address, street and number, if any, Precinct name or number, City or Town, County. Includes a header and a section for 20 numbered lines divided into columns as below.

[1965 c 9 § 29.79.100. Prior: 1913 c 138 § 6, part; RRS § 5402, part.]

29.79.110 Petitions to refer—Form. Petitions ordering that acts or parts of acts passed by the legislature be referred to the people at the next ensuing general election, or special election ordered by the legislature, shall be substantially in the following form:

WARNING

Every person who signs this petition with any other than his true name, or who knowingly signs more than one of these petitions, or who signs this petition when he is not a legal voter, or who makes herein any false statement, shall be punished by fine or imprisonment or both.

PETITION FOR REFERENDUM

To the Honorable _____, Secretary of State of the State of Washington:

We, the undersigned citizens of the State of Washington and legal voters of the respective precincts set opposite our names, respectfully order and direct that Referendum Measure No. _____, entitled (here insert the established ballot title of the measure) being a (or part or parts of a) bill passed by the _____ legislature of the State of Washington at the last regular (special) session of said legislature, shall be referred to the people of the state for their approval or rejection at the regular (special) election to be held on the _____ day of _____, A.D. 19__; and each of us for himself says: I have personally signed this petition; I am a legal voter of the State of Washington, in the precinct,

city (or town) and county written after my name, and my residence address is correctly stated.

Table with 5 columns: Petitioner's signature, Residence address, street and number, if any, Precinct name or number, City or Town, County. Includes a header and a section for 20 numbered lines divided into columns as below.

[1965 c 9 § 29.79.110. Prior: 1913 c 138 § 7, part; RRS § 5403, part.]

29.79.120 Petitions—Signatures—Number necessary. When the person or organization proposing any initiative measure has secured upon any such initiative petition the signatures of legal voters equal in number to or exceeding eight percent of the whole number of voters registering and voting for the office of governor at the regular gubernatorial election last preceding, or when the person or organization demanding any referendum of an act of the legislature or any part thereof has secured upon any such referendum petition the signatures of legal voters equal in number to or exceeding four percent of the whole number of voters registering and voting for the office of governor at the regular gubernatorial election last preceding, he or they may submit said petition to the secretary of state for filing in his office. [1965 c 9 § 29.79.120. Prior: 1913 c 138 § 11, part; RRS § 5407, part. See also State Constitution Art. 2 § 1(a) (Amendment 30), (L. 1955, p. 1860, S.J.R. No. 4).]

29.79.130 Petitions—Expense—Contributors—Sworn statement. At the time of submitting an initiative or referendum petition the person or organization submitting it shall file with the secretary of state a full, true and detailed statement giving the names and post office addresses of all persons, corporations and organizations who contributed any moneys to aid in the preparation, publication and advertising of the measure and the preparation, circulation and filing of the petition, with the amount contributed by each, and a full, true and detailed statement of all expenditures, giving the amounts expended, the purpose for which expended, and the names and post office addresses of the persons and corporations to whom paid. The statement shall be verified by the affidavit of the person or some member of the organization in charge of the measure. [1965 c 9 § 29.79.130. Prior: 1913 c 138 § 11, part; RRS § 5407, part.]

29.79.140 Petitions—Time for filing. The time for submitting initiative or referendum petitions to the secretary of state for filing is as follows:

(1) A referendum petition ordering and directing that the whole or some part or parts of an act passed by the legislature be referred to the people for their approval or rejection at the next ensuing general election or a

special election ordered by the legislature, must be submitted not more than ninety days after the final adjournment of the session of the legislature which passed the act;

(2) An initiative petition proposing a measure to be submitted to the people for their approval or rejection at the next ensuing general election, must be submitted not less than four months before the date of such election;

(3) An initiative petition proposing a measure to be submitted to the legislature at its next ensuing regular session must be submitted not less than ten days before the commencement of the session. [1965 c 9 § 29.79.140. Prior: 1913 c 138 § 12, part; RRS § 5408, part.]

Initiative, referendum, time for filing: State Constitution Art. 2 § 1(a) and (d).

Measures, petitions, time for filing various types: RCW 29.79.020.

29.79.150 Petitions—Acceptance or rejection by secretary of state. Upon any initiative or referendum petition being submitted to the secretary of state for filing, he may refuse to file it upon any of the following grounds:

(1) That the verified statement of contributions and contributors has not been filed.

(2) That the petition is not in proper form.

(3) That the petition clearly bears insufficient signatures.

(4) That the time within which the petition may be filed has expired.

In case of refusal, the secretary of state shall endorse on the petition the word "submitted" and the date, and retain the petition pending appeal.

If none of the grounds for refusal exists, the secretary of state must accept and file the petition. [1965 c 9 § 29.79.150. Prior: (i) 1913 c 138 § 11, part; RRS § 5407, part. (ii) 1913 c 138 § 12, part; RRS § 5408, part.]

29.79.160 Petitions—Review of refusal to accept and file. If the secretary of state refuses to file an initiative or referendum petition when submitted to him for filing, the persons submitting it for filing may, within ten days after his refusal, apply to the superior court of Thurston county for a citation requiring the secretary of state to bring the petitions before the court, and for a writ of mandate to compel him to file it. The application shall take precedence over other cases and matters and shall be speedily heard and determined.

If the court issues the citation, and determines that the petition is legal in form and apparently contains the requisite number of signatures and was submitted for filing within the time prescribed in the Constitution, it shall issue its mandate requiring the secretary of state to file it in his office as of the date of submission for filing.

The decision of the superior court granting a writ of mandate shall be final. [1965 c 9 § 29.79.160. Prior: 1913 c 138 § 13, part; RRS § 5409, part.]

Initiative, referendum, time for filing: State Constitution Art. 2 § 1(a) and (d).

29.79.170 Petitions—Review—Appeal from superior court's refusal to issue mandate. The decision of the superior court refusing to grant a writ of mandate, may be reviewed by the supreme court on a writ of certiorari sued out within five days after the decision of the superior court. The review shall be considered an emergency matter of public concern, and shall be heard and determined with all convenient speed, and if the supreme court decides that the petitions are legal in form and apparently contain the requisite number of signatures of legal voters, and were filed within the time prescribed in the Constitution, it shall issue its mandate directing the secretary of state to file the petition in his office as of the date of submission. [1965 c 9 § 29.79.170. Prior: 1913 c 138 § 13, part; RRS § 5409, part.]

29.79.180 Petitions—Destruction on final refusal. If no appeal is taken from the refusal of the secretary of state to file a petition within the time prescribed, or if an appeal is taken and the secretary of state is not required to file the petition by the mandate of either the superior or the supreme court, the secretary of state shall destroy it. [1965 c 9 § 29.79.180. Prior: 1913 c 138 § 13, part; RRS § 5409, part.]

29.79.190 Petitions—Consolidation into volumes. If the secretary of state accepts and files an initiative or referendum petition upon its being submitted for filing or if he is required to file it by the court, he shall forthwith, in the presence of the governor, or, if the governor is absent, in the presence of some other state officer, and in the presence of the persons submitting such petition for filing if they desire to be present, detach the sheets containing the signatures and cause them all to be firmly attached to one or more printed copies of the proposed initiative or referendum measure in such volumes as will be most convenient for canvassing and filing, and shall number such volumes and file the same and stamp on each thereof the date of filing. [1965 c 9 § 29.79.190. Prior: 1913 c 138 § 14; RRS § 5410.]

29.79.200 Petitions to legislature—Canvass and count of signatures—Statistical sampling authorized. Upon filing the volumes of an initiative petition proposing a measure for submission to the legislature at its next regular session, the secretary of state shall forthwith in the presence of at least one person representing the advocates and one person representing the opponents of the proposed measure, should either desire to be present, proceed to canvass and count the names of the legal voters thereon. The secretary of state may use any statistical sampling techniques for this canvass which have been approved by the state canvassing board established by RCW 29.62.100: *Provided*, That no petition will be rejected on the basis of any statistical method employed: *Provided further*, That no petition will be accepted on the basis of any statistical method employed if such method indicates that the petition contains less than one hundred ten percent of the requisite number of signatures of legal voters. If the secretary of state finds the same name signed to more than one petition he shall reject the name as often as it

appears. If the petition is found to be sufficient, the secretary of state shall transmit a certified copy of the proposed measure to the legislature at the opening of its session together with a certificate of the facts relating to the filing of the petition and the canvass thereof. [1969 ex.s. c 107 § 1; 1965 c 9 § 29.79.200. Prior: 1933 c 144 § 1; 1913 c 138 § 15; RRS § 5411.]

29.79.210 Petitions to legislature—Count of signatures—Review. Any citizen dissatisfied with the determination of the secretary of state that an initiative or referendum petition contains or does not contain the requisite number of signatures of legal voters may, within five days after such determination, apply to the superior court of Thurston county for a citation requiring the secretary of state to submit the petition to said court for examination, and for a writ of mandate compelling the certification of the measure and petition, or for an injunction to prevent the certification thereof to the legislature, as the case may be. Such application and all proceedings had thereunder shall take precedence over other cases and shall be speedily heard and determined.

The decision of the superior court granting or refusing to grant the writ of mandate or injunction may be reviewed by the supreme court on a writ of certiorari sued out within five days after the decision of the superior court, and if the supreme court decides that a writ of mandate or injunction, as the case may be, should issue, it shall issue the writ directed to the secretary of state; otherwise, it shall dismiss the proceedings. The clerk of the supreme court shall forthwith notify the secretary of state of the decision of the supreme court. [1965 c 9 § 29.79.210. Prior: 1913 c 138 § 17; RRS § 5413.]

29.79.220 Initiatives and referenda to voters—Canvass and count of signatures. Upon filing the volumes of a referendum petition or an initiative petition for submission of a measure to the people, the secretary of state shall canvass the names of the petition within sixty days after filing in the manner provided in RCW 29.79.200 as it now exists or may hereinafter be amended and like proceedings shall and may be had thereon as provided in RCW 29.79.200 and 29.79.210. [1969 ex.s. c 107 § 2; 1965 c 9 § 29.79.220. Prior: 1933 c 144 § 3; 1913 c 138 § 18; RRS § 5414.]

29.79.230 Initiatives and referenda to voters—Certificates of sufficiency. If a referendum or initiative petition for submission of a measure to the people is found sufficient, the secretary of state shall at the time and in the manner that he certifies to the county auditors of the various counties the names of candidates for state and district officers certify to each county auditor the serial numbers and ballot titles of the several initiative and referendum measures to be voted upon at the next ensuing general election or special election ordered by the legislature. [1965 c 9 § 29.79.230. Prior: 1913 c 138 § 19; RRS § 5415.]

29.79.250 Referendum bills by legislature—Serial numbering. Whenever any bill passed by the legislature shall be by the legislature referred to the people for their approval or rejection at the next ensuing general election or at a special election ordered by the legislature, the secretary of state shall give such bill a serial number, using a separate series, such series being designated "Referendum bills." [1965 c 9 § 29.79.250. Prior: 1913 c 138 § 20, part; RRS § 5416, part.]

29.79.260 Referendum bills by legislature—Ballot title. If the legislature did not prescribe a ballot title the secretary of state shall obtain from the attorney general a ballot title therefor in the manner provided for obtaining ballot titles for initiative measures, and shall certify the serial number and ballot title of such bill to the county auditors for printing on the ballots for such general or special election in like manner as initiative measures for submission to the people are certified. [1965 c 9 § 29.79.260. Prior: 1913 c 138 § 20, part; RRS § 5416, part.]

29.79.270 Rejected initiative to legislature treated as referendum bill. Whenever any measure proposed by initiative petition for submission to the legislature is rejected by the legislature or the legislature takes no action thereon before the end of the regular session at which it is submitted, the secretary of state shall certify the serial number and ballot title thereof to the county auditors for printing on the ballots at the next ensuing general election in like manner as initiative measures for submission to the people are certified. [1965 c 9 § 29.79.270. Prior: 1913 c 138 § 21; RRS § 5417.]

29.79.280 Substitute for rejected initiative treated as referendum bill. If the legislature, having rejected a measure submitted to it by initiative petition, proposes a different measure dealing with the same subject, the secretary of state shall give that measure the same number as that borne by the initiative measure followed by the letter "B." Such measure so designated as "Alternative Measure No. ----- B," together with the ballot title thereof, when ascertained, shall be certified by the secretary of state to the county auditors for printing on the ballots for submission to the voters for their approval or rejection in like manner as initiative measures for submission to the people are certified. [1965 c 9 § 29.79.280. Prior: 1913 c 138 § 22, part; RRS § 5418, part.]

29.79.290 Substitute for rejected initiative—Ballot title. For a measure designated by him as "Alternative Measure No. ----- B," the secretary of state shall obtain from the attorney general a ballot title in the manner provided for obtaining ballot titles for initiative measures. The ballot title therefor shall be different from the ballot title of the measure in lieu of which it is proposed, and shall indicate, as clearly as possible, the essential differences in the measure. [1965 c 9 § 29.79.290. Prior: 1913 c 138 § 22, part; RRS § 5418, part.]

29.79.300 **Printing ballot titles on ballots—Order and form.** The county auditor of each county shall cause to be printed on the official ballots for the election at which initiative and referendum measures are to be submitted to the people for their approval or rejection the serial numbers and ballot titles, certified by the secretary of state. They shall appear under separate headings in the order of the serial numbers as follows:

(1) Measures proposed for submission to the people by initiative petition shall be under the heading, "Proposed by Initiative Petition";

(2) Bills passed by the legislature and ordered referred to the people by referendum petition shall be under the heading, "Passed by the Legislature and Ordered Referred by Petition";

(3) Bills passed and referred to the people by the legislature shall be under the heading, "Proposed to the People by the Legislature";

(4) Measures proposed to the legislature and rejected or not acted upon shall be under the heading, "Proposed to the Legislature and Referred to the People";

(5) Measures proposed to the legislature and alternative measures passed by the legislature in lieu thereof shall be under the heading, "Initiated by Petition and Alternative by Legislature." [1965 c 9 § 29.79.300. Prior: 1913 c 138 § 23; RRS § 5419.]

29.79.310 **Printing provisions on ballots for voting except on alternative measures.** Except in the case of alternative voting on a measure initiated by petition, for which a substitute has been passed by the legislature, each measure submitted to the people for approval or rejection shall be so printed on the ballot, under the proper heading, that a voter can by making one cross (X) express his approval or rejection of such measure. Substantially the following form shall be a compliance with this section:

PROPOSED BY INITIATIVE PETITION

Initiative Measure No. 22, entitled (here insert the ballot title of the measure).

FOR Initiative Measure No. 22

AGAINST Initiative Measure No. 22

[1965 c 9 § 29.79.310. Prior: 1913 c 138 § 24; RRS § 5420.]

29.79.320 **Printing provisions on ballots for voting on alternative measures.** If an initiative measure proposed to the legislature has been rejected by the legislature and an alternative measure is passed by the legislature in lieu thereof the serial numbers and ballot titles of both such measures shall be so printed on the official ballots that a voter can express separately by making one cross (X) for each, two preferences: First, as between either measure and neither, and secondly, as between one and the other, as provided in the Constitution. Substantially the following form shall be a compliance with the constitutional provision:

INITIATED BY PETITION AND ALTERNATIVE BY LEGISLATURE

Initiative Measure No. 25, entitled (here insert the ballot title of the initiative measure).

Alternative Measure No. 25B, entitled (here insert the ballot title of the alternative measure).

VOTE FOR EITHER, OR AGAINST BOTH

FOR EITHER Initiative No. 25 OR Alternative No. 25B

AGAINST Initiative No. 25 AND Alternative No. 25B

and vote FOR one.

FOR Initiative Measure No. 25

FOR Alternative Measure No. 25B

[1965 c 9 § 29.79.320. Prior: 1913 c 138 § 25; RRS § 5421.]

Ballot requisites: State Constitution Art. 2 § 1(a).

29.79.440 **Violations by signers.** Every person who signs an initiative or referendum petition with any other than his true name shall be guilty of a felony. Every person who knowingly signs more than one petition for the same initiative or referendum measure or who signs an initiative or referendum petition knowing that he is not a legal voter or who makes a false statement as to his residence on any initiative or referendum petition, shall be guilty of a gross misdemeanor. [1965 c 9 § 29.79.440. Prior: 1913 c 138 § 31; RRS § 5427. Formerly also RCW 29.79.450, 29.79.460 and 29.79.470.]

Misconduct in signing a petition: RCW 9.44.080.

Only registered voters may vote—Exception: RCW 29.04.010.

Registration, examination of voter as to qualifications: RCW 29.07.070.

Residence, contingencies affecting: State Constitution Art. 6 § 4.

Residence defined: RCW 29.01.140.

29.79.480 **Violations by officers.** Every officer who wilfully violates any of the provisions of this chapter or chapter 29.81 RCW, for the violation of which no penalty is herein prescribed, or who wilfully fails to comply with the provisions of this chapter or chapter 29.81 RCW, shall be guilty of a gross misdemeanor. [1965 c 9 § 29.79.480. Prior: 1913 c 138 § 32, part; RRS § 5428, part.]

29.79.490 **Violations—Corrupt practices.** Every person shall be guilty of a gross misdemeanor who:

(1) For any consideration or gratuity or promise thereof, signs or declines to sign any initiative or referendum petition; or

(2) Advertises in any manner that for or without consideration, he will solicit or procure signatures upon or influence or attempt to influence persons to sign or not to sign, to vote or not to vote upon an initiative or referendum petition or to vote for or against any initiative or referendum; or

(3) For any consideration or gratuity or promise thereof solicits or procures signatures upon an initiative or referendum petition; or

(4) Gives or offers any consideration or gratuity to any person to induce him to sign or not to sign, or to solicit or procure signatures upon an initiative or referendum petition or to vote for or against any initiative or referendum measure; or

(5) Interferes with or attempts to interfere with the right of any voter to sign or not to sign an initiative or referendum petition or with the right to vote for or against an initiative or referendum measure by threats, intimidation or any other corrupt means or practice; or

(6) Receives, handles, distributes, pays out or gives away, directly or indirectly, money or any other thing of value contributed by or received from any person, firm, association, or corporation whose residence or principal office is, or the majority of whose members or stockholders have their residence outside, the state of Washington, for any service rendered for the purpose of aiding in procuring signatures upon any initiative or referendum petition or for the purpose of aiding in the adoption or rejection of any initiative or referendum measure. [1965 c 9 § 29.79.490. Prior: 1913 c 138 § 32, part; RRS § 5428, part.]

Chapter 29.80 CANDIDATES' PAMPHLET

Sections

- 29.80.010 Contents—Publication.
- 29.80.020 Statement and photograph to be filed by nominee, date.
- 29.80.030 Statements containing obscene, libelous, etc., language may be rejected—Certain insignias, uniforms prohibited in photographs—Board of review, appeal by nominee.
- 29.80.040 Publication, date—Dimensions—Consolidation with voters' pamphlet.
- 29.80.050 Charges to nominees for space—Minimum space allocations.
- 29.80.060 Classification and distribution according to county—Order of appearance in pamphlet.
- 29.80.070 Rules and regulations.

Voters' pamphlet: Chapter 29.81 RCW.

29.80.010 Contents—Publication. As soon as possible prior to each state general election at which federal or state officials are to be elected, the secretary of state shall publish and mail to each individual place of residence of the state a candidates' pamphlet containing photographs and campaign statements of eligible nominees who desire to participate therein: *Provided*, That in odd-numbered years no candidate's pamphlet shall be published. [1973 c 4 § 8; 1965 c 9 § 29.80.010. Prior: 1959 c 329 § 19.]

29.80.020 Statement and photograph to be filed by nominee, date. At a time to be determined by the secretary of state but in any event, not later than forty-five days prior to the applicable state general election, each nominee for the office of United States senator, United States representative, governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, superintendent of public instruction, commissioner of public lands, insurance commissioner, state senator, state representative, justice of the supreme court, judge of the court of appeals, and judge of the superior court may file with the secretary of state a

written statement advocating his candidacy accompanied by a photograph not more than five years old and of a size and quality which the secretary of state determines suitable for reproduction in the voters' pamphlet. The maximum number of words for such statements shall be determined according to the offices sought as follows: State representative, one hundred words; state senator, judge of the superior court, judge of the court of appeals, judge of the supreme court, and all state offices voted upon throughout the state, except that of governor, two hundred words; United States senator, United States representative and governor, three hundred words. No such statement or photograph shall be printed in the candidates' pamphlet for any person who is the sole nominee for any nonpartisan or judicial office. [1971 ex.s. c 145 § 1; 1971 c 81 § 78; 1965 c 9 § 29.80.020. Prior: 1959 c 329 § 20.]

Severability—1971 ex.s. c 145: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 145 § 8.] This applies to RCW 29.80.020, 29.80.040, 29.80.050, 29.81.040, 29.81.100, 29.81.120 and 29.81.140.

29.80.030 Statements containing obscene, libelous, etc., language may be rejected—Certain insignias, uniforms prohibited in photographs—Board of review, appeal by nominee. (1) The secretary of state shall reject any statement offered for filing, which, in his opinion, contains any obscene, profane, libelous or defamatory matter, or any language or matter, the circulation of which through the mails is prohibited by congress. Nor shall any nominee submit a photograph showing the uniform or insignia of any organization which advocates or teaches racial or religious intolerance.

(2) Within five days after such rejection the persons submitting such statement for filing may appeal to a board of review, consisting of the governor, attorney general and the lieutenant governor. The decision of such board shall be final upon the acceptance or rejection of the matter thus in controversy. [1965 c 9 § 29.80.030. Prior: 1959 c 329 § 21.]

29.80.040 Publication, date—Dimensions—Consolidation with voters' pamphlet. Said nominees' statements and photographs as set forth in RCW 29.80.010 and 29.80.020 shall be published by the secretary of state as a candidates' pamphlet, the printing of which shall be completed as soon as possible prior to the state general election concerned. The overall dimensions of such pamphlet shall be determined by the secretary of state as those which in his judgment best serve the voters and whenever possible the candidates' pamphlet shall be combined with the voters' pamphlet as a single publication. [1971 ex.s. c 145 § 2; 1965 c 9 § 29.80.040. Prior: 1959 c 329 § 22.]

Severability—1971 ex.s. c 145: See note following RCW 29.80.020.

Voters' pamphlet: Chapter 29.81 RCW.

29.80.050 Charges to nominees for space—Minimum space allocations. Nominees shall pay for their prorated space in the candidates' pamphlet allocated according to the respective offices sought as follows:

(1) For United States senator, United States representative and governor, each shall pay two hundred dollars. The nominees for each position shall equally share no less than two full pages.

(2) For all state offices voted upon throughout the state, except for that of governor, each shall pay one hundred dollars. The nominees for each position shall equally share no less than one full page.

(3) For state senator, judge of the court of appeals and judge of the superior court, each shall pay fifty dollars. The nominees for each position shall equally share no less than one full page.

(4) For state representative, each shall pay twenty-five dollars. The nominees for each position shall equally share no less than one-half page.

All such payments shall be made to the secretary of state when the statement is offered to him for filing and be transmitted by him to the public printer to be used as a credit offset to the cost of printing the candidates' and voters' pamphlet.

Nominees for president and vice president of each political party certified by the secretary of state shall together be entitled to one page without charge. Each such page so allocated shall not contain more than five hundred words in addition to the pictures of the nominees concerned. [1971 ex.s. c 145 § 3; 1965 c 9 § 29.80-.050. Prior: 1959 c 329 § 23.]

Severability—1971 ex.s. c 145: See note following RCW 29.80.020.

29.80.060 Classification and distribution according to county—Order of appearance in pamphlet. Whenever practical, the secretary of state shall cause the pamphlets to be printed so that no candidate's picture or statement shall be included in the copy of the pamphlet going to any county where such candidate is not to be voted for.

The candidates' photographs and statements shall appear in the pamphlet in the same sequence as the positions sought appear on the state general election ballot. [1965 c 9 § 29.80.060. Prior: 1959 c 329 § 24.]

General election ballots—Form: RCW 29.30.080.

29.80.070 Rules and regulations. The secretary of state, as chief election officer, shall make rules and regulations, not inconsistent with this chapter, to facilitate and clarify any procedures contained herein. [1965 c 9 § 29.80.070. Prior: 1959 c 329 § 25.]

Chapter 29.81 VOTERS' PAMPHLET

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29.81.170	Candidates' pamphlet—Publication, date—Dimensions—Consolidation with voters' pamphlet.

Candidates' pamphlet: Chapter 29.80 RCW.

29.81.010 Contents, how organized. The voters' pamphlet shall contain as to each state measure to be voted upon, the following in the order set forth in this section:

(1) Upon the top portion of the first two opposing pages relating to said measure and not exceeding one-third of the total printing area shall appear:

(a) The legal identification of the measure by serial designation and number;

(b) The official ballot title of the measure;

(c) A brief statement explaining the law as it presently exists;

(d) A brief statement explaining the effect of the proposed measure should it be approved into law;

(e) The total number of votes cast for and against the measure in both the state senate and house of representatives if the measure has been passed by the legislature;

(f) A heavy double ruled line across both pages to clearly set apart the above items from the remaining text.

(2) Upon the lower portion of the left page of the two facing pages shall appear an argument advocating the voters' approval of the measure together with any rebuttal statement of the opposing argument as provided in RCW 29.81.030, 29.81.040, or 29.81.050.

(3) Upon the lower portion of the right hand page of the two facing pages shall appear an argument advocating the voters' rejection of the measure together with any rebuttal statement of the opposing argument as provided in RCW 29.81.030, 29.81.040, or 29.81.050.

(4) Following each argument or rebuttal statement each member of the committee advocating for or against a measure shall be listed by name and address to the end that the public shall be fully apprised of the advocate's identity.

(5) At the conclusion of the pamphlet the full text of each of the measures shall appear. The text of the proposed constitutional amendments shall be set forth in the form provided for in RCW 29.81.080. [1973 1st ex.s. c 143 § 1; 1965 c 9 § 29.81.010. Prior: 1959 c 329 § 1. Formerly RCW 29.79.3502.]

Publicity of law, parts of law, and amendments to Constitution referred to people: State Constitution Art. 2 § 1(e) (Amendment 36).

29.81.012 Application forms for absentee and special presidential ballots to be included. In addition to any other contents required by this chapter, every voters' pamphlet published shall contain therein an application form for a state general election absentee ballot and during presidential election years an application form for a special presidential ballot which forms shall constitute sufficient notice upon receipt thereof by the appropriate election officers to assure the applicant of obtaining therefrom absentee ballots, upon being qualified therefor. [1969 ex.s. c 72 § 1.]

29.81.020 Explanatory statement by attorney general, appeal, judicial statement—Arguments and rebuttal statements by committees. (1) The attorney general shall prepare the explanatory statements required to be presented on the top portion of the two facing pages relating to each measure. Such statements shall be prepared in clear and concise language and shall avoid the use of legal and other technical terms insofar as possible. Any person dissatisfied with the explanatory statement so prepared may at any time within ten days from the filing thereof in the office of the secretary of state appeal to the superior court of Thurston county by petition setting forth the measure, the explanatory statement prepared by the attorney general, and his objection thereto and praying for the amendment thereof. A copy of the petition and a notice of such appeal shall be served on the secretary of state and the attorney general. The court shall, upon filing of the petition, examine the measure, the explanatory statement, and the objections thereto and may hear argument thereon and shall, as soon as possible, render its decision and certify to and file with the secretary of state such explanatory statement as it determines will meet the requirements of this chapter. The decision of the superior court shall be final and its explanatory statement shall be the established explanatory statement. Such appeal shall be heard without costs to either party.

(2) Arguments and rebuttal statements advocating the voters' approval or rejection of any measure shall be prepared and submitted for printing by the committees created pursuant to RCW 29.81.030, 29.81.040 and 29.81.050. Such arguments and rebuttal statements shall be the arguments and rebuttal statements and no other arguments or rebuttal statements shall appear in the pamphlet as to such measure. Arguments may contain graphs and charts, supported by factual statistical data

and pictures or other illustrations, but cartoons or caricatures shall not be permitted. [1973 1st ex.s. c 143 § 2; 1965 c 9 § 29.81.020. Prior: 1959 c 329 § 2. Formerly RCW 29.79.3506.]

29.81.030 Committee advocating approval of constitutional amendment, referendum bill—Membership—Submission of argument for printing. Arguments advocating voters' approval of any proposed constitutional amendment or referendum bill shall be composed and submitted for printing by a committee created as follows: The presiding officer of the state senate shall appoint one state senator known to favor the measure and the presiding officer of the house of representatives shall appoint one state representative known to favor the measure. The two persons so appointed shall appoint a third member to the committee who may or may not be a member of the legislature. If no member of the legislature can be enlisted to serve on such committee, then a committee composed of the secretary of state, the presiding officer of the senate, and the presiding officer of the house of representatives shall appoint any persons who are, in their judgment, qualified to serve in such capacity. [1973 1st ex.s. c 143 § 3; 1965 c 9 § 29.81.030. Prior: 1959 c 329 § 3. Formerly RCW 29.79.3510.]

29.81.040 Committee advocating rejection of constitutional amendment, referendum bill—Membership—Submission of argument and rebuttal statements for printing. Arguments advocating voters' rejection of any proposed constitutional amendment or referendum bill passed by the legislature and referred to the people for final decision and rebuttal statements of arguments advocating approval of such measures shall be composed and submitted for printing by a committee created as follows: The presiding officer of the state senate shall appoint one state senator and the presiding officer of the house of representatives shall appoint one state representative. Whenever possible, the two persons so appointed shall be known to have opposed the measure and they shall appoint a third member to the committee who may or may not be a member of the legislature. If no member of the legislature can be enlisted to serve on such committee, then a committee composed of the secretary of state, the presiding officer of the house and the presiding officer of the senate shall appoint any persons who are, in their judgment, qualified to serve in such capacity. [1973 1st ex.s. c 143 § 4; 1971 ex.s. c 145 § 4; 1965 c 9 § 29.81.040. Prior: 1959 c 329 § 4. Formerly RCW 29.79.3514.]

Severability—1971 ex.s. c 145: See note following RCW 29.80.020.

29.81.042 Time for submission of arguments to secretary of state. The committees appointed to compose the arguments to appear in the voters' pamphlet pursuant to RCW 29.81.030 and 29.81.040 shall submit such arguments, not to exceed two hundred fifty words in length, to the secretary of state no later than the first

day of June preceding the election at which the measures will appear. In the event that a committee appointed pursuant to RCW 29.81.030 or 29.81.040 fails to submit its argument prior to the first day of June preceding the election, the secretary of state, the presiding officer of the house of representatives, and the presiding officer of the state senate shall appoint any persons who are, in their judgment, qualified to compose such an argument. Any additional committee so appointed shall have until the last day of June preceding the election on the measure to compose and submit the appropriate argument. [1973 1st ex.s. c 143 § 6.]

29.81.043 Transmittal of arguments by secretary of state—Rebuttal arguments. On or before the first day of July preceding the election, the secretary of state shall transmit each argument submitted advocating approval of a constitutional amendment or referendum bill to the committee appointed to compose the argument against the same measure and transmit each argument submitted advocating rejection of a constitutional amendment or referendum bill to the committee appointed to compose the argument in favor of the same measure. The committees concerned may submit rebuttal arguments, not to exceed seventy-five words in length, addressing statements made by the opposing committee, but interjecting no new issue no later than the fifteenth day of July preceding the election at which the measure is to appear. [1973 1st ex.s. c 143 § 7.]

29.81.050 Committees advocating for and against initiative measures or referendum petitions—Membership—Submission of arguments and rebuttal statements for printing. Arguments advocating voters' approval of any initiative measure or any act passed by the legislature and referred to the people by referendum petition and rebuttal statements of arguments advocating rejection of such measures shall be composed and submitted for printing by a committee created as follows:

The presiding officer of the state senate, the presiding officer of the house of representatives, and the secretary of state shall together appoint two persons known to favor the measure to serve on the committee. The two persons so appointed shall appoint a third person to the committee.

Arguments advocating voters' rejection of any initiative measure or any act passed by the legislature and referred to the people by referendum petition and rebuttal statements of arguments advocating approval of such measures shall be composed and submitted for printing by a committee created as follows:

The presiding officer of the state senate, the presiding officer of the house of representatives, and the secretary of state shall together appoint two persons to serve on the committee. Whenever possible, the two persons so appointed shall be known to have opposed the measure. The two persons so appointed shall appoint a third person to the committee. [1973 1st ex.s. c 143 § 5; 1965 c 9 § 29.81.050. Prior: 1959 c 329 § 5. Formerly RCW 29.79.3518.]

29.81.052 Time for submission of arguments to secretary of state. The committees appointed to compose the arguments to appear in the voters' pamphlet pursuant to RCW 29.81.050 shall submit such arguments, not to exceed two hundred fifty words in length, no later than the last day of July preceding the election at which the measures will appear. [1973 1st ex.s. c 143 § 8.]

29.81.053 Transmittal of arguments by secretary of state—Rebuttal arguments. On or before the first day of August preceding the election, the secretary of state shall transmit each argument submitted advocating approval of an initiative measure or any act passed by the legislature and referred to the people by referendum petition to the committee appointed to compose the argument against the same measure and transmit each argument submitted advocating rejection of an initiative measure or any act passed by the legislature and referred to the people by referendum petition to the committee appointed to compose the argument in favor of the measure. The committees concerned may submit rebuttal arguments not to exceed seventy-five words in length addressing statements made by the opposing committee, but interjecting no new issue no later than the fifteenth day of August preceding the election at which the measure is to appear. [1973 1st ex.s. c 143 § 9.]

29.81.060 Committees—Chairmen, advisory members, vacancies. Committees created pursuant to RCW 29.81.030, 29.81.040 and 29.81.050 shall elect from their members a chairman to conduct the business of the committee. Each committee may name other persons, not to exceed five, to serve as advisory committee members without vote.

In the event of a vacancy or vacancies in one of the committees, the remaining committee members or member, shall fill such vacancy or vacancies by appointment. Should any vacancy not be filled within fifteen days after it first occurs, the secretary of state shall fill such vacancy by appointment. [1965 c 9 § 29.81.060. Prior: 1959 c 329 § 6. Formerly RCW 29.79.3522.]

29.81.070 Rules and regulations by secretary of state. The secretary of state shall promulgate such rules and regulations as may be necessary to facilitate the provisions of this chapter including but not limited to the setting of final dates for the appointment of committees, for the filing of arguments and explanatory statements with his office, and for filing with his office a notice of any judicial review concerning the provisions of this chapter. [1965 c 9 § 29.81.070. Prior: 1959 c 329 § 7. Formerly RCW 29.79.3526.]

29.81.080 Manner and style of printing proposed constitutional amendments in pamphlets. Any proposed constitutional amendment which amends any part of the Constitution as it then exists shall be set forth in the following form: All deleted matter shall be set in italics and enclosed in brackets and all new material shall be underlined and there shall appear in bold face type between the caption and the body of the amendment, the

following statement: "All words printed in italics are in the Constitution at the present and are being taken out by this amendment. All words underscored do not appear in the Constitution as it now is written but will be put in if this amendment is adopted." *Provided*, That if in the opinion of the secretary of state the proposed amendment is so extensive that the foregoing method is not practical then, in that case, the section of the Constitution as it stands at the time of the election and the Constitution as it will appear if amended shall be printed on facing pages headed in bold face type by the words "the Constitution as it is before amendment" and "the Constitution as it will be if amended". [1965 c 9 § 29.81.080. Prior: 1959 c 329 § 8. Formerly RCW 29.79.3530.]

29.81.090 Arguments containing obscene, libelous, treasonable, etc., language may be refused—Board of censors, appeal by committee. If in the opinion of the secretary of state any argument offered for filing contains any obscene, vulgar, profane, scandalous, libelous, defamatory, or treasonable matter, or any language tending to provoke crime or a breach of the peace, or any language or matter the circulation of which through the mails is prohibited by any act of congress, the secretary of state shall refuse to file it: *Provided*, That the committee submitting such argument for filing may appeal to a board of censors consisting of the governor, the attorney general and the superintendent of public instruction, and the decision of a majority of such board shall be final. [1965 c 9 § 29.81.090. Prior: 1959 c 329 § 18; prior: 1933 c 144 § 4, part; 1929 c 130 § 1, part; 1913 c 138 § 26, part; RRS § 5422, part. Formerly RCW 29.79.360.]

29.81.100 Publication of pamphlets—Arrangement of material. As soon as possible prior to any state general election at which any initiative measure, referendum measure, or amendment to the state Constitution is to be submitted to the people, the secretary of state shall cause to be printed in pamphlet form a true copy of the serial designation or number, the ballot title, the legislative title, if any, the full text of and the arguments for and arguments against each such measure to be submitted to the people, and such other information pertaining to elections as may be required by law or in the judgment of the secretary of state is deemed informative to the voters. [1973 c 4 § 9; 1971 ex.s. c 145 § 5; 1965 c 9 § 29.81.100. Prior: 1959 c 329 § 10; prior: 1917 c 30 § 1, part; 1913 c 138 § 27, part; RRS § 5423, part. Formerly RCW 29.79.370.]

Severability—1971 ex.s. c 145: See note following RCW 29.80.020.

29.81.110 Order in which measures and arguments must be printed in pamphlets. All measures and arguments shall be printed in the following order:

- (1) Those "Proposed by Initiative Petition";
- (2) Those "Proposed to the People by the Legislature";
- (3) Those "Proposed to the Legislature and Referred to the People";

(4) Those "Initiated by Petition and Alternative by the Legislature";

(5) "Amendments to the Constitution Proposed by the Legislature"; and

(6) "Measures Recommending Constitutional Conventions". [1965 c 9 § 29.81.110. Prior: 1959 c 329 § 11; prior: 1917 c 30 § 1, part; 1913 c 138 § 27, part; RRS § 5423, part. Formerly RCW 29.79.380.]

29.81.120 Printing specifications and make-up of measures and arguments in pamphlets. All measures and arguments shall be printed and bound in a single pamphlet according to the following specifications:

- (1) It shall be printed in clear readable type;
- (2) The pamphlet shall be of such size and be printed on a quality and weight of paper which in the judgment of the secretary of state best serves the voters.

It shall be the duty of the secretary of state to publish in such pamphlets a table of contents and a brief alphabetical index of subjects. [1971 ex.s. c 145 § 6; 1965 c 9 § 29.81.120. Prior: 1959 c 329 § 12; prior: 1917 c 30 § 1, part; 1913 c 138 § 27, part; RRS § 5423, part. Formerly RCW 29.79.300.]

Severability—1971 ex.s. c 145: See note following RCW 29.80.020.

29.81.130 Costs of printing and binding pamphlets. The cost of printing and binding such pamphlets including the printing of arguments shall be paid from the moneys appropriated for printing for the secretary of state. [1965 c 9 § 29.81.130. Prior: 1959 c 329 § 13; prior: 1917 c 30 § 1, part; 1913 c 138 § 27, part; RRS § 5423, part. Formerly RCW 29.79.400.]

29.81.140 Distribution to voters. As soon as possible before any election at which initiative or referendum measures, referendum bills, proposed constitutional amendments, or any other state measures are to be submitted to the people, the secretary of state shall transmit, by mail with postage fully prepaid, one copy of the pamphlet to each individual place of residence in the state and shall make such additional distribution as he shall deem necessary to reasonably assure that each voter will have an opportunity to study the measures prior to election. [1971 ex.s. c 145 § 7; 1965 c 9 § 29.81.140. Prior: 1913 c 138 § 29, part; RRS § 5425, part. Formerly RCW 29.79.410.]

Severability—1971 ex.s. c 145: See note following RCW 29.80.020.

29.81.150 Distribution to officers and institutions. The secretary of state shall transmit by the least expensive means, copies of the pamphlet as follows:

- (1) Two copies to:
 - Each state officer and each member of a state board;
 - Each county officer;
 - Each judge of the supreme and superior courts;
 - Each public library;
 - Each member of the legislature;
- (2) Three copies to:

Each voting precinct in the state, by transmittal through the county auditor of each county for the precincts in his county for the information of voters at the polls;

Each educational, charitable, penal, and reformatory institution of the state for its library;

(3) Five copies to the state library;

(4) Reserve supply for distribution on request as many copies as he deems necessary. [1965 c 9 § 29.81-.150. Prior: 1913 c 138 § 29, part; RRS § 5425, part. Formerly RCW 29.79.420.]

29.81.160 Distribution costs—How paid. The cost of mailing and distributing the pamphlets shall be paid from money appropriated for postage for the secretary of state. [1965 c 9 § 29.81.160. Prior: 1913 c 138 § 29, part; RRS § 5425, part. Formerly RCW 29.79.430.]

29.81.170 Candidates' pamphlet—Publication, date—Dimensions—Consolidation with voters' pamphlet. See RCW 29.80.040.

Chapter 29.82 THE RECALL

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Recall of elective officers: State Constitution Art. 1 §§ 33, 34 (Amendment 8).

29.82.010 Initiating recall proceedings—Statement—Contents—Verification. Whenever any legal voter or committee or organization of legal voters of the state or of any political subdivision thereof shall desire to demand the recall and discharge of any elective public officer of the state or of such political subdivision, as the case may be, under the provisions of sections 33 and 34 of article 1 of the Constitution, he or they shall prepare a typewritten charge, reciting that such officer,

namely him and giving the title of his office, has committed an act or acts of malfeasance, or an act or acts of misfeasance while in office, or has violated his oath of office, or has been guilty of any two or more of the acts specified in the Constitution as grounds for recall, which charge shall state the act or acts complained of in concise language, without unnecessary repetition, and shall be signed by the person or persons making the same, give their respective post office addresses, and be verified under oath that he or they believe the charge or charges to be true. [1965 c 9 § 29.82.010. Prior: 1913 c 146 § 1; RRS § 5350. Former part of section: 1913 c 146 § 2; RRS § 5351, now codified in RCW 29.82.015.]

29.82.015 Petition—Where filed. In case the officer whose recall is to be demanded be a state officer, the person making the charge shall file the same with the secretary of state. In case the officer whose recall is to be demanded be a county officer, the person or persons making the charge shall file the same with the county auditor. In case the officer whose recall is to be demanded be an officer of an incorporated city or town, the persons making the charge shall file the same with the clerk of said city or town. In case the officer whose recall is to be demanded is an officer of any other political subdivision of the state, the persons making the charge shall file the same with the officer whose duty it is to receive and file petitions for nomination of candidates for the office concerning the incumbent of which the recall is to be demanded. [1965 c 9 § 29.82.015. Prior: 1913 c 146 § 2; RRS § 5351. Formerly RCW 29.82-.010, part.]

29.82.020 Determining whether recall charges meet constitutional requirements—Ballot synopsis. If the recall is demanded of a state-wide elected official, the attorney general shall determine within fifteen days of the filing of the charge whether or not the acts complained of in the charge are acts of malfeasance or misfeasance while in office, or a violation of the oath of office, as specified in the Constitution. If the recall is demanded of a member of the state senate or house of representatives, and the legislative district of said member lies wholly within one county, the determination shall be made by the prosecuting attorney of such county within fifteen days of the filing of the charge. If the member's legislative district extends into two or more counties, the attorney general shall make the determination within the aforesaid time. If the recall is demanded of any other official, the prosecuting attorney of the county in which the person subject to recall resides shall make such determination within fifteen days of the filing of the charge. *Provided*, That if the recall is demanded of the attorney general, the determination shall be made by the chief justice of the supreme court of the state of Washington within fifteen days of the filing of the charge. Upon determination that the recall charges meet the constitutional requirements, the attorney general or the prosecuting attorney, as the case may be, shall, within thirty days of the filing of the charge, formulate a ballot synopsis of such charge of not to exceed two hundred words, which shall set forth the name of

the person charged, the title of his office, and a concise statement of the elements of the charge, and shall notify the persons filing the charge of the exact language of such ballot synopsis, and attach a copy thereof to and file the same with the charge, and thereafter such charge shall be designated on all petitions, ballots and other proceedings in relation thereto by such synopsis. [1971 ex.s. c 205 § 1; 1965 c 9 § 29.82.020. Prior: 1913 c 146 § 3; RRS § 5352.]

Severability—1971 ex.s. c 205: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 205 § 6.] This applies to RCW 29.82.020, 29.82.025, 29.82.026, 29.82.030 and 29.82.100.

29.82.025 Obtaining and filing supporting signatures—Time limitation. The sponsors of a recall demanded of any public officer may obtain and file supporting signatures after the issuance of the ballot synopsis by the appropriate official. Such signatures shall be obtained and filed within the time periods prescribed as follows:

(1) In the case of a person elected for a two year term of office, all petitions must be filed and circulation stopped not less than six months prior to the next general election in which the officer whose recall is demanded is subject to reelection.

(2) In the case of a person elected to a four or six year term of office, all petitions must be filed and circulation stopped within ten months prior to the next general election in which the officer whose recall is demanded is subject to reelection.

Notwithstanding any other provision of law, a recall election shall not be held after the general election when the officer whose recall is demanded was subject to reelection, if such general election is the one immediately following the recall demand.

The sponsors of a recall demanded of an officer elected to a state-wide position shall have a maximum of two hundred and seventy days in which to obtain and file supporting signatures after the issuance of a ballot synopsis by the attorney general subject to the limitations of (1) and (2) of this section. The sponsors of a recall demanded of any other officer shall have a maximum of one hundred and eighty days in which to obtain and file supporting signatures after the issuance of a ballot synopsis by the appropriate official, or after a final determination by a court of competent jurisdiction, whichever is later, subject to the limitations of (1) and (2) of this section. [1971 ex.s. c 205 § 2.]

Severability—1971 ex.s. c 205: See note following RCW 29.82.020.

29.82.026 Obtaining and filing supporting signatures—Time limitation—If supporting signatures being sought on May 21, 1971. The sponsors of any recall who have been in the process of obtaining supporting signatures for sixty days or more, on May 21, 1971 shall have only sixty additional days from such date to complete such process and file such signatures. [1971 ex.s. c 205 § 3.]

Severability—1971 ex.s. c 205: See note following RCW 29.82.020.

29.82.030 Petition—Form. Upon being notified of the language of the ballot synopsis of the charge, the persons filing the charge shall cause to be printed on single sheets of paper of good quality twelve inches in width by fourteen inches in length and with a margin of one and three-fourths inches at the top for binding, blank petitions for the recall and discharge of such officer. Such petitions shall be substantially in the following form:

WARNING

Every person who signs this petition with any other than his true name, or who knowingly signs more than one of these petitions, or who signs this petition when he is not a legal voter, or who makes herein any false statement, shall be fined, or imprisoned, or both.

Petition for the recall of (here insert the name of the office and of the person whose recall is petitioned for) to the Honorable (here insert the name and title of the officer with whom the charge is filed).

We the undersigned citizens of (the State of Washington or the political subdivision in which the recall is invoked, as the case may be) and legal voters of the respective precincts set opposite our respective names, respectfully direct that a special election be called to determine whether or not (here insert the name of the person charged and the office which he holds) be recalled and discharged from his office, for and on account of (his having committed the act or acts of malfeasance or misfeasance while in office, or having violated his oath of office, as the case may be), in the following particulars: (here insert the synopsis of the charge); and each of us for himself says: I have personally signed this petition; I am a legal voter of the State of Washington in the precinct and city (or town) and county written after my name, and my residence address is correctly stated.

Petitioner's signature	Residence address, street and number, if any	Precinct name or number	City or Town	County
(Here follow 20 numbered lines divided in to columns as below.)				
1 -----				
2 -----				
3 -----				
etc.				

[1971 ex.s. c 205 § 4; 1965 c 9 § 29.82.030. Prior: 1913 c 146 § 4; RRS § 5353.]

Severability—1971 ex.s. c 205: See note following RCW 29.82.020.

29.82.040 Petition—Size. Each recall petition at the time of circulating, signing and filing with the officer with whom it is to be filed, shall consist of not more than five sheets with numbered lines for not more than twenty signatures on each sheet, with the prescribed warning, title and form of petition on each sheet, and a full, true and correct copy of the original statement of

the charges against the officer referred to therein, printed on sheets of paper of like size and quality as the petition, firmly fastened together. [1965 c 9 § 29.82.040. Prior: 1913 c 146 § 6; RRS § 5355.]

29.82.050 Comparison and certification of signatures on petitions. Every recall petition before it is filed with the officer with whom it is required by the Constitution to be filed shall be filed with the secretary of state, county auditor or other registration officer whose duty it shall be to forthwith compare the signatures, addresses and precinct numbers on the petition with his records. The secretary of state or other officer shall by the use of his initials in ink designate opposite their signatures those persons who by his registration records are legal voters. The secretary of state or other officer shall certify upon the last signature sheet that the signatures so designated are the signatures of the legal voters of the state of Washington qualified to vote in the political subdivision affected by the recall petition and upon demand return it to the person who filed it with him. The omission to fill any blanks shall not prevent the certification of any name, if sufficient information is given to enable one by a comparison of signatures to identify the voter. [1965 c 9 § 29.82.050. Prior: 1913 c 146 § 7; RRS § 5356.]

Recall petition—Officer with whom it is required by Constitution to be filed: State Constitution Art. 1 §§ 33, 34 (Amendment 8).

29.82.060 Number of signatures required. When the person, committee, or organization demanding the recall of a public officer has secured sufficient signatures upon the recall petition he or it may submit the same to the officer with whom the charge was filed for filing in his office. The number of signatures required shall be as follows:

(1) In the case of a state officer, an officer of a city of the first class, a member of a school board in a city of the first class, or a county officer of a county of the first, second or third class—signatures of legal voters equal to twenty-five percent of the total number of votes cast for all candidates for the office to which the officer whose recall is demanded was elected at the preceding election.

(2) In the case of an officer of any political subdivision, city, town, township, precinct, or school district other than those mentioned in subdivision (1), and in the case of a state senator or representative—signatures of legal voters equal to thirty-five percent of the total number of votes cast for all candidates for the office to which the officer whose recall is demanded was elected at the preceding election. [1965 c 9 § 29.82.060. Prior: 1913 c 146 § 8, part; RRS § 5357, part.]

Recall of elective officers—Percentages required: State Constitution Art. 1 § 34 (Amendment 8).

29.82.070 Expense—Contributors—Sworn statement. At the time of submitting a recall petition the person, or organization submitting it shall file with the officer to whom such petition is submitted a full, true and detailed statement, giving the names and post office addresses of all persons, corporations and organizations

who have contributed or aided in the preparation of the charge and in the preparation, circulation and filing of the petition, with the amount contributed by each, and a full, true and detailed statement of all expenditures, giving the amounts expended, the purpose for which expended and the names and post office addresses of the persons and corporations to whom paid, which statement shall be verified by the affidavit of the person or some member of the organization making the charge and until such statement is filed the officer shall refuse to receive the petition. [1965 c 9 § 29.82.070. Prior: 1913 c 146 § 8, part; RRS § 5357, part.]

29.82.080 Canvassing petition for sufficiency of signatures—Time of—Notice. Upon the filing of a recall petition in his office, the officer with whom the charge was filed shall stamp on each petition the date of filing, and shall notify the persons filing them and the officer whose recall is demanded of the date when the petitions will be canvassed, which date shall be not less than five or more than ten days from the date of its filing. [1965 c 9 § 29.82.080. Prior: 1913 c 146 § 9, part; RRS § 5358, part.]

29.82.090 Canvassing petition for sufficiency of signatures—Procedure. At the time set for the canvass in the presence of at least one person representing the petitioners and in the presence of the person charged, or some one representing him, if either should desire to be present, the canvassing officer shall detach the sheets containing the signatures from the copies of the charge, and cause them to be firmly attached to one or more copies of the charge in such volumes as will be most convenient for canvassing and filing; and shall proceed to canvass and count the names of certified legal voters on such petitions. If he finds that the same person has signed more than one petition, he shall reject all signatures of such person from the count. [1965 c 9 § 29.82.090. Prior: 1913 c 146 § 9, part; RRS § 5358, part.]

29.82.100 Certification of proposition for recall for calling of election. If at the conclusion of the canvass and count, it is found that a petition for recall bears the requisite number of signatures of certified legal voters, the officer with whom the petition is filed shall certify the proposition to the proper authority which shall fix a date, not more than fifteen days after the conclusion of the canvass, for calling a special election to determine whether or not the officer charged shall be recalled and discharged from his office. On the date fixed the election shall be called. The special election shall be held not less than forty-five nor more than sixty days from the date of the call, and notice thereof shall be given in the manner required by law for calling special elections in the state or in the political subdivision, as the case may be. [1971 ex.s. c 205 § 5; 1965 c 9 § 29.82.100. Prior: 1913 c 146 § 9, part; RRS § 5358, part.]

Severability—1971 ex.s. c 205: See note following RCW 29.82.020.

29.82.110 Destruction of insufficient recall petition. If it is found that the recall petition does not contain the requisite number of signatures of certified legal voters, the officer shall so notify the persons filing the petition, and at the expiration of thirty days from the conclusion of the count he shall destroy the petitions unless prevented therefrom by the injunction or mandate of a court. [1965 c 9 § 29.82.110. Prior: 1913 c 146 § 9, part; RRS § 5358, part.]

29.82.120 Fraudulent names—Record of. The officer making the canvass of a recall petition shall keep a record of all names appearing thereon which are not certified to be legal voters of the state or of the political subdivision, as the case may be, and of all names appearing more than once thereon, and he shall report the same to the prosecuting attorneys of the respective counties where such names appear to have been signed, to the end that prosecutions may be had for such violation of this chapter. [1965 c 9 § 29.82.120. Prior: 1913 c 146 § 10; RRS § 5359.]

29.82.130 Conduct of election—Form of ballot. The special election to be called for the recall of officers shall be conducted in the same manner as general, state, county, municipal or other political subdivision elections, as the case may be, are conducted. The proper election officer shall provide for the holding of recall elections and the necessary places and officers, ballot boxes, ballots, poll books, voting machines, supplies and returns as are required by law for holding general elections. The ballots at any recall election shall contain a full, true and correct copy of the ballot synopsis of the charge, and shall be so arranged that any voter can, by making one cross (X) express his desire to have the officer charged recalled from his office, or retained therein. Substantially the following form shall be a compliance with the provisions of this section:

RECALL BALLOT

(Here insert the ballot synopsis of the charge.)

FOR the recall of (here insert the name of the officer)
AGAINST the recall (here insert the name of the officer)

[1965 c 9 § 29.82.130. Prior: 1913 c 146 § 11; RRS § 5360. See also RCW 29.48.040.]

29.82.140 Ascertaining the result. The votes on a recall election shall be counted, canvassed and the results certified in the manner provided by law for counting, canvassing and certifying the results of an election for the office from which the officer is being recalled: *Provided*, That if the officer whose recall is demanded is the officer to whom, under the law, returns of elections are made, such returns shall be made to the officer with whom the charge is filed, and who called the special election; and in case of an election for the recall of a state officer, the county canvassing boards of the various counties shall canvass and return the result of such election to the officer calling such special election. [1965 c 9 § 29.82.140. Prior: 1913 c 146 § 12; RRS § 5361.]

Canvassing the returns: Chapter 29.62 RCW.

Polling place regulations during voting hours and after closing: Chapter 29.54 RCW.

29.82.150 When recall becomes effective. Upon the completion of the canvass of the returns of any recall election, the result shall be published in the manner required by law for the publication of the results of general elections. If a majority of all votes cast at the recall election is for the recall of the officer charged, he shall thereupon be recalled and discharged from his office, and the office shall thereupon become and be vacant. [1965 c 9 § 29.82.150. Prior: 1913 c 146 § 13; RRS § 5362.]

29.82.160 Enforcement provisions—Mandamus—Appeals. The superior court of the county constituting or containing any political subdivision in which the recall is invoked shall have original jurisdiction to compel the performance of any act required of any public officer or to prevent the performance by any such officer of any act in relation to the recall not in compliance with law.

The supreme court shall have like original jurisdiction in relation to state officers and revisory jurisdiction over the decisions of the superior courts: *Provided*, That any proceeding to compel or prevent the performance of any such act shall be begun within ten days from the time the cause of complaint arises, and shall be considered an emergency matter of public concern and take precedence over other cases, and be speedily heard and determined. Any proceeding to review a decision of any superior court shall be begun and perfected within fifteen days after its decision in a recall election case and shall be by the supreme court considered an emergency matter of public concern, and speedily heard and determined. [1965 c 9 § 29.82.160. Prior: 1913 c 146 § 14; RRS § 5363.]

29.82.170 Violations by signers—Officers. Every person who signs a recall petition with any other than his true name shall be guilty of a felony; every person who knowingly signs more than one petition for the same recall, or who signs a recall petition when he is not a legal voter, or who makes a false statement as to his residence on any recall petition, and every registration officer who shall make any false report or certificate on any recall petition shall be guilty of a gross misdemeanor. [1965 c 9 § 29.82.170. Prior: 1913 c 146 § 15; RRS § 5364. Formerly codified also in RCW 29.82-.180, 29.82.190 and 29.82.200.]

29.82.210 Violations by officers. Every officer who wilfully violates any of the provisions of this chapter, for the violation of which no penalty is herein prescribed or who wilfully fails to comply with the provisions of this chapter shall be guilty of a gross misdemeanor. [1965 c 9 § 29.82.210. Prior: 1953 c 113 § 1; prior: 1913 c 146 § 16, part; RRS § 5365, part.]

29.82.220 Violations—Corrupt practices. Every person shall be guilty of a gross misdemeanor, who:

(1) For any consideration, compensation, gratuity, reward or thing of value or promise thereof, signs or declines to sign any recall petition; or

(2) Advertises in any newspaper, magazine or other periodical publication or in any book, pamphlet, circular or letter or by means of any sign, signboard, bill, poster, handbill or card or in any manner whatsoever, that he will either for or without compensation or consideration circulate, or solicit, procure or obtain signatures upon, or influence or induce or attempt to influence or induce persons to sign or not to sign any recall petition or vote for or against any recall; or

(3) For pay or any consideration, compensation, gratuity, reward or thing of value or promise thereof, circulates, or solicits, procures or obtains or attempts to procure or obtain signatures upon any recall petition; or

(4) Pays or offers or promises to pay, or gives or offers or promises to give any consideration, compensation, gratuity, reward or thing of value to any person to induce him to sign or not to sign, or to circulate or solicit, procure or attempt to procure or obtain signatures upon any recall petition, or to vote for or against any recall; or

(5) By any other corrupt means or practice or by threats or intimidation interferes with or attempts to interfere with the right of any legal voter to sign or not to sign any recall petition or to vote for or against any recall; or

(6) Receives, accepts, handles, distributes, pays out or gives away, directly or indirectly, any money, consideration, compensation, gratuity, reward or thing of value contributed by or received from any person, firm, association, or corporation whose residence or principal office is, or the majority of whose stockholders are non-residents of the state of Washington, for any service, work or assistance of any kind done or rendered for the purpose of aiding in procuring signatures upon any recall petition or the adoption or rejection of any recall. [1965 c 9 § 29.82.220. Prior: 1953 c 113 § 2; prior: 1913 c 146 § 16, part; RRS § 5365, part.]

**Chapter 29.85
CRIMES AND PENALTIES**

Sections

- 29.85.010 Ballots—Counterfeiting or unlawful possession.
- 29.85.020 Ballots—Officer tampering with.
- 29.85.030 Ballots—Opening, disclosing choice of voter.
- 29.85.040 Ballots—Unlawful printing or distribution.
- 29.85.050 Ballots—Misleading voters in marking.
- 29.85.060 Intimidating, influencing or bribing elector—Basic offenses.
- 29.85.070 Intimidating, influencing or bribing elector—Influencing voter to vote or not to vote—False assertions, bribery, etc.
- 29.85.080 Intimidating, influencing or bribing elector—Solicitation of bribe by candidate or voter.
- 29.85.090 Intimidating, influencing or bribing elector—Solicitation of bribe by voter in primary.
- 29.85.100 Certificates of nomination and ballots—Fraud as to.
- 29.85.110 Destroying or defacing election supplies and notices.
- 29.85.120 Electioneering for hire in commission form cities.

- 29.85.130 Bribery and other election violations in commission form cities.
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- 29.85.323 Electioneering within the polls forbidden—Prohibited practices as to ballots—Penalty.
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- 29.85.329 Unlawful acts by voters—Penalty.
- 29.85.340 Divulging ballot count—Penalty.
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- 29.85.360 County canvassing board—Canvassing procedure—Penalty.
- 29.85.370 Initiative, referendum—Violations by signers.
- 29.85.373 Initiative, referendum—Violations by officers.
- 29.85.375 Initiative, referendum—Violations—Corrupt practices.
- 29.85.380 Recall—Violations by signers—Officers.
- 29.85.381 Recall—Violation by officers.
- 29.85.383 Recall—Violations—Corrupt practices.

- Anarchy and sabotage: Chapter 9.05 RCW.*
- Bribery of public officer: RCW 9.18.010.*
- Bribery or corrupt solicitation: State Constitution Art. 2 § 30.*
- Coercion: RCW 9.33.060.*
- Contests, bribe or reward by person whose right is being contested as grounds for: RCW 29.65.010.*
- Duplication of, use of nonexistent or untrue names, as felony: RCW 29.18.070.*
- Financial disclosure by candidates and elected officials: Chapter 42.17 RCW.*
- Forgery—Second degree: RCW 9.44.040.*
- Injuring public utilities: RCW 9.61.010.*
- Interfering with public officer: RCW 9.18.090.*
- Libel and slander: Chapter 9.58 RCW.*
- Misconduct in signing a petition: RCW 9.44.080.*
- Perjury: Chapter 9.72 RCW.*
- Polling places, violations prior, during and after voting hours: Chapters 29.48, 29.51 and 29.54 RCW.*
- Prevention and correction of election frauds and errors: RCW 29.04.030.*
- Public officers—Asking or receiving bribes: RCW 9.18.020.*
- Public officers—Extortion by: RCW 9.33.040.*
- Public officers—Grafting, with respect to acts of: RCW 9.18.110.*
- Signing statement registered voter has changed residence, subject to perjury: RCW 29.10.130.*
- Signing statement registered voter is dead, subject to perjury: RCW 29.10.090.*
- Subversive activities: Chapter 9.81 RCW.*

Subversive activities, misstatements of candidates punishable as perjury, penalty: RCW 9.81.110.

29.85.010 Ballots—Counterfeiting or unlawful possession. Any person other than the officer charged by law with the care of ballots, or a person entrusted by any such officer with the care of the same for the purposes required by law, who has in his possession outside of the voting room any official ballot or any person who makes or has in his possession any counterfeit of any official ballot, shall be guilty of a misdemeanor and shall upon conviction thereof be sentenced to pay a fine of not exceeding one thousand dollars nor less than five hundred dollars, or to undergo imprisonment in the county jail for a term not less than six months nor more than one year, or both, at the discretion of the court. [1965 c 9 § 29.85.010. Prior: 1893 c 115 § 2; RRS § 5396.]

29.85.020 Ballots—Officer tampering with. Any judge, inspector, clerk, or any other officer of an election who opens or marks, by folding or otherwise, any ballot presented by a voter at any election, or attempts to find out the names thereon, or suffers the same to be done by any other person, before the ballot is deposited in the ballot box, shall be guilty of a gross misdemeanor. [1965 c 9 § 29.85.020. Prior: 1911 c 89 § 1, part; Code 1881 § 906; 1873 p 205 § 105; 1854 p 93 § 96; RRS § 5387.]

29.85.030 Ballots—Opening, disclosing choice of voter. If any inspector, judge, or clerk of election, previous to putting the ballot of any elector in the ballot box, attempts to pry into, or find out, any name or names on such ballot, which has been handed in by the elector in a folded form; or if any inspector, judge, or clerk of election opens, or suffers to be opened, the folded ballot of any elector which has been handed in by any elector, with a view to ascertaining the name of any person, or persons for whom such elector voted; or if any inspector, judge, or clerk of election, without the consent of the elector, discloses the name of any person or persons which such inspector, judge, or clerk has fraudulently or illegally discovered to have been voted for by such elector at any election, he shall, upon conviction thereof, be fined in any sum not less than fifty nor more than five hundred dollars. [1965 c 9 § 29.85.030. Prior: Code 1881 § 3146; 1865 p 51 § 7; No RRS.]

29.85.040 Ballots—Unlawful printing or distribution. Any printer, business manager, or publisher employed by any officer authorized by the laws of this state to procure the printing of any official ballot or any person engaged in printing official ballots who appropriates to himself or gives or delivers or knowingly permits to be taken any official ballot by any other person than the officer authorized by law to receive it, or who wilfully prints or causes to be printed any official ballot in any other form than that prescribed by law or as directed by the officer authorized to procure the printing thereof or with any other names thereon or with the names spelled otherwise than as directed by such officer, or the names or printing thereon arranged in any

other way than that authorized and directed by law, shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine not exceeding one thousand dollars, nor less than five hundred dollars, or imprisonment in the county jail for a term not exceeding one year nor less than six months, or both, at the discretion of the court. [1965 c 9 § 29.85.040. Prior: 1893 c 115 § 1; RRS § 5395.]

29.85.050 Ballots—Misleading voters in marking. Any person who fraudulently causes, or attempts to cause, any voter, at any election held pursuant to law in this state, to vote for a person different from the one he intended to vote for, shall be fined not more than one hundred nor less than ten dollars. [1965 c 9 § 29.85.050. Prior: Code 1881 § 902; 1873 p 204 § 101; 1854 p 92 § 92; RRS § 5390.]

29.85.060 Intimidating, influencing or bribing elector—Basic offenses. Any person who uses menace, force, threat, or corrupt means at or previous to any election held pursuant to the laws of the state towards any elector to hinder or deter such elector from voting at such election, or directly or indirectly offers any bribe or reward of any kind to induce an elector to vote for or against any person or proposition, or authorizes any person to do so, shall be guilty of a felony.

Any inspector, judge, or clerk of election who attempts to induce, by persuasion, menace, or reward, or promise thereof, any elector to vote for any person shall be guilty of a gross misdemeanor. [1965 c 9 § 29.85.060. Prior: (i) 1911 c 89 § 1, part; Code 1881 § 904; 1873 p 204 § 103; 1854 p 93 § 94; RRS § 5386. (ii) 1911 c 89 § 1, part; 1901 c 142 § 1; Code 1881 § 909; 1873 p 205 § 106; 1865 p 50 § 1; 1854 p 93 § 97; RRS § 5388.]

29.85.070 Intimidating, influencing or bribing elector—Influencing voter to vote or not to vote—False assertions, bribery, etc. Any person who in any way, directly or indirectly, by menace or other corrupt means or device, attempts to influence any person in giving or refusing to give his vote in any election, or deters or dissuades any person from giving his vote therein, or disturbs, hinders, persuades, threatens, or intimidates any person from giving his vote therein; or who at any such election, knowingly and wilfully makes any false assertion or propagates any false report concerning any person who is candidate thereat, which shall have a tendency to prevent his election, or with a view thereto, shall be guilty of a misdemeanor and, on conviction, shall be punished by a fine of not to exceed two hundred fifty dollars or by imprisonment for the term of six months, or by both. [1965 c 9 § 29.85.070. Prior: Code 1881 § 3140; RRS § 5389.]

29.85.080 Intimidating, influencing or bribing elector—Solicitation of bribe by candidate or voter. Any candidate for office, in any election hereinafter mentioned, under the laws of this state, or any other person, who, directly or indirectly, offers, promises, procures, confers, or gives any money, property, thing in action, victuals, drink, preferment, or other consideration or

valuable thing, by way of fee, reward, gift, or gratuity, for giving or refusing to give any vote in any election of any public officer, state, county, municipal, whatever; or any person who carries voters to any polling place by any means of transportation for the purpose of influencing their votes, shall be deemed guilty of a misdemeanor and on conviction thereof, be punished by a fine of not to exceed one thousand dollars or imprisonment not to exceed six months, or both, and, as a part of the judgment of the court, be deprived of the right of suffrage, and, if the offender was a candidate, he shall be disqualified to hold any office to which he may have been elected at such election.

Like penalties shall apply to any person who, directly or indirectly, asks for, accepts, receives, or takes any such bribe, or promise thereof, by giving or refusing to give his vote in any such election. [1965 c 9 § 29.85.080. Prior: Code 1881 § 3148; RRS § 5394.]

29.85.090 Intimidating, influencing or bribing elector—Solicitation of bribe by voter in primary. Any person who solicits, requests, or demands, directly or indirectly, any money, intoxicating liquor, or anything of value or the promise thereof either to influence his vote or for the purpose or pretended purpose of influencing the vote of any other person at the polls or other place prior to or on the day of any primary election, for or against any candidate for office or for or against any measure to be voted upon at a primary election, shall be guilty of a misdemeanor; upon conviction thereof, he shall be punished by a fine of not less than ten dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than six months, or by both such fine and imprisonment. [1965 c 9 § 29.85.090. Prior: 1907 c 209 § 32; RRS § 5207.]

29.85.100 Certificates of nomination and ballots—Fraud as to. Every person shall be guilty of a felony and punished by imprisonment in the penitentiary for a period of not less than one year nor more than five years, who:

- (1) Falsely makes a certificate of nomination; or
- (2) Falsely makes an oath to a certificate of nomination; or
- (3) Fraudulently defaces or destroys a certificate of nomination or any part thereof; or
- (4) Files or receives for filing a certificate of nomination, knowing that it or any part of it has been falsely made; or
- (5) Suppresses a certificate of nomination which has been filed, or any part thereof; or
- (6) Forges or falsely makes the official endorsement on any ballot. [1965 c 9 § 29.85.100. Prior: 1889 p 411 § 30; RRS § 5295.]

29.85.110 Destroying or defacing election supplies and notices. Any person who on election day wilfully removes or destroys any of the supplies or other conveniences placed in the voting booths for the purpose of enabling the voter to prepare his ballot, or who, prior to or on election day, wilfully defaces or destroys any

posted list of candidates, or during an election tears down or defaces cards of instruction for voters shall be guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars. [1965 c 9 § 29.85.110. Prior: 1889 p 412 § 31; RRS § 5296. FORMER PART OF SECTION: 1935 c 108 § 3, part; RRS § 5339-3, part, now codified, as reenacted, in RCW 29.85.230.]

29.85.120 Electioneering for hire in commission form cities. Any person who agrees to perform any service in the interest of a candidate for an office of a city operating under the commission form of government in consideration of any money or other valuable thing shall be punished by a fine not exceeding three hundred dollars nor less than twenty-five dollars or be imprisoned in the county jail not exceeding thirty days, nor less than five days, or by both such fine and imprisonment. [1965 c 9 § 29.85.120. Prior: 1911 c 116 § 8; RRS § 9097.]

29.85.130 Bribery and other election violations in commission form cities. Any person giving or offering to give a bribe, either in money, or other thing of value, to any elector for the purpose of influencing his vote at any election in a city operating under the commission form of government; or any elector who solicits, receives, or accepts such bribe; or any person who makes false answer as to his qualifications to vote at any such election; or any person who wilfully votes or offers to vote at such election knowing himself not to be a qualified elector of the precinct where he votes or offers to vote; or any person who knowingly procures, aids, or abets any violation hereof, shall, upon conviction, be guilty of a misdemeanor and fined a sum of not less than one hundred dollars nor more than five hundred dollars and be imprisoned in the county jail not less than ten days nor more than ninety days. [1965 c 9 § 29.85.130. Prior: 1911 c 116 § 9; RRS § 9098.]

29.85.140 Forgery on nomination paper. Any person who forges the name of any person as a signer or witness to a nomination paper shall be deemed guilty of forgery, and on conviction thereof punished accordingly. [1965 c 9 § 29.85.140. Prior: 1907 c 209 § 35; RRS § 5210.]

29.85.150 Inducing noncitizen Indian to vote. Any person who induces or attempts to induce any Indian to vote or offer his vote at any election, shall be fined in any sum not exceeding five hundred dollars, to which may be added imprisonment in the county jail not to exceed three months: *Provided*, That this section shall not be so construed as to include Indians who are citizens and entitled to vote under the Constitution of the United States and the acts of congress. [1965 c 9 § 29.85.150. Prior: Code 1881 § 910; 1873 p 205 § 107; RRS § 5391.]

29.85.160 Officers where voting machines, or voting devices and vote tallying systems are used—Violations at the polls. Every election officer in precincts where

voting machines or voting devices and vote tally systems are used shall be guilty of a felony and fined not less than fifty dollars nor more than five hundred dollars, or confined in the state penitentiary not less than six months nor more than one year or punished by both such fine and imprisonment who:

- (1) Deceives any voter in recording his vote; or
- (2) Records the vote of any voter in a manner other than as designated by the voter; or
- (3) Gives information to any person as to what candidates or for or against what measures any voter has voted; or
- (4) Seeks to suggest or persuade any voter to vote for any part or for any candidate or for or against any measure. [1967 ex.s. c 109 § 31; 1965 c 9 § 29.85.160. Prior: 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part.]

29.85.170 Officers—Violations generally. Every person charged with the performance of any duty under the provisions of any law of this state relating to elections, including primaries, or the provisions of any charter or ordinance of any city or town of this state relating to elections who wilfully neglects or refuses to perform such duty, or who, in the performance of such duty, or in his official capacity, knowingly or fraudulently violates any of the provisions of law relating to such duty, shall be guilty of a felony and shall forfeit his office. [1965 c 9 § 29.85.170. Prior: (i) 1889 p 412 § 32; RRS § 5297. (ii) 1911 c 89 § 1, part; Code 1881 § 912; 1877 p 205 § 2; RRS § 5392.]

29.85.180 Perjury—Swearing falsely when challenged at primary. Any person whose vote is challenged at a primary election who knowingly, wilfully and corruptly swears or affirms falsely, shall be deemed guilty of perjury, and shall be punished accordingly. [1965 c 9 § 29.85.180. Prior: 1907 c 209 § 34; RRS § 5209.]

29.85.190 Registration law—Officer violating. If any officer:

- (1) Wilfully neglects or refuses to perform any duty required by law in connection with the registration of voters; or
- (2) Wilfully neglects or refuses to perform such duty in the manner required by voter registration law; or
- (3) Enters or causes or permits to be entered on the registration records of any precinct the name of any person in any other manner or at any other time than as prescribed by voter registration law or enters or causes or permits to be entered on such records the name of any person not entitled to be thereon; or
- (4) Destroys, mutilates, secretes, changes or alters any registration record in connection therewith except as authorized by voter registration law, he shall be guilty of a gross misdemeanor and in addition to any other penalty otherwise provided by law, shall forfeit any office he holds. [1965 c 9 § 29.85.190. Prior: 1933 c 1 § 26; RRS § 5114-26; prior: 1889 p 418 § 15; RRS § 5133.]

29.85.200 Registration law—Registering under false name. Any person who falsely swears, in taking the oath or affirmation prescribed for registration, or falsely personates another and procures himself to be registered as the person so personated, or causes himself to be registered under two or more different names, or causes any name to be registered otherwise than in the manner provided by law, shall be guilty of a felony. [1965 c 9 § 29.85.200. Prior: 1933 c 1 § 27; RRS § 5114-27; prior: 1893 c 45 § 5; 1889 p 418 § 16; RRS § 5136.]

29.85.210 Repeaters. Any person who votes or attempts to vote more than once at any election, or who knowingly hands in two or more ballots together, or, having voted in one township, precinct, ward, or county, afterward, on the same day, votes or attempts to vote, in another township, precinct, ward, or county, shall be guilty of a gross misdemeanor, and shall be incapable of voting at any election or holding any office for two years thereafter. [1965 c 9 § 29.85.210. Prior: 1911 c 89 § 1, part; Code 1881 § 903; 1873 p 204 § 102; 1865 p 51 § 5; 1854 p 93 § 93; RRS § 5383.]

29.85.220 Repeaters—Unqualified persons—Officers conniving with. Any inspector or judge of any election who knowingly permits any elector to cast a second vote at any election, or knowingly permits any person not a qualified elector to vote at any election, shall be guilty of a felony and shall be incapable of holding any office in this state for five years thereafter. [1965 c 9 § 29.85.220. Prior: 1911 c 89 § 1, part; Code 1881 § 911; 1873 p 205 § 108; RRS § 5385.]

29.85.230 Returns and posted copy of results—Tampering with. It shall be a misdemeanor for any person to remove or deface the posted copy of the result of votes cast at their precinct or to delay delivery of or change the copy of election returns to be delivered to the proper election officer. [1965 c 9 § 29.85.230. Prior: 1935 c 108 § 3; RRS § 5339-3. Formerly RCW 29.85-.110, part.]

29.85.240 Unqualified persons voting. Any person knowing that he does not possess the legal qualifications of a voter who votes at any election authorized by law to be held in this state for any office whatever, shall be guilty of a felony. [1965 c 9 § 29.85.240. Prior: 1911 c 89 § 1, part; Code 1881 § 905; 1873 p 204 § 104; 1865 p 51 § 4; 1854 p 93 § 95; RRS § 5384.]

29.85.260 Voting machines—Tampering with—Extra keys. Any person who tampers with or injures or attempts to injure any voting machine to be used or being used in an election, or who prevents or attempts to prevent the correct operation of such machine, or any unauthorized person who makes or has in his possession a key to a voting machine to be used or being used in an election, shall be guilty of a felony and shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars or by imprisonment in the state penitentiary for not less than one year

nor more than five years, or by both such fine and imprisonment. [1965 c 9 § 29.85.260. Prior: 1913 c 58 § 16; RRS § 5316.]

29.85.270 Political advertising—Use of assumed name. All political advertising, whether relating to candidates or issues, however promulgated or disseminated, shall identify at least one of the sponsors thereof if the advertising is sponsored by other than the candidate or candidates listed thereon, by listing the name and address of the sponsor or sponsors on the material or in connection with its presentation. If a candidate or candidates run for partisan political office, they and their sponsors shall also designate on all such political advertising clearly in connection with each such candidate the party to which each such candidate belongs. The person or persons listed as sponsors of such advertising shall warrant its truth. The use of an assumed name shall be unlawful. Whenever any corporation sponsors political advertising, the name and address of the president of the corporation shall be listed on the material or in connection with its presentation. [1965 c 9 § 29.85-270. Prior: 1959 c 112 § 1; 1955 c 317 § 1.]

Reviser's note: The above section was repealed by 1972 ex.s. c 98 which was referred to and ratified by the people at the November 7, 1972, general election [Referendum Bill No. 25]. By contemporaneous action of the electorate, section 50 of Initiative Measure No. 276 which was approved at the same election repealed 1972 ex. sess. c 98 and Referendum Bill No. 25 (See RCW 42.17.940). The attorney general has ruled that the purported repeal was ineffectual, see AGO 1973 No. 12.

Advertising rates for political candidates: RCW 65.16.095.

29.85.280 Political advertising—Penalty. Any violation of RCW 29.85.270 shall constitute a gross misdemeanor and shall be subject to a fine of not more than one thousand dollars or imprisonment for not more than one year, or both. [1965 c 9 § 29.85.280. Prior: 1955 c 317 § 2.]

29.85.285 Statement of expense of candidate—Penalty. See RCW 42.17.030–42.17.140, and 42.17.240.

29.85.290 Duplication of names—Conspiracy—Criminal and civil liability. See RCW 29.18.080.

29.85.300 Absentee voting, violations relating to swearing and voting, penalty. See RCW 29.36.110.

29.85.310 Absentee service voters, penalties for false statements and violations. See RCW 29.39.200.

29.85.320 Aiding blind voters, violations relating to—Penalty. See RCW 29.51.215.

29.85.321 Preventing interference with balloting. See RCW 29.51.010.

29.85.323 Electioneering within the polls forbidden—Prohibited practices as to ballots—Penalty. See RCW 29.51.020.

29.85.325 Electioneering by election officers forbidden—Penalty. See RCW 29.51.030.

29.85.327 Preservation of order—Penalty. See RCW 29.51.040.

29.85.329 Unlawful acts by voters—Penalty. See RCW 29.51.230.

29.85.340 Divulging ballot count—Penalty. See RCW 29.54.035.

29.85.350 Transmittal of returns—Penalty. See RCW 29.54.130.

29.85.360 County canvassing board—Canvassing procedure—Penalty. See RCW 29.62.040.

29.85.370 Initiative, referendum—Violations by signers. See RCW 29.79.440.

29.85.373 Initiative, referendum—Violations by officers. See RCW 29.79.480.

29.85.375 Initiative, referendum—Violations—Corrupt practices. See RCW 29.79.490.

29.85.380 Recall—Violations by signers—Officers. See RCW 29.82.170.

29.85.381 Recall—Violation by officers. See RCW 29.82.210.

29.85.383 Recall—Violations—Corrupt practices. See RCW 29.82.220.

Chapter 29.98 CONSTRUCTION

Sections

29.98.010	Continuation of existing law.
29.98.020	Title, chapter, section headings not part of law.
29.98.030	Invalidity of part of title not to affect remainder.
29.98.040	Repeals and saving.
29.98.050	Emergency—1965 c 9.

Title 29 RCW controls in event of conflict with school election provisions of Title 28A RCW: RCW 28A.58.521.

29.98.010 Continuation of existing law. The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. [1965 c 9 § 29.98.010.]

29.98.020 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law. [1965 c 9 § 29.98.020.]

29.98.030 Invalidity of part of title not to affect remainder. If any provision of this title, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision

to other persons or circumstances is not affected. [1965 c 9 § 29.98.030.]

29.98.040 Repeals and saving. The following acts or parts of acts are repealed:

- (1) Sections 1 and 2, page 64, Laws of 1854;
- (2) Sections 3 through 21, pages 65 through 68, Laws of 1854;
- (3) Sections 22 through 27, pages 68 and 69, Laws of 1854;
- (4) Sections 28 through 38, pages 70 through 72, Laws of 1854;
- (5) Sections 39 through 43, pages 72 and 73, Laws of 1854;
- (6) Sections 1 through 7, pages 74 and 75, Laws of 1854;
- (7) Sections 92 through 97, pages 92 and 93, Laws of 1854;
- (8) Sections 2 through 5, page 25, Laws of 1865;
- (9) Sections 1 through 6, pages 27 and 28, Laws of 1865;
- (10) Sections 3, 4, and 5, pages 29 and 30, Laws of 1865;
- (11) Sections 1 through 9, pages 30 through 33, Laws of 1865;
- (12) Sections 1 through 12, pages 33 through 36, Laws of 1865;
- (13) Sections 1 through 15, pages 37 through 41, Laws of 1865;
- (14) Sections 1 through 21, pages 42 through 46, Laws of 1865;
- (15) Sections 1 through 15, pages 47 through 49, Laws of 1865;
- (16) Sections 1 through 12, pages 50 through 53, Laws of 1865;
- (17) Sections 1 through 5, and 8 through 11, pages 6 through 8, Laws of 1866;
- (18) Sections 1 and 2, page 19, Laws of 1868;
- (19) Section 1, page 20, Laws of 1868;
- (20) Sections 101 through 108, chapter VI, pages 204 and 205, Laws of 1873;
- (21) Section 2, page 205, Laws of 1877;
- (22) Sections 902 through 906, and 909 through 912, chapter LXXIII, Code of 1881;
- (23) Section 2679, chapter CCIX, Code of 1881;
- (24) Sections 3050 through 3054, chapter CCXXXVIII, Code of 1881;
- (25) Sections 3055 through 3059, and 3061, chapter CCXXXIX, Code of 1881;
- (26) Section 3064, chapter CCXL, Code of 1881;
- (27) Sections 3067 through 3075, chapter CCXLI, Code of 1881;
- (28) Sections 3076 through 3081, 3083 and 3085 through 3087, chapter CCXLII, Code of 1881;
- (29) Sections 3088 through 3104, chapter CCXLIII, Code of 1881;
- (30) Sections 3105 through 3123, chapter CCXLIII, Code of 1881;
- (31) Section 3124, chapter CCXLIII, Code of 1881;
- (32) Sections 3140 through 3149, 3151 and 3152, chapter CCXLIV, Code of 1881;
- (33) Sections 1, 2 and 4, pages 128 and 129, Laws of 1885–86;
- (34) Sections 1, 7 through 10, 12, 14 through 25, and 27 through 35, pages 400 through 413, Laws of 1889;
- (35) Chapter 106, Laws of 1891;
- (36) Sections 1, 3 and 4, chapter 148, Laws of 1891;
- (37) Chapter 91, Laws of 1893;
- (38) Section 2, chapter 112, Laws of 1893;
- (39) Chapter 114, Laws of 1893;
- (40) Chapter 115, Laws of 1893;
- (41) Chapter 20, Laws of 1895;
- (42) Sections 1 and 2, and 4 through 12, chapter 156, Laws of 1895;
- (43) Chapter 89, Laws of 1901;
- (44) Chapter 142, Laws of 1901;
- (45) Chapter 85, Laws of 1903;
- (46) Chapter 39, Laws of 1905;
- (47) Chapter 130, Laws of 1907;
- (48) Sections 1 through 17, 19 through 27, 30, 32 through 35, 38 and 39, chapter 209, Laws of 1907;
- (49) Chapter 235, Laws of 1907;
- (50) Chapter 22, Laws of 1909;
- (51) Sections 1 through 6, and 9 through 13, chapter 82, Laws of 1909;
- (52) Chapter 25, Laws of 1909 extraordinary session;
- (53) Chapter 89, Laws of 1911;
- (54) Chapter 101, Laws of 1911;
- (55) Sections 7, 8 and 9, chapter 116, Laws of 1911;
- (56) Chapter 58, Laws of 1913;
- (57) Chapter 135, Laws of 1913;
- (58) Sections 1 through 7, 9, 11 through 27, and 29 through 33, chapter 138, Laws of 1913;
- (59) Chapter 146, Laws of 1913;
- (60) Chapter 11, Laws of 1915;
- (61) Chapter 60, Laws of 1915;
- (62) Chapter 114, Laws of 1915;
- (63) Chapter 124, Laws of 1915;
- (64) Sections 5 through 7, chapter 189, Laws of 1915;
- (65) Chapter 7, Laws of 1917;
- (66) Chapter 23, Laws of 1917;
- (67) Chapter 30, Laws of 1917;
- (68) Sections 1 and 2, chapter 71, Laws of 1917;
- (69) Sections 5 and 7, chapter 159, Laws of 1917;
- (70) Chapter 85, Laws of 1919;
- (71) Sections 13 through 18, 20, 21, 23 and 24, chapter 163, Laws of 1919;
- (72) Section 11, chapter 7, Laws of 1921;
- (73) Chapter 33, Laws of 1921;
- (74) Sections 1 through 4, 6 and 7, chapter 61, Laws of 1921;
- (75) Chapter 68, Laws of 1921;
- (76) Chapter 116, Laws of 1921;
- (77) Sections 1, 2, 4 and 5, chapter 170, Laws of 1921;
- (78) Section 1, chapter 177, Laws of 1921;
- (79) Sections 1, 2 and 4 through 8, chapter 178, Laws of 1921;
- (80) Sections 1, 2, 4, and 5, chapter 53, Laws of 1923;
- (81) Chapter 68, Laws of 1925 extraordinary session;
- (82) Chapter 158, Laws of 1925 extraordinary session;
- (83) Section 1, chapter 155, Laws of 1927;
- (84) Chapter 182, Laws of 1927;

- (85) Chapter 200, Laws of 1927;
 (86) Sections 1 and 3, chapter 279, Laws of 1927;
 (87) Chapter 130, Laws of 1929;
 (88) Chapter 14, Laws of 1931;
 (89) Sections 3, 4, 5 and 7, chapter 28, Laws of 1931;
 (90) Chapter 21, Laws of 1933;
 (91) Sections 1 through 6, and 8 through 30, chapter 1, Laws of 1933;
 (92) Sections 1 and 2, chapter 85, Laws of 1933;
 (93) Section 1, chapter 92, Laws of 1933;
 (94) Chapter 95, Laws of 1933;
 (95) Sections 1 through 4, chapter 144, Laws of 1933;
 (96) Chapter 181, Laws of 1933;
 (97) Sections 1 through 5, chapter 41, Laws of 1933 extraordinary session;
 (98) Sections 1 through 6, chapter 20, Laws of 1935;
 (99) Sections 1 through 4, chapter 26, Laws of 1935;
 (100) Chapter 85, Laws of 1935;
 (101) Chapter 100, Laws of 1935;
 (102) Chapter 108, Laws of 1935;
 (103) Section 2, chapter 165, Laws of 1935;
 (104) Sections 1 through 10, chapter 94, Laws of 1937;
 (105) Chapter 1, Laws of 1939;
 (106) Chapter 15, Laws of 1939;
 (107) Chapter 48, Laws of 1939;
 (108) Chapter 82, Laws of 1939;
 (109) Sections 1, 2, 3 and 5, chapter 10, Laws of 1943;
 (110) Section 2, chapter 25, Laws of 1943;
 (111) Chapter 72, Laws of 1943;
 (112) Chapter 178, Laws of 1943;
 (113) Chapter 198, Laws of 1943;
 (114) Chapter 30, Laws of 1945;
 (115) Chapter 74, Laws of 1945;
 (116) Chapter 90, Laws of 1945;
 (117) Section 1, chapter 95, Laws of 1945;
 (118) Chapter 186, Laws of 1945;
 (119) Section 5, chapter 194, Laws of 1945;
 (120) Chapter 35, Laws of 1947;
 (121) Sections 1 through 5, chapter 68, Laws of 1947;
 (122) Chapter 77, Laws of 1947;
 (123) Sections 1 and 3, chapter 182, Laws of 1947;
 (124) Sections 1 through 5, chapter 234, Laws of 1947;
 (125) Chapter 161, Laws of 1949;
 (126) Chapter 163, Laws of 1949;
 (127) Chapter 8, Laws of 1950 extraordinary session;
 (128) Chapter 14, Laws of 1950 extraordinary session;
 (129) Chapter 67, Laws of 1951;
 (130) Chapter 70, Laws of 1951;
 (131) Sections 1 through 8, chapter 101, Laws of 1951;
 (132) Chapter 123, Laws of 1951;
 (133) Chapter 193, Laws of 1951;
 (134) Chapter 208, Laws of 1951;
 (135) Chapter 250, Laws of 1951;
 (136) Sections 3 through 7, chapter 257, Laws of 1951;
 (137) Chapter 113, Laws of 1953;
 (138) Chapter 196, Laws of 1953;
 (139) Chapter 242, Laws of 1953;
 (140) Chapter 4, Laws of 1955;
 (141) Chapter 50, Laws of 1955;
 (142) Sections 3, 13 and 14, chapter 55, Laws of 1955;
 (143) Chapter 101, Laws of 1955;
 (144) Sections 1 through 8, chapter 102, Laws of 1955;
 (145) Chapter 103, Laws of 1955;
 (146) Chapter 148, Laws of 1955;
 (147) Chapter 151, Laws of 1955;
 (148) Section 1, chapter 153, Laws of 1955;
 (149) Chapter 167, Laws of 1955;
 (150) Chapter 168, Laws of 1955;
 (151) Chapter 169, Laws of 1955;
 (152) Chapter 181, Laws of 1955;
 (153) Chapter 201, Laws of 1955;
 (154) Chapter 215, Laws of 1955;
 (155) Chapter 317, Laws of 1955;
 (156) Chapter 323, Laws of 1955;
 (157) Sections 2 through 7, chapter 149, Laws of 1957;
 (158) Chapter 169, Laws of 1957;
 (159) Chapter 195, Laws of 1957;
 (160) Chapter 251, Laws of 1957;
 (161) Chapter 112, Laws of 1959;
 (162) Section 7, chapter 175, Laws of 1959;
 (163) Chapter 247, Laws of 1959;
 (164) Chapter 250, Laws of 1959;
 (165) Sections 1 through 3, chapter 288, Laws of 1959;
 (166) Sections 1 through 13, and 18 through 26, chapter 329, Laws of 1959;
 (167) Chapter 32, Laws of 1961;
 (168) Chapter 43, Laws of 1961;
 (169) Chapter 50, Laws of 1961;
 (170) Chapter 78, Laws of 1961;
 (171) Chapter 109, Laws of 1961;
 (172) Sections 1 through 21, chapter 130, Laws of 1961;
 (173) Chapter 176, Laws of 1961;
 (174) Chapter 225, Laws of 1961;
 (175) Chapter 252, Laws of 1961;
 (176) Chapter 189, Laws of 1963;
 (177) Sections 1 through 11, and 22 through 25, chapter 200, Laws of 1963;
 (178) Sections 1 through 5, and 7, chapter 23, Laws of 1963 extraordinary session;
 (179) Chapter 25, Laws of 1963 extraordinary session.
- Such repeals shall not be construed as affecting any existing right acquired under the provisions of the statutes repealed, nor as affecting any proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder, nor any administrative action taken thereunder, nor the term of office or appointment or employment of any person appointed or employed thereunder. [1965 c 9 § 29.98.040.]
- 29.98.050 Emergency—1965 c 9.** This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions and shall take effect immediately. [1965 c 9 § 29.98.050.]

TITLE 30

BANKS AND TRUST COMPANIES

Chapters

- 30.04** General provisions.
- 30.08** Organization and powers.
- 30.12** Officers, employees, and stockholders.
- 30.16** Checks.
- 30.20** Deposits.
- 30.24** Investment of trust funds.
- 30.28** Common trust funds.
- 30.30** Trustees' accounting act.
- 30.32** Dealings with federal loan agencies.
- 30.36** Capital notes or debentures.
- 30.40** Branch banks.
- 30.42** Alien banks.
- 30.43** Satellite facilities.
- 30.44** Insolvency and liquidation.
- 30.49** Merger, consolidation, and conversion.
- 30.52** Bank collection code.
- 30.56** Bank stabilization act.
- 30.98** Construction.
- 30.99** Washington trust act.

Banks claiming tax exemptions, prohibited as depositaries for public funds: RCW 43.85.250, 43.85.260, 35.38.120, 35.38.130, 36.48.160, 36.48.170.

Business corporations and cooperative associations: Title 23A RCW.

Charitable trusts: Chapter 19.10 RCW.

Credit life insurance and credit accident and health insurance: Chapter 48.34 RCW.

Credit unions: Chapter 31.12 RCW.

Depositaries, city: Chapter 35.38 RCW.

Depositaries, county: Chapter 36.48 RCW.

Depositaries of state funds: Chapter 43.85 RCW.

Indemnification of corporation directors, officers, trustees authorized, insurance: RCW 23A.08.025.

Investment of county funds not required for immediate expenditures, service fee: RCW 36.29.020.

Investment of funds of school district not needed for immediate necessities—Service fee: RCW 28A.58.440.

Life insurance payable to trustee named as beneficiary in policy or will: RCW 48.18.450, 48.18.452.

Loan companies: Chapters 31.04–31.08 RCW.

Mortgages: Title 61 RCW.

Mutual savings banks: Title 32 RCW.

Negotiable instruments: Title 62A RCW.

Powers of appointment: Chapter 64.24 RCW.

Probate—Bank exempted from executors, administrators and special administrator's bond: RCW 11.28.180, 11.32.020.

Public charitable trusts: Chapter 19.10 RCW.

Public depositaries, deposit and investment of public funds: Chapter 39.58 RCW.

Real property and conveyances: Title 64 RCW.

Retail installment sales of goods and services: Chapter 63.14 RCW.

Safe deposit repository lease agreements ineffective to create joint ownership or transfer property at death: RCW 11.02.090(3).

Savings and loan associations: Title 33 RCW.

Supervisor of banking, and bank examiners: Chapter 43.19 RCW.

The Washington Principal and Income Act: Chapter 11.104 RCW.

Trustee for issuance of crop credit notes, banks or trust companies may act as: RCW 31.16.250.

Chapter 30.04 GENERAL PROVISIONS

Sections

- 30.04.010 Definitions.
- 30.04.020 Use of words indicating bank or trust company—Penalty.
- 30.04.030 Rules and regulations.
- 30.04.040 Review of rules and regulations—Appeal.
- 30.04.050 Violations—Penalty.
- 30.04.060 Examinations directed.
- 30.04.070 Cost of examination.
- 30.04.090 Minimum available funds required—Exception—Change of nature and amount of reserves.
- 30.04.100 Loans restricted by available funds.
- 30.04.110 Limit of loans to one person—Exceptions.
- 30.04.120 Loans on own stock prohibited—Shares of other corporations.
- 30.04.122 Investment in safe deposit corporation authorized.
- 30.04.124 Investment in corporation holding premises of the bank—Definition of "affiliate".
- 30.04.126 Investment in stock of small business investment company regulated by United States.
- 30.04.128 Investment in stock of banking service corporation—Powers, duties, of such corporations.
- 30.04.130 Defaulted debts, judgments to be charged off.
- 30.04.140 Pledge of securities or assets prohibited—Exceptions.
- 30.04.150 Limits of indebtedness.
- 30.04.160 Borrowing to reloan—Rediscounts—Penalty.
- 30.04.170 Pledge of securities to qualify as depositary under bankruptcy laws.
- 30.04.180 Dividends—Net profits defined.
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- 30.04.230 Holding corporations—Restrictions—Penalty.
- 30.04.240 Trust business to be kept separate—Deposit of securities with a clearing corporation authorized.
- 30.04.250 Deposits in other banks.
- 30.04.260 Legal services, advertising of—Penalty.
- 30.04.270 Official communications.
- 30.04.280 Compliance enjoined—Banking, trust business, branches.
- 30.04.290 Foreign companies—Authority to do business.
- 30.04.300 Foreign branch banks.
- 30.04.310 Penalty—General.
- 30.04.320 Secrecy required of supervisor.
- 30.04.330 Saturday closing authorized.
- 30.04.340 Contributions and gifts—Public policy declared.
- 30.04.350 Contributions and gifts—Authorized.
- 30.04.360 Contributions and gifts—Validation.

- 30.04.370 Investment of agricultural commodity commission funds in savings or time deposits of banks, trust companies and mutual savings banks.
- 30.04.380 Investment in paid-in capital stock and surplus of banks or corporations engaged in international or foreign banking.
- 30.04.390 Acquisition of stock of banks organized under laws of foreign country, etc.

Corporate seals, effect of absence from instrument: RCW 64.04.105.

Depositaries of state funds: Chapter 43.85 RCW.

Employee benefit plans—Payment as discharge: RCW 49.64.030.

Federal bonds and notes as investment or collateral: Chapter 39.60 RCW.

Interest and usury in general: Chapter 19.52 RCW.

Issuance of money, liability of stockholders: State Constitution Art. 12 § 11.

Law against discrimination: Chapter 49.60 RCW.

Slander of financial institution: RCW 9.58.100.

Veterans' loan insurance: Chapter 73.12 RCW.

30.04.010 Definitions. Certain terms used in this title shall have the meanings ascribed in this section.

"Banking" shall include the soliciting, receiving or accepting of money or its equivalent on deposit as a regular business.

"Bank," unless a different meaning appears from the context, means any corporation organized under the laws of this state engaged in banking, other than a trust company or a mutual savings bank.

"Branch bank" means any office of deposit or discount maintained by any bank or trust company, domestic or otherwise, other than its principal place of business, regardless of whether it be in the same city or locality.

The term "trust business" shall include the business of doing any or all of the things specified in RCW 30.08.150(2), (3), (4), (5), (6), (7), (8), (9), (10) and (11).

"Trust company," unless a different meaning appears from the context, means any corporation organized under the laws of this state engaged in trust business.

A "savings account" is an account of a bank in respect of which, (1) a passbook, certificate or other receipt may be required by the bank to be presented whenever a deposit or withdrawal is made and (2) the depositor at any time may be required by the bank to give notice of an intended withdrawal before the withdrawal is made.

"Savings bank" shall include (1) any bank whose deposits shall be limited exclusively to savings accounts, and (2) the department of any bank or trust company that accepts, or offers to accept, deposits for savings accounts in accordance with the provisions of this title.

"Commercial bank" shall include any bank other than one exclusively engaged in accepting deposits for savings accounts.

"Person" unless a different meaning appears from the context, shall include a firm, association, partnership or corporation, or the plural thereof, whether resident, nonresident, citizen or not.

"Supervisor" means the state supervisor of banking.

"Foreign bank" and "foreign banker" shall include:

(1) Every corporation not organized under the laws of the territory or state of Washington doing a banking business, except a national bank;

(2) Every unincorporated company, partnership or association of two or more individuals organized under the laws of another state or country, doing a banking business;

(3) Every other unincorporated company, partnership or association of two or more individuals, doing a banking business, if the members thereof owning a majority interest therein or entitled to more than one-half of the net assets thereof are not residents of this state;

(4) Every nonresident of this state doing a banking business in his own name and right only. [1959 c 106 § 1; 1955 c 33 § 30.04.010. Prior: 1933 c 42 § 2; 1917 c 80 § 14; RRS § 3221.]

30.04.020 Use of words indicating bank or trust company—Penalty. The name of every bank shall contain the word "bank" and the name of every trust company shall contain the word "trust," or the word "bank." No person except:

(1) A national bank;

(2) A bank or trust company authorized by the laws of this state;

(3) A foreign corporation authorized by this title so to do, shall,

(a) Use as a part of his or its name or other business designation or in any manner as if connected with his or its business or place of business any of the following words or the plural thereof, to wit: "bank," "banking," "banker," "trust."

(b) Use any sign at or about his or its place of business or use or circulate any advertisement, letterhead, billhead, note, receipt, certificate, blank, form, or any written or printed or part written and part printed paper, instrument or article whatsoever, directly or indirectly indicating that the business of such person is that of a bank or trust company.

Every person who, and every director and officer of every corporation which, to the knowledge of such director or officer violates any provision of this section shall be guilty of a gross misdemeanor. [1955 c 33 § 30.04.020. Prior: 1925 ex.s. c 114 § 1; 1917 c 80 § 18; RRS § 3225.]

30.04.030 Rules and regulations. The supervisor shall have power to adopt uniform rules and regulations to govern examinations and reports of banks and trust companies and the form in which they shall report their assets, liabilities, and reserves, charge off bad debts and otherwise keep their records and accounts, and otherwise to govern the administration of this title. He shall mail a copy of the rules and regulations to each bank and trust company at its principal place of business, and they shall be effective thirty days after the mailing thereof. The person doing the mailing shall make and file his affidavit thereof in the office of the supervisor. [1955 c 33 § 30.04.030. Prior: 1917 c 80 § 58, part; RRS § 3265, part.]

30.04.040 Review of rules and regulations—Appeal. Any bank or trust company may, within thirty days after a rule or regulation has been served upon it, apply to the superior court of Thurston county for a

writ of review to test its reasonableness or lawfulness. In every such hearing the burden shall be upon the corporation to establish the rule or regulation to be unreasonable or unlawful. Appeal may be taken to the supreme court or the court of appeals as in other actions.

Pendency of the writ of review shall not stay the operation of the rule or regulation but the court may restrain or suspend it in whole or in part. [1971 c 81 § 79; 1955 c 33 § 30.04.040. Prior: 1917 c 80 § 58, part; RRS § 3265, part.]

30.04.050 Violations—Penalty. Every bank and trust company and their officers, employees, and agents shall comply with the rules and regulations. The violation of any rule or regulation in addition to any other penalty provided in this title, shall subject the offender to a penalty of one hundred dollars for each offense, to be recovered by the attorney general in a civil action in the name of the state. Each day's continuance of the violation shall be a separate and distinct offense. [1955 c 33 § 30.04.050. Prior: 1917 c 80 § 58, part; RRS § 3265, part.]

30.04.060 Examinations directed. The supervisor, the deputy supervisor or a bank examiner without previous notice shall visit each bank and each trust company at least once in each year and oftener if necessary, for the purpose of making a full investigation into the condition of such corporation, and for that purpose they are hereby empowered to administer oaths and to examine under oath any director, officer, employee or agent of such corporation. Said supervisor may make such other full or partial examinations as he deems necessary. The supervisor may, in his discretion, accept in lieu of the examinations required in this section the examinations required under the terms of the federal reserve act for banks which are, or may become, members of a federal reserve bank or the deposits of which are insured by the Federal Deposit Insurance Corporation. Any wilful false swearing in any examination shall be perjury. [1955 c 33 § 30.04.060. Prior: 1937 c 48 § 1; 1919 c 209 § 5; 1917 c 80 § 7; RRS § 3214.]

Supervisor of banking and bank examiners: Chapter 43.19 RCW.

30.04.070 Cost of examination. The supervisor shall collect from each bank, mutual savings bank, trust company or industrial loan company for each examination of its condition the estimated actual cost of such examination. [1955 c 33 § 30.04.070. Prior: 1929 c 73 § 1; 1923 c 172 § 16; 1921 c 73 § 1; 1917 c 80 § 8; RRS § 3215.]

30.04.090 Minimum available funds required—Exception—Change of nature and amount of reserves. Every bank and trust company shall maintain available funds of not less than six percent of its savings account and time account deposits and not less than fifteen percent of all of its other deposits; such funds may consist of balances due it from such banks or trust companies as the supervisor may approve, and actual cash or checks on solvent banks located in the same city. Deficiencies in required available funds shall be computed

on the basis of the average of daily net balances of such sums, covering semimonthly periods. The supervisor shall prescribe the dates for the commencement and ending of such periods. Each bank shall maintain a record of its daily computations of the above balances on forms prescribed by the supervisor. In the event of a deficiency for a semimonthly period, such bank shall immediately forward to the supervisor a report of such deficiency, the record of its computations for the period deficient and for the prior period, and such additional information as the supervisor requests. This section shall not apply to a corporation which is a member of the federal reserve banking system and duly complies with all of the reserve and other requirements of that system.

Notwithstanding the provisions above, whenever he determines that the maintenance of sound banking practices or the prevention of injurious credit expansions or contractions make such action advisable, the supervisor by regulation, may change, from time to time, the nature and amount of reserves required to be maintained by commercial banks doing business in this state which are not members of a federal reserve bank. The reserves so specified shall not be more than those provided in this section, nor less than those required, at the time, of commercial banks doing business in this state which are members of a federal reserve bank. [1967 ex.s. c 54 § 1; 1967 c 133 § 1; 1963 c 194 § 1; 1959 c 106 § 2; 1955 c 356 § 1; 1955 c 33 § 30.04.090. Prior: 1917 c 80 § 46; RRS § 3253.]

30.04.100 Loans restricted by available funds. No loan shall be made by a bank or trust company unless it has on hand more than the minimum of available funds required by law, and no loan shall be made if thereby its available funds be reduced to less than such minimum. During a period in which a savings bank is requiring notice of intention to withdraw deposits, it shall not make any loan or investment to which it is not irrevocably committed. [1955 c 33 § 30.04.100. Prior: 1933 c 42 § 27; 1919 c 209 § 19; RRS § 3289.]

30.04.110 Limit of loans to one person—Exceptions. The total liability to any bank or trust company of any person for money borrowed, including in the liabilities of a firm or association the liabilities of the several members thereof, shall not at any time exceed fifteen percent of the capital and surplus of such bank or trust company; but the discount of bills of exchange drawn in good faith against actually existing values and the discount of commercial or business paper of solvent parties, actually owned by the person negotiating the same, shall not be considered as money borrowed by him: *Provided*, That loans secured by collateral security having an ascertained market value of at least fifteen percent more than the amount of the loans secured, shall not be limited by this section.

Loans or obligations shall not be subject under this section to any limitation based upon such capital and surplus to the extent that they are secured or covered by guaranties, or by commitments or agreements to take over or to purchase the same, made by any federal

reserve bank or by the United States or any department, bureau, board, commission or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States. [1969 c 136 § 1; 1955 c 33 § 30.04.110. Prior: 1943 c 142 § 1; 1933 c 42 § 21; 1917 c 80 § 51; Rem. Supp. 1943 § 3258.]

30.04.120 Loans on own stock prohibited—Shares of other corporations. The shares of stock of every bank and trust company shall be deemed personal property. No such corporation shall hereafter make any loan or discount on the security of its own capital stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; in which case the stocks so purchased or acquired shall be sold at public or private sale, or otherwise disposed of, within six months from the time of its purchase or acquisition. Except as hereinafter provided or otherwise permitted by law, nothing herein contained shall authorize the purchase by any such bank or trust company for its own account of any shares of stock of any corporation, except a federal reserve bank of which such corporation shall become a member, and then only to the extent required by such federal reserve bank: *Provided*, That any such bank or trust company may purchase, acquire and hold shares of stock in any other corporation which shares have been previously pledged as security to any loan or discount made in good faith and such purchase shall be necessary to prevent loss upon a debt previously contracted in good faith and stock so purchased or acquired shall be sold at public or private sale or otherwise disposed of within two years from the time of its purchase or acquisition. Banks and trust companies are authorized to make loans on the security of the capital stock of a bank or trust company other than the lending corporation. [1973 1st ex.s. c 104 § 1; 1955 c 33 § 30.04.120. Prior: 1943 c 187 § 1; 1933 c 42 § 9; 1929 c 73 § 5; 1917 c 80 § 36; Rem. Supp. 1943 § 3243.]

30.04.122 Investment in safe deposit corporation authorized. Any state bank or trust company or mutual savings bank may invest in the capital stock of a corporation organized under the law of this state to conduct a safe deposit business in an amount not to exceed in the case of a bank or trust company fifteen percent of its capital stock actually paid in and unimpaired, and fifteen percent of its unimpaired surplus, and in an amount not to exceed in the case of a mutual savings bank fifteen percent of its guaranty fund. [1955 c 302 § 1. Formerly RCW 30.24.100.]

30.04.124 Investment in corporation holding premises of the bank—Definition of "affiliate". Any state bank or trust company may:

- (1) Invest in the stock, bonds, debentures or other such obligations of any corporation holding the premises of such bank or its branches; or
- (2) Make loans to or upon the security of the stock of any such corporation: *Provided*, That in the event any

such investment is made, the aggregate of all such investments and loans, including amounts invested in real estate under the terms of subdivision (1) of RCW 30.04.210, together with the amount of any indebtedness incurred by any such corporation which is an affiliate of the bank (as the term "affiliate" is hereinafter defined), shall not exceed the amount of the capital stock of such bank without the approval of the supervisor.

As used in this section, the term "affiliate" shall include any corporation, business trust, association or other similar organization:

(a) Of which a bank, directly or indirectly, owns or controls either a majority of the voting shares or more than fifty percent of the number of shares voted for the election of its directors, trustees, or other persons exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions; or

(b) Of which control is held, directly or indirectly, through stock ownership or in any other manner, by the shareholders of a member bank who own or control either a majority of the shares of such bank or more than fifty percent of the number of shares voted for the election of directors of such bank at the preceding election, or by trustees for the benefit of the shareholders of any such bank. [1955 c 302 § 2. Formerly RCW 30.24.110.]

30.04.126 Investment in stock of small business investment company regulated by United States. Any bank, or trust company, or bank under the supervision of the supervisor may purchase and hold for its own investment account stock in small business investment companies licensed and regulated by the United States, as authorized by the Small Business Act, Public Law 85-536, 72 Statutes at Large 384, in an amount not to exceed one percent of its paid-in capital and surplus. [1959 c 185 § 1.]

30.04.128 Investment in stock of banking service corporation—Powers, duties, of such corporations. Any state bank or trust company or mutual savings bank may invest in the capital stock of banking service corporations organized for the purpose of performing or providing mechanical, clerical, or record keeping services for two or more banks. The total amount which any such bank may invest in the shares of such corporations may not exceed in the case of a bank or trust company, ten percent of its paid in or unimpaired capital and unimpaired surplus, or in the case of a mutual savings bank, ten percent of its guaranty fund. Such a bank service corporation may not engage in any activity other than the performance of services for banks. The performance of any service, and any records maintained by any such corporation for a bank, shall be subject to regulation and examination by the supervisor and appropriate federal agencies to the same extent as if such services or records were being performed or maintained by the bank on its own premises. [1963 c 194 § 2.]

30.04.130 Defaulted debts, judgments to be charged off. Any debt due a bank or trust company on which interest is one year or more past due and unpaid, unless such debt be well secured and in the course of collection by legal process or probate proceedings, or unless such debt be represented by bonds having a determinable market value currently quoted on the New York stock exchange, shall be considered a bad debt, and shall be charged off of the books of such corporation. Such bonds shall be carried on the books of such corporation at such value as the supervisor may from time to time direct, but in no event shall such carrying value exceed the market value thereof. A judgment held by a bank or trust company shall not be considered an asset of the corporation after two years from the date of its rendition unless with the written permission of the supervisor specifying an additional period: *Provided*, That time consumed by any appeal shall be excluded. [1955 c 33 § 30.04.130. Prior: 1937 c 61 § 1; 1919 c 209 § 15; 1917 c 80 § 47; RRS § 3254.]

30.04.140 Pledge of securities or assets prohibited—Exceptions. No bank or trust company shall pledge or hypothecate any of its securities or assets to any depositor, or creditor, except that it may qualify as depository for United States deposits, postal savings funds or other public funds, or funds held in trust and deposited by any public officer by virtue of his office, or funds held by the United States or the state of Washington, or any officer thereof in trust, or for funds of corporations owned or controlled by the United States, and may give such security for such deposits as are required by law or by the officer making the same; and it may give security to its trust department for deposits with itself which represent trust funds invested in savings accounts or which represent fiduciary funds awaiting investment or distribution: *Provided*, That any bank or trust company may borrow, for temporary purposes, not to exceed in the aggregate amount the paid-in capital and surplus thereof, and may pledge as security therefor assets of such corporation, not exceeding one and one-half times the amount borrowed. [1967 c 133 § 2; 1955 c 33 § 30.04.140. Prior: 1933 c 42 § 24, part; 1917 c 80 § 54, part; RRS § 3261, part.]

30.04.150 Limits of indebtedness. No bank or trust company shall become or at any time be indebted or in any way liable to an amount exceeding the amount of its capital stock and surplus, except on account of demands of the nature following:

- (1) Moneys deposited with or collected by the bank or trust company;
- (2) Bills of exchange or drafts drawn against money actually on deposit to the credit of the bank or trust company, or for money owed it;
- (3) Liabilities to its stockholders for dividends or reserved profits;
- (4) Liabilities incurred under the provisions of the federal reserve act;
- (5) Liabilities incurred under the provisions of the reconstruction finance corporation act, the federal intermediate credit bank act or to any similar lending or

credit corporation now existing or hereafter created under the authority of an act of the congress of the United States, or of any state;

(6) Liabilities created by the indorsement of accepted bills of exchange payable abroad, actually owned by the indorsing bank or trust company and discounted at home or abroad;

(7) The supervisor, at any time, for good cause shown, by order in writing, for a limited period and to an amount not in excess of the amount approved by the supervisor and stated in the order, may permit a bank or trust company to borrow for temporary purposes in excess of the amount of its paid-in capital stock and surplus and pledge assets to secure the loan; but in such a case the borrower shall make no new loan or investment until the money borrowed shall have been repaid, except such loans as may be made, with the approval of the supervisor, to protect assets already owned: *Provided*, That any such bank or trust company shall have power to borrow in excess of the aggregate amount of the paid-in capital and surplus at such bank and/or trust company of the Reconstruction Finance Corporation, of the federal reserve bank, or the federal intermediate credit bank, or of any other similar lending or credit corporation now or hereafter created by act of congress; and to pledge as security therefor such assets as may meet the requirements of the lending corporation. [1955 c 33 § 30.04.150. Prior: 1933 c 42 § 24, part; 1917 c 80 § 54, part; RRS § 3261, part.]

30.04.160 Borrowing to reloan—Rediscounts—Penalty. When it shall appear to the supervisor that any bank or trust company is habitually borrowing for the purpose of reloaning, he may require such corporation to pay off such borrowed money. Nothing herein shall prevent any bank or trust company from rediscounting in good faith and indorsing any of its negotiable notes, but all such moneys borrowed and all such rediscounts shall at all times show on its books and in its reports. No certificates of deposit shall be issued for the purpose of borrowing money. No officer of any bank or trust company shall issue the note of such corporation for money borrowed or rediscount any of its notes except when authorized by resolution of its board of directors or by an authorized committee thereof. Violation of any provision of RCW 30.04.140 or 30.04.150 or of this section shall constitute a felony. [1955 c 33 § 30.04.160. Prior: 1933 c 42 § 24, part; 1917 c 80 § 54, part; RRS § 3261, part.]

30.04.170 Pledge of securities to qualify as depository under bankruptcy laws. Any bank or trust company, designated as a depository for the money of estates under the statutes of the United States pertaining to bankruptcy, may pledge or hypothecate any of its securities or assets in order to qualify as such depository for funds deposited by a trustee or receiver in bankruptcy appointed by any court of the United States or any referee thereof. Said pledge or hypothecation may be in such amount or such manner as may be from time to time required by statutes of the United States or rules

made in pursuance thereof. [1955 c 33 § 30.04.170. Prior: 1941 c 38 § 1; Rem. Supp. 1941 § 3261-1.]

30.04.180 Dividends—Net profits defined. No bank or trust company shall declare or pay any dividend to an amount greater than its net profits then on hand, which net profits shall be determined only after deducting:

- (1) All losses;
- (2) All assets or depreciation that the supervisor or a duly appointed examiner may have required to be charged off; and no bank or trust company shall enter or at any time carry on its books any of its assets at a valuation exceeding the actual cost. However, amortizing the discount on municipal and United States government securities is permitted on a pro rata basis, over the life of the security, providing that the approval of the supervisor has been obtained and maintained by each individual bank;
- (3) All expenses, interest and taxes due or accrued from said bank or trust company;
- (4) Bad debts as defined by RCW 30.04.130 owing to such bank or trust company.

After providing for the above deductions the board of directors of any bank or trust company may at any regular meeting thereof declare a dividend out of so much of the undivided profits of such bank or trust company as they shall judge expedient: *Provided, however,* That before any such dividend is declared or the net profits in any way disposed of, not less than one-fourth of such net profits shall be carried to a surplus fund until the amount in such surplus fund shall be equal to twenty-five percent of the paid-in capital of such bank or trust company: *Provided, further,* That the supervisor shall in his discretion have the power to require any bank or trust company to suspend the payment of any and all dividends until all requirements that may have been made by the supervisor or any duly appointed examiner shall have been complied with; and upon notice to suspend dividends no bank or trust company shall thereafter declare or pay any dividends until such notice has been rescinded in writing. As to banks or trust companies having segregated savings, sums carried to surplus shall be apportioned between or among departments as the capital is apportioned. [1969 c 136 § 2; 1955 c 33 § 30.04.180. Prior: 1933 c 42 § 7; 1931 c 11 § 1; 1917 c 80 § 33; RRS § 3240.]

30.04.190 Transfer of net profits between departments. A bank or trust company at any time may transfer undivided net profits from one department to another after provision has been made for the required contribution to surplus of the department from which the transfer is made and for the payment of accrued interest on savings deposits if the transfer is made from a savings department. If at any time the earnings of a savings department are insufficient to pay all interest due upon savings deposits, the interest shall be paid by the bank or trust company out of net profits of its other department or departments. [1955 c 33 § 30.04.190. Prior: 1933 c 42 § 8; RRS § 3240-1.]

30.04.200 Dealings in securities restricted. (1) After July 1, 1938, a certificate of stock of a bank or trust company shall not represent stock of any corporation engaged in the business of selling securities to the public. The ownership, sale or transfer of stock of a bank or trust company shall not be conditioned in any manner whatsoever upon the ownership, sale or transfer of stock of any other such corporation.

(2) After July 1, 1938, no officer or employee of a bank or trust company shall be

(a) an officer of an unincorporated association or a corporation engaged in the business of selling securities to the public, or

(b) an employee or member of any such unincorporated association, an employee or majority stockholder of any such corporation, an employee or member of any partnership engaged in such business, or an employee of any person engaged in such business, or

(c) a trustee, director, officer or employee of a corporation engaged in the business of making loans secured by collateral to any corporation other than its own subsidiaries, or to any person, partnership or association.

(3) After July 1, 1938, a corporation organized under the laws of this state, or licensed to transact business in this state, which is engaged to any extent in the business of selling securities to the public, shall not have an office or transact business in the same room with a bank or trust company or a national banking association, or in a room connected therewith. [1955 c 33 § 30.04.200. Prior: 1933 c 42 § 6; RRS § 3237-1.]

30.04.210 Real estate holdings. A bank or trust company may purchase, hold and convey real estate for the following purposes and no other:

(1) Such as shall be necessary for the convenient transaction of its business, including with its banking offices other apartments in the same building to rent as a source of income: *Provided,* That any bank or trust company shall not invest for such purposes more than the greater of: (a) Thirty percent of its capital, surplus, and undivided profits; or (b) one hundred percent of its capital stock without the approval of the supervisor.

(2) Such as shall be purchased or conveyed to it in satisfaction, or on account of, debts previously contracted in the course of its business.

(3) Such as it shall purchase at sale under judgments, decrees, liens or mortgage foreclosures, against securities held by it.

(4) Such as a trust company receives in trust or acquires pursuant to the terms or authority of any trust.

(5) Such as it may take title to or for the purpose of investing in real estate conditional sales contracts.

No real estate specified in subdivision (4) shall be considered an asset of the bank or trust company holding the same in trust nor shall any real estate except that specified in subdivision (1) be carried as an asset on the bank's or trust company's books for a longer period than five years from the date title is acquired thereto, unless an extension of time be granted by the supervisor. [1973 1st ex.s. c 104 § 2; 1955 c 33 § 30.04.210. Prior: 1947 c 149 § 1; 1917 c 80 § 37; Rem. Supp. 1947 § 3244.]

30.04.215 Engaging in other business activities. In addition to all powers previously enumerated by this title a bank may engage in other business activity: *Provided*, That a bank, which desires to perform an activity which is not expressly authorized by the powers enumerated in this section, shall first apply to the supervisor for authorization to conduct such activity. Within thirty days of the receipt of this application, the supervisor shall determine whether the activity is an appropriate adjunct to the business of banking, whether the public convenience and advantage will be promoted, whether the activity is apt to create an unsafe or unsound practice by the bank and whether the applicant is capable of performing such an activity. If the supervisor finds the activity to be an appropriate adjunct to the business of banking and the bank is otherwise qualified, he shall forthwith inform the applicant that the activity is authorized. If the supervisor determines that such activity is not an appropriate adjunct to the business of banking or the bank is not otherwise qualified, he shall forthwith inform the applicant. The applicant shall have the right to appeal from an unfavorable determination in accordance with the procedures of the Administrative Procedure Act, chapter 34.04 RCW, as now or hereafter amended. In determining whether a particular activity is an appropriate adjunct to the business of banking, the supervisor shall be guided by whether national banks under federal laws and administrative regulations and rulings have the authority to perform such activity. [1969 c 136 § 7.]

30.04.220 Corporations existing under former laws. Every corporation, which on March 10, 1917, was actually and publicly engaged in banking or trust business in this state in full compliance with the laws hereof, which were in force immediately prior to March 10, 1917, may, if it otherwise complies with the provisions of this title, continue its said business, subject to the terms and regulations hereof and without amending its articles of incorporation, although its name and the amount of its capital stock, the number or length of terms of its directors or the form of its articles of incorporation do not comply with the requirements of this title: *Provided*,

(1) That any such bank, which was by the supervisor lawfully permitted to operate, although its capital stock was not fully paid in, shall pay in the balance of its capital stock at such times and in such amounts as the supervisor may require;

(2) That, except with written permission of the supervisor, any bank or trust company which shall amend its articles of incorporation must in such event comply with all the requirements of this title. [1955 c 33 § 30.04.220. Prior: 1937 c 31 § 1; 1917 c 80 § 78; RRS § 3285.]

30.04.230 Holding corporations—Restrictions—Penalty. A corporation or association organized under the laws of this state, or licensed to transact business in the state, shall not hereafter acquire any shares of stock of any bank, trust company, or national banking association which, in the aggregate, enable it to own, hold,

or control more than twenty-five percent of the capital stock of more than one such bank, trust company, or national banking association: *Provided, however*, That the foregoing restriction shall not apply as to any legal commitments existing on February 27, 1933: *And provided, further*, That the foregoing restriction shall not apply to prevent any such corporation or association which has its principal place of business in this state from acquiring additional shares of stock in a bank, trust company, or national banking association in which such corporation or association owned twenty-five percent or more of the capital stock on January 1, 1961.

A person who does, or conspires with another or others in doing, an act in violation of this section shall be guilty of a gross misdemeanor. A corporation that violates this section, or a corporation whose stock is acquired in violation hereof, shall forfeit its charter if it be a domestic corporation, or its license to transact business if it be a foreign corporation; and the forfeiture shall be enforced in an action by the state brought by the attorney general. [1973 1st ex.s. c 92 § 1; 1961 c 69 § 1; 1955 c 33 § 30.04.230. Prior: 1933 c 42 § 10; RRS § 3243-1.]

30.04.240 Trust business to be kept separate—Deposit of securities with a clearing corporation authorized.

(1) Every corporation doing a trust business shall maintain in its office a trust department in which it shall keep books and accounts of its trust business, separate and apart from its other business. Such books and accounts shall specify the cash, securities and other properties, real and personal, held in each trust, and such securities and properties shall be at all times segregated from all other securities and properties. Such corporation shall also cause each bond, warrant, note, mortgage, deed or other security of any nature to be labeled to indicate the trust to which it belongs. Any person connected with a bank or trust company who shall commingle any funds or securities of any kind held by such corporation in trust, for safekeeping or as agent for another, with the funds or assets of the corporation shall be guilty of a felony.

(2) Notwithstanding any other provisions of law, any fiduciary holding securities in its fiduciary capacity, any state bank, national bank, or trust company holding securities as a custodian or managing agent and any state bank, national bank, or trust company holding securities as custodian for a fiduciary is authorized to deposit or arrange for the deposit of such securities in a clearing corporation (as defined in Article 8 of the Uniform Commercial Code, chapter 62A.8). When such securities are so deposited, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation with any other such securities deposited in such clearing corporation by any person regardless of the ownership of such securities, and certificates of small denomination may be merged into one or more certificates of larger denomination. The records of such fiduciary and the records of such state bank, national

bank, or trust company acting as custodian, as managing agent, or as custodian for a fiduciary shall at all times show the name of the party for whose account the securities are so deposited. Ownership of, and other interests in, such securities any [may] be transferred by bookkeeping entry on the books of such clearing corporation without physical delivery of certificates representing such securities. A state bank, national bank, or trust company so depositing securities pursuant to this section shall be subject to such rules and regulations as, in the case of state chartered banks and trust companies, the supervisor of banking and, in the case of national banking associations, the comptroller of the currency may from time to time issue. A state bank, national bank, or trust company acting as custodian for a fiduciary shall, on demand by the fiduciary, certify in writing to the fiduciary the securities so deposited by such state bank, national bank, or trust company in such clearing corporation for the account of such fiduciary. A fiduciary shall, on demand by any party to a judicial proceeding for the settlement of such fiduciary's account or on demand by the attorney for such party, certify in writing to such party the securities deposited by such fiduciary in such clearing corporation for its account as such fiduciary.

This subsection shall apply to any fiduciary holding securities in its fiduciary capacity, and to any state bank, national bank, or trust company holding securities as a custodian, managing agent, or custodian for a fiduciary, acting on March 14, 1973 or who thereafter may act regardless of the date of the agreement, instrument, or court order by which it is appointed and regardless of whether or not such fiduciary, custodian, managing agent, or custodian for a fiduciary owns capital stock of such clearing corporation. [1973 c 99 § 1; 1955 c 33 § 30.04.240. Prior: 1919 c 209 § 16; 1917 c 80 § 49; RRS § 3256.]

30.04.250 Deposits in other banks. A bank or trust company shall not deposit any of its funds in another bank or trust company, except a federal reserve bank, unless such other bank or trust company shall have been appointed a depository for its funds by vote of a majority of the directors of the depositing bank. [1955 c 33 § 30.04.250. Prior: 1933 c 42 § 19; RRS § 3253-2.]

30.04.260 Legal services, advertising of—Penalty. No trust company or other corporation which advertises that it will furnish legal advice, construct or prepare wills, or do other legal work for its customers, shall be permitted to act as executor, administrator, or guardian; and any trust company or other corporation whose officers or agents shall solicit legal business shall be ineligible for a period of one year thereafter to be appointed executor, administrator or guardian in any of the courts of this state.

Any trust company or other corporation which advertises that it will furnish legal advice, construct or prepare wills, or do other legal work for its customers, and any officer, agent, or employee of any trust company or corporation who shall solicit legal business shall be guilty of a gross misdemeanor. [1974 1st ex.s. c 117 §

43; 1955 c 33 § 30.04.260. Prior: 1929 c 72 § 4, part; 1923 c 115 § 6, part; 1921 c 94 § 1, part; 1917 c 80 § 24, part; RRS § 3231, part.]

Application, construction—Severability—Effective date—1974 1st ex.s. c 117: See RCW 11.02.080 and notes following.

30.04.270 Official communications. Each official communication, directed by the supervisor or by one of his deputies to any bank, trust company, mutual savings bank or industrial loan company or to any officer thereof relating to an investigation or examination conducted by the banking department or containing suggestions or recommendations relative to the conduct of the business of the bank, trust company, mutual savings bank or industrial loan company shall be submitted by the officer receiving it to the board of directors at the next meeting of such board and shall be duly noted in the minutes of the meeting of such board. [1955 c 33 § 30.04.270. Prior: 1931 c 8 § 1, RRS § 3265-1; 1915 c 175 § 40, RRS § 3369.]

30.04.280 Compliance enjoined—Banking, trust business, branches. No person shall engage in banking except in compliance with and subject to the provisions of this title, except it be a national bank or except insofar as it may be authorized so to do by the laws of this state relating to mutual savings banks, nor shall any corporation engage in a trust business except in compliance with and subject to the provisions of this title, nor shall any bank engage in a trust business except as herein authorized, nor shall any bank or trust company establish any branch except in accordance with the provisions of this title. The practice of collecting or receiving deposits or cashing checks at any place or places other than the place where the usual business of a bank or trust company and its operations of discount and deposit are carried on shall be held and construed to be establishing a branch. [1955 c 33 § 30.04.280. Prior: 1933 c 42 § 3, part; 1919 c 209 § 7, part; 1917 c 80 § 15, part; RRS § 3222, part.]

30.04.290 Foreign companies—Authority to do business. A foreign corporation, whose name contains the words "bank," "banker," "banking," or "trust," or whose articles of incorporation empower it to do a banking or trust business and which desires to engage in the business of loaning money on mortgage securities or in buying and selling exchange, coin, bullion or securities in this state may do so, but only upon filing with the supervisor and with the secretary of state a certified copy of a resolution of its governing board to the effect that it will not engage in banking or trust business in this state, which copy shall be duly attested by its president and secretary. Such corporation shall also comply with the general corporation laws of this state relating to foreign corporations doing business herein. Nothing herein shall prevent operations by an alien bank in this state in conformance with chapter 30.42 RCW, RCW 30.04.290 and 30.40.020; nor after July 16, 1973 authorize the transaction of business in this state by an alien bank in any manner except in accordance with the provisions of chapter 30.42 RCW,

RCW 30.04.290 and 30.40.020. [1973 1st ex.s. c 53 § 36; 1961 c 20 § 1; 1955 c 33 § 30.04.290. Prior: 1919 c 209 § 14; 1917 c 80 § 40; RRS § 3247.]

Severability—1973 1st ex.s. c 53: See RCW 30.42.900.

30.04.300 Foreign branch banks. A branch of any foreign bank or banker actually and publicly engaged in banking in this state on March 10, 1917, in full compliance with the laws hereof, which were in force immediately prior to March 10, 1917, and which branch has a capital not less in amount than that required for the organization of a state bank as provided in this title at the time and place when and where such branch was established, may continue its said business, subject to all of the regulations and supervision provided for banks. The amount upon which it pays taxes shall be prima facie evidence of the amount and existence of such capital. No such bank or banker shall set forth on its or his stationery or in any manner advertise in this state a greater capital, surplus and undivided profits than are actually maintained at such branch. Every foreign corporation, bank and banker, and every officer, agent and employee thereof who violates any provision of this section or which violates the terms of the resolution filed as required by RCW 30.04.290 shall for each violation forfeit and pay to the state of Washington the sum of one thousand dollars. A civil action for the recovery of any such sum may be brought by the attorney general in the name of the state. [1955 c 33 § 30.04.300. Prior: 1917 c 80 § 41; RRS § 3248.]

30.04.310 Penalty—General. Every bank or trust company which violates or fails to comply with any provision of chapters 30.04 to 30.24 RCW, inclusive, and chapter 30.44 RCW of this title or any lawful direction or requirement of the supervisor shall be subject, in addition to any penalty now provided, to a penalty of not more than one hundred dollars for each offense, to be recovered by the attorney general in a civil action in the name of the state. Each day's continuance of the violation shall be a separate and distinct offense. [1955 c 33 § 30.04.310. Prior: 1923 c 115 § 13; RRS § 3286a.]

30.04.320 Secrecy required of supervisor. See RCW 43.19.060.

30.04.330 Saturday closing authorized. Any bank, which term for the purpose of this section shall include but not be limited to any state bank, national bank or association, mutual savings bank, savings and loan association, trust company, federal reserve bank, federal home loan bank, and federal savings and loan association, federal credit union, and state credit union doing business in this state, may remain closed on Saturdays and any Saturday on which a bank remains closed shall be, with respect to such bank, a holiday and not a business day. Any act, authorized, required or permitted to be performed at or by or with respect to any bank, as herein defined, on a Saturday, may be performed on the next succeeding business day, and no liability or loss of rights of any kind shall result from

such closing. [1955 c 33 § 30.04.330. Prior: 1947 c 221 § 1; Rem. Supp. 1947 § 3292a.]

30.04.340 Contributions and gifts—Public policy declared. It is hereby declared to be the public policy of the state of Washington that contributions made in accordance with the provisions of RCW 30.04.340 through 30.04.360 shall constitute a valid and proper use of bank funds; and, in the absence of an express provision in its original or amended charter to the contrary, the making of such contributions or gifts by a state bank or trust company is within its powers and shall be deemed to inure to the benefit of such bank. [1955 c 356 § 2.]

30.04.350 Contributions and gifts—Authorized. Any state bank or trust company may contribute from surplus or reserve funds such sums as its board of directors or trustees may deem proper:

(1) To the United States or any territory or possession thereof, or to any state or political subdivision thereof, for exclusively public purposes; or

(2) To any corporation or any community chest fund or foundation organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation. [1955 c 356 § 3.]

30.04.360 Contributions and gifts—Validation. RCW 30.04.340 through 30.04.360 shall not be construed as invalidating any contributions or gifts heretofore made by any national bank, state bank or any banking institution subject to the supervision of the supervisor of banking, and all contributions or gifts so made shall be valid as if made after June 8, 1955. [1955 c 356 § 4.]

30.04.370 Investment of agricultural commodity commission funds in savings or time deposits of banks, trust companies and mutual savings banks. Any funds of any agricultural commodity commission may be invested in savings or time deposits in banks, trust companies and mutual savings banks which are doing business in this state, up to the amount of insurance afforded such accounts by the Federal Deposit Insurance Corporation. This section shall apply to all funds which may be lawfully so invested, which in the judgment of any agricultural commodity commission are not required for immediate expenditure. The authority granted by this section is not exclusive and shall be construed to be cumulative and in addition to other authority provided by law for the investment of such funds. [1967 ex.s. c 54 § 2.]

30.04.380 Investment in paid-in capital stock and surplus of banks or corporations engaged in international or foreign banking. Any bank or trust company which is a member of the federal reserve system, may invest an amount not exceeding ten per centum of its paid-in

capital stock and surplus in the stock of one or more banks or corporations chartered under the laws of the United States, or of any state thereof, and principally engaged in international or foreign banking, or banking in a dependency or insular possession of the United States, either directly or through the agency, ownership or control of local institutions in foreign countries, or in such dependencies or insular possessions. [1973 1st ex.s. c 104 § 9.]

30.04.390 Acquisition of stock of banks organized under laws of foreign country, etc. Any bank or trust company which is a member of the federal reserve system, may acquire and hold, directly or indirectly, stock or other evidence of indebtedness of ownership in one or more banks organized under the law of a foreign country or a dependency or insular possession of the United States. [1973 1st ex.s. c 104 § 10.]

**Chapter 30.08
ORGANIZATION AND POWERS**

Sections

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30.08.010 Incorporators—Paid-in capital requirements—Business district—Additional amount. When authorized by the supervisor, as hereinafter provided, five or more natural persons, citizens of the United States, may incorporate a bank or trust company in the manner herein prescribed. No bank or trust company shall incorporate for less amount nor commence business unless it have a paid-in capital as follows:

In cities, villages or communities having a population of less than 25,000 \$ 50,000.00

In cities having a population of 25,000 and less than 100,000 100,000.00
 In cities having a population of 100,000 or more 200,000.00

Provided, That on request of any persons desiring to incorporate a bank in a city having a population of twenty-five thousand or over, the supervisor shall make an order defining the boundaries of the central business district of such city, which shall include the district in which is carried on the principal retail, financial and office business of such city and banks may be incorporated with a paid-up capital of not less than fifty thousand dollars to be located in such city outside of the central business district of such city as defined by the order of the supervisor, which shall be stated in its articles of incorporation, but any such bank which shall be hereafter incorporated to be located outside such central business district, which shall thereafter change its location into such central business district without increasing its capital stock and surplus to the amount required by then existing laws to incorporate a bank within such central business district, shall forfeit its charter and right to do business. The supervisor may from time to time change the boundaries of said central business district, if, in his judgment, such action is proper.

In addition to the foregoing, each bank and trust company shall before commencing business have subscribed and paid into it in the same manner as is required for capital stock, an additional amount equal to at least ten percent of the capital stock above required. Such additional amount shall be carried in the undivided profit account and may be used to defray organization and operating expenses of the company deemed reasonable by the supervisor. Any sum not so used shall be transferred to the surplus fund of the company before any dividend shall be declared to the stockholders. [1973 1st ex.s. c 104 § 3; 1969 c 136 § 3; 1955 c 33 § 30.08.010. Prior: 1947 c 131 § 1; 1929 c 72 § 4; 1923 c 115 § 2; 1917 c 80 § 19; Rem. Supp. 1947 § 3226.]

30.08.020 Notice of intention to organize—Proposed articles of incorporation—Execution—Contents. Persons desiring to incorporate a bank or trust company shall file with the supervisor a notice of their intention to organize a bank or trust company in such form and containing such information as the supervisor shall prescribe by regulation, together with proposed articles of incorporation, which shall be submitted for examination to the supervisor at his office in Olympia.

The proposed articles of incorporation shall state:

- (1) The name of such bank or trust company.
- (2) The city, village or locality and county where such corporation is to be located.
- (3) The nature of its business, whether that of a commercial bank, a savings bank or both or a trust company.
- (4) The amount of its capital stock, which shall be divided into shares of not less than ten dollars each, nor more than one hundred dollars each, as may be provided in the articles of incorporation.

(5) The period for which such corporation is organized, which may be for a stated number of years or perpetual.

(6) The names and places of residence of the persons who as directors are to manage the corporation until the first annual meeting of its stockholders.

(7) That for a stated number of years, which shall be not less than ten nor more than twenty years from the date of approval of the articles (a) no voting share of the corporation shall, without the prior written approval of the supervisor, be affirmatively voted for any proposal which would have the effect of sale, conversion, merger, or consolidation to or with, any other banking entity or affiliated financial interest, whether through transfer of stock ownership, sale of assets, or otherwise, (b) the corporation shall take no action to consummate any sale, conversion, merger, or consolidation in violation of this subdivision, (c) this provision of the articles shall not be revoked, altered, or amended by the shareholders without the prior written approval of the supervisor, and (d) all stock issued by the corporation shall be subject to this subdivision and a copy hereof shall be placed upon all certificates of stock issued by the corporation. [1973 1st ex.s. c 104 § 4; 1959 c 118 § 1; 1957 c 248 § 1; 1955 c 33 § 30.08.020. Prior: (i) 1923 c 115 § 3; 1917 c 80 § 20; RRS § 3227. (ii) 1929 c 174 § 1; 1923 c 115 § 4; 1917 c 80 § 21; RRS § 3228.]

30.08.030 Investigation. When the notice of intention to organize and proposed articles of incorporation complying with the foregoing requirements have been received by the supervisor, together with the fees required by law, he shall ascertain from the best source of information at his command and by such investigation as he may deem necessary, whether the character, responsibility and general fitness of the persons named in such articles are such as to command confidence and warrant belief that the business of the proposed bank or trust company will be honestly and efficiently conducted in accordance with the intent and purpose of this title, whether the resources in the neighborhood of such place and in the surrounding country afford a reasonable promise of adequate support for the proposed bank and whether the proposed bank or trust company is being formed for other than the legitimate objects covered by this title. [1973 1st ex.s. c 104 § 5; 1955 c 33 § 30.08.030. Prior: 1929 c 72 § 3, part; 1923 c 115 § 5, part; 1917 c 80 § 22, part; RRS § 3229, part.]

30.08.040 Notice to file articles—Articles approved or refused—Hearing. After the supervisor shall have satisfied himself of the above facts, and, within six months of the date the notice of intention to organize has been received in his office, he shall notify the incorporators to file executed and acknowledged articles of incorporation with him in quadruplicate. Unless the supervisor otherwise consents in writing, such articles shall be in the same form and shall contain the same information as the proposed articles and shall be filed with him within ten days of such notice. Within thirty days after the receipt of such articles of incorporation,

he shall endorse upon each of the quadruplicates thereof, over his official signature, the word "approved," or the word "refused," with the date of such endorsement. In case of refusal he shall forthwith return one of the quadruplicates, so endorsed, together with a statement explaining the reason for refusal to the person from whom the articles were received, which refusal shall be conclusive, unless the incorporators, within ten days of the issuance of such notice of refusal, shall request a hearing pursuant to the Administrative Procedure Act, chapter 34.04 RCW, as now or hereafter amended. [1973 1st ex.s. c 104 § 6; 1955 c 33 § 30.08.040. Prior: 1929 c 72 § 3, part; 1923 c 115 § 5, part; 1917 c 80 § 22, part; RRS § 3229, part.]

30.08.050 Approved articles to be filed and recorded—Organization complete. In case of approval the supervisor shall forthwith give notice thereof to the proposed incorporators and file one of the quadruplicate articles of incorporation in his own office, and shall transmit another quadruplicate to the county auditor of the county in which such bank or trust company is located, and another quadruplicate to the secretary of state, and the fourth quadruplicate to the incorporators. Upon receipt from the proposed incorporators of the same fees as are required for filing and recording other articles of incorporation the secretary of state and county auditor shall file such articles in their respective offices, and the secretary of state shall record the same. Upon the filing of articles of incorporation in quadruplicate, approved as aforesaid by the supervisor, with the secretary of state and county auditor, all persons named therein and their successors shall become and be a corporation, which shall have the powers and be subject to the duties and obligations prescribed by this title, and whose existence shall continue from the date of the filing of such articles for the term mentioned in its articles of incorporation unless sooner terminated pursuant to law; but such corporation shall not transact any business except as is necessarily preliminary to its organization until it has received a certificate of authority as provided herein. [1957 c 248 § 2; 1955 c 33 § 30.08.050. Prior: 1929 c 72 § 3, part; 1923 c 115 § 5, part; 1917 c 80 § 22, part; RRS § 3229, part.]

30.08.060 Certificate of authority—Issuance—Contents. Before any bank or trust company shall be authorized to do business, and within ninety days after approval of the articles of incorporation, it shall furnish proof satisfactory to the supervisor that such corporation has a paid-in capital in the amount fixed by its articles of incorporation and by this title, that the requisite surplus or reserve fund has been accumulated or paid in cash, and that it has in good faith complied with all the requirements of law and fulfilled all the conditions precedent to commencing business imposed by this title. If so satisfied, and within thirty days after receipt of such proof, the supervisor shall issue under his hand and official seal, in quadruplicate, a certificate of authority for such corporation. The certificate shall state that the corporation therein named has complied with the requirements of law, that it is authorized to

transact at the place designated in its articles of incorporation the business of a bank or trust company, or both, as the case may be: *Provided, however,* That the supervisor may make his issuance of the certificate conditional upon the granting of deposit insurance by the federal deposit insurance corporation, and in such event, shall set out such condition in a written notice which shall be delivered to the corporation.

One of the quadruplicate certificates shall be transmitted by the supervisor to the corporation and the other three shall be filed by the supervisor in the same offices where the articles of incorporation are filed and shall be attached to said articles of incorporation, and the one filed with the secretary of state shall be recorded: *Provided, however,* That if the issuance of the certificate is made conditional upon the granting of deposit insurance by the federal deposit insurance corporation, the supervisor shall not transmit or file the certificate until such condition is satisfied. [1973 1st ex.s. c 104 § 7; 1955 c 33 § 30.08.060. Prior: 1929 c 72 § 3, part; 1923 c 115 § 5, part; 1917 c 80 § 22, part; RRS § 3229, part.]

30.08.070 Failure to commence business—Effect—Extension of time. Every corporation heretofore or hereafter authorized by the laws of this state to do business as a bank, trust company, mutual savings bank or industrial loan company, which corporation shall have failed to organize and commence business within six months after certificate of authority to commence business has been issued by the supervisor, shall forfeit its rights and privileges as such corporation, which fact the supervisor shall certify to the county auditor in whose office the certificate of authority was filed, and to the secretary of state, and such certificate of forfeiture shall be filed in the office of the county auditor and filed and recorded in the office of the secretary of state in the same manner as the certificate of authority: *Provided,* That the supervisor may, upon showing of cause satisfactory to him, issue an order under his hand and seal extending for not more than three months the time within which such organization may be effected and business commenced, such order to be transmitted to the offices of such county auditor and the secretary of state and filed and recorded therein. [1955 c 33 § 30.08.070. Prior: 1931 c 9 § 1, RRS § 3229-1; 1915 c 175 § 41, RRS § 3370.]

30.08.080 Extension of existence—Application—Investigation—Order—Appeal—Winding up for failure to continue existence. At any time not less than one year prior to the expiration of the time of the existence of any bank, trust company or mutual savings bank, it may by written application to the supervisor, signed and verified by a majority of its directors and approved in writing by the owners of not less than two-thirds of its capital stock, apply to the supervisor for leave to file amended articles of incorporation, extending its time of existence. Prior to acting upon such application, the supervisor shall make such investigation of the applicant as he deems necessary. If he determines

that the applicant is in sound condition, that it is conducting its business in a safe manner and in compliance with law and that no reason exists why it should not be permitted to continue, he shall issue to the applicant a certificate authorizing it to file amended articles of incorporation extending the time of its existence until such time as it be dissolved by the act of its shareholders owning not less than two-thirds of its stock, or until its certificate of authority becomes revoked or forfeited by reason of violation of law, or until its affairs be taken over by the supervisor for legal cause and finally wound up by him. Otherwise he shall notify the applicant that he refuses to grant such certificate. The applicant may appeal from such refusal in the same manner as in the case of a refusal to grant an original certificate of authority. Otherwise the determination of the supervisor shall be conclusive.

Upon receiving a certificate, as hereinabove provided, the applicant may file amended articles of incorporation, extending the time of its existence for the term authorized, to which shall be attached a copy of the certificate of the supervisor. Such articles shall be filed in the same manner and upon payment of the same fees as for original articles of incorporation.

Should any bank, trust company or mutual savings bank fail to continue its existence in the manner herein provided and be not previously dissolved, the supervisor shall at the end of its original term of existence immediately take possession thereof and wind up the same in the same manner as in the case of insolvency. [1961 c 280 § 1; 1955 c 33 § 30.08.080. Prior: 1943 c 148 § 1; 1917 c 80 § 27; Rem. Supp. 1943 § 3234.]

30.08.087 Authorized but unissued shares of capital stock—Purposes—Amount—Minimum consideration. Solely to have shares of its capital stock available for issuance and sale pursuant to approved stock option plans or for the purpose of issuing and selling minimum qualifying shares to new directors, any bank or trust company may provide in its articles of incorporation or amendments thereto for authorized but unissued shares of its capital stock, in an amount not to exceed ten percent of its authorized capital stock. If such shares are issued pursuant to approved stock option plans, the consideration received for such shares shall not be less than the higher of par value or one hundred percent of fair market value of the shares at the time the option is granted. If such shares are issued in order to qualify a new director of the corporation, the consideration received shall be not less than the higher of par value or ninety-five percent of the fair market value of the shares at the time of the sale. [1965 c 140 § 1.]

Stock option plans: RCW 30.12.210.

30.08.088 Authorized but unissued shares of capital stock—Amendment of articles—When shares become part of capital stock—Issuance to qualify new director, approval of supervisor required. Any amendments to articles of incorporation which provide for authorized but unissued stock shall be made as provided in the case of a capital increase which is to be paid in full before becoming effective. However, the authorized but

unissued shares shall not become a part of the capital stock except for the purposes hereof until they have been issued and paid for in cash. Prior to the issuance of authorized but unissued stock for the purpose of qualifying a new director, the bank shall notify the supervisor of the proposed issuance and the consideration to be received therefor and receive the supervisor's approval thereof. [1965 c 140 § 2.]

30.08.090 May increase or decrease capital stock or otherwise amend articles—Procedure—Authorized but unissued stock; statements of condition, certificates. Any bank or trust company may increase or decrease its capital stock or otherwise amend its articles of incorporation, in any manner not inconsistent with the provisions of this title, by a vote of the stockholders representing two-thirds of its issued capital stock at any regular meeting, or special meeting duly called for that purpose in the manner prescribed by its bylaws: *Provided*, That notice of a meeting to increase or decrease authorized capital stock shall first be published once a week for four weekly issues in a newspaper published in the place in which such corporation is located, or if there be no newspaper published in such place, then in some newspaper published in the same county. The notice shall state the purpose of the meeting, the amount of the present authorized capital stock of the bank or trust company and the proposed new authorized capital stock. A certificate of the fact and the terms of the amendment shall be executed by a majority of the directors and filed as required herein for articles of incorporation. Except when an amendment provides for authorized but unissued shares as permitted in this title, no increase of authorized capital stock shall be valid, until the amount thereof shall have been subscribed and actually paid in and a certificate of increase is received from the supervisor. No reduction of the capital stock shall be made to an amount less than is required for capital, nor be valid, nor warrant the cancellation of stock certificates, nor diminish the personal liabilities of the stockholders until such reduction has been approved by the supervisor, nor shall any reduction relieve any stockholder from any liability of the corporation incurred prior thereto. No amendment shall be made whereby a bank becomes a trust company unless such bank shall first receive permission from the supervisor.

Banks having authorized but unissued stock shall disclose on all statements of condition the amount of authorized stock and the amount of issued and paid in stock, as certified by the supervisor. The supervisor shall certify to each bank having authorized but unissued stock the amount of its issued and paid in capital stock and this amount shall be used in all statements of condition and in computing the capital of the bank for purposes of determining loan or investment limits and branching powers until a new certificate is issued by the supervisor. In cases where a bank issues authorized but unissued stock as permitted by this title, a new certificate need not be requested upon each stock issue. However, if the bank so requests and the supervisor approves, a certificate of issued and paid in capital stock

shall be issued by the supervisor. A new certificate must be requested at such time as any increase of paid in capital stock represents five percent of the authorized capital stock and at such time as there is no remaining authorized but unissued stock. [1965 c 140 § 3; 1955 c 33 § 30.08.090. Prior: 1923 c 115 § 7; 1917 c 80 § 26; RRS § 3233.]

30.08.095 Schedule of fees to be established. The supervisor shall collect in advance fees for the following services:

For filing application for certificate of authority and attendant investigation as outlined in the law;

For filing application for certificate conferring trust powers upon a state or national bank;

For filing articles of incorporation, or amendments thereof, or other certificates required to be filed in his office;

For filing merger agreement and attendant investigation;

For filing application to relocate main office or branch and attendant investigation;

For issuing a certificate of increase or decrease of capital stock;

For issuing each certificate of authority;

For furnishing copies of papers filed in his office, per page.

The supervisor shall establish the amount of the fee for each of the above transactions, and for other services rendered by the division of banking by rules and regulations promulgated pursuant to the Administrative Procedure Act, chapter 34.04 RCW, as now or hereafter amended.

Every bank or trust company shall also pay to the secretary of state or county auditor for filing any instrument with him the same fees as are required of general corporations for filing corresponding instruments, and also the same license fees as are required of general corporations. [1973 1st ex.s. c 104 § 8; 1969 c 136 § 4; 1955 c 33 § 30.08.095. Prior: 1929 c 72 § 1; 1923 c 115 § 1; 1917 c 80 § 12; RRS § 3219.]

Indemnification of directors, officers, employees, etc. by corporation authorized: RCW 23A.08.025.

30.08.110 National bank may do trust business. A national bank located within this state and having a paid-up capital of fifty thousand dollars or more, when authorized or permitted so to do, by or under any act of the congress of the United States, may exercise any of the powers conferred upon trust companies by this title. [1955 c 33 § 30.08.110. Prior: 1917 c 80 § 16; RRS § 3223.]

30.08.120 Trust business of national bank subject to state regulations. Before any such national bank shall engage in such trust business, it shall file a certificate with the supervisor, wherein it agrees to conform to all the regulations and restrictions of this title relating to trust companies and trust business, including the examination of its trust business by the supervisor and the payment of the fees therefor, herein prescribed for the examination of banks and trust companies. Upon the

filing of such a certificate in a form to be approved by the supervisor, such national bank shall be subject to all the regulations and restrictions of this title relative to trust companies and trust business. [1955 c 33 § 30.08-.120. Prior: 1917 c 80 § 17; RRS § 3224.]

30.08.140 Corporate powers of banks. Upon the issuance of a certificate of authority to a bank, the persons named in the articles of incorporation and their successors shall thereupon become a corporation and shall have power:

- (1) To adopt and use a corporate seal.
- (2) To have succession for the term mentioned in its articles of incorporation.
- (3) To make contracts.
- (4) To sue and be sued, the same as a natural person.
- (5) To elect directors who, subject to the provisions of the corporation's bylaws, shall have power to appoint such officers as may be necessary or convenient, to define their powers and duties and to dismiss them at pleasure, and who shall also have general supervision and control of the affairs of such corporation.
- (6) To prescribe by its stockholders bylaws not inconsistent with law, regulating the manner in which its stock shall be transferred, its directors and officers elected or appointed, its stockholders convened for general or special meetings, its property transferred, its general business conducted and the privileges granted to it by law exercised and enjoyed.
- (7) To discount and negotiate promissory notes, drafts, bills of exchange and other evidences of debt, to receive deposits of money and commercial paper, to lend money on real or personal security, to buy and sell bullion, coins and bills of exchange.
- (8) To take and receive as bailee for hire upon terms and conditions to be prescribed by the corporation, for safekeeping and storage, jewelry, plate, money, specie, bullion, stocks, bonds, mortgages, securities and valuable paper of any kind and other valuable personal property, and to rent vaults, safes, boxes and other receptacles for safekeeping and storage of personal property.
- (9) If the bank be located in a city of not more than five thousand inhabitants, to act as insurance agent.
- (10) To accept drafts or bills of exchange drawn upon it having not more than six months sight to run, which grow out of transactions involving the importation or exportation of goods; or which grow out of transactions involving the domestic shipment of goods, providing shipping documents conveying or securing title are attached at the time of acceptance; or which are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title to readily marketable staples. No bank shall accept, either in a foreign or a domestic transaction, for any one person, company, firm or corporation, to an amount equal at any one time in the aggregate to more than ten percent of its paid up and unimpaired capital stock and surplus unless the bank is secured by attached documents or by some other actual security growing out of the same transaction as the acceptance; and no bank shall accept such bills to an amount equal at any time

in the aggregate to more than one-half of its paid up and unimpaired capital stock and surplus: *Provided, however,* That the supervisor, under such general regulations applicable to all banks irrespective of the amount of capital or surplus, as he may prescribe may authorize any bank to accept such bills to an amount not exceeding at any time in the aggregate one hundred percent of its paid up and unimpaired capital stock and surplus: *Provided, further,* That the aggregate of acceptances growing out of domestic transactions shall in no event exceed fifty percent of such capital stock and surplus.

(11) To accept drafts or bills of exchange drawn upon it, having not more than three months sight to run, drawn under regulations to be prescribed by the supervisor by banks or bankers in foreign countries or dependencies or insular possessions of the United States for the purpose of furnishing dollar exchange as required by the usages of trade in the respective countries, dependencies or insular possessions. Such drafts or bills may be acquired by banks in such amounts and subject to such regulations, restrictions and limitations as may be provided by the supervisor: *Provided, however,* That no bank shall accept such drafts or bills of exchange referred to in this subdivision for any one bank to an amount exceeding in the aggregate ten percent of the paid up and unimpaired capital and surplus of the accepting bank unless the draft or bill of exchange is accompanied by documents conveying or securing title or by some other adequate security, and that no such drafts or bills of exchange shall be accepted by any bank in an amount exceeding at any time the aggregate of one-half of its paid up and unimpaired capital and surplus: *Provided further,* That compliance by any bank which is a member of the federal reserve system of the United States with the rules, regulations and limitations adopted by the federal reserve board thereof with respect to the acceptance of drafts or bills of exchange by members of such federal reserve system shall be a sufficient compliance with the requirements of this subdivision or paragraph relating to rules, regulations and limitations prescribed by the supervisor.

(12) This section is retroactive as of June 10, 1931, and the powers hereby conferred shall inure to the benefit of any bank now holding such certificate, the persons named in the articles of incorporation of said bank and their successors. [1957 c 248 § 3; 1955 c 33 § 30.08.140. Prior: 1931 c 127 § 1; 1919 c 209 § 8; 1917 c 80 § 23; RRS § 3230.]

30.08.150 Corporate powers of trust companies. Upon the issuance of a certificate of authority to a trust company, the persons named in the articles of incorporation and their successors shall thereupon become a corporation and shall have power:

- (1) To execute all the powers and possess all the privileges conferred on banks.
- (2) To act as fiscal or transfer agent of the United States or of any state, municipality, body politic or corporation and in such capacity to receive and disburse money.

(3) To transfer, register and countersign certificates of stock, bonds or other evidences of indebtedness and to act as attorney in fact or agent of any corporation, foreign or domestic, for any purpose, statutory or otherwise.

(4) To act as trustee under any mortgage, or bonds, issued by any municipality, body politic, or corporation, foreign or domestic, or by any individual, firm, association or partnership, and to accept and execute any municipal or corporate trust.

(5) To receive and manage any sinking fund of any corporation upon such terms as may be agreed upon between such corporation and those dealing with it.

(6) To collect coupons on or interest upon all manner of securities, when authorized so to do, by the parties depositing the same.

(7) To accept trusts from and execute trusts for married persons in respect to their separate property and to be their agent in the management of such property and to transact any business in relation thereto.

(8) To act as receiver or trustee of the estate of any person, or to be appointed to any trust by any court, to act as assignee under any assignment for the benefit of creditors of any debtor, whether made pursuant to statute or otherwise, and to be the depository of any moneys paid into court.

(9) To be appointed and to accept the appointment of executor of, or trustee under, the last will and testament, or administrator with or without the will annexed, of the estate of any deceased person and to be appointed and to act as guardian of the estate of lunatics, idiots, persons of unsound mind, minors and habitual drunkards: *Provided, however,* That the power hereby granted to trust companies to act as guardian or administrator, with or without the will annexed, shall not be construed to deprive parties of the prior right to have issued to them letters of guardianship, or of administration, as such right now exists under the law of this state.

(10) To execute any trust or power of whatever nature or description that may be conferred upon or entrusted or committed to it by any person or by any court or municipality, foreign or domestic corporation and any other trust or power conferred upon or entrusted or committed to it by grant, assignment, transfer, devise, bequest or by any other authority and to receive, take, use, manage, hold and dispose of, according to the terms of such trusts or powers any property or estate, real or personal, which may be the subject of any such trust or power.

(11) Generally to execute trusts of every description not inconsistent with law.

(12) To purchase, invest in and sell promissory notes, bills of exchange, bonds, debentures and mortgages and when moneys are borrowed or received for investment, the bonds or obligations of the company may be given therefor, but no trust company hereafter organized shall issue such bonds: *Provided,* That no trust company which receives money for investment and issues the bonds of the company therefor shall engage in the business of banking or receiving of either savings or commercial deposits: *And provided,* That it shall not

issue any bond covering a period of more than ten years between the date of its issuance and its maturity date: *And provided further,* That if for any cause, the holder of any such bond upon which one or more annual rate installments have been paid, shall fail to pay the subsequent annual rate installments provided in said bond such holder shall, on or before the maturity date of said bond, be paid not less than the full sum which he has paid in on account of said bond. [1973 1st ex.s. c 154 § 48; 1955 c 33 § 30.08.150. Prior: 1929 c 72 § 4, part; 1923 c 115 § 6, part; 1921 c 94 § 1, part; 1917 c 80 § 24, part; RRS § 3231, part.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

30.08.160 Report of bond liability—Collateral. Any trust company receiving moneys for investment, and for which it shall give its bonds as in RCW 30.08.150(12) provided, shall within ten days after any regular report is called for from banks or trust companies by the supervisor, make a statement of its total liability, on all bonds issued and then in force, certified by its board of directors, and shall at the same time deposit with the state treasurer, for the benefit of the holders of such bonds or obligations, sufficient securities or money so that it will have on deposit with said state treasurer a sufficient amount of said securities, which may be exchanged for other securities as necessity may require, or money to, at any time, pay all of said liability. In the event of its failure to make such deposits, it shall cease doing such business: *Provided,* That whenever money shall have been deposited with the treasurer, it may be withdrawn at any time upon a like amount of securities being deposited in its stead: *And provided further,* That the securities deposited shall consist of such securities as are by this title permitted for the investment of trust funds. [1955 c 33 § 30.08.160. Prior: 1917 c 80 § 25; RRS § 3232.]

30.08.170 Securities may be held in name of nominee. Any trust company incorporated under the laws of this state and any national banking association authorized to act in a fiduciary capacity in this state, when acting in a fiduciary capacity, either alone or jointly with an individual or individuals, may, with the consent of such individual fiduciary or fiduciaries, who are hereby authorized to give such consent, cause any stocks, securities, or other property now held or hereafter acquired to be registered and held in the name of a nominee or nominees of such corporate or association fiduciary without mention of the fiduciary relationship. Any such fiduciary shall be liable for any loss occasioned by the acts of any of its nominees with respect to such stocks, securities or other property so registered. [1955 c 33 § 30.08.170. Prior: 1947 c 146 § 1; Rem. Supp. 1947 § 3292b.]

30.08.180 Reports of resources and liabilities—Publication. Every bank and trust company shall make at least three regular reports each year to the supervisor, as of the dates which he shall designate, according to

form prescribed by him, verified by the president, manager or cashier and attested by at least two directors, which shall exhibit under appropriate heads the resources and liabilities of such corporation. The dates designated by the supervisor shall be the dates designated by the comptroller of the currency of the United States for reports of national banking associations. Each such report in condensed form, to be prescribed by the supervisor, shall be published once in a newspaper of general circulation, published in a place where the corporation is located, or if there be no newspaper published in such place, then in some newspaper published in the same county.

Every such corporation shall also make such special reports as the supervisor shall call for. [1955 c 33 § 30.08.180. Prior: 1919 c 209 § 4; 1917 c 80 § 5; RRS § 3212.]

30.08.190 Time of filing—Penalty. Every regular report shall be filed with the supervisor within twelve days from the date of issuance of the notice therefor and proof of publication of such report shall be filed with the supervisor within twenty days from such date. Every special report shall be filed with the supervisor within such time as shall be specified by him in the notice therefor.

Every bank and trust company which fails to file any report, required to be filed as aforesaid, or to file proof of publication of any report required to be published, within the time herein specified, shall be subject to a penalty of ten dollars per day for each day's delay. A civil action for the recovery of any such penalty may be brought by the attorney general in the name of the state. [1955 c 33 § 30.08.190. Prior: 1917 c 80 § 6; RRS § 3213.]

30.08.200 May act as trustee for crop credit notes. See miscellaneous loan agencies, RCW 31.16.250.

Chapter 30.12

OFFICERS, EMPLOYEES, AND STOCKHOLDERS

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- 30.12.010 Directors—Election—Meeting—Stock—Vacancies—Oath.
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- 30.12.200 Group-plan life insurance for officers and employees.

30.12.210 Stock option plans.

30.12.010 Directors—Election—Meeting—Stock—Vacancies—Oath. Every bank and trust company shall be managed by not less than five directors, excepting that a bank having a capital of fifty thousand dollars or less may have only three directors. Directors shall be elected by the stockholders and hold office for one year and until their successors are elected and have qualified. In the first instance the directors shall be those named in the articles of incorporation and afterwards, those elected at the annual meeting of the stockholders to be held at least once each year on a day to be specified by the bank's or trust company's bylaws by not later than March 15th of each year. If for any cause no election is held at that time, it may be held at an adjourned meeting or at a subsequent meeting called for that purpose in the manner prescribed by the corporation's bylaws. The directors shall meet at least once each month and whenever required by the supervisor. A majority of the board of directors shall constitute a quorum for the transaction of business. At all stockholders' meetings, each share shall be entitled to one vote. Any stockholder may vote in person or by written proxy. Every director must own in his own right shares of the capital stock of the bank or trust company of which he is a director the aggregate par value of which shall not be less than four hundred dollars, unless the capital of the bank or trust company shall not exceed fifty thousand dollars, in which case he must own in his own right shares of such capital stock the aggregate par value of which shall not be less than two hundred dollars. Any director who ceases to be the owner of the required number of shares of the stock, or who becomes in any other manner disqualified, shall thereby vacate his place.

Immediately upon election, each director shall take, subscribe, swear to and file with the supervisor an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of such corporation and will not knowingly violate or willingly permit to be violated any provision of law applicable to such corporation and that he is the beneficial owner in good faith of the number of shares of stock required by this section, and that the same is fully paid, is not hypothecated or in any way pledged as security for any loan or debt. Vacancies in the board of directors shall be filled by the board. [1969 c 136 § 8; 1957 c 190 § 1; 1955 c 33 § 30.12.010. Prior: 1947 c 129 § 1; 1917 c 80 § 30; Rem. Supp. 1947 § 3237.]

30.12.020 Meetings, where held—Corporate records. All meetings of the stockholders of any bank or trust company, except organization meetings, must be held in the town or city in which the corporation is located. Meetings of the directors of any bank or trust company may be held either within or without this state. Every such corporation shall keep a book in which shall be recorded the names and residences of the stockholders thereof, the number of shares held by each, when each person became a stockholder and also the transfers of stock, showing the time when made, the

number of shares and by whom transferred. In all actions, suits and proceedings, said book shall be prima facie proof of the facts shown therein. All of the corporate books, including the certificate book, stockholders' ledger and minute book shall be kept at the corporation's principal place of business and not elsewhere.

Whenever in the opinion of the supervisor the condition of any bank or trust company is such that any transfer of the capital stock of such bank or trust company would be detrimental to the interests of its depositors, the supervisor may, by written order served upon the directors of such bank or trust company, direct that no transfer of stock shall be made until further order of the supervisor. [1969 c 136 § 9; 1955 c 33 § 30.12.020. Prior: 1927 c 179 § 1; 1917 c 80 § 31; RRS § 3238.]

30.12.030 Fidelity bonds—Casualty insurance. (1) The board of directors of each bank and trust company shall direct and require good and sufficient surety company fidelity bonds issued by a company authorized to engage in the insurance business in the state of Washington on all active officers and employees, whether or not they draw salary or compensation, which bonds shall provide for indemnity to such bank or trust company, on account of any losses sustained by it as the result of any dishonest, fraudulent or criminal act or omission committed or omitted by them acting independently or in collusion or combination with any person or persons. Such bonds may be individual, schedule or blanket form, and the premiums therefor shall be paid by the bank or trust company.

(2) The said directors shall also direct and require suitable insurance protection to the bank or trust company against burglary, robbery, theft and other similar insurance hazards to which the bank or trust company may be exposed in the operations of its business on the premises or elsewhere.

The said directors shall be responsible for prescribing at least once in each year the amount or penal sum of such bonds or policies and the sureties or underwriters thereon, after giving due consideration to all known elements and factors constituting such risk or hazard. Such action shall be recorded in the minutes of the board of directors and thereafter be reported to the supervisor and be subject to his approval. [1955 c 33 § 30.12.030. Prior: 1947 c 132 § 1; 1927 c 224 § 1; 1917 c 80 § 32; Rem. Supp. 1947 § 3239.]

30.12.040 Removal of delinquent officer or employee—Hearing—Appeal. Whenever the supervisor shall find that any director, officer or employee of any bank or trust company is dishonest, reckless or incompetent, or fails to perform any duty of his office, or has consented to or connived at the making of any loan or discount in violation of law or has consented to or connived at any other violation of law by the corporation, he shall notify the board of directors of such corporation in writing of his objections to such director, officer or employee, and such board shall, within twenty days after receiving such notification and upon reasonable notice to the supervisor and to such director, officer or employee of the time and place of the hearing, meet

and consider such objections. If the board shall find the objections to be well founded, such director, officer or employee shall be immediately removed.

If upon the hearing the director, officer or employee against whom the objections have been filed is not immediately removed, or if the board fail to meet, consider or act upon the objections within twenty days after receiving the same, the supervisor may forthwith or within thirty days thereafter, by an order in writing filed in his office, remove such director, officer or employee from his directorship, office or employment, or may, for a limited time to be stated in the order, suspend such director, officer or employee therefrom. A copy of the order shall be forthwith mailed to the person removed or suspended and to the bank or trust company.

No director, officer or employee removed upon objections or by the order of the supervisor shall thereafter be elected or appointed to any directorship, office, trust or employment by the same or another bank or trust company without the written consent of the supervisor.

The order of the supervisor suspending or removing a director, officer or employee shall be final and conclusive unless the person suspended or removed shall appeal to the superior court of Thurston county within the time and in the manner provided by law for appeals from the refusal of the supervisor to approve articles of incorporation. Upon the appeal the controversy shall be tried de novo. The order of the supervisor shall remain in full force and effect pending the appeal unless suspended by order of the court. [1955 c 33 § 30.12.040. Prior: 1933 c 42 § 1; 1917 c 80 § 10; RRS § 3217.]

30.12.050 Purchase of assets by officer, etc.—Penalty. A director, officer, employee or other agent of any bank shall not purchase or be interested in the purchase directly or indirectly of any of its assets without the previous written consent of the supervisor and of a majority of the directors of the bank. Whoever knowingly does or participates or aids in the doing of any act in violation of this section shall be guilty of a gross misdemeanor and be punished accordingly, and also shall forfeit to the state double the amount of any loss suffered by the bank or trust company on account of the unlawful purchase, the recovery to be one-half for the use of the bank or trust company and the rest for the use of the state. [1955 c 33 § 30.12.050. Prior: 1933 c 42 § 23; RRS § 3260-1.]

30.12.060 Loans to officers or employees. Any bank or trust company shall be permitted to make loans to any employee of such corporation, or to purchase, discount or acquire, as security or otherwise, the obligation or debt of any employee to any other person, to the same extent as if the employee were in no way connected with the corporation. Any bank or trust company shall be permitted to make loans to any officer of such corporation, or to purchase, discount or acquire, as security or otherwise, the obligation or debt of any officer to any other person: *Provided*, That the total value of the loans made and obligation acquired for any one officer shall not exceed such amount as shall be

prescribed by the supervisor of banking pursuant to regulations adopted in accordance with the Administrative Procedure Act, chapter 34.04 RCW, as now or hereafter amended: *And provided further*, That no such loan shall be made, or obligation acquired, unless a resolution authorizing the same shall be adopted by a vote of a majority of the board of directors of such corporation, at a meeting of the board of directors of such corporation held within thirty days prior to the making of such loan or discount, and such vote and resolution shall be entered in the corporate minutes. No loan shall be made by any bank or trust company to any director of such corporation nor shall the note or obligation of such director be discounted by any such corporation, or by any officer or employee thereof in its behalf, unless a resolution authorizing the same shall be adopted by a vote of a majority of the entire board of directors of such corporation exclusive of the vote of such interested director, at a meeting of the board of directors of such corporation held within ninety days prior to the making of such loan or discount, and such vote and resolution shall be entered in the corporate minutes.

Each bank or trust company shall at such times and in such form as may be required by the supervisor, report to the supervisor all outstanding loans to directors of such bank or trust company.

The amount of any endorsement or agreement of suretyship or guaranty of any such director to the corporation shall be construed to be a loan within the provisions of this section. Any modification of the terms of an existing obligation (excepting only such modifications as merely extend or renew the indebtedness) shall be construed to be a loan within the meaning of this section. [1969 c 136 § 5; 1959 c 165 § 1; 1955 c 33 § 30.12.060. Prior: 1947 c 147 § 1, part; 1933 c 42 § 22, part; 1917 c 80 § 52, part; Rem. Supp. 1947 § 3259, part.]

30.12.070 Unsafe loans and discounts to directors. The supervisor may at any time, if in his judgment excessive, unsafe or improvident loans are being made or are likely to be made by a bank or trust company to any of its directors, or to any corporation, copartnership or association of which such director is a stockholder, member, co-owner, or in which such director is financially interested, or like discounts of the notes or obligations of any such director, corporation, copartnership or association are being made or are likely to be made, require such bank or trust company to submit to him for approval all proposed loans to, or discounts of the note or obligation of, any such director, corporation, copartnership or association, and thereafter such proposed loans and discounts shall be reported upon such forms and with such information concerning the desirability and safety of such loans or discounts and of the responsibility and financial condition of the person, corporation, copartnership or association to whom such loan is to be made or whose note or obligation is to be discounted and of the amount and value of any collateral that may be offered as security therefor, as the supervisor may require, and no such loan or discount

shall be made without his written approval thereon. [1955 c 33 § 30.12.070. Prior: 1947 c 147 § 1, part; 1933 c 42 § 22, part; 1917 c 80 § 52, part; Rem. Supp. 1947 § 3259, part.]

30.12.080 Restrictions on officers and employees. A director, officer or employee of a bank or trust company shall not:

(1) Have any interest, direct or indirect, in the profits of the corporation except to receive reasonable compensation for services actually rendered, which, in the case of an officer or director, shall be determined by the board of directors; and except to receive dividends upon any stock of the corporation that he may own, the same as any other stockholder and under the same regulations and conditions; and except to receive interest upon deposits he may have with the corporation, the same as other like depositors and under the same regulations and conditions: *Provided*, That nothing in this section shall be construed to prevent the payment to an employee of a salary bonus in addition to his normal salary, when such bonus is authorized by a resolution adopted by a vote of a majority of the board of directors of such corporation: *Provided further*, That nothing in this section shall be construed to prevent the establishment by vote of the stockholders of such bank or trust company, of a profit-sharing retirement trust or plan and the making of contributions thereto by such bank or trust company: *Provided further*, That nothing in this section shall be construed to prevent the establishment by the corporation of stock purchase option plans as otherwise permitted by law.

(2) Become a member of the board of directors of any other bank or trust company or a national banking association, of which board enough other directors, officers or employees of the corporation are members to constitute with him a majority of its board of directors.

(3) Receive directly or indirectly and retain for his own use any commission or benefit from any loan made or other transaction had by the corporation, or any pay or emolument for services rendered to any borrower from the corporation or from any person transacting business with it, in connection with the loan or transaction, except that an attorney for the corporation, though he be a director thereof, may receive reasonable compensation for professional services rendered the borrower or other person. [1965 c 140 § 5; 1959 c 106 § 3; 1955 c 33 § 30.12.080. Prior: 1947 c 147 § 1, part; 1933 c 42 § 22, part; 1917 c 80 § 52, part; Rem. Supp. 1947 § 3259, part.]

Stock option plans: RCW 30.12.210.

30.12.090 False entries, statements, etc.—Penalty. Every person who shall knowingly subscribe to or make or cause to be made any false statement or false entry in the books of any bank or trust company or shall knowingly subscribe to or exhibit any false or fictitious paper or security, instrument or paper, with the intent to deceive any person authorized to examine into the affairs of any bank or trust company or shall make, state or publish any false statement of the amount of the assets or liabilities of any bank or trust company

shall be guilty of a felony. [1955 c 33 § 30.12.090. Prior: 1917 c 80 § 56; RRS § 3263.]

30.12.100 Destroying or secreting records—Penalty. Every officer, director or employee or agent of any bank or trust company who, for the purpose of concealing any fact or suppressing any evidence against himself, or against any other person, abstracts, removes, mutilates, destroys or secretes any paper, book or record of any bank or trust company, or of the supervisor, or of anyone connected with his office, shall be guilty of a felony. [1955 c 33 § 30.12.100. Prior: 1917 c 80 § 56; RRS § 3264.]

30.12.110 Commission, etc., for procuring loan—Penalty. Every officer, director, agent, employee or stockholder of any bank or trust company who shall, directly or indirectly, receive a bonus, commission, compensation, remuneration, gift, speculative interest or gratuity of any kind from any person, firm or corporation for granting, procuring or endeavoring to procure, for any person, firm or corporation, any loan by or out of the funds of such bank or trust company or the purchase or sale of any securities or property for or on account of such bank or trust company or for granting or procuring permission for any person, firm or corporation to overdraw any account with such bank or trust company, shall be guilty of a felony. [1955 c 33 § 30.12.110. Prior: 1919 c 209 § 20; RRS § 3290.]

30.12.120 Loans to officers or employees from trust funds—Penalty. No corporation doing a trust business shall make any loan to any officer, or employee from its trust funds, nor shall it permit any officer, or employee to become indebted to it in any way out of its trust funds. Every officer, director, or employee of any such corporation, who knowingly violates any provision of this section, or who aids or abets any other person in any such violation, shall be guilty of a felony. [1955 c 33 § 30.12.120. Prior: 1917 c 80 § 53; RRS § 3260.]

30.12.130 Trust company as legal representative—Oath by officer. When any trust company shall be appointed executor, administrator, or trustee of any estate or guardian of the estate of any infant or other incompetent, it shall be lawful for any duly authorized officer of such corporation to take and subscribe for such corporation any and all oaths or affirmations required of such an appointee. [1955 c 33 § 30.12.130. Prior: 1917 c 80 § 50; RRS § 3257.]

30.12.140 Superadded liability of stockholders. The stockholders of every bank and trust company shall be individually and personally liable, equally and ratably, and not one for another, for all contracts, debts and engagements of such corporation accruing while they remain as stockholders, to the extent of the amount of their stock therein at the par value thereof, in addition to the amount invested in such shares. Persons holding stock as executors, administrators, guardians or trustees, if such relation of trust shall appear in the stock certificate and on the books of the corporation, or as

collateral security or in pledge, shall not be personally liable as stockholders, but the assets and funds in the hands of such trustees constituting the trust shall be liable to the same extent as the testator, intestate, ward, or person interested in such funds would be, if living or competent to act, and the person pledging such stock shall be deemed a stockholder and liable under this section. Such liability may be enforced by the supervisor as soon after taking possession of any bank or trust company as in his judgment the same may be necessary. The failure of the stockholders of any bank or trust company immediately upon possession being taken by the supervisor to make good all impairment of its assets shall be conclusive evidence that the enforcement of double liability is necessary. [1955 c 33 § 30.12.140. Prior: 1941 c 16 § 1, part; 1917 c 80 § 35, part; Rem. Supp. 1941 § 3242, part.]

Liability of stockholders, banking corporations: State Constitution Art. 12 § 11 (Amendment 16).

30.12.150 Liability when obligations federally insured. The additional liability imposed by RCW 30.12.140 and the liability for payment of any unpaid balance on subscriptions to the capital stock imposed upon shareholders in banks and trust companies shall not be imposed upon such shareholders with respect to shares in such corporation which are issued after June 11, 1941, by a corporation which provides and furnishes, either through membership in the Federal Deposit Insurance Corporation, or through membership in any other instrumentality of the federal government, insurance or security for the payment of the debts and obligations of the corporation equivalent to that required by the laws of the United States to be furnished and provided by national banking associations. [1955 c 33 § 30.12.150. Prior: 1941 c 16 § 1, part; 1917 c 80 § 35, part; Rem. Supp. 1941 § 3242, part.]

30.12.160 Termination of superadded liability. The additional liability heretofore imposed by RCW 30.12.140 and the liability for payment of any unpaid balance on subscriptions to the capital stock, and any like liability heretofore imposed by any law of this state, upon shareholders in banks or trust companies with respect to their shares, and the additional liability imposed by the Constitution upon such shareholders, with respect to their shares, and any contractual obligation upon such shareholders for such additional liability arising by virtue of the provisions of such laws, and the existence of such shares, shall cease on December 13, 1941, with respect to all shareholders and all shares issued by any bank or trust company which shall be transacting the business of banking on December 13, 1941, and shall provide and furnish, either through membership in the Federal Deposit Insurance Corporation, or through membership in any other instrumentality of the government of the United States, insurance or security for the payment of the debts and obligations of such banking corporation equivalent to that required by the laws of the United States to be furnished and provided by national banking associations, if not less than

five months prior to said date, such bank or trust company shall have caused notice of such prospective termination of liability to be published in a newspaper published in the city, town, or county in which such bank or trust company is located, and if no newspaper is published in such city, town or county, then in a newspaper of general circulation therein. If the bank or trust company fails to give such notice as and when provided herein, a termination of such additional liability may thereafter be accomplished as of the date five months subsequent to publication in the manner above provided. [1955 c 33 § 30.12.160. Prior: 1941 c 16 § 1, part; 1917 c 80 § 35, part; Rem. Supp. 1941 § 3242, part.]

30.12.170 Repayment of superadded liability. Where a bank or trust company or any of the stockholders thereof have paid to the state treasurer in money or securities any or all of the superadded liability upon the capital stock of such bank or trust company and such bank or trust company is still a going concern, such money or securities so paid or deposited shall be repaid by the state treasurer to the persons entitled thereto. [1955 c 33 § 30.12.170. Prior: 1935 c 43 § 1; RRS § 3242-1.]

30.12.180 Levy of assessments. Whenever the supervisor shall notify the board of directors of a bank or trust company to levy an assessment upon the stock of such corporation and the holders of two-thirds of the stock shall consent thereto, such board shall, within ten days from the issuance of such notice, adopt a resolution for the levy of such assessment, and shall immediately upon the adoption of such resolution serve notice upon each stockholder, personally or by mail, at his last known address, to pay such assessment; and that if the same be not paid within twenty days from the date of the issuance of such notice, his stock will be subject to sale and all amounts previously paid thereon shall be subject to forfeiture. If any stockholder fail within said twenty days to pay the assessment as provided in this section, it shall be the duty of the board of directors to cause a sufficient amount of the capital stock of such stockholder to be sold to make good the deficiency. The sale shall be held at such time and place as shall be designated by the board of directors and shall be either public or private, as the board shall deem best. At any time after the expiration of sixty days from the expiration of said twenty-day period the supervisor may require any stock upon which the assessment remains unpaid to be canceled and deducted from the capital of the corporation. If such cancellation shall reduce the capital of the corporation below the minimum required by this title or its articles of incorporation the capital shall, within thirty days thereafter be increased to the required amount by original subscription, in default of which the supervisor may take possession of such corporation in the manner provided by law in case of insolvency. [1955 c 33 § 30.12.180. Prior: 1923 c 115 § 8; 1917 c 80 § 34; RRS § 3241.]

Supervisor may order levy of assessment: RCW 30.44.020.

30.12.190 General penalty—Effect of conviction. Every person who shall violate, or knowingly aid or abet the violation of any provision of RCW 30.04.010, 30.04.030, 30.04.040, 30.04.050, 30.04.060, 30.04.070, *30.04.080, 30.04.090, 30.04.100, 30.04.110, 30.04.120, 30.04.130, 30.04.180, 30.04.210, 30.04.220, 30.04.280, 30.04.290, 30.04.300, 30.08.010, 30.08.020, 30.08.030, 30.08.040, 30.08.050, 30.08.060, 30.08.080, 30.08.090, 30.08.110, 30.08.120, 30.08.140, 30.08.150, 30.08.160, 30.08.180, 30.08.190, 30.12.010, 30.12.020, 30.12.030, 30.12.060, 30.12.070, 30.12.080, 30.12.130, 30.12.140, 30.12.150, 30.12.160, 30.12.180, 30.12.190, 30.16.010, **30.16.020, 30.20.010, 30.20.030, 30.20.060, 30.40.010, 30.44.010, 30.44.020, 30.44.030, 30.44.040, 30.44.050, 30.44.060, 30.44.070, 30.44.080, 30.44.090, 30.44.100, 30.44.130, 30.44.140, 30.44.150, 30.44.160, 30.44.170, 30.44.240, 30.44.250, 43.19.020, 43.19.030, 43.19.050, 43.19.060 and 43.19.090, and every person who fails to perform any act which it is therein made his duty to perform, shall be guilty of a misdemeanor. No person who has been convicted for the violation of the banking laws of this or any other state or of the United States shall be permitted to engage in or become an officer or official of any bank or trust company organized and existing under the laws of this state. [1955 c 33 § 30.12.190. Prior: 1919 c 209 § 18; 1917 c 80 § 80; RRS § 3287.]

Reviser's note: *RCW 30.04.080 is now codified as RCW 30.08.095.

**RCW 30.16.020 was repealed by section 10-102 of the Uniform Commercial Code, 1965 ex. sess. chapter 157 (Title 62A RCW).

30.12.200 Group-plan life insurance for officers and employees. A bank, mutual savings bank, trust company or savings and loan association, in the discretion of its governing board, may pay any part or all of the cost of group-plan life insurance for such of its active officers and employees as will participate in paying the rest of the cost, if any: *Provided*, That the terms and conditions of any such insurance be approved by the state insurance commissioner. [1955 c 296 § 1; 1955 c 33 § 30.12.200. Prior: 1925 ex.s. c 44 § 1; RRS § 7242-6.]

Employee welfare trust funds: Chapter 48.52 RCW.

30.12.210 Stock option plans. Every bank or trust company incorporated under the laws of this state may grant options to purchase, and issue and sell, shares of its capital stock to its employees or officers or a trustee in their behalf upon the terms and conditions of a stock option plan adopted by its board of directors, approved by a vote of the stockholders representing two-thirds of its capital stock at a meeting where the approval is sought, and approved by the supervisor in writing. In the absence of actual fraud in the transaction and within the limits of the particular stock option plan, the judgment of the board of directors and of any committee provided for in the stock option plan as to the consideration for the issuance of the options and the sufficiency thereof and as to the recipients of the options shall be conclusive. [1965 c 140 § 4.]

Authorized but unissued stock available for sale pursuant to stock option plan: RCW 30.08.087.

Prohibition against interest in profits not to prevent establishment of stock option plans: RCW 30.12.080.

Chapter 30.16 CHECKS

Sections

30.16.010 Certification—Effect—Penalty.

Negotiable instruments: Title 62A RCW.

Presentment at branch where payable: RCW 30.40.040.

Stop payment order on branch banks: RCW 30.40.030.

Unlawful issuance of bank checks or drafts: RCW 9.54.050.

30.16.010 Certification—Effect—Penalty. No director, officer, agent or employee of any bank or trust company shall certify a check unless the amount thereof actually stands to the credit of the drawer on the books of such corporation and when certified must be charged to the account of the drawer. Every violation of this provision shall be a gross misdemeanor. Any such check so certified by a duly authorized person shall be a good and valid obligation of the bank or trust company in the hands of an innocent holder. [1955 c 33 § 30.16.010. Prior: 1917 c 80 § 44; RRS § 3251.]

Chapter 30.20 DEPOSITS

Sections

30.20.010 Joint deposits—Payment and release.

30.20.015 Joint deposits with right of survivorship.

30.20.020 Payment to surviving spouse—Accounting to estate.

30.20.030 Deposits of persons under disability.

30.20.035 Deposits in trust.

30.20.060 Savings deposits, regulations—Passbooks, ledger records.

30.20.070 Publication of deposits.

30.20.080 Ineligibility to receive deposits of public funds.

30.20.090 Adverse claim to a deposit to be accompanied by court order or bond—Exception.

30.20.100 Payment to foreign executor or administrator—Form, publication of notice of application by such executor or administrator—Payment in lieu to domestic executor or administrator—Consent of tax commission.

Payment to slayers: RCW 11.84.110.

Receiving deposits after insolvency prohibited: State Constitution Art. 12 § 12.

30.20.010 Joint deposits—Payment and release. When a deposit has been or shall hereafter be made in any national bank, state bank or trust company in the name of two or more persons, payable to any of such persons, such deposit or any part thereof, or any interest, or dividends thereon, may be paid to any of said persons, whether the other be living or not, and the receipt or acquittance of the persons so paid shall be valid and sufficient release and discharge of such corporation for any payment so made. [1955 c 33 § 30.20.010. Prior: 1943 c 167 § 1; 1917 c 80 § 42; Rem. Supp. 1943 § 3249.]

30.20.015 Joint deposits with right of survivorship. After any deposit shall be made in a national bank, state bank, trust company or any banking institution subject to the supervision of the supervisor of banking

of this state, by any person in the names of such depositor and one or more other persons and in form to be paid to any of them or the survivor of them, such deposit and any additions thereto made by any of such persons after the making thereof, shall become the property of such persons as joint tenants with the right of survivorship, and the same, together with all interest thereon, shall be held for the exclusive use of such persons and may be paid to any of them during their lifetimes or the survivor or survivors. The making of the deposit in such form shall, in the absence of fraud or undue influence, be conclusive evidence, in any action or proceeding to which either such bank or the surviving depositor is a party, of the intention of the depositors to vest title to such deposit and the additions thereto in the survivor or survivors. [1967 c 133 § 5; 1961 c 280 § 6; 1955 c 33 § 30.20.015. Prior: 1951 c 18 § 1.]

Joint tenancies with right of survivorship: Chapter 64.28 RCW.

Joint tenants, simultaneous death: RCW 11.05.030.

30.20.020 Payment to surviving spouse—Accounting to estate. On the death of any depositor of any bank or trust company, such bank or trust company may pay to the surviving spouse, the moneys in said bank or trust company on deposit to the credit of said deceased depositor in cases where the amount of deposit does not exceed the sum of one thousand dollars upon receipt of an affidavit from the surviving spouse, to the effect that the depositor died and no executor or administrator has been appointed for the depositor's estate, and the depositor had on deposit in said bank or trust company money not exceeding the sum of one thousand dollars. The payment of such deposit made in good faith to the spouse making the affidavit shall be a full acquittance and release of the bank for the amount of the deposit so paid.

No probate proceeding shall be necessary to establish the right of said surviving spouse to withdraw said deposits upon the filing of said affidavit: *Provided, however,* Whenever an administrator is appointed in an estate where a withdrawal of deposits has been had in compliance with this section, the spouse so withdrawing said deposits shall account for the same to the administrator. The bank or trust company may also pay out the moneys on deposit to the credit of the deceased upon presentation of an affidavit as provided in RCW 11.62.010. [1974 1st ex.s. c 117 § 39; 1961 c 280 § 2; 1955 c 33 § 30.20.020. Prior: (i) 1943 c 143 § 1; Rem. Supp. 1943 § 3249-1. (ii) 1943 c 143 § 2; Rem. Supp. 1943 § 3249-2.]

Application, construction—Severability—Effective date—1974 1st ex.s. c 117: See RCW 11.02.080 and notes following.

30.20.030 Deposits of persons under disability. When any deposit has been or shall hereafter be made in any bank or trust company in his or her own name, by any minor, married person or person under disability, such corporation may disregard such disability and pay such money or a check or order of such person, the same as in other cases. [1973 1st ex.s. c 154 § 49; 1955 c 33 § 30.20.030. Prior: 1917 c 80 § 43; RRS § 3250.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

30.20.035 Deposits in trust. When a deposit has been or shall hereafter be made in any national bank, state bank, trust company or other banking institution subject to the supervision of the supervisor by any person in trust for another, and no other or further notice of the existence and terms of a legal and valid trust have been given in writing to such corporation, in the event of the death of a trustee, the deposit or any part thereof together with the interest or the dividends thereon may be paid to the person for whom the deposit was made. [1955 c 347 § 1.]

30.20.060 Savings deposits, regulations—Passbooks, ledger records. Any bank or trust company which shall conduct a savings account department shall repay all deposits to the depositor or his lawful representative when required at such time or times and with such interest as the regulations of the corporation shall prescribe. Such regulations shall be prescribed by the directors of any such bank or trust company and may contain provisions with respect to the terms and conditions upon which any such savings account will be maintained by said bank or trust company. Such regulations shall be posted in a conspicuous place in a room where the savings account business of any such bank or trust company shall be transacted and shall be available to depositors upon request. All such rules and regulations and all amendments thereto from time to time in effect shall be binding upon all depositors. A passbook shall be issued to each savings account depositor, or a ledger record maintained in lieu of a passbook, covering such deposits in which shall be entered each deposit by and each payment to such depositor, and no payment or checks against any savings account shall be made unless accompanied by and entered in any passbook issued therefor, except for good cause and assurance satisfactory to the corporation: *Provided, however,* That in any event, a passbook shall be issued upon request. [1961 c 280 § 3; 1959 c 106 § 5; 1955 c 33 § 30.20.060. Prior: 1945 c 69 § 1; 1935 c 93 § 1; 1917 c 80 § 38; Rem. Supp. 1945 § 3244a.]

30.20.070 Publication of deposits. Each bank and each branch bank, doing a commercial banking business in this state shall, on or before the first days of February and August of each year, publish in a newspaper of general circulation in the county in which it has its office, a statement showing the total amount of its deposits as of a date not more than thirty-two days prior to such publication. [1955 c 33 § 30.20.070. Prior: (i) 1945 c 204 § 1, part; Rem. Supp. 1945 § 3389-1, part. (ii) 1945 c 204 § 2; Rem. Supp. 1945 § 3389-2.]

30.20.080 Ineligibility to receive deposits of public funds. A bank or branch bank which fails to publish the statement prescribed by RCW 30.20.070 shall be ineligible to receive deposits of funds of the state or of any subdivision, municipality, county, public corporation, quasi public corporation, quasi municipal corporation,

irrigation district, or port district therein. [1955 c 33 § 30.20.080. Prior: (i) 1945 c 204 § 1, part; Rem. Supp. 1945 § 3389-1, part. (ii) 1945 c 204 § 3; Rem. Supp. 1945 § 3389-3.]

30.20.090 Adverse claim to a deposit to be accompanied by court order or bond—Exception. Notice to any national bank, state bank, trust company, mutual savings bank or bank under the supervision of the supervisor of banking, doing business in this state of an adverse claim to a deposit standing on its books to the credit of any person shall not be effectual to cause said bank or trust company to recognize said adverse claimant unless said adverse claimant shall also either procure a restraining order, injunction or other appropriate process against said bank or trust company from a court of competent jurisdiction in a cause therein instituted by him wherein the person to whose credit the deposit stands is made a party and served with summons or shall execute to said bank or trust company, in form and with sureties acceptable to it, a bond, in an amount which is double either the amount of said deposit or said adverse claim, whichever is the lesser, indemnifying said bank or trust company from any and all liability, loss, damage, costs and expenses, for and on account of the payment of such adverse claim or the dishonor of the check or other order of the person to whose credit the deposit stands on the books of said bank or trust company: *Provided,* That this law shall not apply in any instance where the person to whose credit the deposit stands is a fiduciary for such adverse claimant, and the facts constituting such relationship as also the facts showing reasonable cause of belief on the part of said claimant that the said fiduciary is about to misappropriate said deposit, are made to appear by the affidavit of such claimant. [1961 c 280 § 4.]

Same, as to mutual savings banks: RCW 32.12.120.

30.20.100 Payment to foreign executor or administrator—Form, publication of notice of application by such executor or administrator—Payment in lieu of domestic executor or administrator—Consent of tax commission. Upon the death of any person having funds held by or on deposit with any state or national bank or trust company, or mutual savings bank, or any bank under the supervision of the supervisor, such bank or trust company or mutual savings bank may with full acquittance to it pay over the balance of such funds to the executor or administrator of the estate of such deceased person appointed under the laws of any other state or territory or country, after (1) such foreign executor or administrator has caused a notice to be published substantially in the manner and form herein provided for, in a newspaper of general circulation in the county in which is located the office or branch of the bank holding or having on deposit said funds, or if none, then in a newspaper of general circulation in an adjoining county, at least once a week for at least three successive weeks; (2) expiration of at least ninety days after the date of first publication of such notice; and (3) consent of the tax commission to such payment or receipt for payment of any inheritance tax due has been

received by such bank or trust company: *Provided*, That if an executor or administrator of the estate of said deceased person shall be appointed and qualify as such under the laws of this state and deliver a certified copy of his letters testamentary or of administration or certificate of qualification to the office or branch of such bank or trust company or mutual savings bank holding or having on deposit such funds prior to its transmitting the same to a foreign executor or administrator, then such funds shall be paid to or to the order of the executor or administrator of said estate appointed and qualified in this state. The notice herein provided for may be published in substantially the following form:

In the Matter of the Estate of
-----, deceased

Notice is hereby given that the undersigned representative of the estate of said deceased person has applied for transfer to the undersigned of funds of said deceased held or on deposit at the ----- office of -----, the address of which is -----, in the state of Washington; and that such transfer may be made after ninety days from first publication of this notice unless an executor or administrator of said estate is appointed and qualified within the state of Washington and said bank or trust company receives written notice thereof at its said address prior to transmittal of such funds to the undersigned.

Date of first publication: -----

----- of said estate
Address: -----

Affidavit of the publisher of the publication of such notice filed with such bank, trust company or mutual savings bank shall be sufficient proof of such publication. [1961 c 280 § 5.]

Same, as to mutual savings banks: RCW 32.12.110.

Chapter 30.24
INVESTMENT OF TRUST FUNDS

Sections	
30.24.010	Provisions of chapter to control.
30.24.015	Guardians, guardianships and funds are subject to chapter.
30.24.020	General criterion specified.
30.24.030	Investment in savings accounts—Requirements.
30.24.035	Investments in securities of certain investment trusts.
30.24.037	Investment or distribution of funds held in fiduciary capacity—Deposit in other departments authorized—Collateral security required, exception.
30.24.040	Court may permit deviation from terms of trust instrument.
30.24.050	Scope of chapter.
30.24.060	Fiduciary may hold trust property though not qualified investment and securities are securities issued by the corporation which is the fiduciary.
30.24.070	Terms of trust instrument controlling.
30.24.080	Securities in default ineligible.
30.24.090	Dealings with self or affiliate.
30.24.120	Investments in policies of life insurance.
30.24.130	Person to whom power or authority to direct or control acts of trustee or investments of a trust are conferred deemed a fiduciary—Liability.

Fiduciary bonds, premium as lawful expense: RCW 48.28.020.

Release of powers of appointment: Chapter 64.24 RCW.

30.24.010 Provisions of chapter to control. Any corporation, association, or person handling or investing trust funds as a fiduciary shall be governed in the handling and investment of such funds as in this chapter specified. [1955 c 33 § 30.24.010. Prior: 1947 c 100 § 1; Rem. Supp. 1947 § 3255-10a.]

30.24.015 Guardians, guardianships and funds are subject to chapter. In addition to other fiduciaries, a guardian of any estate is a fiduciary within the meaning of this chapter; and in addition to other trusts, a guardianship of any estate is a trust within the meaning of this chapter; and in addition to other trust funds, guardianship funds are trust funds within the meaning of this chapter. [1955 c 33 § 30.24.015. Prior: 1951 c 218 § 1.]

30.24.020 General criterion specified. In acquiring, investing, reinvesting, exchanging, selling and managing property for the benefit of another, a fiduciary shall exercise the judgment and care under the circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Within the limitations of the foregoing standard, and subject to any express provisions or limitations contained in any particular trust instrument, a fiduciary is authorized to acquire and retain every kind of property, real, personal or mixed, and every kind of investment specifically including but not by way of limitation, debentures and other corporate obligations, and stocks, preferred or common, which men of prudence, discretion and intelligence acquire for their own account. [1955 c 33 § 30.24.020. Prior: 1947 c 100 § 2; Rem. Supp. 1947 § 3255-10b.]

30.24.030 Investment in savings accounts—Requirements. A corporation doing a trust business may invest trust funds in savings accounts with itself to the extent that such deposits are insured by the Federal Deposit Insurance Corporation: *Provided*, That additional trust funds may be so invested by the corporation if it first sets aside under the control of its trust department as collateral security:

(1) Direct obligations of the United States or other obligations fully guaranteed by the United States as to principal and interest; or

(2) Bonds or other obligations which constitute general obligations of any state of the United States or municipal subdivision thereof.

The securities so deposited or securities substituted therefor as collateral shall at all times be at least equal in market value to the amount of such funds so deposited. [1967 c 133 § 3; 1955 c 33 § 30.24.030. Prior: 1947 c 100 § 3; Rem. Supp. 1947 § 3255-10c.]

30.24.035 Investments in securities of certain investment trusts. Within the standards of judgment and care established by law, and subject to any express provisions or limitations contained in any particular trust instrument, guardians, trustees and other fiduciaries, whether individual or corporate, are authorized to acquire and retain securities of any open-end or closed-end management type investment company or investment trust registered under the federal investment company act of 1940 as now or hereafter amended. [1955 c 33 § 30.24.035. Prior: 1951 c 132 § 1.]

30.24.037 Investment or distribution of funds held in fiduciary capacity—Deposit in other departments authorized—Collateral security required, exception. Funds held by a bank or trust company in a fiduciary capacity awaiting investment or distribution shall not be held uninvested or undistributed any longer than is reasonable for the proper management of the account. Such funds, including managing agency accounts, may, unless prohibited by the instrument creating the trust or by other statutes of this state, be deposited in the commercial or savings or other department of the bank or trust company, provided that the bank or trust company shall first set aside under control of the trust department as collateral security:

(1) Direct obligations of the United States or other obligations fully guaranteed by the United States as to principal and interest; or

(2) Bonds or other obligations which constitute general obligations of any state of the United States or municipal subdivision thereof.

The securities so deposited or securities substituted therefor as collateral shall at all times be at least equal in market value to the amount of such funds so deposited, but such security shall not be required to the extent that the funds so deposited are insured by the Federal Deposit Insurance Corporation. [1967 c 133 § 4.]

30.24.040 Court may permit deviation from terms of trust instrument. Nothing contained in this chapter shall be construed as restricting the power of a court of proper jurisdiction to permit a fiduciary to deviate from the terms of any will, agreement, or other instrument relating to the acquisition, investment, reinvestment, exchange, retention, sale, or management of fiduciary property. [1955 c 33 § 30.24.040. Prior: 1947 c 100 § 4; Rem. Supp. 1947 § 3255-10d.]

30.24.050 Scope of chapter. The provisions of this chapter shall govern fiduciaries acting under wills, agreements, court orders, and other instruments now or hereafter in force. [1955 c 33 § 30.24.050. Prior: 1947 c 100 § 5; Rem. Supp. 1947 § 3255-10e.]

30.24.060 Fiduciary may hold trust property though not qualified investment and securities are securities issued by the corporation which is the fiduciary. In the absence of express provisions to the contrary in the trust instrument, any fiduciary may hold during the life of

the trust all securities or other property, real or personal, received into or acquired by the trust from any source, excepting such as are purchased by the fiduciary in administering the trust, even though such securities or other property are not qualified investments under the provisions of this chapter, and even though such securities are securities issued by the corporation which is such fiduciary: *Provided*, That any investment of trust funds made under this chapter or any prior law which was a qualified investment at the time the same was made shall remain a qualified investment. [1967 c 209 § 1; 1955 c 33 § 30.24.060. Prior: 1947 c 100 § 6; 1941 c 41 § 11; Rem. Supp. 1947 § 3255-11.]

30.24.070 Terms of trust instrument controlling. Any fiduciary may invest funds held in trust under an instrument creating such trust, in any manner and/or in any investment and/or in any class of investments authorized by such instrument, whether or not the same is otherwise qualified for the investment of trust funds. The terms "legal investment" or "authorized investment" or words of similar import, as used in any such instrument, shall be taken to mean any investment which is permitted by the terms of RCW 30.24.020. [1955 c 33 § 30.24.070. Prior: 1947 c 100 § 7; 1941 c 41 § 13; Rem. Supp. 1947 § 3255-13.]

30.24.080 Securities in default ineligible. Nothing in this chapter shall be construed as authorizing any fiduciary to invest funds held in trust, in any bonds, mortgages, notes or other securities, during any default in payment of either principal or interest thereof. [1955 c 33 § 30.24.080. Prior: 1947 c 100 § 8; 1941 c 41 § 16; Rem. Supp. 1947 § 3255-16.]

30.24.090 Dealings with self or affiliate. Unless the instrument creating the trust expressly provides to the contrary, any fiduciary in carrying out the obligations of the trust, may not buy or sell investments from or to himself or itself or any affiliated or subsidiary company or association. [1955 c 33 § 30.24.090. Prior: 1947 c 100 § 9; 1941 c 41 § 17; Rem. Supp. 1947 § 3255-17.]

30.24.120 Investments in policies of life insurance. Within the standards of judgment and care established by law, and subject to any express provisions or limitations contained in any particular trust instrument, guardians, trustees and other fiduciaries, whether individual or corporate, are authorized to invest the principal of trust funds to acquire and retain policies of life insurance made upon the life of any person for whose benefit the fiduciary holds property or made upon the life of another in whose life such person has an insurable interest, the policy and the proceeds or avails thereof to be the property of the fiduciary.

The purpose of this section is to affirm that certain policies of life insurance are among the investments authorized for fiduciaries, but without creating any inference that a policy of life insurance is preferable to other authorized investments in a particular instance. [1973 1st ex.s. c 89 § 1.]

Insurable interest, guardian, trustee or other fiduciary: RCW 48.18.030(3)(d).

30.24.130 Person to whom power or authority to direct or control acts of trustee or investments of a trust are conferred deemed a fiduciary—Liability. Whenever power or authority to direct or control the acts of a trustee or the investments of a trust is conferred directly or indirectly upon any person other than the designated trustee of the trust, such person shall be deemed to be a fiduciary and shall be liable to the beneficiaries of said trust and to the designated trustee to the same extent as if he were a designated trustee in relation to the exercise or nonexercise of such power or authority. [1973 1st ex.s. c 89 § 2.]

Chapter 30.28 COMMON TRUST FUNDS

Sections

30.28.010	Funds authorized—Investment—Rules and regulations.
30.28.020	Accounting.
30.28.030	Applicability of chapter.
30.28.040	Interpretation.
30.28.050	Chapter designated "uniform common trust fund act."

30.28.010 Funds authorized—Investment—Rules and regulations. Any bank or trust company qualified to act as fiduciary in this state may establish common trust funds for the purpose of furnishing investments to itself as fiduciary, or to itself and others, as cofiduciaries; and may, as such fiduciary or cofiduciary, invest funds which it lawfully holds for investment in interests in such common trust funds, if such investment is not prohibited by the instrument, judgment, decree, or order creating such fiduciary relationship, and if, in the case of cofiduciaries, the bank or trust company procures the consent of its cofiduciary or cofiduciaries to such investment: *Provided*, That any bank or trust company qualified to act as fiduciary in this state, which is not a member of the federal reserve system, shall, in the operation of such common trust fund, comply with the rules and regulations as made from time to time by the supervisor and the supervisor is hereby authorized and empowered to make such rules and regulations as he may deem necessary and proper in the premises. [1955 c 33 § 30.28.010. Prior: 1943 c 55 § 1; Rem. Supp. 1943 § 3388.]

30.28.020 Accounting. Unless ordered by a court of competent jurisdiction the bank or trust company operating such common trust funds is not required to render a court accounting with regard to such funds; but it may, by application to the superior court, secure approval of such an accounting on such conditions as the court may establish. [1955 c 33 § 30.28.020. Prior: 1943 c 55 § 2; Rem. Supp. 1943 § 3388-1.]

30.28.030 Applicability of chapter. This chapter shall apply to fiduciary relationships in existence on June 11, 1943, or thereafter established. [1955 c 33 § 30.28.030. Prior: 1943 c 55 § 7; Rem. Supp. 1943 § 3388-6.]

30.28.040 Interpretation. This chapter shall be so interpreted and construed to effectuate its general purpose to make uniform the laws of those states which enact it. [1955 c 33 § 30.28.040. Prior: 1943 c 55 § 3; Rem. Supp. 1943 § 3388-2.]

30.28.050 Chapter designated "uniform common trust fund act". This chapter may be cited as the uniform common trust fund act. [1955 c 33 § 30.28.050. Prior: 1943 c 55 § 4; Rem. Supp. 1943 § 3388-3.]

Chapter 30.30 TRUSTEES' ACCOUNTING ACT

Sections

30.30.010	Scope of chapter—Exceptions.
30.30.020	Trustee's annual statement.
30.30.030	Intermediate and final accounts—Contents—Filing.
30.30.040	Account—Court may require—Petition.
30.30.050	Account filed—Return day—Notice.
30.30.060	Account filed—Objections—Representation of beneficiaries.
30.30.070	Court to determine accuracy, validity—Decree.
30.30.080	Effect of decree.
30.30.090	Appeal from decree.
30.30.100	Settlor may waive or increase accounting requirements—Waiver by beneficiary.
30.30.110	Waiver—How constituted.
30.30.120	Execution upon trust income or vested remainder—Permitted, when.

Reviser's note: For prior laws on this subject see: 1941 c 229 §§ 1-28; Rem. Supp. 1941 §§ 11548-1—11548-28; 1943 c 152 § 1; Rem. Supp. 1943 § 11548-27.

Uniform act for simplification of fiduciary security transfers: Chapter 21.17 RCW.

30.30.010 Scope of chapter—Exceptions. This chapter shall not apply to resulting trusts, constructive trusts, business trusts where certificates of beneficial interest are issued to the beneficiaries, investment trusts, voting trusts, insurance trusts prior to the death of the insured, trusts in the nature of mortgages or pledges, trusts created by judgment or decree of a federal court or of the superior court when not sitting in probate, liquidation trusts or trusts for the sole purpose of paying dividends, interest or interest coupons, salaries, wages or pensions; nor shall this chapter apply to executors, administrators or guardians. [1955 c 33 § 30.30.010. Prior: 1951 c 226 § 10.]

30.30.020 Trustee's annual statement. The trustee or trustees appointed by any will, deed or agreement heretofore or hereafter executed shall mail or deliver at least annually to each adult income trust beneficiary a written itemized statement of all current receipts and disbursements made by the trustee of the funds of the trust both principal and income, and upon the request of any such beneficiary shall furnish him an itemized statement of all property then held by such trustee, and may also file any such statement in the superior court of the county in which the trustee or one of the trustees resides. [1955 c 33 § 30.30.020. Prior: 1951 c 226 § 2.]

30.30.030 Intermediate and final accounts—Contents—Filing. In addition thereto any such trustee or trustees whenever it or they so desire, may file in the

superior court of the county in which the trustees or one of the trustees resides an intermediate account under oath showing:

- (1) The period covered by the account;
- (2) The total principal with which the trustee is chargeable according to the last preceding account or the inventory if there is no preceding account;
- (3) An itemized statement of all principal funds received and disbursed during such period;
- (4) An itemized statement of all income received and disbursed during such period, unless waived;
- (5) The balance of such principal and income remaining at the close of such period and how invested;
- (6) The names and addresses of all living beneficiaries, including contingent beneficiaries, of the trust, and a statement as to any such beneficiary known to be under legal disability;
- (7) A description of any possible unborn or unascertained beneficiary and his interest in the trust fund.

In addition thereto, after the time for termination of the trust shall have arrived, the trustee or trustees may file a final account in similar manner. [1955 c 33 § 30.30.030. Prior: 1951 c 226 § 3.]

30.30.040 Account—Court may require—Petition. Upon the petition of any settlor or of any beneficiary of such a trust after due notice thereof to the trustee the superior court in the county where the trustee or one of the trustees resides may direct the trustee or trustees thereof to file in said court such an account at any time subsequent to one year from the day on which such a report was last filed, or if none, then after one year from the inception of the trust. [1955 c 33 § 30.30.040. Prior: 1951 c 226 § 4.]

30.30.050 Account filed—Return day—Notice. When any such account shall have been filed the clerk of the court where filed shall fix a return day therefor, and issue a notice as provided for herein. If each of the beneficiaries and the guardians and guardians ad litem, if any, appointed pursuant to RCW 30.30.060, is personally served with a copy of the notice, whether within or outside the state of Washington, at least twenty-five days prior to the return day, then no publication of the notice shall be required; otherwise the trustees shall cause notice as provided for herein to be given by publishing the same at least once a week for three successive weeks preceding the return day, the first publication to be at least twenty-five days preceding the return day, such publication to be in a newspaper of general circulation in the county, or if none then in an adjoining county. And in any event at least twenty-five days prior to the return day a copy of the notice shall be either served upon each beneficiary not represented by guardian or guardian ad litem or mailed to each such beneficiary not so served at such beneficiary's address last known to the trustee; and shall be either served upon each guardian and guardian ad litem appointed pursuant to RCW 30.30.060, or mailed to each such guardian and guardian ad litem not so served at such guardian or guardian ad litem's address last known to the trustee. Proof of service of the notice may

be made by affidavit as provided for service of summons in civil actions, or by written admission of service signed by the person served. The notice shall state the time and place for the return day, the name or names of the trustee or trustees who have filed the account, that the account has been filed, that the court is asked to settle such account, and that any objections or exceptions thereto must be filed with the clerk of said court on or before such return day. [1955 c 33 § 30.30.050. Prior: 1951 c 226 § 5.]

30.30.060 Account filed—Objections—Representation of beneficiaries. Upon or before the return day any beneficiary of the trust may file his written objections or exceptions to the account filed or to any action of the trustee or trustees set forth therein. The court shall appoint either the legal guardian of a beneficiary, or a guardian ad litem to represent the interests of any such beneficiary who is an infant or of unsound mind or otherwise legally incompetent, or who is yet unborn or unascertained, and such beneficiary shall be bound by any action taken by such representative. Every unborn or unascertainable beneficiary shall be concluded by any action taken by the court for or against any living beneficiary of the same class or whose interests are similar to the interests of such unborn or unascertainable beneficiary. [1955 c 33 § 30.30.060. Prior: 1951 c 226 § 6.]

30.30.070 Court to determine accuracy, validity—Decree. At the same time or at some later date fixed by the court if so requested by one or more of the parties, the court without the intervention of a jury and after hearing all the evidence submitted shall determine the correctness of the account and the validity and propriety of all actions of the trustee or trustees set forth therein including the purchase, retention and disposition of any of the property and funds of the trust, and shall render its decree either approving or disapproving the same or any part thereof, and surcharging the trustee or trustees for all losses, if any, caused by negligent or wilful breaches of trust. [1955 c 33 § 30.30.070. Prior: 1951 c 226 § 7.]

30.30.080 Effect of decree. The decree so rendered shall be deemed final, conclusive and binding upon all the parties interested including all incompetent, unborn and unascertained beneficiaries of the trust subject only to the right of appeal hereinafter stated. [1955 c 33 § 30.30.080. Prior: 1951 c 226 § 8.]

30.30.090 Appeal from decree. The decree so rendered shall be a final order from which any party in interest may appeal as in civil actions to the supreme court or the court of appeals of the state of Washington. [1971 c 81 § 80; 1955 c 33 § 30.30.090. Prior: 1951 c 226 § 9.]

30.30.100 Settlor may waive or increase accounting requirements—Waiver by beneficiary. The settlor of any trust governed by this chapter may waive any or all of the provisions of RCW 30.30.020 requiring periodical

statements to beneficiaries, or may add additional duties, in the instrument creating the trust; and any adult beneficiary entitled to an accounting under either RCW 30.30.020 or 30.30.030 may waive such an accounting by a separate instrument delivered to the trustee. [1955 c 33 § 30.30.100. Prior: 1951 c 226 § 11.]

30.30.110 Waiver—How constituted. This chapter is declared to be of similar import to the uniform trustees' accounting act. A provision in any will, deed or agreement heretofore or hereafter executed which provides in substance:

(1) That the requirements or provisions of the uniform trustees' accounting act, whether by name or other reference thereto are waived, or that the trustee shall not be required to comply therewith; or

(2) That the requirements or provisions of any other act of like or similar import are waived, or that the trustee shall not be required to comply therewith; shall constitute a waiver by the settlor pursuant to RCW 30.30.100. [1955 c 33 § 30.30.110. Prior: 1951 c 226 § 12.]

30.30.120 Execution upon trust income or vested remainder—Permitted, when. Nothing in RCW 6.32.250 shall forbid execution upon the income of any trust created by a person other than the judgment debtor for debt arising through the furnishing of the necessities of life to the beneficiary of such trust; or as to such income forbid the enforcement of any order of the superior court requiring the payment of support for the children under the age of eighteen of any beneficiary; or forbid the enforcement of any order of the superior court subjecting the vested remainder of any such trust upon its expiration to execution for the debts of the remainderman. [1955 c 33 § 30.30.120. Prior: 1951 c 226 § 1.]

Chapter 30.32

DEALINGS WITH FEDERAL LOAN AGENCIES

Sections

30.32.010	Membership in federal reserve system—Investment in stock of Federal Deposit Insurance Corporation.
30.32.020	Investment in federal home loan bank stock or bonds.
30.32.030	May borrow from home loan bank.
30.32.040	Federal home loan bank as depository.

30.32.010 Membership in federal reserve system—Investment in stock of Federal Deposit Insurance Corporation. Any bank, trust company or mutual savings bank may become a member of the federal reserve system of the United States and to that end may comply with all laws of the United States and all rules, regulations and requirements promulgated pursuant thereto, including the investment of its funds in the stock of a federal reserve bank; and any bank, trust company or mutual savings bank, whether a member of the federal reserve system or not, may invest its funds in the stock of the Federal Deposit Insurance Corporation created by the act of congress approved June 16, 1933, and may participate in the insurance of bank deposits and obligate itself for the cost of such participation by assessments or otherwise in accordance with the laws of the

United States. [1955 c 33 § 30.32.010. Prior: 1933 ex.s. c 9 § 1; RRS § 3235-1.]

30.32.020 Investment in federal home loan bank stock or bonds. Any savings and loan association, building and loan association, bank, trust company, savings bank, or mutual savings bank may become a member of and invest its funds in the bonds and/or the capital stock of a federal home loan bank, and vote such stock in the manner prescribed by its board of directors. [1955 c 33 § 30.32.020. Prior: 1933 c 105 § 1; RRS § 3294-1.]

30.32.030 May borrow from home loan bank. Any such bank, trust company, insurance company, or association, may borrow from any home loan bank and as security for borrowing may pledge therewith the notes, mortgages, trust deeds which it holds as shall be required by federal law, and under such rules and regulations as shall be adopted by a federal home loan bank. [1955 c 33 § 30.32.030. Prior: 1933 c 105 § 2; RRS § 3294-2.]

30.32.040 Federal home loan bank as depository. Any such bank, trust company, insurance company or association, may designate a federal home loan bank as a depository for its funds. [1955 c 33 § 30.32.040. Prior: 1933 c 105 § 3; RRS § 3294-3.]

Chapter 30.36

CAPITAL NOTES OR DEBENTURES

Sections

30.36.010	Definitions.
30.36.020	Issuance and sale—Status.
30.36.030	Stock at less than par—Impairment.
30.36.040	Impairment to be corrected before retirement of notes or debentures.
30.36.050	Not subject to assessments—Liability of holders.

30.36.010 Definitions. Capital notes or debentures, where used in this chapter, shall mean notes or other obligations issued by a bank, trust company or mutual savings bank, for money obtained and used as additional capital or to replace impaired capital stock: *Provided*, Such notes or other obligations are subordinate to the rights of depositors and other creditors.

The term "capital" where used in this chapter shall mean capital stock and/or capital notes. [1955 c 33 § 30.36.010. Prior: 1935 c 42 § 1; RRS § 3295-1.]

30.36.020 Issuance and sale—Status. With the approval of the supervisor, any bank, trust company or mutual savings bank may at any time, through action of its board of directors, issue and sell its capital notes or debentures. Such capital notes or debentures shall be subordinate to the claims of depositors and other creditors. [1955 c 33 § 30.36.020. Prior: 1935 c 42 § 2; RRS 3295-2.]

30.36.030 Stock at less than par—Impairment. Where any bank, trust company or mutual savings bank has issued and has outstanding capital notes or debentures, it may carry its capital stock on its books at

a sum less than par, and it shall not be considered impaired so long as the amount of such capital notes or debentures equals or exceeds the impairment as found by the supervisor. [1955 c 33 § 30.36.030. Prior: 1935 c 42 § 3; RRS § 3295-3.]

30.36.040 Impairment to be corrected before retirement of notes or debentures. Before such capital notes or debentures are retired or paid by the bank, trust company or mutual savings bank, any existing impairment of its capital stock must be overcome or corrected to the satisfaction of the supervisor. [1955 c 33 § 30.36-.040. Prior: 1935 c 42 § 4; RRS § 3295-4.]

30.36.050 Not subject to assessments—Liability of holders. Such capital notes or debentures shall in no case be subject to any assessment. The holders of such capital notes or debentures shall not be held individually responsible, as such holders, for any debts, contracts or engagements of such institution, and as such holders, shall not be held liable for assessments to restore impairments in the capital of such institution. [1955 c 33 § 30.36.050. Prior: 1935 c 42 § 5; RRS § 3295-5.]

Chapter 30.40 BRANCH BANKS

Sections

- 30.40.010 Establishment of branch.
30.40.020 Branches authorized—Restrictions.

30.40.010 Establishment of branch. See RCW 30.04.280.

30.40.020 Branches authorized—Restrictions. A bank or trust company having a paid-in capital of not less than five hundred thousand dollars may, with the approval of the supervisor, establish and operate branches in any city or town within the state. A bank or trust company having a paid-in capital of not less than two hundred thousand dollars may, with the approval of the supervisor, establish and operate branches within the limits of the county in which its principal place of business is located. A bank having a paid-in capital of not less than one million dollars may, with the approval of the supervisor, establish and operate branches in any foreign country. The supervisor's approval of a branch within this state shall be conditioned on a finding that the resources in the neighborhood of the proposed location and in the surrounding country offer a reasonable promise of adequate support for the proposed branch and that the proposed branch is not being formed for other than the legitimate objects covered by this title. The supervisor's approval of a branch in a foreign country shall be conditioned on a finding that the proposed location offers a reasonable promise of adequate support for the proposed branch, that the proposed branch is not being formed for other than the legitimate objects covered by this title, and that the principal purpose for establishing such branch is to aid in financing or facilitating exports and/or imports and

the exchange of commodities with any foreign country or the agencies or nationals thereof.

The aggregate paid-in capital stock of every bank or trust company operating branches shall at no time be less than the aggregate of the minimum capital required by law for the establishment of an equal number of banks or trust companies in the cities or towns wherein the principal office or place of business of such bank or trust company and its branches are located.

No bank or trust company shall establish or operate any branch, except a branch in a foreign country, in any city or town outside the city or town in which its principal place of business is located in which any bank, trust company or national banking association regularly transacts a banking or trust business, except by taking over or acquiring an existing bank, trust company or national banking association or the branch of any bank, trust company or national banking association operating in such city or town. [1973 1st ex.s. c 53 § 35; 1969 c 136 § 6; 1955 c 33 § 30.40.020. Prior: 1933 c 42 § 5; RRS § 3231-1.]

Severability—1973 1st ex.s. c 53: See RCW 34.42.900.

Chapter 30.42 ALIEN BANKS

Sections

- 30.42.010 Purpose.
30.42.020 Definitions.
30.42.030 Authorization and compliance with chapter required.
30.42.040 More than one office prohibited.
30.42.050 Acquisition or serving on board of directors or trustees of other financial institutions prohibited.
30.42.060 Conditions to be met before opening office in state.
30.42.070 Allocated paid-in capital—Requirements.
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30.42.090 Approval of application—Criteria—Reciprocity.
30.42.100 Notice of approval—Filing—Time period for commencing business.
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30.42.130 Taking possession by supervisor—Reasons—Disposition of deposits—Claims—Priorities.
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30.42.300 Suspension or revocation of certificate to operate—Grounds.
30.42.310 Change of location.
30.42.320 Rules and regulations.
30.42.330 Fees.

30.42.340 Alien banks or branches in business on or before effective date.

30.42.900 Severability—1973 1st ex.s. c 53.

30.42.010 Purpose. The purpose of this chapter is to establish a legal and regulatory framework for operation by alien banks in the state of Washington that will:

(1) Create a financial climate which will benefit the economy of the state of Washington;

(2) Provide a well regulated and supervised financial system to assist the movement of foreign capital into Washington state for the support and diversification of the local industrial base;

(3) Assist the development of the economy of the state of Washington without disrupting business relationships of state and federal financial institutions. [1973 1st ex.s. c 53 § 1.]

30.42.020 Definitions. For the purposes of this chapter, the following terms shall be defined as follows:

(1) "Alien bank" means a bank organized under the laws of a foreign country and having its principal place of business in that country, the majority of the beneficial ownership and control of which is vested in citizens of countries other than the United States of America.

(2) "Office" means a branch or agency of an alien bank carrying on business in this state pursuant to this chapter.

(3) "Branch" means an office of an alien bank that is exercising the powers authorized by RCW 30.42.110.

(4) "Agency" means an office of an alien bank that is exercising the powers authorized by RCW 30.42.180.

(5) "Bureau" means an alien bank's operation in this state exercising the powers authorized by RCW 30.42.230.

(6) "Supervisor" means the supervisor of banking of the state of Washington. [1973 1st ex.s. c 53 § 2.]

30.42.030 Authorization and compliance with chapter required. An alien bank shall not establish and operate an office or bureau in this state unless it is authorized to do so by the supervisor and unless it first complies with all of the provisions of this chapter and then only to the extent expressly permitted by this chapter. [1973 1st ex.s. c 53 § 3.]

30.42.040 More than one office prohibited. An alien bank shall not be permitted to have more than one office in this state. [1973 1st ex.s. c 53 § 4.]

30.42.050 Acquisition or serving on board of directors or trustees of other financial institutions prohibited. An alien bank shall not take over or acquire an existing federal or state-chartered bank, trust company, mutual savings bank, savings and loan association, or credit union or any branch of any such bank, trust company, mutual savings bank, savings and loan association, or credit union in this state; nor shall any designee, officer, agent or employee of an alien bank serve on the board of directors of any federal or state bank, trust company, savings and loan association, or credit union, or the board of trustees of a mutual savings bank. [1973 1st ex.s. c 53 § 5.]

30.42.060 Conditions to be met before opening office in state. An alien bank shall not hereafter open an office in this state until it has met the following conditions:

(1) It has filed with the supervisor an application in such form and containing such information as shall be prescribed by the supervisor.

(2) It has designated the supervisor by a duly executed instrument in writing, its agent, upon whom process in any action or proceeding arising out of a transaction with the Washington office may be served. Such service shall have the same force and effect as if the alien bank were a Washington corporation and had been lawfully served with process within the state. The supervisor shall forward by mail, postage prepaid, a copy of every process served upon him under the provisions of this subdivision, addressed to the manager or agent of such bank at its office in this state.

(3) It has allocated and assigned to its office within this state paid-in capital of not less than two hundred thousand dollars or such larger amounts as the supervisor in his discretion may require.

(4) It has filed with the supervisor a letter from its chief executive officer guaranteeing that the alien bank's entire capital and surplus is and shall be available for all liabilities and obligations of its office doing business in this state.

(5) It has paid the fees required by law and established by the supervisor pursuant to RCW 30.08.095.

(6) It has received from the supervisor his certificate authorizing the transaction of business in conformity with this chapter. [1973 1st ex.s. c 53 § 6.]

30.42.070 Allocated paid-in capital—Requirements. The capital allocated as required in RCW 30.42.060(3) shall be maintained within this state at all times in cash or in supervisor approved interest bearing bonds, notes, debentures, or other obligations of the United States or of any agency or instrumentality thereof, or guaranteed by the United States; or of this state, or of a city, county, town, or other municipal corporation, or instrumentality of this state or guaranteed by this state. Such capital shall be deposited with a bank qualified to do business in and having its principal place of business within this state. Such bank shall issue a written receipt addressed and delivered to the supervisor reciting that such deposit is being held for the sole benefit of the United States domiciled creditors of such alien bank's Washington office and that the same is subject to his order without offset for the payment of such creditors. For the purposes of this section, the term "creditor" shall not include any other offices, branches, subsidiaries, or affiliates of such alien bank. Subject to the approval of the supervisor, reasonable arrangements may be made for substitution of securities. So long as it shall continue business in this state in conformance with this chapter and shall remain solvent, such alien bank shall be permitted to collect all interest and/or income from the assets constituting such allocated capital.

Should any securities so depreciate in market value and/or quality as to reduce the deposit below the amount required, additional money or securities shall

be deposited promptly in amounts sufficient to meet such requirements. The supervisor may make an investigation of the market value and of the quality of any security deposited at the time such security is presented for deposit or at any time thereafter. The supervisor may make such charge as may be reasonable and proper for such investigation. [1973 1st ex.s. c 53 § 7.]

30.42.080 Separate assets—Books and records—Priority as to assets. Every alien bank maintaining an office in this state shall keep the assets of its Washington office entirely separate and apart from the assets of its other operations as though the Washington office was conducted as a separate and distinct entity. Every such alien bank shall keep separate books of account and records for its Washington office and shall observe with respect to such office the applicable requirements of this chapter and the applicable rules and regulations of the supervisor. The United States domiciled creditors of such alien bank's Washington office shall be entitled to priority with respect to the assets of its Washington office before such assets may be used or applied for the benefit of its other creditors or transferred to its general business. [1973 1st ex.s. c 53 § 8.]

30.42.090 Approval of application—Criteria—Reciprocity. The supervisor may give or withhold his approval of an application by an alien bank to establish an office in this state at his discretion. His decision shall be based on the information submitted to his office in the application required by RCW 30.42.060 and such additional investigation as the supervisor deems necessary or appropriate. Prior to granting approval to said application, he shall have ascertained to his satisfaction that all of the following are true:

- (1) the proposed location offers a reasonable promise of adequate support for the proposed office;
- (2) the proposed office is not being formed for other than legitimate objects;
- (3) the proposed officers of the proposed office have sufficient banking experience and ability to afford reasonable promise of successful operation;
- (4) the reputation and financial standing of the alien bank is such as to command the confidence and warrant belief that the business of the proposed office will be conducted honestly and efficiently in accordance with the intent and purpose of this chapter, as set forth in RCW 30.42.010;
- (5) the principal purpose of establishing such office shall be within the intent of this chapter.

The supervisor shall not grant an application for an office of an alien bank unless the law of the foreign country under which laws the alien bank is organized permits a bank with its principal place of business in this state to establish in that foreign country a branch, agency or similar operation. [1973 1st ex.s. c 53 § 9.]

30.42.100 Notice of approval—Filing—Time period for commencing business. If the supervisor approves the application, he shall notify the alien bank of his approval and shall file certified copies of its charter, certificate or other authorization to do business with the

secretary of state and with the recording officer of the county in which the office is to be located. Upon such filing, the supervisor shall issue a certificate of authority stating that the alien bank is authorized to conduct business through a branch or agency in this state at the place designated in accordance with this chapter. Each such certificate shall be conspicuously displayed at all times in the place of business specified therein.

The office of the alien bank must commence business within six months after the issuance of the supervisor's certificate: *Provided*, That the supervisor for good cause shown may extend such period for an additional time not to exceed three months. [1973 1st ex.s. c 53 § 10.]

30.42.110 Powers and activities. An approved branch of an alien bank may carry on only the following types of activities:

(1) Deposits. (a) The branch may solicit, receive, or accept money or its equivalent on deposit as a regular business from the following customers:

(i) Corporations, partnerships, or other business organizations, the majority of the beneficial ownership of which is owned by persons of a country other than the United States and who are not residents of the United States, and any subsidiary or affiliate owned or controlled by such an organization;

(ii) Corporations organized under the laws of a state other than this state which have not obtained a certificate of authority to transact business in this state pursuant to chapter 23A.32 RCW;

(iii) Natural persons who are citizens of a country other than the United States and are not residents of the United States;

(iv) Any other person, if the deposit is to be transmitted abroad, or is to provide collateral or payments for extensions of credit by the branch, or represents proceeds of collections abroad which are to be used to pay for goods exported or imported or for other direct costs of export/import, or represents proceeds of the extension of credit by the branch;

(v) The government of the country in which the alien bank is incorporated;

(vi) Other banks;

(vii) Any other persons, provided that the aggregate of deposits from such persons shall not exceed twenty percent of the aggregate of deposits accepted pursuant to this section.

(b) A branch may accept demand deposits, time deposits, and savings deposits from the customers specified in this section only upon the same terms and conditions (including nature and extent of such deposits, withdrawal, and the payment of interest thereon) that banks organized under the laws of this state and insured by the Federal Deposit Insurance Corporation may accept such deposits. Such deposits shall be subject to RCW 30.20.010 through 30.20.035, as now or hereafter amended. The branch shall maintain reserves or minimum available funds in this state for such deposits to the same extent that reserves or minimum available funds must be maintained by banks organized under the laws of this state.

(2) Loans. A branch shall have the power to make loans and guarantee obligations subject to the following limitations:

(a) Customers. Loans or guarantees shall be restricted to the following types of customers:

(i) Corporations, partnerships or other business organizations, the majority of the beneficial ownership of which is owned by persons of a country other than the United States and who are not residents of the United States, and any subsidiary or affiliate owned or controlled by such an organization;

(ii) Corporations organized under the laws of a state other than this state which have not obtained a certificate of authority to transact business in this state pursuant to chapter 23A.32 RCW;

(iii) Natural persons who are citizens of a country other than the United States and are not residents of the United States;

(iv) Persons engaged in the international movement of goods and services.

(b) Purpose. Loans and guarantees may be made only for the following purposes:

(i) With respect to customers specified in subsection (2)(a)(i), (ii), and (iii) of this section, for the financing of the international movement of goods and services and for all operational needs including working capital and short-term operating needs and for the acquisition of fixed assets.

(ii) With respect to customers specified in subsection (2)(a)(iv) of this section, for the financing of the international movement of goods and services, and construction of facilities located and operations conducted outside of this state.

(iii) Nothing herein shall permit a branch to make consumer loans to individuals.

(c) Amount. A branch shall be subject to the same loan limitations that apply to banks organized under the laws of this state; however, the base for computing the applicable loan limitation shall be the entire capital and surplus of the alien bank.

(3) Other activities. A branch of an alien bank in this state shall have the power to carry out these other activities:

(a) Borrow funds from banks and other financial institutions;

(b) Buy and sell foreign exchange;

(c) Receive checks, bills, drafts, acceptances, notes, bonds, coupons, and other securities for collection abroad and collect such instruments in the United States for customers abroad;

(d) Hold securities in safekeeping for, or buy and sell securities upon the order and for the risk of, customers abroad;

(e) Act as paying agent for securities issued by foreign governments or other organizations organized under foreign law and not qualified under the laws of the United States, or any state or the District of Columbia to do business in the United States;

(f) In order to prevent loss on debts previously contracted a branch may acquire shares in a corporation: *Provided*, That the shares are disposed of as soon as

practical but in no event later than two years from the date of acquisition;

(g) Issue letters of credit and create acceptances;

(h) In addition to the powers and activities expressly authorized by this section, a branch shall have the power to carry on such additional activities which are necessarily incidental to the activities expressly authorized by this section. [1973 1st ex.s. c 53 § 11.]

30.42.120 Requirements for accepting deposits or transacting business. A branch shall not commence to transact in this state the business of accepting deposits or transact such business thereafter unless it has met the following requirements:

(1) It has obtained federal deposit insurance corporation insurance covering its eligible deposit liabilities within this state, or in lieu thereof, made arrangements satisfactory to the supervisor for maintenance within this state of additional capital equal to not less than ten percent of its deposit liabilities. Such additional capital shall be deposited in the manner provided in RCW 30.42.070.

(2) It holds in this state currency, bonds, notes, debentures, drafts, bills of exchange, or other evidences of indebtedness or other obligations payable in the United States or in United States' funds or, with the approval of the supervisor, in funds freely convertible into United States' funds, in an amount not less than one hundred eight percent of the aggregate amount of liabilities of such alien bank payable at or through its office in this state. When calculating the value of the assets so held, credit shall be given for the amounts deposited pursuant to RCW 30.42.060(3) and 30.42.120(1).

If deposits are not insured by the federal deposit insurance corporation, then that fact shall be disclosed to all depositors pursuant to rules and regulations of the supervisor. [1973 1st ex.s. c 53 § 12.]

30.42.130 Taking possession by supervisor—Reasons—Disposition of deposits—Claims—Priorities. The supervisor may take possession of the office of an alien bank for the reasons stated and in the manner provided in chapter 30.44 RCW. Upon the supervisor taking such possession of a branch, no deposit liabilities of which are insured by the federal deposit insurance corporation, the amounts deposited pursuant to RCW 30.42.120(1) shall thereupon become the property of the supervisor, free and clear of any and all liens and other claims, and shall be held by him in trust for the United States domiciled depositors of the office in this state of such alien bank. Upon obtaining the approval of the superior court of Thurston county, the supervisor shall reduce such deposited capital to cash and as soon as practicable distribute it to such depositors.

If sufficient cash is available, such distribution shall be in equal amounts to each such depositor: *Provided*, That no such depositor receives more than the amount of his deposit or an amount equal to the maximum amount insured by the federal deposit insurance corporation, whichever is less. If sufficient cash is not available, such distribution shall be on a pro rata basis to each such depositor: *Provided*, That no such depositor

receives more than the maximum amount insured by the federal deposit insurance corporation. If any cash remains after such distribution, it shall be distributed pro rata to those depositors whose deposits have not been paid in full: *Provided*, That no depositor receives more than the amount of his deposit. For purposes of this section, the term "depositor" shall not include any other offices, subsidiaries or affiliates of such alien bank.

The term "deposit" as used in this section shall mean the unpaid balance of money or its equivalent received or held by the branch in the usual course of its business and for which it has given or is obligated to give credit, either conditionally or unconditionally to a demand, time or savings account, or which is evidenced by its certificate of deposit, or a check or draft drawn against a deposit account and certified by the branch, or a letter of credit or traveler's checks on which the branch is primarily liable.

Claims of depositors and creditors shall be made and disposed of in the manner provided in chapter 30.44 RCW in the event of insolvency or inability of the bank to pay its creditors in this state. The capital deposit of the bank shall be available for claims of depositors and creditors. The claims of depositors and creditors shall be paid from the capital deposit in the following order or priority:

- (1) Claims of depositors not paid from the amounts deposited pursuant to RCW 30.42.120(1);
- (2) Claims of Washington domiciled creditors;
- (3) Other creditors domiciled in the United States; and
- (4) Creditors domiciled in foreign countries.

The supervisor shall proceed in accordance with and have all the powers granted by chapter 30.44 RCW. [1973 1st ex.s. c 53 § 13.]

30.42.140 Examinations—Investigations. (1) Within ninety days after the end of each fiscal year, an accountant, approved by the supervisor, shall examine the books of account of the office of an alien bank and report to the supervisor his opinion of the financial condition of the office as of the last business day of the immediately previous fiscal year. In making such examination, the accountant shall follow the rules and regulations promulgated by the supervisor governing such examination.

(2) The supervisor, deputy supervisor or a bank examiner, without previous notice, shall visit the office of an alien bank doing business in this state pursuant to this chapter at least once in each year and more often if necessary, for the purpose of making a full investigation into the condition of such office, and for that purpose they are hereby empowered to administer oaths and to examine under oath any director or member of its governing body, officer, employee or agent of such alien bank or office. The supervisor shall make such other full or partial examination as he deems necessary. The supervisor shall collect from each alien bank for each examination of the conditions of its office in this state, the estimated actual cost of such examination. [1973 1st ex.s. c 53 § 14.]

30.42.150 Loans subject to usury laws. Loans made by an office shall be subject to the laws of the state of Washington relating to usury. [1973 1st ex.s. c 53 § 15.]

30.42.160 Powers as to real estate. An alien bank may purchase, hold and convey real estate for the following purposes and no other:

(1) Such as shall be necessary for the convenient transaction of its business, including with its banking offices other apartments in the same building to rent as a source of income: *Provided*, That not to exceed thirty percent of its capital and surplus and undivided profits may be so invested without the approval of the supervisor.

(2) Such as shall be purchased or conveyed to it in satisfaction, or on account of, debts previously contracted in the course of business.

(3) Such as it shall purchase at sale under judgments, decrees, liens or mortgage foreclosures, against securities held by it.

(4) Such as it may take title to or for the purpose of investing in real estate conditional sales contracts.

No real estate except that specified in subsection (1) of this section may be carried as an asset on the corporation's books for a longer period than five years from the date title is acquired thereto, unless an extension of time be granted by the supervisor. [1973 1st ex.s. c 53 § 16.]

30.42.170 Advertising, status of federal insurance on deposits to be included—Gifts for new deposits. (1) An alien bank that advertises the services of its branch in the state of Washington shall indicate on all advertising materials whether or not deposits placed with its branch are insured by the federal deposit insurance corporation.

(2) A branch shall not make gifts to a new deposit customer of a greater value than five dollars in total. The value of the gifts shall be the cost to the branch of acquiring said gift. [1973 1st ex.s. c 53 § 17.]

30.42.180 Approved agencies—Powers and activities. An approved agency of an alien bank may engage in the business of making loans and guaranteeing obligations for the financing of the international movement of goods and services and for all operational needs including working capital and short-term operating needs and for the acquisition of fixed assets. Other than such activities, such agency may engage only in the following activities:

(1) Borrow funds from banks and other financial institutions;

(2) Buy and sell foreign exchange;

(3) Receive checks, bills, drafts, acceptances, notes, bonds, coupons, and other securities for collection abroad and collect such instruments in the United States for customers abroad;

(4) Hold securities in safekeeping for, or buy and sell securities upon the order and for the risk of, customers abroad;

(5) Act as paying agent for securities issued by foreign governments or other organizations organized under foreign law and not qualified under the laws of the United States, or any state or the District of Columbia to do business in the United States;

(6) In order to prevent loss on debts previously contracted, an agency may acquire shares in a corporation: *Provided*, That the shares are disposed of as soon as practical, but in no event later than two years from the date of acquisition;

(7) Issue letters of credit and create acceptances;

(8) In addition to the powers and activities expressly authorized by this section, an agency shall have the power to carry on such additional activities which are necessarily incidental to the activities expressly authorized by this section. [1973 1st ex.s. c 53 § 18.]

30.42.190 Bonding requirements for officers and employees. All officers and employees of an office shall be subject to the same bonding requirements as are officers and employees of banks incorporated under the laws of this state. [1973 1st ex.s. c 53 § 19.]

30.42.200 Books and accounts—English language. The books and accounts of an office and a bureau shall be kept in words and figures of the English language. [1973 1st ex.s. c 53 § 20.]

30.42.210 Bureaus—Application procedure. (1) Application procedure. An alien bank shall not establish and operate a bureau in this state unless it is authorized to do so and unless it has met the following conditions:

(a) It has filed with the supervisor an application in such form and containing such information as shall be prescribed by the supervisor;

(b) It has paid the fee required by law and established by the supervisor pursuant to RCW 30.08.095;

(c) It has received from the supervisor his certificate authorizing the applicant bank to establish and operate a bureau in conformity herewith.

(2) Upon receipt of the bank's application, and the conducting of such examination or investigation as the supervisor deems necessary and appropriate and being satisfied that the opening of such bureau will be consistent with the purposes of this chapter, the supervisor may grant approval for the bureau and issue his certificate authorizing the alien bank to establish and operate a bureau in the state of Washington. [1973 1st ex.s. c 53 § 21.]

30.42.220 Bureaus—Approval—Certificate of authority—Time limit for commencing business. If the supervisor approves the application, he shall notify the alien bank of his approval and shall file certified copies of its charter, certificate, or other authorization to do business with the secretary of state and with the recording officer of the county in which the bureau is to be located. Upon such filing, the supervisor shall issue a certificate of authority stating that the alien bank is authorized to operate a bureau in this state at the place designated in accordance with this chapter. No such

certificate shall be transferable or assignable. Such certificate shall be conspicuously displayed at all times in the place of business specified therein.

A bureau of an alien bank must commence business within six months after the issuance of the supervisor's certificate: *Provided*, That the supervisor for good cause shown may extend such period for an additional time not to exceed three months. [1973 1st ex.s. c 53 § 22.]

30.42.230 Bureaus—Number—Powers. An alien bank may have as many bureaus in this state as the supervisor will authorize. A bureau in this state may provide information about services offered by the alien bank, its subsidiaries and affiliates and may gather and provide business and economic information. A bureau may not take deposits, make loans or transact other commercial or banking business in this state. [1973 1st ex.s. c 53 § 23.]

30.42.240 Bureaus—Examinations. The supervisor is empowered to examine the bureau operations of an alien bank whenever he deems it necessary. The supervisor shall collect from such alien bank the estimated actual cost of such examination. [1973 1st ex.s. c 53 § 24.]

30.42.250 Temporary facilities at trade fairs, etc. An alien bank may operate temporary facilities at trade fairs or other commercial events of short duration without first obtaining the approval of the supervisor: *Provided*, That the activities of such temporary facility are limited solely to the dissemination of information: *And provided further*, If an alien bank engages in such activity, it shall notify the supervisor in writing prior to opening of the nature and location of such facility. The supervisor is empowered to investigate the operation of such temporary facility if he deems it necessary, and to collect from the alien bank the estimated actual cost thereof. [1973 1st ex.s. c 53 § 25.]

30.42.260 Reports. (1) An office of an alien bank shall file the following reports with the supervisor within such times and in such form as the supervisor shall prescribe by rule or regulation:

(a) A statement of condition of the office;

(b) A capital position report of the office;

(c) A consolidated statement of condition of an alien bank.

(2) An office of an alien bank shall publish such reports as the supervisor by regulation may prescribe.

(3) An alien bank operating a bureau in this state shall file a copy of the alien bank's annual financial report with the supervisor as soon as possible following the end of each fiscal year and shall file such other material as the supervisor may prescribe by rule or regulation. [1973 1st ex.s. c 53 § 26.]

30.42.270 Taxation. An office of an alien bank shall be taxed on the same basis as are banks incorporated under the laws of this state. [1973 1st ex.s. c 53 § 27.]

30.42.280 Directors, officers and employees—Duties, responsibilities and restrictions—Removal. The directors or other governing body of an alien bank and the officers and employees of its office in this state shall be subject to all of the duties, responsibilities and restrictions to which the directors, officers and employees of a bank organized under the laws of this state are subject insofar as such duties, responsibilities and restrictions are not inconsistent with the intent of this chapter. An officer or employee of the office of an alien bank doing business in this state pursuant to this chapter may be removed for the reasons stated and in the manner provided in RCW 30.12.040, as now or hereafter amended. [1973 1st ex.s. c 53 § 28.]

30.42.290 Compliance—Violations—Penalties. (1) The supervisor shall have the responsibility for assuring compliance with the provisions of this chapter. An alien bank that conducts business in this state in violation of any provisions of this chapter shall be guilty of a misdemeanor and in addition thereto shall be liable in the sum of one hundred dollars per day that each such offense continues, such sum to be recovered by the attorney general in a civil action in the name of the state.

(2) Every person who shall knowingly subscribe to or make or cause to be made any false entry in the books of any alien bank office or bureau doing business in this state pursuant to this chapter or shall knowingly subscribe to or exhibit any false or fictitious paper or security, instrument or paper, with the intent to deceive any person authorized to examine into the affairs of any such office or bureau or shall make, state or publish any false statement of the amount of the assets or liabilities of any such office or bureau shall be guilty of a felony.

(3) Every director or member of the governing body, officer, employee or agent of such alien bank operating an office or bureau in this state who conceals or destroys any fact or otherwise suppresses any evidence relating to a violation of this chapter is guilty of a felony.

(4) Any person who transacts business in this state on behalf of an alien bank which is subject to the provisions of this chapter, but which is not authorized to transact such business pursuant to this chapter is guilty of a misdemeanor and in addition thereto shall be liable in the sum of one hundred dollars per day for each day that such offense continues, such sum to be recovered by the attorney general in a civil action in the name of the state. [1973 1st ex.s. c 53 § 29.]

30.42.300 Suspension or revocation of certificate to operate—Grounds. If the supervisor finds that any alien bank to which he has issued a certificate to operate an office or bureau in this state pursuant to this chapter has violated any law, rule or regulation, or has conducted its affairs in an unauthorized manner, or has been unresponsive to the supervisor's lawful orders or directions, or is in an unsound or unsafe condition, or cannot with safety and expediency continue business, or if he finds that the alien bank's country is unjustifiably refusing to allow banks qualified to do business in and having their principal office within this state to operate

offices or similar operations in such country, the supervisor may suspend or revoke the certificate of such alien bank and notify it of such suspension or revocation. [1973 1st ex.s. c 53 § 30.]

30.42.310 Change of location. An alien bank licensed to maintain an office or bureau in this state pursuant to this chapter may apply to the supervisor for leave to change the location of its office or bureau. Such applications shall be accompanied by an investigation fee as established in accordance with RCW 30.42.330. Leave for a change of location shall be granted if the supervisor finds that the proposed new location offers reasonable promise of adequate support for the office. [1973 1st ex.s. c 53 § 31.]

30.42.320 Rules and regulations. The supervisor shall have power to adopt uniform rules and regulations to govern examination and reports of alien bank offices and bureaus doing business in this state pursuant to this chapter and the form in which they shall report their assets, liabilities, and reserves, charge off bad debts and otherwise keep their records and accounts and otherwise to govern the administration of this chapter. [1973 1st ex.s. c 53 § 32.]

30.42.330 Fees. The supervisor shall collect in advance from an alien bank for filing its application for an office or a bureau and the attendant investigation, and for such other applications, approvals or certificates provided herein, such fee as shall be established by rules and regulations promulgated pursuant to the administrative procedure act, chapter 34.04 RCW, as now or hereafter amended. The alien bank shall also pay to the secretary of state and the county recording officer for filing instruments as required by this chapter the same fees as are charged general corporations for the filing of similar instruments and also the same license fees as are required of foreign corporations doing business in this state. [1973 1st ex.s. c 53 § 33.]

30.42.340 Alien banks or branches in business on or before effective date. (1) Any branch of an alien bank that is conducting business in this state on July 16, 1973 pursuant to RCW 30.04.300 shall not be subject to the provisions of this chapter, and shall continue to conduct its business pursuant to RCW 30.04.300.

(2) Except as provided in subsection (1) of this section, any alien bank that is conducting business in this state on July 16, 1973 shall be subject to the provisions of this chapter: *Provided*, That any such alien bank which has operated an agency or similar operation in this state for at least the five years immediately preceding such effective date shall not be denied a certificate to operate an agency. [1973 1st ex.s. c 53 § 34.]

30.42.900 Severability—1973 1st ex.s. c 53. If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1973 amendatory act, or the application of the provisions to other persons or circumstances shall not be affected. [1973 1st ex.s. c 53 § 38.]

**Chapter 30.43
SATELLITE FACILITIES**

- Sections
 30.43.010 Definitions.
 30.43.020 Satellite facilities authorized.
 30.43.030 Availability of facility to other commercial banks—
 Sharing with mutual savings banks and savings and
 loan associations.
 30.43.040 Sharing of savings and loan association or mutual sav-
 ings bank facility with other financial institutions.
 30.43.050 Antitrust laws—Construction of chapter.

30.43.010 Definitions. As used in this chapter the term "financial institution" means any bank or trust company established in this state pursuant to Title 12, United States Code, chapter 2, or Title 30 RCW, any mutual savings bank established in this state pursuant to Title 32 RCW, and any savings and loan association established in this state pursuant to Title 12, United States Code, chapter 12, or Title 33 RCW.

As used in this chapter, the term "supervisor" means, if applicable to banks, trust companies, or mutual savings banks, the supervisor of banking and, if applicable to savings and loan associations, the supervisor of savings and loan associations.

As used in this chapter, the term "satellite facility" means an unmanned facility at which transactions, including, but not being limited to account transfers, payments, and instructions for deposits and withdrawals may be conducted and which is not a part of a branch or main office of the financial institution: *Provided*, That such a facility shall not be construed to be the establishment of a branch: *Provided further*, That in considering any application for authority to open a new branch or to establish a new financial institution, the supervisor shall disregard the existence of facilities established pursuant to this chapter in determining whether there is reasonable promise of adequate support for the new branch or proposed new financial institution. [1974 1st ex.s. c 166 § 1.]

30.43.020 Satellite facilities authorized. A financial institution may, subject to the conditions hereof, and with the approval of the appropriate supervisor, provide satellite facilities in addition to its main office and such branches as are authorized by law. The supervisor's approval shall be conditioned on a finding that the public convenience will be served by the proposed satellite facility. A satellite facility may be located anywhere within the state of Washington. [1974 1st ex.s. c 166 § 2.]

30.43.030 Availability of facility to other commercial banks—Sharing with mutual savings banks and savings and loan associations. As a condition to the operation of or the use of any satellite facility in this state, a commercial bank which desires to operate or have its customers able to utilize a satellite facility must agree that such satellite facility will be available for use by customers of any other commercial bank or commercial banks upon the request of said bank or banks to share its use and the agreement of said bank or banks to share all costs in connection with its installation and operation. The owner of the satellite facility, whether a commercial bank or another person (but not a mutual

savings bank or savings and loan association), shall make the satellite facility available for other commercial banks' use on a nondiscriminatory basis, conditioned upon payment of a reasonable proportion of all costs in connection with the satellite facility.

A commercial bank may share a facility with one or more mutual savings banks or with one or more savings and loan associations. [1974 1st ex.s. c 166 § 3.]

30.43.040 Sharing of savings and loan association or mutual savings bank facility with other financial institutions. Notwithstanding the provisions of RCW 30.43-.030, any savings and loan association or any mutual savings bank may agree to share the use of any satellite facility it owns, operates, or uses or which is owned by any entity owned by one or more savings and loan associations or mutual savings banks, with any one or more financial institutions, and sharing with one or more commercial banks shall not require sharing with, or making the facility available for use by the customers of, any other commercial bank. [1974 1st ex.s. c 166 § 4.]

30.43.050 Antitrust laws—Construction of chapter. If, but for this chapter, any action by any one or more commercial banks, mutual savings banks, or savings and loan associations would be in violation of any of the laws of this state or the United States commonly referred to as the antitrust laws, then this chapter shall be construed so as to permit or require only such action as shall not be in violation of such laws. [1974 1st ex.s. c 166 § 5.]

**Chapter 30.44
INSOLVENCY AND LIQUIDATION**

- Sections
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 taken.
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 company.
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 uidator—Appointment—Powers and duties.

30.44.280 Payment or acquisition of deposit liabilities by federal deposit insurance corporation—Not hindered by judicial review—Liability.

30.44.010 Delinquencies, notice to correct—Possession may be taken. Whenever it shall in any manner appear to the supervisor that any bank or trust company has violated any provision of law or is conducting its business in an unsafe manner or that it refuses to submit its books, papers, or concerns to lawful inspection or that any director or officer thereof refuses to submit to examination on oath touching its concerns, or that it has failed to carry out any authorized order or direction of an examiner, the supervisor may give notice to the bank or trust company so offending or delinquent or whose director or officer is thus offending or delinquent to correct such offense or delinquency and if such bank or trust company fails to comply with the terms of such notice within thirty days from the date of its issuance or within such further time as said supervisor may allow, then the supervisor may take possession of such bank or trust company as in case of insolvency. [1955 c 33 § 30.44.010. Prior: 1917 c 80 § 59; 1915 c 98 § 1; RRS § 3266.]

30.44.020 Supervisor may order levy of assessment. Whenever it shall in any manner appear to the supervisor of banking that any offense or delinquency referred to in RCW 30.44.010 renders a bank or trust company in an unsound or unsafe condition to continue its business or that its capital or surplus is reduced or impaired below the amount required by its articles of incorporation or by this title, or that it has suspended payment of its obligations or is insolvent, said supervisor may notify such bank or trust company to levy an assessment on its stock or otherwise to make good such impairment or offense or other delinquency within such time and in such manner as he may specify or if he deems necessary he may take possession thereof without notice.

The board of directors of any such bank or trust company, with the consent of the holders of record of two-thirds of the capital stock expressed either in writing or by vote at a stockholders' meeting called for that purpose, shall have power and authority to levy such assessment upon the stockholders pro rata and to forfeit the stock upon which any such assessment is not paid, in the manner prescribed in RCW 30.12.180. [1955 c 33 § 30.44.020. Prior: 1923 c 115 § 9; 1917 c 80 § 60; RRS § 3267.]

Levy of assessments: RCW 30.12.180.

30.44.030 Supervisor's right to take possession may be contested. Within ten days after the supervisor takes possession thereof, a bank or trust company may serve a notice upon the supervisor to appear before the superior court of the county wherein such corporation is located and at a time to be fixed by said court, which shall not be less than five nor more than fifteen days from the date of the service of such notice, to show cause why such corporation should not be restored to the possession of its assets. Upon the return day of such

notice, or such further day as the matter may be continued to, the court shall summarily hear said cause and shall dismiss the same, if it be found that possession was taken by the supervisor in good faith and for cause, but if it find that no cause existed for the taking possession of such corporation, it shall require the supervisor to restore such bank or trust company to possession of its assets and enjoin him from further interference therewith without cause. [1955 c 33 § 30.44.030. Prior: 1917 c 80 § 68; RRS § 3275.]

30.44.040 Notice of taking possession. Upon taking possession of any bank or trust company, the supervisor shall forthwith give written notice thereof to all persons having possession of any assets of such corporation. No person knowing of the taking of such possession by the supervisor shall have a lien or charge for any payment thereafter advanced or clearance thereafter made or liability thereafter incurred against any of the assets of such corporation. [1955 c 33 § 30.44.040. Prior: 1917 c 80 § 61; 1915 c 98 § 2; RRS § 3268.]

30.44.050 Powers and duties of supervisor. Upon taking possession of any bank or trust company, the supervisor shall proceed to collect the assets thereof and to preserve, administer and liquidate the business and assets of such corporation. With the approval of the superior court of the county in which such corporation is located, he may sell, compound or compromise bad or doubtful debts, and upon such terms as the court shall direct borrow, mortgage, pledge or sell all or any part of the real estate and personal property of such corporation. He shall deliver to each purchaser or lender an appropriate deed, mortgage, agreement of pledge or other instrument of title or security. If real estate is situated outside of said county, a certified copy of the orders authorizing and confirming the sale or mortgage thereof shall be filed for record in the office of the auditor of the county in which such property is situated. He may appoint special deputy supervisors and other necessary agents to assist in the administration and liquidation of such corporation, a certificate of such appointment to be filed with the clerk of the county in which such corporation is located. He shall require each special deputy to give a surety company bond, conditioned as he shall provide, the premium of which shall be paid out of the assets of such corporation. He may also employ an attorney for legal assistance in such administration and liquidation. [1955 c 33 § 30.44.050. Prior: 1933 c 42 § 25; 1917 c 80 § 62; 1915 c 98 § 3; RRS § 3269.]

30.44.060 Notice to creditors—Claims. The supervisor shall publish once a week for four consecutive weeks in a newspaper which he shall select, a notice requiring all persons having claims against such corporation to make proof thereof at the place therein specified not later than ninety days from the date of the first publication of said notice, which date shall be therein stated. He shall mail similar notices to all persons whose names appear as creditors upon the books of the corporation. He may approve or reject any claims, but

shall serve notice of rejection upon the claimant by mail or personally. An affidavit of service of such notice shall be prima facie evidence thereof. No action shall be brought on any claim after three months from the date of service of notice of rejection.

Claims of depositors may be presented after the expiration of the time fixed in the notice, and, if approved, shall be entitled to their proportion of prior dividends, if there be funds sufficient therefor, and shall share in the distribution of the remaining assets.

After the expiration of the time fixed in the notice the supervisor shall have no power to accept any claim except the claim of a depositor, and all claims except the claims of depositors shall be barred. [1955 c 33 § 30.44-.060. Prior: 1923 c 115 § 10; 1917 c 80 § 63; 1915 c 98 § 4; RRS § 3270.]

30.44.070 Inventory—List of claims. Upon taking possession of such corporation, the supervisor shall make an inventory of the assets in duplicate and file one in his office and one in the office of the county clerk. Upon the expiration of the time fixed for the presentation of claims, he shall make a duplicate list of claims presented, segregating those approved and those rejected, to be filed as aforesaid. He shall also make and file a supplemental list of claims at least fifteen days before the declaration of any dividend, and in any event at least every six months. [1955 c 33 § 30.44.070. Prior: 1917 c 80 § 65; 1915 c 98 § 6; RRS § 3272.]

30.44.080 Objections to approved claims. Objection may be made by any interested person to any claim approved by the supervisor, which objection shall be determined by the court upon such notice to the claimant and objector as the court shall prescribe. [1955 c 33 § 30.44.080. Prior: 1917 c 80 § 67; 1915 c 98 § 8; RRS § 3274.]

30.44.090 Dividends. At any time after the expiration of the date fixed for the presentation of claims, the supervisor, subject to the approval of the court, may declare one or more dividends out of the funds remaining in his hands after the payment of expenses. [1955 c 33 § 30.44.090. Prior: 1917 c 80 § 66; 1915 c 98 § 7; RRS § 3273.]

30.44.100 Receiver prohibited except in emergency. No receiver shall be appointed by any court for any bank or trust company nor shall any assignment of any bank or trust company for the benefit of creditors be valid, excepting only that a court otherwise having jurisdiction may in case of imminent necessity appoint a temporary receiver to take possession of and preserve the assets of such corporation. Immediately upon any such appointment, the clerk of such court shall notify the supervisor by telegraph and mail of such appointment and the supervisor shall forthwith take possession of such bank or trust company, as in case of insolvency, and such temporary receiver shall upon demand of the supervisor surrender up to him such possession and all

assets which shall have come into the hands of such receiver. The supervisor shall in due course pay such receiver out of the assets of such corporation such amount as the court shall allow. [1955 c 33 § 30.44.100. Prior: 1917 c 80 § 69; 1915 c 98 § 9; RRS § 3276.]

30.44.110 Preferences prohibited—Penalty. Every transfer of its property or assets by any bank or trust company in this state, made in contemplation of insolvency, or after it shall have become insolvent, with a view to the preference of one creditor over another, or to prevent the equal distribution of its property and assets among its creditors, shall be void. Every director, officer or employee making any such transfer shall be guilty of a felony. [1955 c 33 § 30.44.110. Prior: 1917 c 80 § 55; RRS § 3262.]

30.44.120 Receiving deposits when insolvent—Penalty. An officer, director or employee of any bank or trust company who shall fraudulently receive for it any deposit, knowing that such bank or trust company is insolvent, shall be guilty of a felony. [1955 c 33 § 30.44-.120. Prior: 1933 c 42 § 26; 1917 c 80 § 81; RRS § 3288.]

Receiving deposits after insolvency prohibited: State Constitution Art. 12 § 12.

30.44.130 Expense of liquidation. All expenses incurred by the supervisor in taking possession, administering and winding up any such corporation, including the expenses of deputies and other assistants and reasonable fees for any attorney who may be employed by him in connection therewith, and the reasonable compensation of any special deputy placed in charge of such corporation shall be a first charge upon the assets thereof. Such charges shall be fixed by the supervisor, subject to the approval of the court. [1955 c 33 § 30.44-.130. Prior: 1917 c 80 § 64; 1915 c 98 § 5; RRS § 3271.]

30.44.140 Liquidation after claims are paid. When all proper claims of depositors and creditors (not including stockholders) have been paid, as well as all expenses of administration and liquidation and proper provision has been made for unclaimed or unpaid deposits and dividends, and assets still remain in his hands, the supervisor shall call a meeting of the stockholders of such corporation, giving thirty days' notice thereof, by one publication in a newspaper published in the county where such corporation is located. At such meeting, each share shall entitle the holder thereof to a vote in person or by proxy. A vote by ballot shall be taken to determine whether the supervisor shall wind up the affairs of such corporation or the stockholders appoint an agent to do so. The supervisor, if so required, shall wind up such corporation and distribute its assets to those entitled thereto. If the appointment of an agent is determined upon, the stockholders shall forthwith select such agent by ballot. Such agent shall file a bond to the state of Washington in such amount and so conditioned as the supervisor shall require. Thereupon the supervisor shall transfer to such agent the assets of such corporation then remaining in his hands, and be relieved

from further responsibility in reference to such corporation. Such agent shall convert the assets of such corporation into cash and distribute the same to the parties thereunto entitled, subject to the supervision of the court. In case of his death, removal or refusal to act, the stockholders may select a successor with like powers. [1955 c 33 § 30.44.140. Prior: 1917 c 80 § 70; RRS § 3277.]

30.44.150 Unclaimed dividends—Disposition. Any dividends to depositors or other creditors of such bank or trust company remaining uncalled for and unpaid in the hands of the supervisor for six months after order of final distribution, shall be deposited in a bank or trust company to his credit, in trust for the benefit of the persons entitled thereto and subject to the supervision of the court shall be paid by him to them upon receipt of satisfactory evidence of their right thereto.

All moneys so deposited remaining unclaimed for five years after deposit shall escheat to the state for the benefit of the permanent school fund and shall be paid by the supervisor into the state treasury. It shall not be necessary to have the escheat adjudged in a suit or action. [1955 c 33 § 30.44.150. Prior: 1923 c 115 § 11; 1917 c 80 § 71; RRS § 3278.]

30.44.160 Voluntary closing—Notice. Any bank or trust company may place itself under the control of the supervisor to be liquidated as herein provided by posting a notice on its door as follows: "This bank (trust company) is in the hands of the State Supervisor of Banking."

Immediately upon the posting of such notice, the officers of such corporation shall notify the supervisor thereof by telegraph and mail. The posting of such notice or the taking possession of any bank or trust company by the supervisor shall be sufficient to place all of its assets and property of every nature in his possession and bar all attachment proceedings. [1955 c 33 § 30.44.160. Prior: 1917 c 80 § 72; RRS § 3279.]

30.44.170 Voluntary liquidation—Notice to creditors. Any bank or trust company may, upon receipt of written permission from the supervisor, go into voluntary liquidation by a vote of its stockholders owning two-thirds of its capital stock. When such liquidation is authorized, the directors of such corporation shall publish in a newspaper published in the place where such corporation is located, once a week for four consecutive weeks, a notice requiring creditors of such corporation to present their claims against it for payment. [1955 c 33 § 30.44.170. Prior: 1917 c 80 § 74; RRS § 3281.]

30.44.180 Unclaimed dividends on voluntary liquidation. Whenever any bank or trust company shall voluntarily liquidate, any dividends to depositors or other creditors of such bank or trust company remaining uncalled for and unpaid at the conclusion of the liquidation shall be transmitted to the supervisor and shall be deposited by him in a bank or trust company to his credit in trust for the benefit of the persons entitled

thereto, and shall be paid by him to them upon receipt of satisfactory evidence of their right thereto.

All moneys so deposited remaining unclaimed for five years after deposit shall escheat to the state for the benefit of the permanent school fund and shall be paid by the supervisor into the state treasury. It shall not be necessary to have the escheat adjudged in a suit or action. [1955 c 33 § 30.44.180. Prior: 1947 c 148 § 1; Rem. Supp. 1947 § 3281-1.]

30.44.190 Disposition of unclaimed personal property. Whenever any bank or trust company shall be liquidated, voluntarily or involuntarily, and shall retain in its possession at the conclusion of the liquidation, uncalled for and unclaimed personal property left with it for safekeeping, such property shall, in the presence of at least one witness, be inventoried by the liquidating agent and sealed in separate packages, each package plainly marked with the name and last known address of the person in whose name the property stands on the books of the bank or trust company. If the property is in safe deposit boxes, such boxes shall be opened by the liquidating agent in the presence of at least one witness, and the property inventoried, sealed in packages and marked as above required. All the packages shall be transmitted to the supervisor, together with certificates signed by the liquidating agent and witness or witnesses, listing separately the property standing in the name of any one person on the books of the bank or trust company, together with the date of inventory, and name and last known address of the person in whose name the property stands. [1955 c 33 § 30.44.190. Prior: 1947 c 148 § 2; Rem. Supp. 1947 § 3281-2.]

30.44.200 Duty of supervisor—Notice to owner. Upon receiving possession of the packages, the supervisor shall cause them to be opened in the presence of at least one witness, the property reinventoried, and the packages resealed, and held for safekeeping. The liquidated bank, its directors, officers, and shareholders, and the liquidating agent shall thereupon be relieved of responsibility and liability for the property so delivered to and received by the supervisor. The supervisor shall send immediately to each person in whose name the property stood on the books of the liquidated bank or trust company, at his last known address, in a securely closed, postpaid and registered letter, a notice that the property listed will be held in his name for a period of not less than two years. At any time after the mailing of such notice, and before the expiration of two years, such person may require the delivery of the property so held, by properly identifying himself and offering evidence of his right thereto, to the satisfaction of the supervisor. [1955 c 33 § 30.44.200. Prior: 1947 c 148 § 3; Rem. Supp. 1947 § 3281-3.]

30.44.210 Final notice after two years—Sale. After the expiration of two years from the time of mailing the notice, the supervisor shall mail in a securely closed postpaid registered letter, addressed to such person at his last known address, a final notice stating that two

years have elapsed since the sending of the notice referred to in RCW 30.44.200, and that the supervisor will sell all the property or articles of value set out in the notice, at a specified time and place, not less than thirty days after the time of mailing such final notice. Unless such person shall, on or before the day mentioned, claim the property, identify himself and offer evidence of his right thereto, to the satisfaction of the supervisor, the supervisor may sell all the property or articles of value listed in the notice, at public auction, at the time and place stated in the final notice: *Provided*, That a notice of the time and place of sale has been published once within ten days prior to the sale in a newspaper published in the county where the sale is held. Any such property held by the supervisor, the owner of which is not known, may be sold at public auction after it has been held by the supervisor for two years, provided, that a notice of the time and place of sale has been published once within ten days prior to the sale in a newspaper published in the county where the sale is held. [1955 c 33 § 30.44.210. Prior: 1947 c 148 § 4; Rem. Supp. 1947 § 3281-4.]

30.44.220 Disposition of proceeds—Escheat. The proceeds of such sale shall be deposited by the supervisor in a bank or trust company to his credit, in trust for the benefit of the person entitled thereto, and shall be paid by him to such person upon receipt of satisfactory evidence of his right thereto.

All moneys so deposited remaining unclaimed for five years after deposit shall escheat to the state for the benefit of the permanent school fund and shall be paid by the supervisor into the state treasury. It shall not be necessary to have the escheat adjudged in a suit or action. [1955 c 33 § 30.44.220. Prior: 1947 c 148 § 5; Rem. Supp. 1947 § 3281-5.]

30.44.230 Procedure as to papers, documents, etc. Whenever the personal property held by a liquidated bank or trust company shall consist either wholly or in part, of documents, letters, or other papers of a private nature, such documents, letters, or papers shall not be sold, but shall be retained by the supervisor for a period of five years, and, unless sooner claimed by the owner, may be thereafter destroyed in the presence of the supervisor and at least one other witness. [1955 c 33 § 30.44.230. Prior: 1947 c 148 § 6; Rem. Supp. 1947 § 3281-6.]

30.44.240 Transfer of assets and liabilities to another bank or trust company. A bank or trust company may for the purpose of voluntary liquidation transfer its assets and liabilities to another bank or trust company, by a vote, or with the written consent of the stockholders of record owning two-thirds of its capital stock, but only with the written consent of the supervisor and upon such terms and conditions as he may prescribe. Upon any such transfer being made, or upon the liquidation of any such corporation for any cause whatever or upon its being no longer engaged in the business of a bank or trust company, the supervisor shall terminate its certificate of authority, which shall not thereafter be

revived or renewed. When the certificate of authority of any such corporation shall have been revoked, it shall forthwith collect and distribute its remaining assets, and when that is done the supervisor shall certify the fact to the secretary of state, whereupon the corporation shall cease to exist and the secretary of state shall note that fact upon his records. [1955 c 33 § 30.44.240. Prior: 1953 c 236 § 1; 1923 c 115 § 12; 1919 c 209 § 17; 1917 c 80 § 75; RRS § 3282.]

30.44.250 Reopening. Whenever the supervisor has taken possession of a bank or trust company for any cause, he may wind up such corporation and cancel its certificate of authority, unless enjoined from so doing, as herein provided. Or if at any time within ninety days after taking possession, he shall determine that all impairment and delinquencies have been made good, and that it is safe and expedient for such corporation to reopen, he may permit such corporation to reopen upon such terms and conditions as he shall prescribe. Before being permitted to reopen, every such corporation shall pay all of the expenses of the supervisor, as herein elsewhere defined. [1955 c 33 § 30.44.250. Prior: 1917 c 80 § 73; RRS § 3280.]

30.44.260 Destruction of records after liquidation. Where any files, records, documents, books of account or other papers have been taken over and are in the possession of the supervisor in connection with the liquidation of any insolvent banks or trust companies under the laws of this state, the supervisor may, in his discretion at any time after the expiration of one year from the declaration of the final dividend, or from the date when such liquidation has been entirely completed, destroy any of the files, records, documents, books of account or other papers which may appear to the supervisor to be obsolete or unnecessary for future reference as part of the liquidation and files of his office. [1955 c 33 § 30.44.260. Prior: 1925 ex.s. c 55 § 1; RRS § 3277-1.]

30.44.270 Federal deposit insurance corporation as receiver or liquidator—Appointment—Powers and duties. The federal deposit insurance corporation is hereby authorized and empowered to be and act without bond as receiver or liquidator of any bank or trust company the deposits in which are to any extent insured by that corporation and which shall have been closed on account of inability to meet the demands of its depositors. In the event of such closing, the supervisor of banking may appoint the federal deposit insurance corporation as receiver or liquidator of such bank or trust company. If the corporation accepts such appointment, it shall have and possess all the powers and privileges provided by the laws of this state with respect to a liquidator of a bank or trust company, its depositors and other creditors, and be subject to all the duties of such liquidator, except insofar as such powers, privileges, or duties are in conflict with the provisions of the federal deposit insurance act, as now or hereafter amended. [1973 1st ex.s. c 54 § 1.]

30.44.280 Payment or acquisition of deposit liabilities by federal deposit insurance corporation—Not hindered by judicial review—Liability. The pendency of any proceedings for judicial review of the supervisor's actions in taking possession and control of a bank or trust company and its assets for the purpose of liquidation shall not operate to defer, delay, impede, or prevent the payment or acquisition by the federal deposit insurance corporation of the deposit liabilities of the bank or trust company which are insured by the corporation. During the pendency of any proceedings for judicial review, the supervisor of banking shall make available to the federal deposit insurance corporation such facilities in or of the bank or trust company and such books, records, and other relevant data of the bank or trust company as may be necessary or appropriate to enable the corporation to pay out or to acquire the insured deposit liabilities of the bank or trust company. The federal deposit insurance corporation and its directors, officers, agents, and employees, the supervisor of banking, and his agents and employees shall be free from liability to the bank or trust company, its directors, stockholders, and creditors for or on account of any action taken in connection herewith. [1973 1st ex.s. c 54 § 2.]

Chapter 30.49

MERGER, CONSOLIDATION, AND CONVERSION

Sections

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30.49.050	Merger to resulting state bank—Stockholders' vote—Notice of meeting—Waiver of notice.
30.49.060	Merger to resulting state bank—Effective date—Termination of charters—Certificate of merger.
30.49.070	Conversion of national to state bank—Requirements—Procedure.
30.49.080	Resulting bank as same business and corporate entity—Use of name of merging, converting bank.
30.49.090	Rights of dissenting shareholder—Appraisal—Amount due as debt.
30.49.100	Provision for successors to fiduciary positions.
30.49.110	Assets, business—Time for conformance with state law.
30.49.120	Resulting state bank—Valuation of certain assets limited.
30.49.130	Severability—1955 c 33.

30.49.010 Definitions. As used in this chapter:

"Merging bank" means a party to a merger;

"Converting bank" means a bank converting from a state to a national bank, or the reverse;

"Merger" includes consolidation;

"Resulting bank" means the bank resulting from a merger or conversion. [1955 c 33 § 30.49.010. Prior: 1953 c 234 § 1.]

30.49.020 State to resulting national bank—Laws applicable—Vote required—Termination of franchise. This section is applicable where there is to be a resulting national bank.

Nothing in the law of this state shall restrict the right of a state bank to merge with or convert into a resulting national bank. The action to be taken by such merging or converting state bank and its rights and liabilities and those of its shareholders shall be the same as those prescribed at the time of the action for national banks merging with or converting into a resulting state bank by the law of the United States, and not by the law of this state, except that a vote of the holders of two-thirds of each class of voting stock of a state bank shall be required for the merger or conversion, and that on conversion by a state into a national bank the rights of dissenting stockholders shall be those specified in RCW 30.49.090.

Upon the completion of the merger or conversion, the franchise of any merging or converting state bank shall automatically terminate. [1955 c 33 § 30.49.020. Prior: 1953 c 234 § 2.]

30.49.030 State or national to resulting state bank—Law applicable to nationals. This section is applicable where there is to be a resulting state bank.

Upon approval by the supervisor of banking, state or national banks may be merged to result in a state bank, or a national bank may convert into a state bank as hereafter prescribed, except that the action by a national bank shall be taken in the manner prescribed by and shall be subject to limitations and requirements imposed by the law of the United States which shall also govern the rights of its dissenting shareholders. [1955 c 33 § 30.49.030. Prior: 1953 c 234 § 3.]

30.49.040 Merger to resulting state bank—Agreement, contents, approval, amendment. This section is applicable where there is to be a resulting state bank.

(1) The board of directors of each merging state bank shall, by a majority of the entire board, approve a merger agreement which shall contain:

(a) The name of each merging state or national bank and location of each office;

(b) With respect to the resulting state bank, (i) the name and location of the principal and other offices; (ii) the name and residence of each director to serve until the next annual meeting of the stockholders; (iii) the name and residence of each officer; (iv) the amount of capital, the number of shares and the par value of each share; and (v) the amendments to its charters and bylaws;

(c) Provisions governing the manner of converting the shares of the merging state or national banks into shares of the resulting state bank;

(d) A statement that the agreement is subject to approval by the supervisor of banking and the stockholders of each merging state or national bank;

(e) Provisions governing the manner of disposing of the shares of the resulting state bank not taken by dissenting shareholders of merging state or national banks;

(f) Such other provisions as the supervisor of banking requires to enable him to discharge his duties with respect to the merger;

(2) After approval by the board of directors of each merging state bank, the merger agreement shall be submitted to the supervisor of banking for approval, together with certified copies of the authorizing resolutions of each board of directors showing approval by a majority of the entire board and evidence of proper action by the board of directors of any merging national bank;

(3) Within sixty days after receipt by the supervisor of banking of the papers specified in subdivision (2), the supervisor of banking shall approve or disapprove of the merger agreement, and if no action is taken, the agreement shall be deemed approved. The supervisor of banking shall approve the agreement if it appears that:

(a) The resulting state bank meets the requirements of state law as to the formation of a new state bank;

(b) The agreement provides an adequate capital structure including surplus in relation to the deposit liabilities of the resulting state bank and its other activities which are to continue or are to be undertaken;

(c) The agreement is fair;

(d) The merger is not contrary to the public interest.

If the supervisor of banking disapproves an agreement, he shall state his objections and give an opportunity to the merging state or national banks to amend the merger agreement to obviate such objections. [1955 c 33 § 30.49.040. Prior: 1953 c 234 § 4.]

30.49.050 Merger to resulting state bank—Stockholders' vote—Notice of meeting—Waiver of notice. To be effective, a merger which is to result in a state bank must be approved by the stockholders of each merging state bank by a vote of two-thirds of the outstanding voting stock of each class at a meeting called to consider such action, which vote shall constitute the adoption of the charter and bylaws of the resulting state bank, including the amendments in the merger agreement.

Unless waived in writing, notice of the meeting of stockholders shall be given by publication in a newspaper of general circulation in the place where the principal office of each merging state bank is located, at least once each week for four successive weeks, and by mail, at least fifteen days before the date of the meeting, to each stockholder of record of each merging state bank at his address on the books of his bank; no notice of publication need be given if written waivers are received from the holders of two-thirds of the outstanding shares of each class of stock. The notice shall state that dissenting stockholders will be entitled to payment of the value of only those shares which are voted against approval of the plan. [1955 c 33 § 30.49.050. Prior: 1953 c 234 § 5.]

30.49.060 Merger to resulting state bank—Effective date—Termination of charters—Certificate of merger. A merger which is to result in a state bank shall, unless a later date is specified in the agreement, become effective after the filing with and upon the approval of the supervisor of banking of the executed agreement together with copies of the resolutions of the stockholders of each merging state or national bank

approving it, certified by the bank's president or a vice president and a secretary. The charters of the merging banks, other than the resulting bank, shall thereupon automatically terminate.

The supervisor of banking shall thereupon issue to the resulting state bank a certificate of merger specifying the name of each merging state or national bank and the name of the resulting state bank. Such certificate shall be conclusive evidence of the merger and of the correctness of all proceedings therefor in all courts and places, and may be recorded in any office for the recording of deeds to evidence the new name in which the property of the merging state or national bank is held. [1955 c 33 § 30.49.060. Prior: 1953 c 234 § 6.]

30.49.070 Conversion of national to state bank—Requirements—Procedure. Except as provided in RCW 30.49.100, a national bank located in this state which follows the procedure prescribed by the laws of the United States to convert into a state bank shall be granted a state charter by the supervisor of banking if he finds that the bank meets the standards as to location of offices, capital structures, and business experience and character of officers and directors for the incorporation of a state bank.

The national bank may apply for such charter by filing with the supervisor of banking a certificate signed by its president and cashier and by a majority of the entire board of directors, setting forth the corporate action taken in compliance with the provisions of the laws of the United States governing the conversion of a national to a state bank, and the articles of incorporation, approved by the stockholders, for the government of the bank as a state bank. [1955 c 33 § 30.49.070. Prior: 1953 c 234 § 7.]

30.49.080 Resulting bank as same business and corporate entity—Use of name of merging, converting bank. A resulting state or national bank shall be the same business and corporate entity as each merging state or national bank or as the converting state or national bank with all property, rights, powers and duties of each merging state or national bank or the converting state or national bank, except as affected by the state law in the case of a resulting state bank or the federal law in the case of a resulting national bank, and by the charter and bylaws of the resulting state or national bank.

A resulting state or national bank shall have the right to use the name of any merging state or national bank or of the converting bank whenever it can do any act under such name more conveniently.

Any reference to a merging or converting state or national bank in any writing, whether executed or taking effect before or after the merger or conversion, shall be deemed a reference to the resulting state or national bank if not inconsistent with the other provisions of such writing. [1955 c 33 § 30.49.080. Prior: 1953 c 234 § 8.]

30.49.090 Rights of dissenting shareholder—Appraisal—Amount due as debt. The owner of shares of a state bank which were voted against a merger to result in a state bank, or against the conversion of a state bank into a national bank, shall be entitled to receive their value in cash, if and when the merger or conversion becomes effective, upon written demand made to the resulting state or national bank at any time within thirty days after the effective date of the merger or conversion, accompanied by the surrender of the stock certificates. The value of such shares shall be determined, as of the date of the shareholders' meeting approving the merger or conversion, by three appraisers, one to be selected by the owners of two-thirds of the dissenting shares, one by the board of directors of the resulting state or national bank, and the third by the two so chosen. The valuation agreed upon by any two appraisers shall govern. If the appraisal is not completed within ninety days after the merger or conversion becomes effective, the supervisor of banking shall cause an appraisal to be made.

The expenses of appraisal shall be paid by the resulting state bank.

The resulting state or national bank may fix an amount which it considers to be not more than the fair market value of the shares of a merging or the converting bank at the time of the stockholders' meeting approving the merger or conversion, which it will pay dissenting shareholders of the bank entitled to payment in cash. The amount due under such accepted offer or under the appraisal shall constitute a debt of the resulting state or national bank. [1955 c 33 § 30.49.090. Prior: 1953 c 234 § 9.]

30.49.100 Provision for successors to fiduciary positions. Where a resulting state bank is not to exercise trust powers, the supervisor of banking shall not approve a merger or conversion until satisfied that adequate provision has been made for successors to fiduciary positions held by the merging state or national banks or the converting state or national bank. [1955 c 33 § 30.49.100. Prior: 1953 c 234 § 10.]

30.49.110 Assets, business—Time for conformance with state law. If a merging or converting state or national bank has assets which do not conform to the requirements of state law for the resulting state bank or carries on business activities which are not permitted for the resulting state bank, the supervisor of banking may permit a reasonable time to conform with state law. [1955 c 33 § 30.49.110. Prior: 1953 c 234 § 11.]

30.49.120 Resulting state bank—Valuation of certain assets limited. Without approval by the supervisor of banking no asset shall be carried on the books of the resulting state bank at a valuation higher than that on the books of the merging or converting state or national bank at the time of its last examination by a state or national bank examiner before the effective date of the merger or conversion. [1955 c 33 § 30.49.120. Prior: 1953 c 234 § 12.]

30.49.130 Severability—1955 c 33. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of the chapter are declared to be severable. The invalidity of any provision as to a national bank or as to the stockholders of a national bank shall not affect its validity as to a state bank or as to the stockholders of a state bank. [1955 c 33 § 30.49.130. Prior: 1953 c 234 § 13.]

Chapter 30.56 BANK STABILIZATION ACT

Sections	
30.56.010	"Bank" and "directors" defined.
30.56.020	Postponement of payments on deposits—Order—Posting.
30.56.030	Business during postponement.
30.56.040	Deposits received during postponement.
30.56.050	Plan for reorganization—Conditions.
30.56.060	Approval of plan—Unsecured claims.
30.56.070	No dividends until reductions paid.
30.56.080	Failure to pay in excess of plan, effect.
30.56.090	New bank may be authorized.
30.56.100	Chapter designated "bank stabilization act"

30.56.010 "Bank" and "directors" defined. In this chapter the word "bank" includes savings banks, mutual savings banks, and trust companies, and "directors" shall include trustees. [1955 c 33 § 30.56.010. Prior: 1933 c 49 § 2; RRS § 3293-2.]

30.56.020 Postponement of payments on deposits—Order—Posting. The supervisor of banking is hereby empowered, upon the written application of the directors of a bank, if in his judgment the circumstances warrant it, to authorize a bank to postpone, for a period of ninety days and for such further period or periods as he may deem expedient, the payment of such proportions or amounts of the demands of its depositors from time to time as he may deem necessary. The period or periods of postponement and the proportions or amounts of the demands to be deferred shall be determined by him according to the ability of the bank to pay withdrawals. By the regulations prescribed for deferred payments, the supervisor may classify accounts and limit payments to depositors of the several classes differently. The supervisor's orders, regulations and directions shall be in writing and be filed in his office, and copies thereof shall be delivered to the bank and be forthwith posted in a conspicuous place in the banking room. [1955 c 33 § 30.56.020. Prior: 1933 c 49 § 2; RRS § 3293-2.]

30.56.030 Business during postponement. During postponement of payments the bank shall remain open for business and be in charge of its officers, but shall not make any loans, investments or expenditures except such as the supervisor will approve as necessary to conserve its assets and pay the cost of operation. The bank's failure during a period of postponement to repay

deposits existing at the commencement of the period, shall not authorize or require the supervisor to take charge of or liquidate the bank, nor constitute ground for the appointment of a receiver. [1955 c 33 § 30.56.030. Prior: 1933 c 49 § 3; RRS § 3293-3.]

30.56.040 Deposits received during postponement. Deposits received during a period of postponement and for sixty days thereafter shall be kept separate from other assets of the bank, shall not draw interest, shall not be loaned or invested except by depositing with reserve banks or investing in liquid securities approved by the supervisor, and shall be withdrawable upon demand. If during a postponement of payments, or at the expiration thereof, the supervisor shall take charge of the bank for liquidation, deposits made during the period of postponement shall be deemed trust funds and be repaid to the depositors forthwith. [1955 c 33 § 30.56.040. Prior: 1933 c 49 § 4; RRS § 3293-4.]

30.56.050 Plan for reorganization—Conditions. At the request of the directors of a bank, the supervisor may propose a plan for its reorganization, if in his judgment it would be for the best interests of the bank's creditors and of the community which the bank serves. The plan may contemplate such temporary ratable reductions of the demands of depositors and other creditors as would leave its reserve adequate and its capital and surplus unimpaired after the charging off of bad and doubtful debts; and also may contemplate a postponement of payments as in a case falling within RCW 30.56.020. The plan shall be fully described in a writing, the original of which shall be filed in the office of the supervisor and several copies of which shall be furnished the bank, where one or more copies shall be kept available for inspection by stockholders, depositors and other creditors. [1955 c 33 § 30.56.050. Prior: 1933 c 49 § 5; RRS § 3293-5.]

30.56.060 Approval of plan—Unsecured claims. If, within ninety days after the filing of the plan, creditors having unsecured demands against the bank aggregating not less than three-fourths of the amount of the unsecured demands of all its creditors, approved the plan, the supervisor shall have power to declare the plan to be in effect. Thereupon the unsecured demands of creditors shall be ratably reduced according to the plan and appropriate debits shall be made in the books. The right of a secured creditor to enforce his security shall not be affected by the operation of the plan, but the amount of any deficiency to which he may be entitled shall be reduced as unsecured demands were reduced. If the plan contemplates a temporary postponement of payments, RCW 30.56.020, 30.56.030 and 30.56.040 shall be applicable, and the bank shall comply therewith and conduct its affairs accordingly. [1955 c 33 § 30.56.060. Prior: 1933 c 49 § 6; RRS § 3293-6.]

30.56.070 No dividends until reductions paid. A bank for which such a plan has been put into effect shall not declare or pay a dividend or distribute any of its assets

among stockholders until there shall have been set aside for and credited ratably to the creditors whose demands were reduced an amount equal to the aggregate of the reductions. [1955 c 33 § 30.56.070. Prior: 1933 c 49 § 7; RRS 3293-7.]

30.56.080 Failure to pay in excess of plan, effect. The failure of a bank operating under such a plan to pay to a creditor at any time a sum greater than the plan then requires, shall not constitute a default nor authorize or require the supervisor to take charge of or liquidate the bank nor entitle the creditor to maintain an action against the bank. [1955 c 33 § 30.56.080. Prior: 1933 c 49 § 8; RRS 3293-8.]

30.56.090 New bank may be authorized. If the net assets of a bank operating under such a plan are sufficient to provide the capital and surplus of a newly organized bank in the same place, the supervisor, under such reasonable conditions as he shall prescribe, may approve the incorporation of a new bank and permit it to take over the assets and business and assume the liabilities of the existing bank. [1955 c 33 § 30.56.090. Prior: 1933 c 49 § 9; RRS § 3293-9.]

30.56.100 Chapter designated "bank stabilization act". This chapter shall be known as the bank stabilization act. [1955 c 33 § 30.56.100. Prior: 1933 c 49 § 1; RRS § 3293-1.]

Chapter 30.98 CONSTRUCTION

Sections

30.98.010	Continuation of existing law.
30.98.020	Title, chapter, section headings not part of law.
30.98.030	Invalidity of part of title not to affect remainder.
30.98.040	Prior investments or transactions not affected.
30.98.050	Repeals and saving.
30.98.060	Emergency—1955 c 33.

30.98.010 Continuation of existing law. The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. [1955 c 33 § 30.98.010.]

30.98.020 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law. [1955 c 33 § 30.98.020.]

30.98.030 Invalidity of part of title not to affect remainder. If any provision of this title, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected. [1955 c 33 § 30.98.030.]

30.98.040 Prior investments or transactions not affected. Nothing in this title shall be construed to affect the legality of investments, made prior to March 10, 1917, or of transactions had before March 10, 1917,

pursuant to any provisions of law in force when such investment were made or transactions had. (Adopted from 1917 c 80 § 77.) [1955 c 33 § 30.98.040.]

30.98.050 Repeals and saving. The following acts or parts of acts are repealed:

- (1) Chapter 129, Laws of 1905.
- (2) Sections 1, 5 through 8, 10, 12, 14, 15, 16 through 83, Chapter 80, Laws of 1917.
- (3) Sections 1, 4, 5, and 7 through 20, Chapter 209, Laws of 1919.
- (4) Chapter 73, Laws of 1921.
- (5) Chapter 94, Laws of 1921.
- (6) Chapter 114, Laws of 1923.
- (7) Chapter 115, Laws of 1923.
- (8) Chapter 44, Laws of 1925 ex.s.
- (9) Chapter 55, Laws of 1925 ex.s.
- (10) Chapter 114, Laws of 1925 ex.s.
- (11) Chapter 179, Laws of 1927.
- (12) Chapter 224, Laws of 1927.
- (13) Chapter 72, Laws of 1929.
- (14) Chapter 73, Laws of 1929.
- (15) Chapter 174, Laws of 1929.
- (16) Chapter 203, Laws of 1929.
- (17) Chapter 8, Laws of 1931.
- (18) Chapter 9, Laws of 1931.
- (19) Chapter 10, Laws of 1931.
- (20) Chapter 11, Laws of 1931.
- (21) Chapter 127, Laws of 1931.
- (22) Chapter 12, Laws of 1933.
- (23) Chapter 42, Laws of 1933.
- (24) Chapter 49, Laws of 1933.
- (25) Chapter 105, Laws of 1933.
- (26) Chapter 9, Laws of 1933 ex.s.
- (27) Chapter 42, Laws of 1935.
- (28) Chapter 43, Laws of 1935.
- (29) Chapter 93, Laws of 1935.
- (30) Chapter 31, Laws of 1937.
- (31) Chapter 48, Laws of 1937.
- (32) Chapter 61, Laws of 1937.
- (33) Chapter 59, Laws of 1939.
- (34) Chapter 61, Laws of 1939.
- (35) Chapter 16, Laws of 1941.
- (36) Chapter 38, Laws of 1941.
- (37) Chapter 41, Laws of 1941.
- (38) Chapter 55, Laws of 1943.
- (39) Chapter 114, Laws of 1943.
- (40) Chapter 142, Laws of 1943.
- (41) Chapter 143, Laws of 1943.
- (42) Chapter 148, Laws of 1943.
- (43) Chapter 167, Laws of 1943.
- (44) Chapter 187, Laws of 1943.
- (45) Chapter 69, Laws of 1945.
- (46) Chapter 204, Laws of 1945.
- (47) Chapter 100, Laws of 1947.
- (48) Chapter 129, Laws of 1947.
- (49) Chapter 131, Laws of 1947.
- (50) Chapter 132, Laws of 1947.
- (51) Chapter 146, Laws of 1947.
- (52) Chapter 147, Laws of 1947.
- (53) Chapter 148, Laws of 1947.
- (54) Chapter 149, Laws of 1947.

- (55) Chapter 221, Laws of 1947.
- (56) Chapter 18, Laws of 1951.
- (57) Chapter 23, Laws of 1951.
- (58) Chapter 132, Laws of 1951.
- (59) Chapter 218, Laws of 1951.
- (60) Chapter 226, Laws of 1951.
- (61) Chapter 234, Laws of 1953.
- (62) Chapter 236, Laws of 1953.

Such repeals shall not be construed as affecting any existing right acquired under the provisions of the statutes repealed, nor as affecting any proceeding instituted thereunder. [1955 c 33 § 30.98.050.]

30.98.060 Emergency—1955 c 33. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately. [1955 c 33 § 30.98.060.]

Chapter 30.99 WASHINGTON TRUST ACT

Sections	
30.99.010	Application of chapter.
30.99.020	Power of trustor—Trust provisions control chapter provisions.
30.99.030	Exercise of powers by co-trustees.
30.99.040	Resignation of trustee.
30.99.050	Filling vacancy in office of trustee.
30.99.060	Power of successor trustee.
30.99.070	Power of trustee.
30.99.080	Nonliability of third persons without knowledge of breach.
30.99.090	Nonliability for action or inaction based on lack of knowledge of events.
30.99.100	Contract and tort liability.
30.99.110	Tax reform act of 1969, state implementation—Application to certain trusts.
30.99.900	Severability—1959 c 124.
30.99.910	Short title.
	<i>Assignment for the benefit of creditors: Chapter 7.08 RCW.</i>
	<i>Assignments to trustees, priority of wages: RCW 49.56.010.</i>
	<i>Banks and trust companies: Title 30 RCW.</i>
	<i>Cemeteries, endowment and nonendowment care: Chapter 68.40 RCW.</i>
	<i>Cemeteries, endowment care fund: Chapter 68.44 RCW.</i>
	<i>Certificate conferring trust powers on bank, fee: RCW 30.08.095.</i>
	<i>Conversion of savings and loan association, supervisor as trustee for certain purposes: RCW 33.44.020.</i>
	<i>Conveyances and encumbrances of realty when held in trust: RCW 64.04.010.</i>
	<i>Corporate powers of trust companies bond liability, securities, etc.: RCW 30.08.150–30.08.170.</i>
	<i>Corporate seals, effect of absence from instrument: RCW 64.04.105.</i>
	<i>Corporations and associations (nonprofit): Title 24 RCW.</i>
	<i>Corporations and associations (profit): Title 23A RCW.</i>
	<i>Corporations, articles to state if trust company: RCW 30.08.020.</i>
	<i>Corporations, crimes relating to: Chapter 9.24 RCW.</i>
	<i>Corporations sole, property held in trust: RCW 24.12.030.</i>
	<i>Costs against trustees, civil actions: RCW 4.84.150.</i>
	<i>Declaratory judgments, rights of trustee, cestui, etc.: RCW 7.24.040.</i>
	<i>Deposits in trust: RCW 30.20.035.</i>
	<i>Devise or bequest for benefit of trust: RCW 11.12.250.</i>
	<i>Employee benefit plans, trusts, duration, etc.: Chapter 49.64 RCW.</i>
	<i>Employee welfare trust funds: Chapter 48.52 RCW.</i>
	<i>Employees' benefit deductions from wages are trust funds: RCW 49.52.010.</i>
	<i>Execution against property in trustee's hands: RCW 6.04.040.</i>

- Fiduciary bonds: RCW 48.28.020.
- Fraudulent conveyances: Chapter 19.40 RCW.
- Gift taxes, certain exemptions: RCW 83.56.060.
- Gift taxes, exemptions of certain transfers: RCW 83.56.030.
- Gift taxes, liability, duties of fiduciary: RCW 83.56.250, 83.56.270.
- Guardianship: Chapters 11.88, 11.92, 73.36 RCW.
- Husband and wife, property rights and liabilities: Chapter 26.16 RCW.
- Inheritance tax rates, classification of testamentary trusts: RCW 83.08.050.
- Inheritance taxes, legacies and transfers exempted: Chapter 83.20 RCW.
- Inheritance taxes, payment, compromise, etc.: Chapter 83.44 RCW.
- Inheritance taxes, property subject: RCW 83.04.010.
- Inheritance taxes, trustee to pay: RCW 83.44.060.
- Inheritance taxes, trustee to send reports: RCW 83.36.050, 83.36.060.
- Inheritance taxes, trustee's duties in valuation: RCW 83.16.010.
- Inheritance taxes, violations, penalties: Chapter 83.52 RCW.
- Insurance, deposits held in trust: RCW 48.16.020, 48.16.070.
- Insurance, equipment trust certificates: RCW 48.13.100.
- Insurance, investment in trustees' obligations: RCW 48.13.090.
- Insurance, trustee group life insurance: RCW 48.24.070.
- Investment of trust funds: Chapter 30.24 RCW.
- Investment of trust funds in certain federally secured obligations: RCW 39.60.010.
- Loan agencies: Title 31 RCW.
- Loans to officers of trust corporation from trust funds prohibited: RCW 30.12.120.
- Mandamus: Chapter 7.16 RCW.
- Massachusetts trusts: Chapter 23.90 RCW.
- Mortgages and trust receipts: Title 61 RCW.
- Mutual savings banks: Title 32 RCW.
- National bank may do trust business, state regulations: RCW 30.08-.110, 30.08.120.
- Nontestamentary nature of certain trust provisions: RCW 11.02.090.
- Partnerships: Title 25 RCW.
- Personal property: Title 63 RCW.
- Pleadings, setoff against beneficiary or trustee of trust estate: RCW 4.32.120, 4.32.140.
- Powers of appointment, powers in trust: Chapter 64.24 RCW.
- Private seals abolished: RCW 64.04.090-64.04.100.
- Probate law and procedure: Title 11 RCW.
- Proceedings to impeach: RCW 42.04.040.
- Prohibition: Chapter 7.16 RCW.
- Property taxes: Title 84 RCW.
- Property taxes, exemptions: Chapter 84.36 RCW.
- Prudent man rule: Chapter 30.24 RCW.
- Real estate brokers, funds, etc.: Chapter 18.85 RCW.
- Recording, county auditor's duties: Chapter 65.04 RCW.
- Recording and publication: Title 65 RCW.
- Registration of land titles, assurance fund not liable for breach by trustee: RCW 65.12.700.
- Registration of land titles, dealings with registered lands: RCW 65.12.320.
- Registration of land titles, encumbrances by trust deeds: RCW 65.12-.420-65.12.450.
- Registration of land titles, fee for transfer in trust: RCW 65.12.790.
- Registration of land titles, transfers between trustees: RCW 65.12.490.
- Registration of land titles, transfers in trust: RCW 65.12.480.
- Registration of land titles, trustees and receivers: RCW 65.12.600.
- Registration of land titles, trustee may register land: RCW 65.12.500.
- Resulting state bank, provisions when not exercising trust powers: RCW 30.49.100.
- Retail sales tax, "buyer" includes trust, business trust, etc.: RCW 82.08.010.
- Rule against perpetuities: Chapter 11.98 RCW.
- Savings and loan associations: Title 33 RCW.
- Savings and loan associations, accounts in trust: RCW 33.20.070.
- Savings banks, deposits in trust: RCW 32.12.030.
- Savings banks, limitation on deposits: RCW 32.12.010.
- Savings banks not to locate in same room with trust company: RCW 32.04.030.
- State depositories: Chapter 43.85 RCW.
- Statute of frauds: Chapter 19.36 RCW.
- Trust business to be kept separate: RCW 30.04.240.
- Trust companies, capital requirements: RCW 30.08.010.
- Trust companies, limitation to act as executor or administrator: RCW 11.36.010.
- Trust company as legal representative, advertising: RCW 30.04.260, 30.12.130.
- Trust company defined: RCW 30.04.010.
- Trustee for crop credit notes: RCW 31.16.170-31.16.250, 31.16.270-31.16.280.
- Trustee may sue in own name: RCW 4.08.020.
- Trustees' accounting act: Chapter 30.30 RCW.
- Trusts and monopolies: State Constitution Art. 12 § 22.
- Unclaimed property in hands of bailee: Chapter 63.24 RCW.
- Unclaimed property in hands of city police: Chapter 63.32 RCW.
- Uniform common trust fund act: Chapter 30.28 RCW.
- Uniform declaratory judgments act: Chapter 7.24 RCW.
- Uniform disposition of unclaimed property act: Chapter 63.28 RCW.
- Uniform gifts to minors act: Chapter 21.24 RCW.
- Use tax, "purchaser" includes trust, business trust, etc.: RCW 82.12.010.
- Washington trust act: Chapter 30.99 RCW.
- Wills, generally: Chapter 11.12 RCW.
- Witnesses, competency in actions involving fiduciaries: RCW 5.60.030.

30.99.010 Application of chapter. This chapter shall apply to express trusts, except as hereinafter limited, which are executed by the trustor after the effective date hereof. This chapter shall not apply to resulting trusts, constructive trusts, business trusts where certificates of beneficial interest are issued to the beneficiary, investment trusts, voting trusts, trusts in the nature of mortgages or pledges, trusts created by the judgment or decree of a court not sitting in probate, liquidation trusts, or trusts for the sole purpose of paying dividends, interest, interest coupons, salaries, wages, pensions or profits, trusts created in deposits in any banking institution pursuant to RCW 30.20.035 or RCW 32.12.030, or in accounts in savings and loan associations pursuant to RCW 33.20.070, unless any such trust which is created in writing incorporates this chapter in whole or in part. [1959 c 124 § 1.]

Reviser's note: The "effective date hereof" is midnight June 10, 1959, see preface 1959 session laws.

30.99.020 Power of trustor—Trust provisions control chapter provisions. The trustor of a trust may by the provisions thereof relieve the trustee from any or all of the duties, restrictions and liabilities which would otherwise be imposed by this chapter, or may alter or deny any or all of the privileges and powers conferred by this chapter; or may add duties, restrictions, liabilities, privileges, or powers to those imposed or granted by this chapter. If any specific provision of this chapter is in conflict with or inconsistent with the provisions of a trust, the provisions of the trust shall control whether or not specific reference is made therein to this chapter. [1959 c 124 § 2.]

30.99.030 Exercise of powers by co-trustees. Any power vested in three or more trustees jointly may be exercised by a majority of such trustees; but no trustee who has not joined in exercising a power shall be liable to the beneficiaries or to others for the consequences of such exercise; nor shall a dissenting trustee be liable for the consequences of an act in which he joins at the direction of the majority of the trustees, if he expressed his dissent in writing to each of his co-trustees at or before the time of such joinder.

Where two or more trustees are appointed to execute a trust and one or more of them for any reason does not accept the appointment or having accepted ceases to be a trustee, the survivor or survivors shall execute the trust and shall succeed to all the powers, duties and discretionary authority given to the trustees jointly.

Nothing in this section shall excuse a co-trustee from liability for failure either to participate in the administration of the trust or to attempt to prevent a breach of trust. [1959 c 124 § 3.]

30.99.040 Resignation of trustee. Upon petition of the trustee of a trust, the superior court having jurisdiction may accept his resignation and discharge him from the trust upon such notice, if any, and upon such terms as such court may require. [1959 c 124 § 4.]

30.99.050 Filling vacancy in office of trustee. Any beneficiary of a trust, the trustor if alive, or the trustee may in writing petition the superior court having jurisdiction for the appointment of a successor trustee whenever the office of trustee becomes vacant or upon filing of a petition of resignation by a trustee. The court shall make an order fixing the time and place for hearing the petition and the notice thereof shall be signed by the clerk of said court. Petitioner shall cause a copy of the notice to be mailed to each beneficiary, the trustor if alive, and to the incumbent trustee, if any, whose names and addresses are known to him, not less than ten days before the date of the hearing. Proof of the mailing of such notice shall be made by affidavit which shall be filed at or before the hearing. All those whose names or addresses are not known or are not legally competent and any beneficiary who is not ascertained shall be represented at the hearing by a guardian ad litem appointed by the court when it sets the time of hearing. Upon conclusion of the hearing the court shall appoint a successor trustee after giving due consideration to the individual or corporate character of trustor's original trustee, any nominations by those entitled to petition for the appointment or by the guardian ad litem, and all other relevant and material facts. [1959 c 124 § 5.]

30.99.060 Power of successor trustee. A successor trustee of a trust shall succeed to all the powers, duties and discretionary authority of the original trustee. [1959 c 124 § 6.]

30.99.070 Power of trustee. A trustee, or the trustees jointly, of a trust shall, in addition to the authority otherwise given by law, have the power and the exercise of

discretion in the application thereof, to acquire, invest, reinvest, exchange, sell, convey and manage the trust property in accordance with the standards provided by law, and in so doing may:

(1) Receive property from any source as additions to the trust or any fund thereof to be held and administered under the provisions thereof;

(2) Sell on credit; and grant, purchase or exercise options;

(3) Sell or exercise subscriptions to stock or other corporate securities and to exercise conversion rights; deposit stock or other corporate securities with any protective or other similar committee; and assent to corporate sales, leases and encumbrances;

(4) Vote trust securities in person or by proxy with power of substitution; and enter into voting trusts;

(5) Register and hold any stocks, securities or other property in the name of a nominee or nominees without mention of the trust relationship, provided the trustee or trustees shall be liable for any loss occasioned by the acts of any such nominee;

(6) Grant leases of trust property, with or without options to purchase or renew, to begin within a reasonable period and for terms within or extending beyond the duration of the trust, for any purpose including exploration for and removal of oil, gas and other minerals; enter into community oil leases, pooling and unitization agreements; create restrictions, easements and other servitudes; alter, renovate, add to or demolish any building, subdivide, develop, improve, dedicate to public use, make or obtain the vacation of public plats, adjust boundaries, partition real property and on exchange or partition to adjust differences in valuation by giving or receiving money or money's worth;

(7) Cause or participate in the formation, reorganization, merger, consolidation and dissolution of corporate or other business undertakings where trust property may be affected and retain any property received pursuant thereto; limit management participation in any partnership and to act as a limited partner; charge profits and losses of any business or farm operation to the trust estate as a whole and not to the trustee; and make available to or invest in any business or farm operation additional moneys from the trust estate or other sources;

(8) Compromise or submit claims to arbitration; advance funds and borrow money, secured or unsecured, from any source, including a corporate trustee's banking department; and mortgage, pledge the assets or credit of the trust estate or otherwise encumber trust property, including future income;

(9) Determine the hazards to be insured against and maintain insurance therefor;

(10) Select any part of the trust estate in satisfaction of any partition or distribution, in kind, in money or both; pay any income or principal distributable to or for the use of any beneficiary, whether or not such beneficiary is under legal disability, to him or for his use to his parent, guardian, person with whom he resides or third persons. [1959 c 124 § 7.]

30.99.080 Nonliability of third persons without knowledge of breach. In the absence of knowledge of a breach of trust, no party dealing with a trustee shall be required to see to the application of any moneys or other properties delivered to the trustee. [1959 c 124 § 8.]

30.99.090 Nonliability for action or inaction based on lack of knowledge of events. When the happening of any event, including but not limited to such events as marriage, divorce, performance of educational requirements or death, affects the administration or distribution of the trust then a trustee who has exercised reasonable care to ascertain the happening of such event shall not be liable for any action or inaction based on lack of knowledge of such event. A corporate trustee shall not be liable prior to receiving such knowledge or notice in its trust department office where the trust is being administered. [1959 c 124 § 9.]

30.99.100 Contract and tort liability. Actions on contracts which have been transferred to a trust and on contracts made by a trustee, and actions in tort for personal liability incurred by a trustee in the course of his administration may be maintained by the party in whose favor the cause of action has accrued as follows:

(1) The plaintiff may sue the trustee in his representative capacity and any judgment rendered in favor of the plaintiff shall be collectible by execution out of the trust property: *Provided, however,* If the action is in tort, collection shall not be had from the trust property unless the court shall determine in such action that (a) the tort was a common incident of the kind of business activity in which the trustee or his predecessor was properly engaged for the trust; or (b) that, although the tort was not a common incident of such activity, neither the trustee nor his predecessor, nor any officer or employee of the trustee or his predecessor, was guilty of personal fault in incurring the liability; or (c) that, although the tort did not fall within classes (a) or (b) above, it increased the value of the trust property. If the tort is within classes (a) or (b) above, collection may be had of the full amount of damage proved, and if the tort is within class (c) above, collection may be had only to the extent of the increase in the value of the trust property.

(2) If the action is on a contract made by the trustee, the trustee may be held personally liable on such contract, if personal liability is not excluded. Either the addition by the trustee of the words "trustee" or "as trustee" after the signature of a trustee to a contract or the transaction of business as trustee under an assumed name in compliance with RCW 19.80.010 to 19.80.050 inclusive shall exclude the trustee from personal liability. If the action is on a contract transferred to the trust or trustee, subject to any rights therein vested at time of such transfer, the trustee shall be personally liable only if he has in writing assumed such liability.

(3) In any such action against the trustee in his representative capacity the plaintiff need not prove that the trustee could have secured reimbursement from the trust fund if he had paid the plaintiff's claim.

(4) The trustee may also be held personally liable for any tort committed by him, or by his agents or employees in the course of their employments, subject to the rights of exoneration or reimbursement:

(a) A trustee who has incurred personal liability for a tort committed in the administration of the trust is entitled to exoneration therefor from the trust property if (i) the tort was a common incident of the kind of business activity in which the trustee was properly engaged for the trust, or (ii) although the tort was not a common incident of such activity, if neither the trustee nor any officer or employee of the trustee was guilty of personal fault in incurring the liability;

(b) A trustee who commits a tort which increases the value of the trust property shall be entitled to exoneration or reimbursement with respect thereto to the extent of such increase in value, even though he would not otherwise be entitled to exoneration or reimbursement.

(5) No judgment shall be rendered in favor of the plaintiff in any such action unless the plaintiff shall cause a copy of the notice of the hearing on such action to be mailed not less than twenty days before the date therefor to the trustor, if living, the trustee and to each beneficiary whose name and address is known to him. Proof of the mailing of such notice shall be made by affidavit which shall be filed at or before the hearing. All those whose names or addresses are not known or are not legally competent and any beneficiary who is not ascertained shall be represented at the hearing by a guardian ad litem appointed by the court when it sets the time of hearing.

(6) Nothing in this section shall be construed to change the existing law with regard to the liability of the trustee of a charitable trust for the torts of the trustee. [1959 c 124 § 10.]

30.99.110 Tax reform act of 1969, state implementation—Application to certain trusts. See RCW 19.10-.200-19.10.260.

30.99.900 Severability—1959 c 124. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable. [1959 c 124 § 11.]

30.99.910 Short title. This act shall be known as the "Washington Trust Act." [1959 c 124 § 12.]

TITLE 31

MISCELLANEOUS LOAN AGENCIES

Chapters

- 31.04 Industrial loan companies.**
- 31.08 Small loan companies.**
- 31.12 Credit unions.**
- 31.16 Crop credit associations.**
- 31.20 Development credit corporations.**
- 31.24 Industrial development corporations.**

Agricultural cooperative associations: Chapter 24.32 RCW.
Bank examiners: Chapter 43.19 RCW.
Banks and trust companies: Title 30 RCW.
Bills of lading: Title 62A RCW (Art. 7).
Cooperative associations: Chapter 23.86 RCW.
Corporations and associations (nonprofit): Title 24 RCW.
Corporations and associations (profit): Title 23A RCW.
Credit life insurance and credit accident and health insurance: Chapter 48.34 RCW.
False representations concerning credit: RCW 9.38.010.
Federal bonds and notes as investment or collateral: Chapter 39.60 RCW.
Forgery: Chapter 9.44 RCW.
Interest and usury in general: Chapter 19.52 RCW.
Joint tenancies with right of survivorship: Chapter 64.28 RCW.
Law against discrimination: Chapter 49.60 RCW.
Mortgages and trust receipts: Title 61 RCW.
Mutual savings banks: Title 32 RCW.
Negotiable instruments: Title 62A RCW (Art. 3).
Nonadmitted foreign corporations, powers relative to secured interests: Chapter 23A.36 RCW.
Pawnbrokers: Chapter 19.60 RCW.
Retail installment sales of goods and services: Chapter 63.14 RCW.
Safe deposit repository lease agreements ineffective to create joint ownership or transfer property at death: RCW 11.02.090(6).
Savings and loan associations: Title 33 RCW.
Supervisor of banking: Chapter 43.19 RCW.
Supervisor of savings and loan associations: Chapter 43.19 RCW.
Uniform disposition of unclaimed property act: Chapter 63.28 RCW.
Veterans' loan insurance: Chapter 73.12 RCW.

Chapter 31.04 INDUSTRIAL LOAN COMPANIES

Sections

- 31.04.010 Definitions—Use of words in name.
- 31.04.030 Articles of incorporation—Contents.
- 31.04.040 Schedule of fees.
- 31.04.050 Articles, approval or rejection—Appeal—Filing—Fees.
- 31.04.060 Capital to be paid in cash.
- 31.04.070 Certificate of authority.
- 31.04.080 Minimum capital stock—Increase or decrease—Share value—Amendment of articles.
- 31.04.090 Corporate powers.
- 31.04.100 Prohibited acts.
- 31.04.110 Cash reserve.
- 31.04.120 Real estate holdings.

- 31.04.130 Dividends.
- 31.04.140 Reports to supervisor.
- 31.04.150 Examinations by supervisor—Perjury—Rules—Corporate records—False advertising—Appeals.
- 31.04.160 Cost of examinations.
- 31.04.200 Bonds of officers and employees.
- 31.04.210 Bad debts—Judgments.
- 31.04.220 Violations—Penalties.
- 31.04.230 Supervisor may take possession and liquidate, when—Sale of securities—Permit—Rules.
- 31.04.250 Doing business for a foreign corporation—Penalty.
- 31.04.260 Taxation.
- 31.04.270 Effect of failure to organize or commence business.
- 31.04.280 Official communications.

Law against discrimination: Chapter 49.60 RCW.
Supervisor of banking and bank examiners: Chapter 43.19 RCW.

31.04.010 Definitions—Use of words in name. (1) The term "industrial loan company" as used in this chapter means any corporation formed under the provisions of this chapter for the purpose of conducting business in the manner outlined herein.

(2) The name of every such corporation shall terminate with the words "Industrial Loan Company."

(3) After the passage and approval of this chapter, no person, firm or corporation conducting a business not in the form and of a character similar to that authorized by this chapter shall have or continue to use for a part of its title or corporate name any combination of the words "Industrial" and "Loan." [1941 c 19 § 1; 1925 ex.s. c 186 § 1; 1923 c 172 § 1; Rem. Supp. 1941 § 3862-1. Formerly RCW 31.04.010 and 31.04.020.]

Supervisor of banking and bank examiners: Chapter 43.19 RCW.

31.04.030 Articles of incorporation—Contents. (1) When authorized by the supervisor of banking, as hereinafter provided, five or more natural persons, citizens of the United States, may incorporate an industrial loan company in the manner herein prescribed.

(2) Persons desiring to incorporate an industrial loan company shall execute articles of incorporation in quadruplicate, which shall be submitted for examination to the supervisor of banking at his office in Olympia.

(3) Articles of incorporation shall state:

- (a) The name of the industrial loan company.
- (b) The city, village or locality and county where such corporation is to be located.
- (c) The nature of its business.
- (d) The amount of its capital stock.
- (e) The period for which such corporation is organized, which shall not exceed fifty years.
- (f) The names and places of residence of the persons who as directors are to manage the corporation until

the first annual meeting of its stockholders, which meeting shall be held within six months after the issuance of the certificate of authority.

(g) Such articles shall be acknowledged before an officer authorized to take acknowledgments. [1923 c 172 § 2; RRS § 3862-2.]

31.04.040 Schedule of fees. The supervisor of banking shall collect in advance the following fees:

For filing application for certificate of authority and attendant investigation as required by the law, the cost thereof, but not less than	\$100.00
(If the cost of such attendant examination shall exceed \$100.00, the applicant shall pay such excess when ascertained by the supervisor of banking.)	
For filing articles of incorporation, or amendments thereof, or other certificates required to be filed in his office	10.00
For issuing a certificate of increase or decrease of capital stock	10.00
For issuing each certificate of authority	10.00
For furnishing copies of papers filed in his office, per folio20

Every industrial loan company shall also pay to the secretary of state or county auditor for filing any instrument with him the same fees as are required of general corporations for filing corresponding instruments, and also the same license fees as are required of general corporations. [1929 c 71 § 1; 1923 c 172 § 3; RRS § 3862-3.]

31.04.050 Articles, approval or rejection—Appeal—Filing—Fees. When articles of incorporation complying with the foregoing requirements have been received by the supervisor of banking, together with the fees required by law, he shall ascertain from the best source of information at his command and by such investigation as he may deem necessary, whether the character, responsibility and general fitness of the persons named in such articles are such as to command confidence and warrant belief that the business of the proposed industrial loan company will be honestly and efficiently conducted in accordance with the intent and purpose of this chapter, whether the resources in the neighborhood of such place and in the surrounding country afford a reasonable promise of adequate support for the proposed company and whether the proposed industrial loan company is being formed for other than legitimate objects covered by this chapter. After the supervisor shall have satisfied himself of the above facts, and, within sixty days after the receipt of such articles of incorporation for examination, he shall endorse upon each of the quadruplicates thereof, over his official signature, the word "Approved," or the word "Refused," with the date of such endorsement. In case of refusal he shall forthwith return one of the quadruplicates, so endorsed, to the person from whom the articles were received which refusal shall be conclusive,

unless the incorporators, within ten days of the issuance of such notice of refusal, shall appeal to the superior court of Thurston county, which appeal shall be triable de novo in said court. In case of approval the supervisor shall forthwith give notice thereof to the proposed incorporators, and file one of the quadruplicate articles of incorporation in his own office, and shall transmit another quadruplicate to the county auditor of the county in which such industrial loan company is located, and another quadruplicate to the secretary of state, and the fourth quadruplicate to the incorporators. Upon receipt from the proposed incorporators of the same fees as are required for filing and recording other articles of incorporation the secretary of state and county auditor shall file such articles in their respective offices, and the secretary of state shall record the same. Upon the filing of articles of incorporation in quadruplicate, approved as aforesaid by the supervisor of banking, with the secretary of state and county auditor; all persons named therein and their successors shall become and be a corporation, which shall have the powers and be subject to the duties and obligations prescribed by this chapter, and whose existence shall continue for the period of fifty years from the date of the filing of such articles, unless sooner terminated pursuant to law; but such corporation shall not transact any business except as is necessarily preliminary to its organization until it has received a certificate of authority as provided herein. [1923 c 172 § 4; RRS § 3862-4.]

Supervisor of banking: Chapter 43.19 RCW.

31.04.060 Capital to be paid in cash. Before the articles of incorporation of any corporation, incorporated under the provisions of this chapter, are filed, there must be paid in cash for the benefit of the corporation to a treasurer selected by the subscribers, not less than twenty-five percent of the amount of the capital stock. Not less than one-twelfth of the balance of the capital stock shall be paid in cash to the corporation within thirty days from the date of incorporation and each thirty days thereafter until fully paid. No corporation organized hereunder shall expend for a plan of operation, organization expense and the sale of its capital stock an amount in excess of ten percent of the paid-in capital stock. [1925 ex.s. c 186 § 2; 1923 c 172 § 6; RRS § 3862-6.]

31.04.070 Certificate of authority. Before any industrial loan company shall be authorized to do business, the supervisor of banking shall be satisfied that such corporation has a paid-in capital in the amount fixed by this chapter, and that it has in good faith complied with all the requirements of law and fulfilled all the conditions precedent to commencing business imposed by this chapter. When so satisfied and within ninety days after the date upon which such proposed articles of incorporation were filed with him for examination, but in no case after the expiration of that period, the supervisor of banking shall issue under his hand and official seal, in quadruplicate, a certificate of authority for such corporation. The certificate shall state that the

corporation therein named has complied with the requirements of law, that it is authorized to transact at the place designated in its articles of incorporation, the business of an industrial loan company. One of the quadruplicate certificates shall be transmitted by the supervisor, to the corporation and the other three shall be filed by the supervisor in the same offices where the articles of incorporation are filed and shall be attached to said articles of incorporation, and the one filed with the secretary of state shall be recorded. [1923 c 172 § 5; RRS § 3862-5.]

31.04.080 Minimum capital stock—Increase or decrease—Share value—Amendment of articles. (1) The capital stock of any corporation incorporated under the provisions of this chapter shall be not less than twenty-five thousand dollars in any city having a population of one hundred thousand inhabitants, or less, according to the last official census; and shall be not less than fifty thousand dollars in any city having a population in excess of one hundred thousand inhabitants according to the last official census. The capital stock of any such corporation shall be divided into shares of the par value of one hundred dollars each. No corporation organized hereunder shall create more than one class of stock.

(2) Any industrial loan company may increase or decrease its capital stock or otherwise amend its articles of incorporation, in any manner not inconsistent with the provisions of this chapter, by a vote of the stockholders representing two-thirds of its capital at any regular meeting, or special meeting called for that purpose in the manner prescribed by its bylaws: *Provided*, That notice of a meeting to increase or decrease capital stock shall first be published once a week for four weekly issues in a newspaper published in the place in which such corporation is located, or if there be no newspaper published in such place, then in some newspaper published in the same county. The notice shall state the purpose of the meeting, the amount of the present capital of the industrial loan company and the proposed new capital. A certificate of the fact and the terms of the amendment shall be executed by a majority of the directors and filed as required herein for articles of incorporation. No increase of capital stock shall be valid until twenty-five percent of the amount thereof shall have been subscribed and actually paid in and a certificate of increase received from the supervisor of banking. Not less than one-twelfth of the balance of the authorized increase shall be paid in cash to the corporation within thirty days from the date the increase is authorized, and each thirty days thereafter until fully paid. No reduction of the capital stock shall be made to an amount less than is required for capital, nor be valid, nor warrant the cancellation of stock certificates until such reduction has been approved by said supervisor of banking. [1941 c 19 § 2; 1939 c 95 § 3; 1925 ex.s. c 186 § 3; 1923 c 172 § 7; Rem. Supp. 1941 § 3862-7.]

31.04.090 Corporate powers. Every corporation under the provisions of this chapter shall have power:

(1) To lend money and to deduct interest therefor in advance at the rate of ten percent per annum, or less; to agree with the borrower for the payment of an aggregate amount for expenses incurred and services rendered in connection with the investigation of the character and circumstances of the borrower and the security offered in connection with his loan, and for servicing and maintaining the said loan and security, which amount shall not in any event exceed an initial charge of two dollars on a loan under one hundred dollars or a maximum of two percent of any loan of one hundred dollars or more, and which initial charge may be deducted from said loan in advance, and a charge of fifty cents per month to be collected monthly during the actual period that said loan or any part thereof remain unpaid; to require the borrower to purchase simultaneously with the loan transaction, or otherwise, and pledge as security therefor, an investment certificate of the character described in subdivision (2) of this section, in an amount not exceeding one-fifth more than the amount of the loan made. Upon maturity of the note, the borrower may, at his option, surrender the investment certificate. No additional charge shall be made except to reimburse the corporation for money actually expended to any public officer for filing and recording any instrument securing such loan or in connection therewith. No charge shall be collected unless a loan shall have been made.

(2) Subject to the limitations provided in this chapter, to sell or negotiate written evidences of debt, to be known as "investment certificates," for the payment of money by the corporation at any time, and bearing interest, as therein designated, and to receive payment therefor in full or in installments; to charge a penalty of five cents or less on each dollar of such installment payments delinquent one full week or more. No interest shall be collected on delinquent installments. No certificate or securities of any nature shall be sold at a price in excess of the actual book value of the certificate or securities sold. The issuance of written evidences of debt authorized by this subdivision shall be subject to the provisions of RCW 31.04.230.

(3) To borrow money and to sell and negotiate for cash its promissory notes. Nothing contained in this subdivision or in subdivision (2) of this section shall be construed as authorizing the corporation to receive deposits or to issue certificates of deposit or to create any liability due on demand.

(4) To establish branches subject to the approval and authority of the supervisor of banking.

(5) Conferred upon corporations by RCW 31.04.120. [1941 c 19 § 3; 1939 c 95 § 2; 1925 ex.s. c 186 § 4; 1923 c 172 § 8; Rem. Supp. 1941 § 3862-8.]

Interest and usury in general: Chapter 19.52 RCW.

31.04.100 Prohibited acts. No corporation under the provisions of this chapter shall:

(1) Make any loan, on the security of makers, co-makers, endorsers, sureties or guarantors, for a longer period than two years from the date thereof.

(2) Hold at any one time the primary obligation, or obligations of any person, firm or corporation, for more than two percent of the amount of the paid-up capital and surplus of such industrial loan company.

(3) Hold at any one time the obligation or obligations of persons, firms, or corporations purchased from any person, firm or corporation in excess of twenty percent of the aggregate paid-up capital and surplus of such industrial loan company.

(4) Make any loans secured by chattel mortgage for a longer period than two years from the date thereof.

(5) Make any loan or discount on the security of its own capital stock, or be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith. Stock so purchased or acquired shall be sold at public or private sale or otherwise disposed of within ninety days from the time of its purchase or acquisition.

(6) Invest any of its funds, otherwise than as herein authorized, except in such investments as are by law legal investments for commercial banks.

(7) Make any loan or discount, nor shall any officer or employee thereof on behalf of such corporation, make any loan or discount directly or indirectly to any director, officer or employee of such corporation.

(8) Have outstanding at any time its promissory notes or other evidences of debt in an aggregate sum in excess of three times the aggregate amount of its paid-up capital and surplus, exclusive of investment certificates hypothecated with the corporation issuing them.

(9) Exact a surrender charge on investment certificates issued by the corporation.

(10) Deposit any of its funds with any other moneyed corporation, unless such corporation has been designated as such depository by a vote of the majority of the directors or the executive committee, exclusive of any director who is an officer, director or trustee of the depository so designated.

(11) Make any loan or discount secured by real estate for an amount in excess of seventy-five percent of the value of such real estate and improvements, including all prior liens against the same.

(12) Have outstanding at any time investment certificates issued in the name of any one person, firm or corporation for an amount in excess of two and one-half percent of its paid-up capital and surplus.

(13) Pledge or hypothecate any of its securities to any creditor except that it may borrow and rediscount an amount not to exceed in the aggregate three times the amount of the paid-up capital and surplus thereof, and may pledge as security for amounts borrowed assets of the corporation not exceeding one and one-half times the amount borrowed and may pledge as security for amounts rediscounted assets of the corporation not exceeding one-half the amount rediscounted. [1941 c 19 § 4; 1939 c 95 § 3; 1925 ex.s. c 186 § 5; 1923 c 172 § 9; Rem. Supp. 1941 § 3862-9.]

31.04.110 Cash reserve. Corporations, under the provisions of this chapter, shall at all times maintain a cash reserve equal to five percent of its issued and outstanding investment certificates, exclusive of those hypothecated with the corporation issuing them. [1923 c 172 § 10; RRS § 3862-10.]

31.04.120 Real estate holdings. Corporations, under the provisions of this chapter, may purchase, hold and convey real estate for the following purposes, but for no other:

(1) Such as shall be necessary for the convenient transaction of its business, including with its business offices other apartments in the same building to rent as a source of income: *Provided, however,* The corporation shall not invest an amount in excess of twenty-five percent of its paid-up capital, surplus and undivided profits in such real estate.

(2) Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its business.

(3) Such as it shall purchase at sale under judgments, decrees or mortgage foreclosures under securities held by it, but no such corporation shall bid at any such sale a larger amount than shall be necessary to satisfy its debts and costs.

(4) Real estate shall be conveyed under the corporate seal of such corporation and the hand of its president or vice president and secretary or treasurer. No real estate acquired in the cases contemplated above shall be held for a longer period than five years unless used as business quarters by the corporation. [1925 ex.s. 186 § 6; 1923 c 172 § 11; RRS § 3862-11.]

31.04.130 Dividends. The directors of every corporation under the provisions of this chapter, may at certain times and in such manner as its bylaws prescribe, after providing for all expenses, interest and taxes due, declare and pay such dividends to the stockholders of such corporation as may be appropriated for that purpose under its bylaws. [1941 c 19 § 5; 1925 ex.s. c 186 § 7; 1923 c 172 § 12; Rem. Supp. 1941 § 3862-12.]

31.04.140 Reports to supervisor. Every corporation under the provisions of this chapter, shall make to and file with, the supervisor of banking a regular report on, or before, January 10th and July 10th of each year, showing the true condition of the corporation as of the preceding December 31st and June 30th, according to form prescribed by said supervisor, verified by the president, manager or treasurer and attested by at least two directors. Every such corporation shall make and file special reports when and as called for by said supervisor. [1923 c 172 § 14; RRS § 3862-14.]

31.04.150 Examinations by supervisor—Perjury—Rules—Corporate records—False advertising—Appeals. (1) It shall be the duty of the supervisor of banking, his deputy, or examiner, without previous notice to visit each corporation under the provisions of this chapter, at least once in each year and oftener if necessary, for the purpose of making a full investigation into the condition of such corporation,

and for that purpose they are hereby empowered to administer oaths and to examine under oath any director, officer, employee or agent of such corporation. Said supervisor of banking may make such other full or partial examinations as he deems necessary; any wilful false swearing in any examination shall be perjury.

(2) The supervisor of banking is hereby authorized and empowered to make such general rules and regulations and such specific rulings, demands, and findings as may be necessary for the proper conduct of such business and the enforcement of this chapter, in addition hereto and not inconsistent herewith.

(3) The industrial loan company shall keep and use in its business such books, accounts, and records as will enable the supervisor of banking to determine whether such industrial loan company is complying with the provisions of this chapter and with the rules and regulations lawfully made by the supervisor of banking hereunder. Every industrial loan company shall preserve such books, accounts, and records for at least two years after making the final entry recorded therein.

(4) No industrial loan company shall advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner whatsoever, any statement or representation with regard to the rates, terms or conditions for the lending of money which is false, misleading, or deceptive. The supervisor of banking may order any industrial loan company to desist from any conduct which he shall find to be a violation of the foregoing provisions.

(5) Whenever the supervisor of banking shall make any findings or shall issue any specific order or demand, then such industrial loan company thereby affected may, within thirty days from date of service of notice, appeal to the superior court of the state of Washington for Thurston county. The appeal shall be perfected by filing it, together with proof of service, with the clerk of the superior court of Thurston county. The supervisor of banking shall, within fifteen days after the date of filing of such notice of appeal, make and certify a transcript of the evidence and all of the records and papers on file in his office relating to the order appealed from, and the supervisor of banking shall forthwith file the same in the office of the clerk of said superior court. The reasonable costs of preparing of such transcripts shall be assessed by the court as part of the costs. A trial shall be had in said superior court de novo. The industrial loan company shall be deemed the plaintiff and the state of Washington the defendant. Each party shall be entitled to subpoena witnesses and produce evidence to sustain the findings and order or demand of the supervisor. Either party may appeal from the judgment of said superior court of the state of Washington as in other civil actions. [1941 c 19 § 6; 1923 c 172 § 15; Rem. Supp. 1941 § 3862-15. Formerly RCW 31.04.150, 31.04.170, 31.04.180 and 31.04.190.]

31.04.160 Cost of examinations. The director of taxation and examination, through and by means of the division of banking, shall collect from each corporation under the provisions of this chapter, for each complete

examination of its condition the cost thereof, but not less than fifty dollars. For each partial examination he shall collect the cost thereof, but not less than twenty-five dollars. [1923 c 172 § 16; RRS § 3862-16.]

Reviser's note: (1) Later enactment, see RCW 30.04.070.

(2) The powers and duties of the director of taxation and examination referred to herein have devolved upon the department of general administration through a chain of statutes as follows: 1925 c 18 § 11; 1935 c 176 §§ 11, 12, 17; 1947 c 114 § 5; 1955 c 195; and 1955 c 285. See also RCW 43.17.010, 43.17.020, 43.19.010, 43.19.020 and 43.19.040.

31.04.200 Bonds of officers and employees. The board of directors of each corporation, under the provisions of this chapter, shall require its active officers and employees and such other officers as they designate, each to give a surety bond in such sum as the board shall specify and the supervisor of banking shall approve, conditioned for the faithful and honest discharge of his duties and for the faithful application of all moneys, funds and valuables which shall come into his possession, or under his control. [1923 c 172 § 17; RRS § 3862-17.]

31.04.210 Bad debts—Judgments. Any debt due a corporation under the provisions of this chapter, upon which any payment is six months or more past due unless such debt be well secured and in course of collection by legal process or probate proceedings shall be considered a bad debt, and shall be charged off of the books of such corporation. A judgment held by such corporation shall not be considered an asset of the corporation after two years from the date of its rendition, unless with the written permission of the supervisor of banking specifying an additional period: *Provided*, That the time consumed by any appeal from such judgment shall be excluded. [1925 ex.s. c 186 § 8; 1923 c 172 § 18; RRS § 3862-18.]

31.04.220 Violations—Penalties. (1) Every officer, director, agent, stockholder, or employee of a corporation under the provisions of this chapter who shall fraudulently receive money or money's worth in exchange for the issuance of any choses in action of such corporation, when he knows or has good reason to believe that such corporation is insolvent shall be deemed guilty of a felony, and punished upon conviction, thereof, by a fine not exceeding one thousand dollars, or imprisoned in the state penitentiary not exceeding ten years, or both such fine and imprisonment, at the discretion of the court.

(2) Every officer, director, agent, stockholder, or employee of a corporation under the provisions of this chapter, who shall directly or indirectly, receive a bonus, commission, compensation, remuneration, gift, speculative interest or gratuity of any kind from any person, firm, or corporation for granting, procuring or endeavoring to procure, for any person, firm or corporation, any loan by or out of the funds of such corporation, or the purchase or sale of any securities or property for or on account of such corporation, shall be guilty of a felony.

(3) Every officer, director or employee of such corporation who shall borrow or shall knowingly permit any of its officers, directors or employees to borrow any of its funds in violation of the provisions of this chapter, shall be personally liable for any loss or damages which the corporation, its shareholders or any person may sustain in consequence thereof, and shall also be guilty of a felony.

(4) Every corporation under the provisions of this chapter, which fails to file any report, required to be filed by this chapter within the time herein specified shall be subject to a penalty of ten dollars per day for each day's delay—a civil action for the recovery of any such penalty may be brought by the attorney general in the name of the state.

(5) Every person who shall violate, or knowingly aid or abet the violation of any provision of this chapter; for which no penalty has been prescribed, and every person who fails to perform any act which it is made his duty to perform herein and for which failure no penalty has been prescribed, shall be guilty of a misdemeanor. No person who has been convicted for the violation of the banking laws of this or any other state, or of the United States shall be permitted to engage in, or become an officer or official of any corporation organized under the provisions of this chapter. [1923 c 172 § 19; RRS § 3862-19.]

31.04.230 Supervisor may take possession and liquidate, when—Sale of securities—Permit—Rules.

(1) If it shall appear to the supervisor of banking that any corporation hereunder has violated or failed to comply with the provisions of its articles of incorporation, or law of this state, or whenever it shall appear from the report of any corporation hereunder, or the supervisor shall have reason to conclude that the capital of any corporation hereunder is impaired or reduced below the amount required by law, he may, by an order under his hand and official seal, addressed to such corporation, direct such corporation to discontinue such violation and to comply with the law or to make good the deficiency or impairment of capital alleged by him to exist within sixty days after the date of such requisition; or if it shall appear to the supervisor that such corporation is conducting business in an unsafe or injurious manner, he may in like manner, direct the discontinuance of any such unsafe or injurious practices. Such orders shall require such corporation to show why said order should not be observed. If upon such hearing it shall appear to the supervisor that such order should be made final he shall proceed to do so, and such corporation shall immediately comply with the order made by the supervisor of banking.

(2) Such corporation shall have ten days after such order is made final in which suit may be commenced to restrain enforcement of such order and unless such action be so commenced and enforcement of such order be enjoined within ten days by the court in which suit is brought, then such corporation shall comply with such order.

(3) Upon failure of any corporation to comply with such order or if any such corporation shall refuse to

submit its books, papers and concerns to the inspection or examination of the supervisor of banking, or to any one authorized by him to make such examination, or if any officer of such corporation, shall refuse to be examined upon oath touching the concerns of such corporation, or if such corporation shall neglect or refuse to observe any order made by the supervisor of banking pursuant to his supervision as authorized by this chapter the supervisor of banking may forthwith take possession of the property and business of such corporation and retain such possession until such corporation shall resume business or its affairs be finally liquidated. On taking possession of the property and business of any such corporation, the supervisor of banking may proceed to liquidate the same in the manner provided by the bank act.

(4) Nothing in this chapter contained shall be deemed or construed as a limitation or restriction of or as in anyway affecting the power or discretion of the supervisor of banking to issue a permit authorizing any corporation under the provisions of this chapter to issue and dispose of choses in action in such amounts and upon such terms and conditions as he may in such permit provide and to impose such conditions as he may deem necessary to the issue of such securities and to establish such rules and regulations as may be reasonable or necessary to insure the disposition of the proceeds of such securities in the manner and for the purpose provided in such permit and from time to time to amend, alter or revoke any permit issued by him or to refuse to issue such permit or otherwise authorize the issue of such securities. [1923 c 172 § 20; RRS § 3862-20. Formerly RCW 31.04.230 and 31.04.240.]

Banks and trust companies: Title 30 RCW.

Mutual savings banks: Title 32 RCW.

31.04.250 Doing business for a foreign corporation—Penalty. Any person, agent or corporation doing business, or attempting to do business in this state for any foreign industrial loan corporation shall be deemed guilty of a misdemeanor. [1939 c 95 § 4; 1923 c 172 § 24; RRS § 3862-24.]

31.04.260 Taxation. Corporations, under the provisions of this chapter, shall be taxed the same as other general corporations. [1923 c 172 § 13; RRS § 3862-13.]

31.04.270 Effect of failure to organize or commence business. See RCW 30.08.070.

31.04.280 Official communications. See RCW 30.04.270.

**Chapter 31.08
SMALL LOAN COMPANIES**

Sections

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31.08.010 Definitions. The following words and terms when used in this chapter shall have the following meanings unless the context clearly requires a different meaning. The meaning ascribed to the singular form shall apply also to the plural.

(1) "Person" shall include individuals, copartnerships, associations, trusts, corporations, and all other legal entities.

(2) "License" shall mean a single license issued under the authority of this chapter with respect to a single place of business.

(3) "Licensee" shall mean a person to whom one or more licenses have been issued.

(4) "Supervisor" the duly appointed supervisor of banking of the division of banking, department of finance, budget and business of the state of Washington. [1941 c 208 § 1; Rem. Supp. 1941 § 8371-1.]

Reviser's note: The powers and duties of the division of banking of the department of finance, budget and business referred to herein have been transferred and devolved upon the department of general administration through a chain of statutes as follows: 1947 c 114 § 5; 1955 c 195; and 1955 c 285. See RCW 43.17.010, 43.19.010, 43.19.020 and 43.19.040.

Supervisor of banking, and bank examiners: Chapter 43.19 RCW.

31.08.020 License required. No person shall engage in the business of making secured or unsecured loans of money, credit, goods, or things in action in the amount or of the value of one thousand dollars or less and charge, contract for, or receive a greater rate of interest, discount, or consideration therefor than the lender would be permitted by law to charge if he were not a licensee hereunder except as authorized by this chapter and without first obtaining a license from the supervisor. [1959 c 212 § 1; 1941 c 208 § 2; Rem. Supp. 1941 § 8371-2.]

31.08.030 Application for license—Fees—Assets—Bond. Application for such license shall be in writing, under oath, and in the form, if any, prescribed by the supervisor, and shall contain the name and the address (both of the residence and place of business) of the applicant, and if the applicant is a copartnership or association, of every member thereof, and if a corporation, of each officer and director thereof; also the county and municipality with street and number, if any, where the business is to be conducted and such further relevant information as the supervisor may require. Such applicant at the time of making such application shall pay to the supervisor the sum of one hundred dollars as a fee for investigating the application and the additional sum of fifty dollars as an annual license fee for a period terminating on the last day of the current calendar year: *Provided*, That if the application is filed after June 30th in any year such additional sum shall be only twenty-five dollars.

Every applicant shall also prove, in form satisfactory to the supervisor, that he or it has available for the operation of such business at the location specified in the application, liquid assets of at least ten thousand dollars.

At the time of filing of the application, the applicant shall also file with the supervisor a bond to be approved by the supervisor in the penal sum of one thousand dollars, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety, whose liability as such surety shall not exceed the said sum in the aggregate. Such bond shall run to the state of Washington as obligee for the use and benefit of the state and of any person or persons who may have cause of action against the obligor of said bond under the provisions of this chapter. Such bond shall be conditioned that said obligor as licensee hereunder will faithfully conform to and abide by the provisions of this chapter and of all general rules and regulations lawfully made by the supervisor hereunder and will pay to the state and any such person or persons any and all moneys that may become due and owing to the state from such obligor under and by virtue of the provisions of this chapter. [1959 c 212 § 2; 1941 c 208 § 3; Rem. Supp. 1941 § 8371-3. Formerly RCW 31.08.030 and 31.08.040.]

31.08.050 Investigation and action on application. Upon the filing of such application and the payment of such fees and the approval of such bond the supervisor shall investigate the facts and if he shall find that the financial responsibility, experience, character, and general fitness of the applicant, and of the members thereof if the applicant be a copartnership or association, and of the officers and directors thereof if the applicant be a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly and efficiently within the purposes of this chapter, and that allowing such applicant to engage in business, will promote the convenience and advantage of the community in which the business of the applicant is to be conducted, and that the applicant has available for the operation of such

business at the specified location liquid assets of at least ten thousand dollars, (the foregoing facts being conditions precedent to the issuance of a license under this chapter), he shall thereupon issue and deliver a license to the applicant to make loans in accordance with the provisions of this chapter at the location specified in the said application, which license shall remain in full force and effect until it is surrendered by the licensee or revoked or suspended as hereinafter provided; if the supervisor shall not so find he shall not issue such license and he shall notify the applicant of the denial and return to the applicant the bond and sum paid by the applicant as a license fee, retaining the fifty dollars investigation fee to cover the costs of investigating the application. The supervisor shall approve or deny every application for license hereunder within sixty days from the filing thereof with the said fees and the said approved bond.

If the application is denied, the supervisor shall within twenty days thereafter file with the division of banking of the department of finance, budget and business his order of denial together with his findings with respect thereto and the reasons supporting the order, and forthwith serve upon the applicant a copy thereof, from which order the applicant may appeal as provided in RCW 31.08.260. [1941 c 208 § 4; Rem. Supp. 1941 § 8371-4.]

Reviser's note: The powers and duties of the division of banking of the department of finance, budget and business devolved upon the department of general administration. See note following RCW 31.08.010.

31.08.060 License—Contents—Posting. Such license shall state the address at which the business is to be conducted and shall state fully the name of the licensee, and if the licensee is a copartnership or association, the names of the members thereof, and if a corporation, the date and place of its incorporation. Such license shall be kept conspicuously posted in the place of business of the licensee and shall not be transferable or assignable. [1941 c 208 § 5; Rem. Supp. 1941 § 8371-5.]

31.08.070 Additional bond. If the supervisor shall find at any time that the bond is insecure, depleted, exhausted, or otherwise doubtful, an additional bond of the character specified in RCW 31.08.030, to be approved by him, in the sum of not more than one thousand dollars, shall be filed by the licensee within ten days after written demand upon the licensee by the supervisor.

Every licensee shall maintain at all times assets of at least ten thousand dollars for each licensed place of business either in liquid form available for the operation of or actually used in the conduct of such business at the location specified in the license. [1941 c 208 § 6; Rem. Supp. 1941 § 8371-6.]

31.08.080 License required for each place of business. Not more than one place of business shall be maintained under the same license, but the supervisor may issue more than one license to the same licensee upon

compliance with all the provisions of this chapter governing an original issuance of a license, for each such new license.

Whenever a licensee shall wish to change his place of business to a street address other than that designated in his license he shall give written notice thereof to the supervisor who shall investigate the facts, and, if he shall find that allowing such licensee to engage in business in such new location will promote the convenience and advantage of the community in which the licensee desires to conduct his business, he shall attach to the license in writing his approval of the change and the date thereof, which shall be authority for the operation of such business under such license at such new location. If the supervisor shall not so find he shall deny the licensee permission so to change the location of his place of business, in the manner specified and subject to the provisions contained in the last paragraph of RCW 31.08.050. [1941 c 208 § 7; Rem. Supp. 1941 § 8371-7.]

31.08.090 Annual license fee and bond. Every licensee shall, for each license held by him, on or before the twentieth day of each December, pay to the supervisor the sum of fifty dollars as an annual license fee and shall at the same time file with the supervisor a bond to be approved by the supervisor in the same amount and of the same character as required by RCW 31.08.030. [1941 c 208 § 8; Rem. Supp. 1941 § 8371-8.]

31.08.100 Revocation, suspension, or surrender of license—Reinstatement—Effect. The supervisor shall, upon ten days' written notice to the licensee stating the contemplated action and in general the grounds therefor, and upon reasonable opportunity to be heard, revoke any license issued hereunder if he shall find that:

(1) The licensee has failed to pay the annual license fee or to maintain in effect the bond or bonds required under the provisions of this chapter or to comply with any specific order or demand of the supervisor lawfully made and directed to the licensee pursuant to and within the authority of this chapter; or that

(2) The licensee, either knowingly or without the exercise of due care to prevent the same, has violated any provisions of this chapter or any general rule or regulation lawfully made by the supervisor under and within the authority of this chapter; or that

(3) Any fact or condition exists which, if it had existed at the time of the original application for such license, clearly would have warranted the supervisor in refusing originally to issue such license.

The supervisor may, upon five days' written notice and after a hearing, suspend any license for a period not exceeding thirty days, pending investigation.

The supervisor may revoke or suspend only the particular license with respect to which grounds for revocation or suspension may occur or exist, or, if he shall find that such grounds for revocation or suspension are of general application to all offices, or to more than one office, operated by such licensee, he shall revoke or suspend all of the licenses issued to said licensee or such licenses as such grounds apply to, as the case may be.

Any licensee may surrender any license by delivering to the supervisor written notice that he thereby surrenders such license, but such surrender shall not affect such licensee's civil or criminal liability for acts committed prior to such surrender.

No revocation or suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any borrower.

Every license issued hereunder shall remain in force and effect until the same shall have been surrendered, revoked, or suspended in accordance with the provisions of this chapter, but the supervisor shall have authority on his own initiative to reinstate suspended licenses or to issue new licenses to a licensee whose license or licenses shall have been revoked if no fact or condition then exists which clearly would have warranted the supervisor in refusing originally to issue such license under this chapter.

Whenever the supervisor shall revoke or suspend a license issued pursuant to this chapter, he shall forthwith file with the division of banking of the department of finance, budget and business his order of revocation or suspension together with his finding with respect thereto and the reasons supporting the order, and forthwith serve upon the licensee a copy thereof, from which order the applicant may appeal as provided in RCW 31.08.260. [1941 c 208 § 9; Rem. Supp. 1941 § 8371-9. Formerly RCW 31.08.100, 31.08.110 and 31.08.120.]

Reviser's note: The powers and duties of the division of banking of the department of finance, budget and business devolved upon the department of general administration. See note following RCW 31.08.010.

31.08.130 Examinations—Cost. For the purpose of discovering violations of this chapter or securing information lawfully required by him hereunder, the supervisor may at any time, either personally or by a person or persons duly designated by him, investigate the loans and business and examine the books, accounts, records, and files used therein, of every licensee and of every person who shall be engaged in the business described in RCW 31.08.020, whether such person shall act or claim to act as principal or agent, or under or without the authority of this chapter. For that purpose the supervisor and his duly designated representatives shall have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all such persons. The supervisor and all persons duly designated by him shall have authority to require the attendance of and to examine under oath all persons whomsoever whose testimony he may require relative to such loans or such business or to the subject matter of any examination, investigation or hearing. The supervisor shall make such an examination of the affairs, business, office, and records of each licensee at least once each year. The actual cost of every examination shall be paid to the supervisor by every licensee so examined: *Provided, however,* That the actual cost of examining each licensed place of business shall not exceed the sum of two hundred fifty dollars annually. [1959 c 212 § 3; 1941 c 208 § 10; Rem. Supp. 1941 § 8371-10.]

31.08.140 Records—Annual report. The licensee shall keep and use in his business such books, accounts, and records as will enable the supervisor to determine whether such licensee is complying with the provisions of this chapter and with the rules and regulations lawfully made by the supervisor hereunder, to which books, accounts, and records the supervisor shall have free access. Every licensee shall preserve such books, accounts and records, including cards used in the card system, if any, for at least two years after making the final entry on any loan recorded therein.

Each licensee shall annually on or before the first day of March file a report with the supervisor giving such relevant information as he reasonably may require concerning the business and operations during the preceding calendar year of each licensed place of business conducted by such licensee within the state. Such report shall be made under oath and shall be in the form prescribed by the supervisor, who shall make and publish annually an analysis and recapitulation of such reports. [1941 c 208 § 11; Rem. Supp. 1941 § 8371-11.]

31.08.150 Prohibited acts. No licensee or other person shall advertise, print, display, publish, distribute, broadcast, or televise or cause or permit to be advertised, printed, displayed, published, distributed, broadcast, or televised in any manner whatsoever any false, misleading or deceptive statement or representation with regard to the rates, terms or conditions for the lending of money, credit, goods, or things in action in the amount or of the value of one thousand dollars or less. The supervisor may order any licensee to desist from any conduct which he shall find to be a violation of the foregoing provisions.

The supervisor may require that rates of charge, if stated by a licensee, be stated fully and clearly in such manner as he may deem necessary to prevent misunderstanding thereof by prospective borrowers.

No licensee shall conduct the business of making loans under this chapter within any office, room, or place of business in which any other business is solicited or transacted, or in association or conjunction therewith, if the supervisor shall find, after five days' written notice and after a hearing that the solicitation or transaction of such other business conceals evasion of this chapter by the licensee or is of such nature that such solicitation or transaction would facilitate evasion of this chapter or of the general rules and regulations lawfully made hereunder, and shall order such licensee in writing to desist from such conduct.

No licensee shall conduct, or advertise such business or make any loan provided for by this chapter under any other name or at any other place of business than that named in a license issued under this chapter.

No licensee shall take any confession of judgment or any power of attorney to confess judgment. No licensee shall take any note, promise to pay, or other obligation signed by the borrower that does not accurately disclose the actual amount of the loan, the time for which it is made, and the agreed rate of charge, nor any instrument in which blanks are left to be filled in after the proceeds of the loan are delivered. When charges are

precomputed, as permitted by subsection (3) of RCW 31.08.160, the note shall disclose the amount of the pre-computed charge. [1959 c 212 § 4; 1941 c 208 § 12; Rem. Supp. 1941 § 8371-12.]

31.08.160 Rates and charges—Splitting loans prohibited. (1) Every licensee hereunder may lend any sum of money not to exceed one thousand dollars in amount and may charge, contract for, and receive thereon charges at a rate not exceeding three percent per month on that part of the unpaid principal balance of any loan not in excess of three hundred dollars, one and one-half percent per month on that part of the unpaid principal balance of any loan in excess of three hundred dollars and not in excess of five hundred dollars, and one percent per month on any remainder of such unpaid principal balance: *Provided, however,* That in lieu of said charges a licensee may charge one dollar per month, or fraction thereof, when said charges computed at the said rate amount to less than one dollar: *And provided further,* That such charge of one dollar shall not be collected on more than one loan nor more than once from any one borrower during any period of one month.

(2) Charges on loans made under this chapter shall not be paid, deducted, discounted, or received in advance, or compounded, but the rate of charge authorized by this section may be precomputed as provided in subsection (3) of this section. Charges on loans made under this chapter, excepting the minimum charge of one dollar provided in this section and excepting as permitted by subsection (3) hereof, (a) shall be computed and paid only as a percentage per month of the unpaid principal balance or portions thereof, and (b) shall be so expressed in every obligation signed by the borrower. For the purpose of this section a month shall be that period of time from any date in a month to the corresponding date in the next month and if there is no such corresponding date then to the last day of the next month; and a day shall be considered one-thirtieth of a month when computation is made for a fraction of a month.

(3) When the loan contract requires repayment in substantially equal and consecutive monthly installments of principal and charges combined, the charges may be precomputed at the monthly rate on scheduled unpaid principal balances according to the terms of the contract and added to the principal of the loan. Every payment may be applied to the combined total of principal and precomputed charge until the contract is fully paid. The acceptance or payment of charges on loans made under the provisions of this subsection shall not be deemed to constitute payment, deduction, or receipt thereof in advance nor compounding under subsection (2) above. Such precomputed charge shall be subject to the following adjustments:

(a) The portion of the precomputed charge applicable to any particular monthly installment period shall bear the same ratio to the total precomputed charge, excluding any adjustment made under paragraph (f) of this subsection, as the balance scheduled to be outstanding during that monthly period bears to the sum of all

monthly balances scheduled originally by the contract of loan.

(b) If the loan contract is prepaid in full by cash, a new loan, refinancing, or otherwise before the final installment date, the portion of the precomputed charge applicable to the full installment periods following the installment date nearest the date of such prepayment shall be rebated. In computing any required rebate, any prepayment made on or before the fifteenth day following an installment date shall be deemed to have been made on the installment date preceding such prepayment. If prepayment in full occurs before the first installment date an additional rebate of one-thirtieth of the portion of the precomputed charge applicable to a first installment period of one month shall be made for each day from the date of such prepayment to the first scheduled installment date. If judgment is obtained before the final installment date, the contract balance shall be reduced by the rebate of precomputed charge which would be required for prepayment in full as of the date judgment is obtained.

(c) If the payment date of all wholly unpaid installments on which no default charge has been collected is deferred one or more full months and the contract so provides, the licensee may charge and collect a deferment charge. Such deferment charge shall not exceed the portion of the precomputed charge applicable under the original contract of loan to the first month of the deferment period multiplied by the number of months in said period. The deferment period is the month or months in which no scheduled payment has been made or in which no payment is to be required by reason of the deferment. In computing any default charge, or required rebate, the portion of the precomputed charge applicable to each deferred balance and installment period following the deferment period and prior to the deferred maturity shall remain the same as that applicable to such balances and periods under the original contract of loan. Such charge may be collected at the time of deferment or at any time thereafter. If a loan is prepaid in full during a deferment period, the borrower shall receive, in addition to the rebate required under paragraph (b) of this subsection, a rebate of that portion of the deferment charge applicable to any unexpired months of the deferment period.

(d) If the payment in full of any scheduled installment is in default more than seven days and the contract so provides, the licensee may charge and collect a default charge not exceeding an amount equal to the portion of the precomputed charge applicable to the final installment period. Said charge may not be collected more than once for the same default and may be collected when such default occurs or any time thereafter. If such default charge is deducted from any payment received after default occurs and such deduction results in the default of a subsequent installment, no charge may be made for the resulting default.

(e) If two or more full installments are in default for one full month or more at any installment date and if the contract so provides, the licensee may reduce the contract balance by the rebate which would be required

for prepayment in full on such installment date. Thereafter, charges may be received at the agreed rate computed on actual unpaid balances of the contract for the time outstanding until the contract is fully paid. Charges so collected shall be in lieu of any deferment or default charges which otherwise would accrue on the contract after such installment date.

(f) A licensee and borrower may agree that the first installment due date may be not more than fifteen days more than one month and the amount of such installment may be increased by one-thirtieth of the portion of the precomputed charge applicable to a first installment of one month for each extra day.

(4) No licensee shall induce or permit any borrower to split up or divide any loan, nor induce or permit any person, nor any husband or wife jointly or severally, to become obligated, directly or contingently or both, under more than one contract of loan at the same time, for the purpose or with the result of obtaining a higher rate of charge than would otherwise be permitted by this section. If part or all of the consideration for a loan contract is the unpaid principal balance of a prior loan with the same licensee, then the principal amount payable under such loan contract shall not include any unpaid charges on the prior loan, except charges which have accrued within sixty days before the making of such loan contract and may include the balance of a precomputed contract which remains after giving the rebate required by subsection (3) hereof.

(5) No licensee shall directly or indirectly charge, contract for, or receive any charges or fees except charges authorized by this chapter and the lawful fees, if any, actually and necessarily paid out by the licensee to any public officer for the transferring of title or for filing, recording, or releasing in any public office, any instrument securing the loan, which fees may be collected when the loan is made, or at any time thereafter. A bona fide error in the calculation of charges or in the recording of such charges in any statement or receipt delivered to the borrower or in the licensee's records shall not be deemed to be a violation of this chapter if the licensee corrects the error. [1959 c 212 § 5; 1941 c 208 § 13; Rem. Supp. 1941 § 8371-13.]

Interest and usury in general: Chapter 19.52 RCW.

31.08.170 Statement to borrower—Receipts—Advance payments—Cancellation and release of obligations—Borrower's statement. It shall be the duty of every licensee to:

(1) Deliver to the borrower or anyone thereof, if several, at the time any loan is made under this chapter, a statement, upon which there shall be printed in the English language a copy of subsections (1) and (5) of RCW 31.08.160, showing in clear and distinct terms the principal amount of the loan excluding charges, the date of the loan, the agreed schedule of payments, the nature of the security, if any, for the loan, the name and address of the licensee, and the agreed rate of charges. When charges are precomputed, the statement shall show the amount of the precomputed charge and shall contain a copy of paragraphs (a) and (b) of subsection (3) of RCW 31.08.160.

(2) Give to the party making any payment a plain and complete receipt for each payment made on account of any such loan at the time such payment is made, specifying the amount applied to charges and the amount, if any, applied to principal, and stating the unpaid principal balance, if any, of such loan: *Provided*, That if the charges were precomputed the receipt need not be itemized, and no receipt shall be required where payment is made by check or money order and the full amount of such check or money order is applied to the loan: *Provided further*, That when a default or deferment charge is collected, a receipt shall be given showing the amount applied to the loan and the amount applied to the default or deferment charge;

(3) Permit payment to be made in advance in any amount on any such loan at any time during regular business hours, but the licensee may apply such payment first to all charges at the agreed rate up to the date of such payment: *Provided*, That when charges are precomputed such payment shall be equal to one or more full scheduled installments;

(4) Upon payment of the loan in full, mark indelibly every obligation signed by the borrower with the word "paid" or "canceled" and release any mortgage and restore all notes and collateral which no longer secures a loan and to which the borrower may be lawfully entitled: *Provided, however*, That in case any such document or obligation is in custodia legis these requirements shall not be applicable; and

(5) Obtain from the borrower prior to making the loan a statement signed by the borrower setting forth the borrower's then current financial condition and containing a statement that the borrower recognizes the penalties and defenses resulting from giving false statement of financial condition, all on a form approved by the supervisor. The statement required to be delivered to the borrower when the loan is made shall be acknowledged in writing by the licensee and the borrower, and a copy thereof shall be retained by the licensee. [1959 c 212 § 6; 1941 c 208 § 14; Rem. Supp. 1941 § 8371-14.]

31.08.173 Limitation on term of contract. No contract made by a licensee under this chapter shall provide for a final maturity more than twenty-five and one-half months from the date of making such contract. [1959 c 212 § 10.]

31.08.175 Insurance in connection with loans. (1) No licensee shall require the purchasing of property insurance from the licensee or any employee, affiliate, or associate of the licensee or from any agent, broker, or insurance company designated by the licensee as a condition precedent to the making of a loan nor shall any licensee decline existing insurance which meets or exceeds the standards set forth in this section.

The licensee may require a borrower to insure tangible property offered as security for a loan hereunder against any substantial risk of loss, damage, or destruction for an amount not to exceed the reasonable value of the property insured or the amount of the loan and for the customary term approximating the term of the

loan contract: *Provided*, That no licensee hereunder may require such insurance on loans in an amount less than three hundred dollars. It shall be optional with the borrower to obtain such insurance in an amount greater than the amount of the loan or for a longer term. The premium for such insurance shall not exceed that fixed by current applicable manual of a recognized standard insurance rating bureau and such insurance shall be written by or through a duly licensed insurance agent or broker.

(2) A licensee may insure the life of one borrower, but only one of them if there are two or more obligors, for the unpaid principal balance scheduled to be outstanding; and regardless of the the premium paid by the licensee, the licensee may charge not more than sixty cents per one hundred dollars per year computed on the original principal amount of the loan, excluding charges for the loan, when the loan contract requires substantially equal and consecutive monthly installments of principal and charges combined, and such charge may be in the same proportions for different payment schedules, maturities, and principal amounts. Such charge may be deducted from the principal of the loan when the loan is made. Only one such charge may be made in connection with any loan contract irrespective of the number of obligors, and only one obligor need be insured. If the insured obligor dies during the term of the loan contract, the insurance must pay the principal balance of the loan outstanding on the day of his death without any exception or reservation. The insurance shall be in force as soon as the loan is made. If the loan contract is prepaid in full by cash, a new loan, renewal, refinancing, or otherwise, a portion of such life insurance charge shall be rebated according to the method established in paragraphs (a) and (b) of subsection (3) of RCW 31.08.160. When charges for the loan are precomputed in accordance with subsection (3) of RCW 31.08.160, any required rebate and any permitted deferment charge may be computed on the combined total of the precomputed charge and the life insurance charge.

(3) If a borrower procures any insurance by or through a licensee, the statement required by RCW 31.08.170 shall disclose the cost to the borrower and the type of insurance, and the licensee shall cause to be delivered to the borrower a copy of the policy, certificate, or other evidence thereof within a reasonable time.

Notwithstanding any other provision of this chapter, any gain or advantage in any form whatsoever to the licensee or to any employee, affiliate, or associate of the licensee from any insurance or its sale or provision shall not be deemed to be additional or further interest, consideration, charges, or fee in connection with such loan.

Nothing in this section shall be deemed to alter, amend or repeal any provision of the insurance code.

No insurance shall be required, requested, sold, or offered for sale in connection with any loan made under this chapter, except as and to the extent authorized by this section. [1959 c 212 § 11.]

31.08.180 Loans in excess of one thousand dollars—Restrictions. No licensee shall directly or indirectly charge, contract for, or receive any interest, discount, or consideration greater than the lender would be permitted by law to charge if he were not a licensee hereunder upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit, of the amount or value of more than one thousand dollars, exclusive of charges permitted by RCW 31.08.160. [1959 c 212 § 7; 1941 c 208 § 15; Rem. Supp. 1941 § 8371–15.]

31.08.190 Assignment of earnings as loan. The payment of one thousand dollars or less in money, credit, goods, or things in action, as consideration for any sale or assignment of, or order for, the payment of wages, salary, commissions, or other compensation for services, whether earned or to be earned, shall for the purpose of regulation under this chapter be deemed a loan secured by such assignment, and the amount by which such assigned compensation retained by the assignee at the completion of the transaction exceeds the total amount of such consideration actually paid by the assignee to the assignor shall for the purpose of regulation under this chapter be deemed interest or charges upon such loan. Such transaction shall be governed by and subject to the provisions of this chapter. [1959 c 212 § 8; 1941 c 208 § 16; Rem. Supp. 1941 § 8371–16.]

31.08.200 Chapter governs interest rates. No person except as authorized by this chapter shall directly or indirectly charge, contract for, or receive any interest, discount, or consideration greater than the lender would be permitted by law to charge if he were not a licensee hereunder upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit of the amount or value of one thousand dollars or less.

The foregoing prohibition shall apply to any person who by any device, subterfuge, or pretense whatsoever shall charge, contract for, or receive greater interest, consideration, or charges than is authorized by this chapter for any such loan, use, or forbearance of money, goods, or things in action or for any such loan, use, or sale of credit.

Interest rates for small loans as described in RCW 31.08.160 are hereby declared to be the maximum rates permissible under the public policy of the state of Washington. With respect to any loan of the amount or value of one thousand dollars or less for which a greater rate of interest, consideration, or charges than is permitted by RCW 31.08.160 has been charged, contracted for, or received, the lender or his successor in interest shall not be entitled to collect or receive in this state: (1) any principal, interest, consideration or charges whatsoever if any part of the loan transaction occurred in this state; or (2) any interest, consideration or charges in excess of that stated in RCW 31.08.160 if no part of the loan transaction occurred in this state. [1967 c 180 § 1; 1959 c 212 § 9; 1941 c 208 § 17; Rem. Supp. 1941 § 8371–17.]

Severability—1967 c 180: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provisions to other persons or circumstances is not affected." [1967 c 180 § 16.]

Prior transactions: "The provisions of this 1967 amendatory act shall not apply to transactions entered into prior to the effective date hereof." [1967 c 180 § 17.]

The foregoing annotations apply to RCW 31.08.200, 31.12.020, 31.12.050, 31.12.160-31.12.190, 31.12.220, 31.12.230, 31.12.245, 31.12.270-31.12.290, 31.12.330 and 31.12.360.

31.08.210 Criminal acts—Penalty. Any person and the several members, officers, directors, agents, and employees thereof, who shall violate or participate in the violation of any of the provisions of RCW 31.08.020, 31.08.150, 31.08.160, 31.08.170, or 31.08.200, shall be guilty of a gross misdemeanor.

Any contract or loan not invalid for any other reason, in the making or collection of which any act shall have been done which constitutes a gross misdemeanor under this section shall be void and the lender shall have no right to collect or receive any principal, interest, or charges whatsoever. [1941 c 208 § 18; Rem. Supp. 1941 § 8371-18.]

31.08.220 Excepted activities. This chapter shall not apply to any person doing business under and as permitted by any law of this state or of the United States relating to banks, savings banks, trust companies, savings and loan or building and loan associations, industrial loan companies or credit unions, nor to any pawnbroking business lawfully transacted under and as permitted by any law of this state regulating pawnbrokers, nor to any loan of credit made pursuant to a credit card plan including but not restricted to plans having all of the following characteristics:

(1) Where credit cards are issued pursuant to a plan whereby the organization issuing such cards shall be enabled to acquire those certain obligations which its members in good standing incur with those persons with whom the organization has entered into agreements setting forth said plan, and where the obligations are incurred pursuant to such agreements; or whereby the organization issuing such cards shall be enabled to extend credit to its members;

(2) Any fee for such credit cards is designed to cover only the administrative costs of the plan and does not exceed twenty-five dollars per year;

(3) Any charges, discounts, or fees resulting from the acquisition of such charges shall be paid to the organization issuing said credit cards (or to such other organizations as may be authorized by the issuing organization) by the persons, corporations or associations with whom the organization has entered into such written agreements. [1971 ex.s. c 37 § 1; 1941 c 208 § 19; Rem. Supp. 1941 § 8371-19.]

31.08.230 Rules and regulations. The supervisor is hereby authorized and empowered to make general rules and regulations and specific orders, demands, and findings for the enforcement of this chapter, in addition hereto and not inconsistent herewith.

Copies of all general rules and regulations shall be mailed to every licensee by the supervisor on or before

their respective effective dates and copies of all general rules and regulations and of all specific orders and demands shall be kept in a permanent, indexed book in the department [division] of banking, and shall be public records. [1941 c 208 § 20; Rem. Supp. 1941 § 8371-20.]

31.08.240 Notices, how served. All notices required or authorized by this chapter to be given or served by the supervisor may be given or served by registered mail and service thereof shall be deemed complete when a true copy thereof is deposited in the post office properly addressed and stamped. [1941 c 208 § 21; Rem. Supp. 1941 § 8371-21.]

31.08.250 Effect of repeal or amendment. This chapter or any part thereof may be modified, amended, or repealed so as to effect a cancellation or alteration of any license or right of a licensee hereunder: *Provided*, That such cancellation or alteration shall not impair or affect the obligation of any preexisting lawful contract between any licensee and any borrower. [1941 c 208 § 22; Rem. Supp. 1941 § 8371-22.]

31.08.260 Appeals. Whenever the supervisor shall deny an application for a license or shall revoke or suspend a license issued pursuant to this chapter, or shall issue any specific order or demand, then such applicant or licensee thereby affected may, within thirty days from the date of service of notice as provided for in this chapter, appeal to the superior court of the state of Washington for Thurston county. The appeal shall be perfected by serving a copy of the notice of appeal upon the supervisor and by filing it, together with proof of service, with the clerk of the superior court of Thurston county. Whereupon the supervisor shall, within fifteen days after filing of such notice of appeal, make and certify a transcript of the evidence and of all the records and papers on file in his office relating to the order appealed from, and the supervisor shall forthwith file the same in the office of the clerk of said superior court. The reasonable costs of preparing such transcript shall be assessed by the court as part of the costs. A trial shall be had in said superior court de novo. The applicant or licensee, as the case may be, shall be deemed the plaintiff and the state of Washington the defendant. Each party shall be entitled to subpoena witnesses and produce evidence to sustain or reverse the findings and order or demand of the supervisor. During the pendency of any appeal from the order of revocation or suspension of a license, the order of revocation theretofore entered by the supervisor shall be stayed and any other order or demand appealed from may be stayed in the discretion of the court. Either party may appeal from the judgment of said superior court to the supreme court or the court of appeals of the state of Washington as in other civil actions. [1971 c 81 § 81; 1941 c 208 § 23; Rem. Supp. 1941 § 8371-23.]

31.08.270 Investigation of business practices and interest rates—Subpoenas, oaths, examination of witnesses—Recommended legislation. It shall be the duty of the supervisor to investigate and examine the practice of the small loan business in this state, and to obtain statistics and data from other states with special reference to practices performed under this chapter and to interest rates charged for the purpose of determining abuses thereof which should be corrected. In order to carry out such investigation the supervisor shall have the power to subpoena witnesses and records, to administer oaths and examine persons under oath. He shall thereupon submit his findings to the next session of the legislature, and make such recommendations, and submit bills or amendments which in his opinion will correct any such abuses. It shall also be his duty to make findings regarding interest rates to be charged the public and to determine from these findings the lowest possible interest rate which should be legally charged which would be consistent with fairness to the small loan business and the public. [1941 c 208 § 24; Rem. Supp. 1941 § 8371–24.]

31.08.900 Repeals. All acts and parts of acts, whether general, special, or local, which relate to the same subject matter as this chapter, so far as they are inconsistent with the provisions of this chapter, are hereby repealed. [1941 c 208 § 25; Rem. Supp. 1941 § 8371–25.]

31.08.910 Severability—1941 c 208. If any clause, sentence, section, provision, or part of this chapter shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect, or invalidate the remainder of this chapter, which shall remain in full force and effect thereafter. [1941 c 208 § 26; Rem. Supp. 1941 § 8371–26.]

31.08.911 Severability—1959 c 212. If any clause, sentence, section, provision, or part of this amendatory act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect or invalidate the remainder of this amendatory act, which shall remain in full force and effect. [1959 c 212 § 12.]

31.08.920 Short title. This chapter shall be known as the small loan act. [1941 c 208 § 27; Rem. Supp. 1941 § 8371–27.]

Chapter 31.12 CREDIT UNIONS

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Law against discrimination: Chapter 49.60 RCW.

Supervisor of savings and loan associations: Chapter 43.19 RCW.

31.12.010 Definitions. As used in this chapter:

"Supervisor" means the state supervisor of savings and loan associations;

"Credit union" means a corporation organized under this chapter;

"Central credit union" means a corporation organized under this chapter or the federal credit union act to serve directors and committeemen of credit unions within this state, and to serve credit unions within this state;

"Board" means the board of directors of a credit union. [1957 c 23 § 2. Prior: 1943 c 131 § 1, part; 1933 c 173 § 1, part; Rem. Supp. 1943 § 3923–1, part.]

31.12.020 Declaration of policy—Maximum interest rate—Defaults. A credit union is a cooperative society incorporated for the two-fold purpose of promoting thrift among its members and creating a source of credit for them at legitimate rates of interest not to exceed one percent per month on the unpaid balance or the equivalent thereto, for provident, productive, and educational purposes. Credit unions, in the event of default of such credit, may impose financing and reasonable late charges in accordance with their bylaws and may recover reasonable costs and expenses incurred in the collection of any sums due if provided for in the note or agreement signed by the borrower. [1973 1st ex.s. c 8 § 1; 1967 c 180 § 2; 1957 c 23 § 3. Prior: 1943 c 131 § 1, part; 1933 c 173 § 1, part; Rem. Supp. 1943 § 3923-1, part.]

Prior transactions: See note following RCW 31.08.200.

Severability—1967 c 180: See note following RCW 31.08.200.

31.12.030 Use of words in name—Compliance required. A corporation organized under this chapter shall include in its name the words "credit union," and other distinguishing words may be used. No person, partnership, or association and no corporation except one incorporated under this chapter shall receive payment on shares or deposits from its members, or loan such payment on shares or deposits in the manner provided hereby, or transact business under a name or title containing the words "credit union," without compliance with the provisions hereof. Exception is made of an organization incorporated and composed of corporations organized under this chapter or under federal laws. Nothing herein shall affect corporations organized under federal laws, nor shall this chapter repeal, amend, or affect laws relating to savings and loan associations. [1957 c 23 § 4. Prior: 1943 c 131 § 1, part; 1933 c 173 § 1, part; Rem. Supp. 1943 § 3923-1, part.] [1953 SLC-RO-3]

31.12.040 Authority to organize and commence business. Seven or more persons resident in this state may apply to the supervisor, who shall have and is hereby given authority to grant permission to organize a credit union and become such a corporation upon complying with the provisions of this chapter. A credit union shall organize and commence business within six months from the date of its incorporation, otherwise its charter shall become void. [1943 c 131 § 2; 1933 c 173 § 2; Rem. Supp. 1943 § 3923-2.]

31.12.050 Manner of organizing—Articles, approval, filing—Appeal—Forms. A credit union shall be organized in the following manner:

The applicants shall execute in quadruplicate articles of incorporation and bylaws by the terms of which they agree to be bound, which shall be submitted to and approved by the supervisor.

The articles of incorporation shall state:

(1) The name and location of the proposed credit union;

(2) The number of its directors, which shall not be less than five nor more than fifteen;

(3) The names, occupations and post office address of the subscribers to the articles of incorporation, and a statement of the number of shares which each has agreed to take; and

(4) The par value of the shares of the credit union, which shall be five dollars.

When articles of incorporation complying with the foregoing requirements, together with duplicate copies of such bylaws, have been filed with the supervisor, he shall ascertain whether such articles of incorporation and bylaws of such credit union are consistent with the purposes of this chapter and whether the character, responsibility and general fitness of the persons named in such articles are such as to command confidence and warrant belief that the purpose of the proposed credit union will be honestly and efficiently conducted in accordance with the purpose of this chapter, and he shall further determine the economic advisability for such credit union, also taking into consideration all surrounding facts and circumstances pertaining to a successful operation of said credit union, and whether the proposed credit union is being formed for other than the legitimate objects covered by this chapter. After the supervisor shall have satisfied himself of the above facts, and within thirty days after receipt of such certificates and bylaws, he shall endorse upon each of the articles of incorporation his official signature with the word "approved" or the word "refused" with the date thereof. In case of refusal, he shall return one of the quadruplicate certificates so endorsed with a copy of the bylaws to the person from whom the same were received, which refusal shall be conclusive unless the incorporators, within ten days of the issuance of such notice of refusal, shall appeal to the superior court of the county in which the credit union is proposed to be located. In case an appeal is taken the supervisor shall prepare, certify and deliver to such credit union a copy of the order of refusal with any documents filed by the applicant, and upon such transcript of proceedings, with any testimony that may be offered by either party, the case shall be tried in the superior court to which the appeal is taken, which shall be heard in the nature of a writ of review and summarily disposed of by the superior court upon such orders and proceedings as the judge may deem best and a judgment rendered, from which an appeal may be taken by either party to the supreme court or the court of appeals; all conditioned that the appellant, upon taking the appeal, shall pay the reasonable charges for a transcript of the proceedings. In case of approval of the proposed corporation, the supervisor shall give notice thereof to the proposed incorporators, and shall file one of the quadruplicate articles of incorporation in his own office, and shall transmit another quadruplicate copy to the secretary of state, and shall return two quadruplicate copies and one of the duplicate bylaws of the incorporators. The incorporators shall file one of the quadruplicate copies with the county auditor of the county in which such credit union is to be located, with a filing fee of twenty-five cents.

Upon receipt from the proposed incorporators of a filing fee of five dollars the secretary of state shall file

and record the articles of incorporation. Upon the filing of articles of incorporation, approved as aforesaid by the supervisor, with the secretary of state and county auditor, all persons named therein and their successors shall become and be a corporation, which shall have the powers and be subject to the duties and obligations prescribed by this chapter, and whose existence may be perpetual. In order to simplify the organization of credit unions the supervisor shall cause forms of articles of incorporation and bylaws to be prepared consistent with the provisions of this chapter, and upon written application of any seven residents of this state shall supply them without charge with blank forms of articles of incorporation and form of suggested bylaws. [1971 c 81 § 82; 1969 c 65 § 1; 1967 c 180 § 3; 1943 c 131 § 3; 1933 c 173 § 3; Rem. Supp. 1943 § 3923-3. Formerly RCW 31.12.050, 31.12.060 and 31.12.070.]

Prior transactions: See note following RCW 31.08.200.

Severability—1967 c 180: See note following RCW 31.08.200.

31.12.080 Membership. Credit union membership shall consist of the incorporators and such other persons as may be elected to membership and subscribe for at least one share and pay the initial installment thereon and the entrance fee. Any fraternal organization, partnership or corporation having a usual place of business within the state and composed principally of individual members or stockholders who are themselves eligible to membership in a credit union, may become a member of a credit union, but, except with the consent of the supervisor, the credit union shall make no loan to such a member in excess of the total of its shares and deposits therein; nor shall a credit union receive from any such member money in payment for shares or on deposit to such an amount that the total of such payment by all members of the class described in this section shall exceed at any time twenty-five percent of the assets of the credit union. Credit union organization shall be limited to groups of both large and small membership having a common bond of occupation or association, or to groups within a well defined neighborhood, community or rural district. [1943 c 131 § 4; 1933 c 173 § 4; Rem. Supp. 1943 § 3923-4.]

31.12.090 Savings—Loans—Investment in transaction of own business—Real property, leaseholds. Subject to the provisions of RCW 31.12.080, a credit union may receive savings from its members in payment for shares or on deposit, or may lend to its members at reasonable rates, or invest, as hereinafter provided, the funds so accumulated. It may undertake such other activities relating to the purpose of its organization as its articles of incorporation may provide. A credit union may invest a reasonable amount of its funds in real property or leasehold interests therein for use principally in the transaction of its business when:

(1) The aggregate of its guaranty fund and undivided profits accounts equals five percent of the aggregate of its share accounts;

(2) its directors, by at least three-fourths affirmative vote, approve the making of such investment; and

(3) the total investment in such property does not exceed seven and one-half percent of the aggregate of its share accounts.

The foregoing restrictions of this section shall not affect existing investments of credit unions. No credit union may invest its funds in real property or leasehold interests therein for use principally in the transaction of its business without the prior written approval of the supervisor. However a credit union may acquire real property through collection of loans secured thereby. [1959 c 138 § 1; 1943 c 131 § 5; 1933 c 173 § 5; Rem. Supp. 1943 § 3923-5.]

31.12.100 Bylaws—Contents. The persons proposing to organize the credit union shall prepare and adopt bylaws governing the affairs of the credit union; and such bylaws shall not be inconsistent with the provisions of this chapter, and shall constitute the bylaws of the credit union until altered or amended in accordance with the provisions of this chapter, and shall provide for and determine:

- (1) The name of the corporation;
- (2) The purpose for which it is formed;
- (3) The conditions on which shares may be paid in, transferred and withdrawn;
- (4) The conditions on which deposits may be received and withdrawn;
- (5) The method of receipting for money paid on account of shares or deposits or repaid on loans;
- (6) The number of directors and the number of members of the credit committee;
- (7) The time of holding regular meetings of the board of directors, the credit committee and the auditing committee;
- (8) The duties of the several officers;
- (9) The entrance fee, if any, to be charged;
- (10) The fines, if any, to be charged for failure to meet obligations to the corporation punctually;
- (11) The date of the annual meeting and the manner in which members shall be notified of all meetings;
- (12) The number of members who shall constitute a quorum; and
- (13) Such other regulations as may be deemed necessary. [1933 c 173 § 6; RRS § 3923-6.]

31.12.110 Amendment of bylaws. Subject to RCW 31.12.120 the bylaws may be amended by the board of directors at any regular meeting or at a special meeting called for the purpose, by a two-thirds vote of all members of the board: *Provided*, That a copy of the proposed amendment, together with a written notice of the meeting, shall have been sent to each member of the board to his last known post office address, or handed to him in person, at least seven days before the meeting. [1969 c 65 § 2; 1943 c 131 § 6; 1933 c 173 § 7; Rem. Supp. 1943 § 3923-7.]

31.12.120 Bylaws and amendments to be approved. No credit union shall receive any deposits or payments on account of shares, or make any loans, until its bylaws have been approved by the supervisor, nor shall any amendments become operative until they have been

so approved. [1943 c 131 § 7; 1933 c 173 § 8; Rem. Supp. 1943 § 3923-8.]

31.12.130 Capital—Limitation on deposits and shares—Notice of withdrawal. The capital of a credit union shall be unlimited in amount. Shares of capital stock may be subscribed and paid for in such manner as the bylaws prescribe. A shareholder may purchase shares in a credit union and may also make deposits therein to an amount in the aggregate not exceeding five hundred dollars or twenty percent of the total shares and deposits of the credit union, whichever is greater. A credit union may require from a member ninety days' notice of his intention to withdraw any or all of his shares and sixty days' notice of intention to withdraw any or all of his deposits, except that the notices may be extended beyond such time limits with the written consent of the supervisor. [1953 c 48 § 1; 1947 c 213 § 1; 1943 c 131 § 8; 1933 c 173 § 9; Rem. Supp. 1947 § 3923-9.]

31.12.140 Minors and joint tenants. Shares may be issued and deposits received in the name of a minor, and such shares and deposits may, in the discretion of the directors, be withdrawn by such minor or by his parent or guardian, and in either case payments made on such withdrawals shall be valid and shall release the corporation from liability to the minor, parent or guardian in respect of such share and deposits. A minor under eighteen shall not have the right to vote.

Two or more eligible persons may jointly become depositors or members in a credit union and such persons shall enjoy the same rights as though the deposits had been made by, or the shares issued to, an individual member, and unless written instructions to the contrary are given to the credit union relative to such account, and written receipt thereof acknowledged by such credit union, any of such persons may exercise the rights of ownership, transfer and withdrawal incidental to such ownership without the other joint holders joining therein, and in the event of death, the survivor or survivors may exercise all rights incidental to such deposits or shares. [1943 c 131 § 9; 1933 c 173 § 10; Rem. Supp. 1943 § 3923-10.]

Joint tenants, simultaneous death: RCW 11.05.030.

31.12.150 Fiscal year. The fiscal year of every credit union shall end at the close of business on the last business day of December. [1933 c 173 § 1; RRS § 3923-11.]

31.12.160 Meetings—Voting rights. The annual meeting of the corporation shall be held at such time and place as the bylaws prescribe, but not later than ninety days after the close of the fiscal year. Special meetings may be called at any time by a majority of the directors, and shall be called by the secretary upon written application of ten percent or more of the voting members of the corporation. Notice of all meetings of the corporation and of all meetings of the directors and of committees shall be given as provided in the bylaws. No member may vote by proxy or have more than one

vote, and after a credit union has been incorporated for one year, no member may vote until he has been a member for three months. Ballot voting by mail may be authorized by the board of directors as prescribed in the bylaws. To be eligible to vote a member must have not less than one fully paid share. A fraternal organization, voluntary association, partnership, or corporation having a membership in a credit union may cast one vote at any of its meetings by its authorized agent. [1973 1st ex.s. c 8 § 2; 1967 c 180 § 4; 1953 c 48 § 2; 1943 c 131 § 10; 1933 c 173 § 12; Rem. Supp. 1943 § 3923-12.]

Prior transactions: See note following RCW 31.08.200.

Severability—1967 c 180: See note following RCW 31.08.200.

31.12.170 Directors—Qualifications—Number—Election—Terms. The business and affairs of a credit union shall be managed by a board of not less than five directors. The directors shall be elected at the annual meetings. All members of the said board, as well as the officers, whom they may elect, shall be sworn to the faithful performance of their duties and shall hold their several offices unless sooner removed as hereinafter provided, until their successors are qualified. A record of every such qualification shall be filed and preserved with the records of the corporation. Directors shall be elected for not less than one year nor more than three years, as the bylaws shall provide. If the term is more than one year, they shall be divided into classes, and an equal number, as nearly as may be, elected each year. If a director ceases to be a member of the credit union, his office shall thereupon become vacant. A director must have not less than one fully paid share to qualify. [1967 c 180 § 5; 1943 c 131 § 11; 1933 c 173 § 13; Rem. Supp. 1943 § 3923-13.]

Prior transactions: See note following RCW 31.08.200.

Severability—1967 c 180: See note following RCW 31.08.200.

31.12.180 Officers—Bonds—Credit and investment committees. The directors at their first meeting after the annual meeting shall elect from their own number a president, one or more vice presidents, a secretary, a treasurer, and such other officers as may be necessary for the transaction of the business of the credit union, who shall be the officers of the corporation and who shall hold office until their successors are elected and qualified unless sooner removed as hereinafter provided: *Provided*, That the treasurer need not be a director. The board shall select a credit committee composed of three or more members of the credit union, who need not be board members. The offices of secretary and treasurer may be held by the same person. No director shall be a member of both the credit and auditing committee, and no more than one director shall serve on the auditing committee. The board may select an investment committee of not less than three members of the credit union, who need not be board members. No director shall be a member of both the investment and auditing committee. Each officer and employee handling funds of the credit union shall give bond to the directors in such amount and with such surety and conditions as the supervisor may prescribe.

[1973 1st ex.s. c 8 § 3; 1967 c 180 § 6; 1959 c 138 § 2; 1953 c 48 § 3; 1939 c 65 § 2; 1933 c 173 § 14; RRS § 3923-14.]

Prior transactions: See note following RCW 31.08.200.

Severability—1967 c 180: See note following RCW 31.08.200.

31.12.190 Powers and duties of directors. The board shall have the general direction of the affairs of the corporation and shall meet as often as may be necessary, but not less than once in each month. It shall act upon all applications for membership and upon the expulsion of members, except that a membership officer may be authorized by the board to approve applications for membership under such conditions as the board may prescribe which are consistent with the provisions of this chapter, and such membership officers so authorized shall submit to the board at each monthly meeting a list of approved or pending applications for membership received since the previous monthly meeting, together with such other related information as the bylaws or the board may require. The board shall determine the rate of interest on loans subject to the limitations herein, determine the rate of interest to be paid on deposits, which shall not be greater than one-half of one percent less than the rate at which dividends have been declared during the immediately preceding period, determine the types of security which shall be acceptable on loans subject to the limitations herein, and fill vacancies in the board and in such committees for which provision as to filling of vacancies is not made herein, until the next election. The board shall make recommendations to the members relative to matters upon which it deems the members should act at any regular or special meeting. The board from time to time shall set the amount of shares and deposits which any one member may hold in the credit union, and set the amount which may be loaned, secured or unsecured, to any one member, all subject to the limitations contained in this chapter. At each annual, semiannual, or quarterly period the board may declare a dividend from net earnings, which shall be paid on all shares outstanding at the time of declaration, and which may be paid to members on shares withdrawn during the period. Shares which become paid up during the year shall be entitled to a proportional part of the dividend calculated from the first day of the month following such payment in full: *Provided*, That the board may compute such full shares if purchased on or before the tenth day of any month, as of the first day of the month. The board may borrow money in behalf of the credit union, for the purpose of making loans, and the payment of debts or withdrawals. The aggregate amount of such loans shall not exceed thirty-three and one-third percent of the credit union's paid-in and unimpaired capital and surplus except with the approval of the supervisor. It may, by a two-thirds vote, remove from office any officer for cause; or suspend any member of the board, credit committee, investment committee, or audit committee, for cause, until the next membership meeting, which meeting shall be held within fifteen days of the suspension, and at which meeting the suspension shall be acted upon by the members. The board shall

make a written report to the members at each annual meeting. [1973 1st ex.s. c 8 § 5; 1969 c 65 § 3; 1967 c 180 § 7; 1959 c 138 § 3; 1957 c 23 § 5; 1953 c 48 § 4; 1943 c 131 § 12; 1933 c 173 § 15; Rem. Supp. 1943 § 3923-15.]

Prior transactions: See note following RCW 31.08.200.

Severability—1967 c 180: See note following RCW 31.08.200.

31.12.200 Auditing committee—Elections—Terms—Powers and duties. An auditing committee of not less than three members shall be elected at the annual meeting of the credit union and shall hold office for a term of three years, unless sooner removed as herein provided, or until their successors commence the performance of their duties. The auditing committee shall be divided into classes so that an equal number as nearly as may be shall be elected each year. If a member of the auditing committee ceases to be a member of the credit union, his office shall thereupon become vacant.

The auditing committee shall keep fully informed at all times as to the financial condition of the credit union; examine carefully the cash and accounts semiannually; certify the monthly statements submitted by the treasurer, semiannually; make a thorough audit of the books, including income and expense, semiannually; report to the board its findings, together with its recommendations; under regulations prescribed by the supervisor, cause to be verified the passbooks of the credit union, according to such regulations; hold meetings at least semiannually and keep records thereof; and make an annual report at the annual meeting.

By unanimous vote the auditing committee may suspend an officer of the corporation or a member of the credit committee or of the board until the next members' meeting, which meeting shall be held within fifteen days of the suspension, and at which meeting the suspension shall be acted upon by the members. By a majority vote of the auditing committee it may call a special meeting of the members to consider any violation of this chapter or of the bylaws, or any practice of the credit union deemed by the committee to be unsafe or unauthorized. The auditing committee shall fill vacancies in its own membership until successors are elected. It shall also call a special meeting of the membership upon the request of the supervisor. [1969 c 65 § 4; 1959 c 138 § 4; 1953 c 48 § 5; 1943 c 131 § 13; 1933 c 173 § 16; Rem. Supp. 1943 § 3923-16.]

31.12.205 Investment committee—Meetings—Authority. The investment committee shall hold such meetings as are necessary to accomplish its work. The investment committee shall have the authority to make those investments permitted by RCW 31.12.260 as now or hereafter amended, but the actions of the committee shall be subject to the supervision of the board. [1973 1st ex.s. c 8 § 4.]

31.12.210 Compensation of directors and treasurer—Loans to directors. No director shall receive compensation for his services as such or as a member of a committee, nor shall he borrow from the corporation to

an amount in excess of his shares and deposits in the credit union and the accumulated earnings standing to his credit on the books of the corporation except by written approval of three-fourths of the members of the board. The treasurer elected by the board may receive such compensation as the board may authorize. [1973 1st ex.s. c 8 § 6; 1957 c 23 § 6; 1943 c 131 § 14; 1933 c 173 § 17; Rem. Supp. 1943 § 3923-17.]

31.12.220 Guaranty fund. Before the payment of any dividend there shall be set apart as a guaranty fund not less than twenty percent of the net income which has accumulated during the next preceding dividend period, except as hereinafter provided, until such time as said guaranty fund and undivided profits shall equal ten percent of the outstanding loans not fully covered by shares of the said credit union and thereafter there shall be added to the guaranty fund at the end of each such period such percentage of the net income which has accumulated during that period as will result in at least maintaining such guaranty fund and undivided profits at such amount: *Provided*, That credit unions with shares insured by the administrator, National Credit Union Administration, may in the alternative comply with reserve requirements and regulations promulgated by the National Credit Union Administration. All entrance fees shall be added to the guaranty fund at the close of the dividend period, and shall never exceed twenty-five cents for each member. The guaranty fund and the investments thereof shall be held to meet contingencies or losses in the business of the credit union, and shall not be distributed to its members, except in the case of dissolution. [1973 1st ex.s. c 8 § 7; 1969 c 65 § 5; 1967 c 180 § 8; 1943 c 131 § 15; 1933 c 173 § 18; Rem. Supp. 1943 § 3923-18.]

Prior transactions: See note following RCW 31.08.200.

Severability—1967 c 180: See note following RCW 31.08.200.

31.12.230 Reserve fund. The supervisor shall have the right to require a credit union to charge off or set up a reserve fund for such delinquent loans or other assets as in his opinion require such action. [1967 c 180 § 9; 1943 c 131 § 16; 1933 c 173 § 19; Rem. Supp. 1943 § 3923-19.]

Prior transactions: See note following RCW 31.08.200.

Severability—1967 c 180: See note following RCW 31.08.200.

31.12.240 Credit committee—Powers and duties. The credit committee shall hold meetings at least once a month; act on all applications for loans; and approve in writing all personal loans granted and any security pledged therefor.

No personal loans shall be made unless all the members of the credit committee who are present when the application is considered, which number shall constitute at least two-thirds of the members of the committee, approve such loan, except as provided in RCW 31.12.245. The credit committee may be established in such numbers and at such places as is necessary to serve member needs, with a minimum of two members needed for loan approval: *Provided*, That such extension of service is approved by the supervisor. No loan shall be

granted unless it promises to be of benefit to the borrower. A borrower shall have not less than one fully paid share. [1973 1st ex.s. c 8 § 8; 1969 c 65 § 6; 1957 c 23 § 7; 1943 c 131 § 17; 1933 c 173 § 21; Rem. Supp. 1943 § 3923-21.]

31.12.245 Loan officer—Powers. The board of any credit union organized under this chapter whose assets are in excess of two hundred thousand dollars may appoint such loan officers as it deems advisable for the purpose of approving certain types of loans without further authorization from the credit committee. Credit unions with assets of two hundred thousand dollars or less may appoint such loan officers: *Provided*, That the supervisor has given his prior approval thereto.

All loans not approved by a loan officer shall be acted upon by the credit committee. [1973 1st ex.s. c 8 § 9; 1969 c 65 § 7; 1967 c 180 § 10; 1959 c 138 § 5; 1957 c 23 § 8.]

Prior transactions: See note following RCW 31.08.200.

Severability—1967 c 180: See note following RCW 31.08.200.

31.12.250 Applications for loans. All applications for loans shall be made in writing and shall state the purpose for which the loan is desired and the security, if any, offered. [1947 c 213 § 3; 1933 c 173 § 22; Rem. Supp. 1947 § 3923-22.]

31.12.260 Funds to be loaned, surplus to be deposited or invested—Banking prohibited. The capital, deposits, and surplus of a credit union shall be invested in loans to members, with the approval of the credit committee or the loan officer where permitted herein, and also when required herein, of the board of directors or of the investment committee. Any capital, deposits, or surplus funds in excess of the amount for which loans may be approved, may be deposited or invested:

(a) In banks or trust companies or in state or national banks located in this state;

(b) In any bond or securities or other investments which are at the time legal investments for savings and loan associations in this state, except first mortgage real estate loans, or which are fully guaranteed as to payment of principal and interest by the United States government, and general obligations of this state and general obligations of counties, municipalities, or public purpose districts of this state;

(c) In obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, or any corporation designated in section 846 of Title 31 U.S.C. as a wholly owned government corporation; or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by the Federal National Mortgage Association or the Government National Mortgage Association;

(d) In participation certificates evidencing beneficial interests in obligations, or in the right to receive interest and principal collections therefrom, which obligations

have been subjected by one or more government agencies to a trust or trusts for which any executive department, agency or instrumentality of the United States (or the head thereof) has been named to act as trustee;

(e) In the shares, share certificates or share deposits of other credit unions or savings and loan associations organized or authorized to do business under the laws of this state or the United States, or in the notes of such credit unions in the process of liquidation;

(f) In the ICU government securities program of ICU Services Corporation owned by CUNA, Incorporated, or up to two percent thereof in a corporation owned by the Washington Credit Union League;

(g) In such other investments authorized in accordance with rules and regulations prescribed by the supervisor consistent with chapter 31.12 RCW as now or hereafter amended:

Provided, That any such securities shall not be eligible for investment if they have been in default either as to principal or interest within five years prior to date of purchase.

No credit union shall carry on a banking business or carry any demand, commercial, or checking accounts, nor issue any time or demand certificates of deposit. Investments other than loans to members shall be made only with the approval of the board or of the investment committee. [1973 1st ex.s. c 8 § 10; 1969 c 65 § 8; 1959 c 138 § 6; 1957 c 23 § 9; 1947 c 213 § 2; 1933 c 173 § 20; Rem. Supp. 1947 § 3923-20.]

31.12.270 Classes of loans—Preference—Term. A credit union may make:

(1) Personal loans to its members secured by the note of the borrower or other collateral satisfactory to the credit committee, including but not limited to interests in real estate and security interests in mobile homes, travel trailers and motor homes as defined by RCW 82.50.010;

(2) Loans to its members under the act of congress known as the "Higher Education Act of 1965", Nov. 8, 1965, Pub. L. 89-329 (20 USC sections 1001 to 1144 inc.);

(3) Loans to its members secured by a first security interest in a mobile home, travel trailer and motor home, as defined by RCW 82.50.010, owned by the member. All such loans must be amortized by weekly, semimonthly, or monthly payments, which payments, including interest, shall be at the rate of not less than fifteen percent per year of the original principal. Such loans shall not exceed seventy-five percent of the purchase price or of the appraised value thereof, whichever is the lesser;

(4) Loans to its members secured by first mortgages or real estate contracts in which members are buyers if such mortgage or contract relates to real estate which is situated within the state; such real estate must be within fifty miles of the principal office of the credit union unless with prior approval of the supervisor; and

(5) Loans to other credit unions upon a two-thirds majority vote of the board: *Provided*, That the total

amount of such loans does not exceed twenty-five percent of the paid-in and unimpaired capital and surplus of the lending credit union.

Personal loans shall be given preference, and in the event there are not sufficient funds available to satisfy all loan applicants approved by the credit committee, further preference shall be given to the smaller loan. Each personal loan shall be payable within four years from the date thereof: *Provided*, That loans with satisfactory security may be made payable within eight years from the date thereof. [1973 1st ex.s. c 8 § 11; 1969 c 65 § 9; 1967 c 180 § 11; 1965 ex.s. c 38 § 1; 1957 c 23 § 11. Prior: 1953 c 48 § 6; 1947 c 213 § 4, part; 1943 c 131 § 18, part; 1933 c 173 § 23, part; Rem. Supp. 1947 § 3923-23, part.]

Prior transactions: See note following RCW 31.08.200.

Severability—1967 c 180: See note following RCW 31.08.200.

31.12.280 Limits and conditions of personal loans. No loan which is not adequately secured may be made to any member, if, upon the making of that loan, the member would be indebted to the credit union upon loans made to him in an aggregate amount which, in the case of a credit union whose unimpaired capital and surplus is less than eight thousand dollars would exceed five hundred dollars, or which, in the case of any other credit union, would exceed two thousand five hundred dollars or two and one-half per centum of its unimpaired capital and surplus, whichever is less. No loan may be made to any member if, upon the making of that loan, the member would be indebted to the credit union upon loans made to him in an aggregate amount which would exceed five hundred dollars or ten percent of the credit union's unimpaired capital and surplus, whichever is greater: *Provided*, That loans which are not secured totally by share deposits to any family community shall not exceed ten thousand dollars without the permission of the supervisor. [1973 1st ex.s. c 8 § 12; 1969 c 65 § 10; 1967 c 180 § 12; 1965 ex.s. c 38 § 2; 1959 c 138 § 7; 1957 c 23 § 12. Prior: 1953 c 48 § 7; 1947 c 213 § 4, part; 1943 c 131 § 18, part; 1933 c 173 § 23, part; Rem. Supp. 1947 § 3923-23, part.]

Prior transactions: See note following RCW 31.08.200.

Severability—1967 c 180: See note following RCW 31.08.200.

31.12.290 Loans secured by real estate mortgages or contracts. The total amount which a credit union may lend on the security of mortgages on, or contracts relating to, real estate shall not exceed the following limits:

(a) Ten percent of its total assets if its assets are under one hundred thousand dollars.

(b) Twenty percent of its total assets if its assets are over one hundred thousand dollars but under one million dollars.

(c) Thirty percent of its total assets if its assets are in excess of one million dollars.

All loans secured by mortgages or contracts on real estate shall be subject to the following restrictions:

(1) Loans secured by first mortgages shall be only on real estate improved by a home, a combination home and business building, or a two unit residential building

in which the owner–borrower is the occupant of one unit; loans may be made for the construction of any such improvements. Additional parcels of noncontiguous, improved, habitable, residential real estate may be included in the same loan as such security together with the principal property.

(2) Any loans made on a real estate contract must be through warranty deed and assignment of the seller's interest, and the principal amount of the purchase price must have been reduced by twenty–five percent; the monthly payments must not be delinquent at time of the loan and the real estate must be such as would qualify for a mortgage loan under paragraph (1) hereof.

(3) The total amount which may be loaned on any one property or to any one family community borrower shall not exceed two and one–half percent of the assets of the credit union, or ten thousand dollars, whichever is greater, except with the prior approval of the supervisor. Such loan shall not exceed seventy–five percent of the appraised value of the real estate if there is located thereon a home or if the loan is made for the construction or completion of improvements.

All taxes and assessments must be paid currently, and all such loans must be amortized within a maximum period of twenty years by weekly, semimonthly or monthly payments, which payments, including interest, shall be at the rate of not less than seven and one–half percent per year of the original principal.

The real estate covered by any such mortgage or contract must be inspected and appraised by an appraiser who has had two or more years experience in appraising real estate for loan purposes within the area in which the property is located. The credit union must have a policy of title insurance issued concurrently by an insurance company licensed to do business in the state of Washington, insuring the interest of the credit union in the real estate in the full amount of the loan, or must have an abstract brought up to date of the loan and certified by a practicing attorney; also with fire insurance covering at least the interest of the credit union. [1973 1st ex.s. c 8 § 13; 1967 c 180 § 13; 1959 c 138 § 8; 1957 c 23 § 13. Prior: 1953 c 48 § 8; 1947 c 213 § 4, part; 1943 c 131 § 18, part; 1933 c 173 § 23, part; Rem. Supp. 1947 § 3923–23, part.]

Prior transactions: See note following RCW 31.08.200.

Severability—1967 c 180: See note following RCW 31.08.200.

31.12.300 Transfers to federal agencies. Any corporation formed under this chapter, may sell, assign, transfer, convey and/or deliver to any intermediate credit bank, or agricultural credit corporation, formed under the laws of the United States, or any similar organization, any part of its securities, as may be determined by its board of directors, with or without guaranty and upon such terms and conditions as may be agreed upon between the credit union and such corporations, notwithstanding anything in this chapter contained to the contrary. [1933 c 173 § 24; RRS § 3923–24.]

31.12.310 Dividends. Dividends may be declared only from the earnings which remain after the deduction of all expenses, interest on deposits and the amounts required to be set apart to the guaranty fund and to the reserve fund, or such dividend may be declared in whole or in part from the undivided earnings of preceding years remaining after the aforesaid deductions for said years. Dividends due to a member shall, at his election, be paid to him in cash or be credited to his account in either shares or deposits. No dividend exceeding six percent per annum shall be paid, unless the guaranty fund and undivided profits exceed fifteen percent of assets, but surplus earnings may be distributed to the borrowers as a patronage dividend ratably in proportion to interest paid by them. [1943 c 131 § 19; 1933 c 173 § 25; Rem. Supp. 1943 § 3923–25.]

31.12.320 Reports—Examinations—Suspension of business—Communications. Within thirty days after the first business day of January in each year, the auditing committee of each credit union shall make to the supervisor a report in such form as he may prescribe, and shall make oath that the report is true and correct. Any credit union neglecting to make said report within the time herein prescribed and such other requested reports within thirty days after notification shall forfeit to the state one dollar for each day during which neglect continues. The penalty for any single delinquency shall not exceed twenty–five dollars.

The supervisor shall make or cause to be made an examination and full investigation into the affairs of each credit union at least once each calendar year. The actual cost of examination and supervision shall be paid by the credit union examined: *Provided*, That the supervisor may accept in lieu of an examination the report of any competent accountant, satisfactory to the supervisor, who has made and submitted a report of the condition of the affairs of such credit union, and if approved, shall have the same force and effect as though the examination were made by the supervisor or one of his appointees. Examination costs shall not be payable by a credit union with respect to the first examination following approval of its articles of incorporation by the supervisor, and the supervisor may adjust examination costs payable for succeeding examinations giving due consideration to the time and expense incident to such examinations, and to the ability of the credit unions to pay such costs.

If it is found that the capital of a credit union be impaired or that business is being conducted contrary to law the supervisor may require said credit union to suspend operations until such condition is corrected.

Any communications from the supervisor to the board of directors must be read before said board at its next meeting and the reading noted in the minutes of the meeting. [1973 1st ex.s. c 8 § 14; 1947 c 213 § 5; 1943 c 131 § 20; 1933 c 173 § 26; Rem. Supp. 1947 § 3923–26.]

31.12.330 Expenses, limitations on. The expenses of a credit union shall be paid from its earnings. No credit union shall pay or become liable to pay in any calendar

year as salaries, fees, wages, or other compensations to officers, directors, agents, attorneys, clerks, and employees and for rent, advertising, and all other operating expenses, sums of money, the aggregate of which exceeds five percent of the average amount of the assets of the union during such year: *Provided*, That a credit union shall not thereby be limited in its expenditures to a sum less than six hundred dollars in any calendar year. No credit union shall pay any fee, commission, or other compensation, directly or indirectly, to a person for soliciting the purchase of or selling its shares of stock or for soliciting loans or deposits. [1967 c 180 § 14; 1953 c 48 § 9; 1933 c 173 § 27; RRS § 3923-27.]

Prior transactions: See note following RCW 31.08.200.

Severability—1967 c 180: See note following RCW 31.08.200.

31.12.340 False statements and entries—Penalty.

Any person who shall knowingly subscribe to or make or cause to be made any false statement or false entry in the books of any credit union, or who shall knowingly make any false statement or entry in any report required to be made to the supervisor, or who shall knowingly exhibit any false or fictitious paper, instrument or security to any person authorized to examine such institution, shall be guilty of a felony. [1943 c 131 § 21; 1933 c 173 § 28; Rem. Supp. 1943 § 3923-28.]

False representation concerning credit: RCW 9.38.010.

31.12.350 Expulsion of members. The board of directors may expel from a credit union any member who has not carried out his engagements with it, or who has been convicted of a criminal offense, or who neglects or refuses to comply with the provisions of this chapter or of the bylaws of the credit union, or whose private life is a source of scandal, or who habitually neglects to pay his debts, or who becomes insolvent or bankrupt, who has deceived the corporation or any committee thereof with regard to the use of borrowed money; but no member shall be so expelled until he has been informed in writing of the charges against him, and an opportunity has been given him, after reasonable notice, to be heard thereon. The amounts paid in on shares or deposited by members who have withdrawn or have been expelled shall be paid to them, in the order of withdrawal or expulsion, but only as funds therefor become available and after deducting any amounts due from such members to the credit union. Such expulsion shall not operate to relieve a member from any outstanding liability to the credit union. [1933 c 173 § 29; RRS § 3923-29.]

31.12.360 Suspension of officers—Supervisor to administer and enforce chapter. If an officer of a credit union is, in the opinion of the supervisor, dishonest, inefficient, incapable of doing his work, or wilfully disobeying orders of the supervisor, or is in any way violating this chapter or the bylaws of the credit union, he may be suspended by the supervisor. The supervisor shall give the board of the credit union prompt notice of such suspension and promptly upon receipt thereof the board shall call a meeting of its members to consider the matter forthwith and give the supervisor at least

seven days' notice of the time and place of such meeting. If the board shall find the supervisor's objection to be well founded, it shall remove such director, officer or employee immediately. In the event that the board of the credit union shall fail to remove such director, officer or employee, the supervisor may petition the superior court of the county wherein the principal office of the credit union is located, setting forth the reasons why such person should be removed. Such petition shall be answered by the credit union as in civil actions. Such cause shall be heard by the court de novo without the intervention of a jury and upon such hearing the superior court shall enter its decision as to whether such person shall remain in or be removed from his position. The court shall make and enter specific findings of fact and conclusions of law and its decision shall be reviewable by the supreme court or the court of appeals. The supervisor shall be charged with the administration and enforcement of this chapter, shall require each credit union to conduct its business in compliance therewith, and shall have power to commence and prosecute actions and proceedings to enforce the provisions of this chapter, to enjoin violations thereof, and to collect sums due the state of Washington from any credit union. [1971 c 81 § 83; 1967 c 180 § 15; 1953 c 41 § 10; 1943 c 131 § 23; 1933 c 173 § 31; Rem. Supp. 1943 § 3923-31.]

Prior transactions: See note following RCW 31.08.200.

Severability—1967 c 180: See note following RCW 31.08.200.

31.12.370 Mergers. A credit union may, with the approval of the supervisor and in accordance with such uniform rules and regulations as he shall make and promulgate, be merged with another credit union under the charter of such credit union upon any plan agreed upon by the majority of the board of directors of each such credit union joining in such merger, and approved by not less than two-thirds of the members of each credit union present and eligible to vote at meetings duly called for that purpose. All property, property rights and interests of the credit union so merging shall upon such merger be transferred to and vested in the credit union under whose charter the merger is effected without deed, endorsement, or other instrument of transfer, and the debts and obligations of the credit union so merging shall be deemed to have been assumed by the credit union under whose charter the merger is effected, and thereafter the charter of the credit union so merging shall be null and void and it shall cease to exist. [1943 c 131 § 24; 1933 c 173 § 32; Rem. Supp. 1943 § 3923-32.]

31.12.380 Taxation of credit unions. Neither a credit union nor its members shall be taxed upon its shares and deposits as property. A credit union shall be taxable upon its real property and tangible personal property, and every credit union shall be termed a mutual institution for savings and neither it nor its property shall be taxable under any law which shall exempt savings banks or institutions for savings from taxation. For all purposes of taxation, the assets represented by the guaranty fund and other reserves, other than reserves for expenses and losses of a credit union, shall be

deemed its only permanent capital, and in computing any tax, whether it be property, income, or excise, appropriate adjustment shall be made to give effect to the mutual nature of such credit union. [1943 c 131 § 26 (adding to 1933 c 173 a new section, § 34); Rem. Supp. 1943 § 3923–34.]

31.12.390 Conversion of state to federal credit union.

Any credit union, heretofore or hereafter organized under the laws of this state may convert itself into a federal credit union, as authorized by the act of congress known by, and cited as the federal credit union act, approved June 26, 1934, and any amendments of, or supplements thereto, or laws hereafter enacted in substitution therefor, and pursuant to any rules and regulations prescribed, or which may hereafter be prescribed by virtue of, or in accordance with the said federal credit union act, or the acts amending or supplementing the same, or enacted in substitution therefor.

Such conversion shall be effected by the affirmative action of a two-thirds vote of the members present at a regular or special meeting of the shareholders called for that purpose. Such meeting shall be called by the directors, of which a majority shall have previously approved the contemplated conversion, and notice thereof shall be given in the manner prescribed in the bylaws of the said credit union not more than thirty days nor less than ten days prior to the date of the meeting. Proof of the giving of such notice shall be by the affidavit of the secretary of the corporation.

If conversion be authorized, a copy of the resolutions adopted with respect thereto at said meeting verified by the affidavit of the president, or vice president, and secretary or assistant secretary, of the credit union shall within ten days after the holding of such meeting, be filed in the office of the supervisor.

In the event that conversion be authorized by the shareholders, the officers and directors of such credit union shall be authorized to, and within six months from the date of the adoption of said resolutions by the shareholders shall, take the steps necessary to effect a conversion of said credit union into a federal credit union, upon such terms as may be agreed upon between the board of directors of such credit union, and the properly authorized federal authority under the provisions of the said federal credit union act. Upon the filing in the office of the supervisor of a certified copy of the charter or authorization issued to such credit union by the proper federal authority, or of a certificate showing the organization of such credit union as a federal credit union, certified to by the proper federal authority, the supervisor shall file the same, and thereupon the said state chartered credit union shall cease to be an active credit union under the laws of this state except for the purpose of winding up its affairs and prosecuting or defending any litigation by or against it, and for all other purposes shall be deemed converted into a federal credit union.

In consummation of such conversion, the state chartered credit union may execute, acknowledge and deliver to the successor federal credit union, such

instruments of transfer, conveyance and assignment as may be necessary and/or desirable to accomplish the transfer, conveyance and assignment to the successor federal credit union, or any property, tangible or intangible, and all right, title or interest therein, as may have been agreed between the board of directors of the applicant credit union, and the proper federal authority.

Similar procedure shall be followed when a credit union organized under the laws of this state wishes to merge with or convert to a credit union organized under the laws of another state. [1943 c 131 § 26 (adding to 1933 c 173 a new section, § 35); Rem. Supp. 1943 § 3923–35.]

31.12.400 Conversion of federal to state credit union.

Whenever any credit union organized and existing under the laws of the United States, and located within this state, is authorized to dissolve, and it shall have taken the necessary steps to effect such dissolution, or whenever the charter of any such credit union has become inoperative because of a change in, or a nullification of, or a repeal of the laws under which it was organized, or whenever any such credit union is authorized by the laws of the United States to convert itself into a credit union under the laws of this state, such credit union, upon resolution of three-fourths of its directors, at a meeting called for such purpose, or upon action taken by or under the authority of the United States, with the approval in writing of the supervisor, may execute and file articles of incorporation, as provided for the organization of new credit unions in this state, together with a certificate executed by the president and secretary setting forth the facts authorizing such filing.

Upon the filing of said articles and said certificate, with the written approval of the supervisor, such credit union shall become a credit union under the laws of the state of Washington, and thereupon all of the assets of such credit union shall be vested in and become the property of such state chartered credit union, subject to all existing liabilities against such federal credit union, and every person who was a shareholder or member of such federal credit union, shall be a shareholder in such state chartered credit union in like amount.

Similar procedure shall be followed when a credit union organized under the laws of another state wishes to merge or convert to a credit union organized under the laws of this state. [1943 c 131 § 26 (adding to 1933 c 173 a new section, § 36); Rem. Supp. 1943 § 3923–36.]

31.12.410 Liquidation—Unclaimed funds, disposition of. At any meeting specially called for the purpose, the members, upon recommendation of not less than two-thirds of the board of directors, may, by a two-thirds vote of the members present vote to liquidate the corporation. A committee of three shall thereupon be elected to liquidate the assets of the corporation under the direction of the supervisor, which committee may be reasonably compensated for its services by action of the board of directors, and each share of capital stock, according to the amount paid thereon, shall be entitled to its proportionate part of the assets in liquidation after

all deposits and debts have been paid, and the charter of such corporation voting to liquidate in accordance with this section shall become void except for the purpose of discharging existing obligations and liabilities. Funds representing unclaimed dividends in liquidation and remaining in the hands of the liquidating committee for six months after the date of the final dividend, shall be deposited by them, together with all books and papers of the credit union, with the supervisor, who may after one year therefrom destroy any such records, books and papers as in his judgment are obsolete or unnecessary for future reference. Such funds shall be deposited in one or more trust companies, mutual savings banks, savings and loan associations, or national banks or state banks to the credit of the supervisor in his official capacity in trust for the members of the liquidating credit union entitled thereto, according to their several interests. Upon receipt of evidence satisfactory to him, the supervisor may pay the money so held by him to the persons respectively entitled thereto. In case of doubt or of conflicting claims, he may require an order of the superior court of the county in which the credit union is located, authorizing and directing the payment thereof. He may apply the interest earned by the moneys so held toward defraying the expenses incurred in the payment of such unclaimed dividends. At the expiration of five years from the date of the receipt thereof, such funds as still remain in the hands of the supervisor shall be escheated to the state and revert to the permanent school fund. [1943 c 131 § 22; 1933 c 173 § 30; Rem. Supp. 1943 § 3923–30. Formerly RCW 31.12.410 and 31.12.420.]

Uniform disposition of unclaimed property: Chapter 63.28 RCW.

31.12.430 Penalty. Any officer, director, agent or employee of any credit union who shall knowingly violate or consent to or connive at the violation of any provisions of this chapter, for violation of which a penalty is not herein otherwise provided, shall be guilty of a misdemeanor. [1943 c 131 § 25; 1933 c 173 § 34; RRS § 3923–34. Renumbered by 1943 c 131 § 25 as 1933 c 173 § 33; Rem. Supp. 1943 § 3923–33.]

31.12.440 Suspension or revocation of articles—Involuntary liquidation—Grounds. The articles of incorporation of any state chartered credit union may be suspended or revoked, the credit union placed in involuntary liquidation and a liquidating agent therefor appointed upon the finding by the supervisor that the organization is bankrupt, or insolvent. [1973 1st ex.s. c 8 § 15.]

31.12.450 Suspension or revocation of articles—Involuntary liquidation—Notice—Procedure. Except as otherwise provided in this chapter, the supervisor, before suspending or revoking the articles of incorporation of a credit union and placing the credit union in liquidation, shall cause to be served on the credit union concerned a notice of intention to suspend or revoke the articles, a statement of the reasons for such proposed action and an order directing the credit union

concerned to show cause why its articles of incorporation should not be suspended or revoked. Service of the order to show cause shall be either (1) by mail addressed to the credit union concerned at the last address of its office as shown by the records of the division of savings and loan or (2) by personal delivery to any of the officers or members of the board of directors of the credit union. The order shall be returned to the division of savings and loan. No oral hearing shall be held on such order to show cause, but the credit union concerned may file with the division of savings and loan, within the period of time specified in the order to show cause, a statement in writing setting forth the grounds and reasons why its articles of incorporation should not be suspended or revoked. This statement shall be accompanied by a certified copy of a resolution of the board of directors of the credit union concerned authorizing the filing of the statement. If no statement is received within the period of time specified in the order, or if the proffered reasons why the articles of incorporation should not be suspended or revoked are found to be insufficient by the supervisor, he may order the articles of incorporation be suspended or revoked and may order the credit union placed in involuntary liquidation. If the credit union is ordered to be liquidated the supervisor shall designate the liquidating agent in the order directing the liquidation. A copy of the order directing the suspension or revocation and where proper, of the order directing the involuntary liquidation and of the appointment of a liquidating agent, and a statement of the findings on which the order is based, shall be served on the credit union concerned. Such service shall be either (1) by mail addressed to the credit union concerned at the last address of its office as shown by the records of the division of savings and loan or (2) by personal delivery to any officer or member of the board of directors of the credit union concerned. [1973 1st ex.s. c 8 § 16.]

31.12.460 Involuntary liquidation—Procedure. On receipt of a copy of the order placing the credit union in involuntary liquidation, the officers and directors of the credit union concerned shall deliver to the liquidating agent possession and control of all books, records, assets, and property of every description of the credit union, and the liquidating agent shall proceed to convert said assets to cash, collect all debts due to said credit union and to wind up its affairs in accordance with the instructions and procedures issued to said liquidating agent by the supervisor. [1973 1st ex.s. c 8 § 17.]

31.12.470 Involuntary liquidation—Cancellation of articles. On the completion of the liquidation and certification by the liquidating agent that the distribution of assets of the credit union has been completed, the supervisor shall cancel the articles of incorporation of the credit union concerned. [1973 1st ex.s. c 8 § 18.]

31.12.900 Severability—1973 1st ex.s. c 8. If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 1st ex.s. c 8 § 19.]

Chapter 31.16 CROP CREDIT ASSOCIATIONS

Sections

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31.16.020 Purpose. The purpose of this chapter is to promote the orderly marketing of standard crops grown in the state of Washington by providing credit facilities whereby the growers thereof may finance the harvesting, storing and marketing of same. [1921 c 121 § 2; RRS § 2911. FORMER PART OF SECTION: 1921 c 121 § 3, part now in RCW 31.16.030.]

31.16.025 Crop credit associations authorized—"Standard crops" defined. Any number of bona fide growers of standard crops in the state of Washington, not less than ten, may associate themselves together to form a crop credit association in the manner hereinafter provided. The term "standard crops" as herein used means wheat, hay, apples, potatoes, and

such other crops as the director of marketing of the state of Washington shall hereafter designate. [1921 c 121 § 3; RRS § 2912. Formerly RCW 31.16.010, part and 31.16.020, part.]

Reviser's note: The powers and duties of the director of marketing have devolved upon the director of agriculture, see 1921 c 7 §§ 83, 90 (6) and 135; see also 1921 c 121 § 36 codified herein as RCW 31.16.330.

31.16.028 Classification of associations. Such crop credit associations shall be divided into two classes:

(1) Temporary crop credit associations, which shall exist for one year and for the purpose of establishing credit facilities for the handling of one crop.

(2) Permanent crop credit associations, which may incorporate for a term not exceeding fifty years, with such powers and privileges as are hereinafter set forth or may be conferred thereon by law. [1921 c 121 § 4; RRS § 2913. Formerly RCW 31.16.010, part.]

31.16.030 Director's powers and duties, bond—"Director" defined. The director of farm marketing of the state of Washington shall have general charge and supervision of all such crop credit associations as herein provided. Before beginning his duties as the director of crop credit associations he shall make and file in the office of the secretary of state a bond in the penal sum of five thousand dollars, to be approved by the secretary of state, conditioned upon the faithful discharge of his duties as such director of crop credit associations. The word "director" wherever it shall hereafter appear in this chapter shall mean the director of farm marketing of the state of Washington. [1921 c 121 § 5; RRS § 2914.]

Reviser's note: Powers and duties of director of farm marketing devolved upon director of agriculture, see note following RCW 31.16.025.

31.16.040 Articles of association. Any qualified persons desiring to form a crop credit association as herein provided shall execute in quadruplicate and acknowledge before some officer authorized to take the acknowledgment of deeds articles of association, one copy of which shall be filed in the office of the director, one copy in the office of the secretary of state of the state of Washington, one copy in the office of the county auditor of the county where the principal place of business of such association is located, and one copy shall be kept as part of the permanent records and files of such association. [1921 c 121 § 6; RRS § 2915.]

31.16.050 Temporary association—Articles—Fees. If such association is to be a temporary association, said articles shall state the name of the association, its principal place of business, the amount of the membership fee to be charged and the amount of credit in the aggregate which it is estimated its members will require. In addition thereto, the organizers of such association shall file the application for a permit to transact business as hereinafter more fully set forth. The organizers of such temporary organization shall also pay to the director a fee of five dollars, and to the secretary of

state of Washington a fee of ten dollars. [1921 c 121 § 7; RRS § 2916.]

31.16.060 Permanent associations—Articles—Contents. The organizers of a permanent crop credit association shall likewise execute in quadruplicate and file as above provided original copies of proposed articles of association therefor. Said articles of association shall set forth:

(1) The name of the association which shall contain the words "Crop Credit Association".

(2) Its principal place of business.

(3) The term for which it is to exist, which shall not exceed fifty years.

(4) The amount of membership fees required of its members, not to exceed one hundred dollars each.

(5) The business desired to be transacted by said association, if any, in addition to the powers and privileges hereinafter set forth. [1921 c 121 § 8; RRS § 2917.]

31.16.070 Certificate of authority. If the director shall be convinced that there is a need for the proposed crop credit association and that the business which it is to do, as shown by said articles of association, is in accordance with the provisions of this chapter, he shall issue a certificate authorizing the filing of the said articles of association in the office of the secretary of state of Washington and in the office of the county auditor of the county wherein is located the principal place of business of said association. [1921 c 121 § 9; RRS § 2918.]

31.16.080 Permanent association—Fees. The organizers of any permanent crop credit association shall pay the following filing and license fees: To the director, ten dollars; to the secretary of state, fifteen dollars, and the annual license fee required of corporations to be collected by the secretary of state as in the case of other corporations; and thereafter said association shall pay to the secretary of state, annually on or before the first day of July, a license fee of fifteen dollars. [1921 c 121 § 10; RRS § 2919.]

31.16.090 Powers. Upon the issuance of said certificate of authority by the director and the issuance of a license by the secretary of state, every such association shall be a body corporate and politic in fact and in name, by the name stated in the articles of association, and shall have power:

(1) To sue and be sued in any court having competent jurisdiction.

(2) To make and use a common seal.

(3) To purchase, hold, own, mortgage, sell and convey real and personal property[,] to borrow money as shall be necessary for the needs of said corporation and to lend same, or any part thereof, or any of the funds of the association to its members upon such security, real or personal, as it shall require; and to execute, as evidence of money borrowed, any and all forms of notes, bonds, debentures and certificates, and secure same by the execution of any mortgage, lien, deed of trust or the surrender of any property owned or held by it, and to

pay, cancel, satisfy and renew the same, and to receive any of the above evidences of indebtedness and securities for money loaned.

(4) To engage in the warehouse and storage business for the benefit of its members, and to handle, prepare for market, store, ship and sell all agricultural crops for or on account of its members, and to charge and receive compensation for any such service.

(5) To appoint such officers, agents and servants as the business of the corporation shall require, to define their powers, prescribe their duties, and fix their compensation.

(6) To require of them such security as may be thought proper for the fulfillment of their duties and to remove them at will; except that no trustee shall be removed from office unless by vote of a majority of the members thereof.

(7) To make bylaws not inconsistent with the laws of this state or of the United States.

(8) To manage its property, to regulate its affairs, to provide for the transfer of membership therein, and to carry on all kinds of business within the objects and purposes of said association as expressed in the articles of said association or contained in this chapter.

(9) To act as broker for its members in disposing or selling of their crops, and to advance and lend money to any such member on the security of such crops or such other security, real or personal, as it may require.

(10) To hold, own and vote stock or other evidence of ownership in any other cooperative association or corporation.

(11) To buy, sell and deal in and to procure for its members such supplies as shall be necessary or useful in and about the growing, harvesting and marketing of any agricultural crop grown or to be grown by them. [1921 c 121 § 11; RRS § 2920.]

31.16.100 Association may act as broker—Buying, selling, dealing prohibited. No crop credit association shall engage in the business of buying or selling for its own account, directly or indirectly, any crop grown, raised or produced by its members, or others, but such association may be and act as broker, as in this chapter provided, for the sale of the crops of its members. None of the funds or assets of any such association shall ever be used for or expended in and about the business of buying, selling or dealing in any such crops. [1921 c 121 § 12; RRS § 2921.]

31.16.110 Bylaws. The organizers of every crop credit association shall, before it commences business, adopt bylaws for the government of said association, in which provision shall be made for the admission of members thereto; the terms of admission, lapsation and expulsion, and the membership fee of not to exceed one hundred dollars which shall be required from each member. Upon the full payment of any such membership fee the association shall issue a certificate of membership which shall be transferable only to bona fide growers of standard farm crops under such conditions and regulations as shall be provided in such bylaws. No

person shall become a member of any crop credit association who is not, at the time of becoming such member, a bona fide grower of standard farm crops in the state of Washington. Such bylaws shall also contain rules and regulations for the proper and orderly government of such association and the exercise of its lawful powers. Every association shall submit its proposed bylaws to the director for his approval that the government of all crop credit associations in the state of Washington shall be uniform. If said bylaws are not approved by the said director, the same shall be suspended by his order until bylaws approved by him shall be adopted by such crop credit association. [1921 c 121 § 13; RRS § 2922.]

31.16.120 Trustees and officers—Election and removal. Such association shall be managed by a board of not less than three trustees. The trustees shall be elected by and from the members of the association at such time and for such term of office as the bylaws may prescribe and shall hold office during the term for which they are elected and until their successors are elected and qualified; but a majority of the members shall have the power, at any regular or special meeting legally called for that purpose, to remove any trustee or officer for cause, and fill the vacancy. The officers of every such association shall be a president, vice president, secretary and treasurer, who shall be elected by the trustees. Each of said officers must be a member of the association. All elections shall be by ballot. Each member of the association shall be entitled to one vote only. [1921 c 121 § 14; RRS § 2923.]

31.16.130 Loans and security. Any crop credit association organized under the provisions of this chapter shall have authority to make loans to its members, in accordance with their credit needs, not to exceed sixty-six and two-thirds percent of the fair market value of the standard farm crops grown by such member, and in turn may mortgage, transfer or hypothecate the said crops as direct or collateral security for the borrowing of money necessary to make such advances and loans to its members. Each loan by the association to its members shall be evidenced by the negotiable promissory note of the member borrower in an amount exceeding the credit extended to such member by ten percent, with interest at a rate fixed by the association and maturing at least fifteen days prior to the maturity of the crop credit notes herein provided for, which note shall be secured by a negotiable warehouse receipt covering said standard agricultural product; a policy of insurance against loss by fire, and a certificate of inspection by the proper authority of the state of Washington as to the quality and variety of the farm product offered as such security. All such crops so offered as security for such loans must be free and clear of all incumbrances, except inspection, warehouse and insurance charges accruing against same: *Provided*, That when the standard crop used as the basis of credit is wheat, seventy-five percent of the fair market value may be loaned thereon and no certificate of inspection

thereof shall be required. [1921 c 121 § 15; RRS § 2924.]

Warehouse receipts: Title 62A RCW (Art. 7).

31.16.150 Application for authority to issue notes. Every crop credit association which shall desire to issue its notes or commercial paper, secured by the crops of its members as hereinabove provided, shall make application to the director for authority to issue crop credit notes of the association, which application shall be made upon blanks furnished for that purpose by said director and shall show:

- (1) The name and place of business of the association making such application.
- (2) The kind of standard farm crop to be used by it for credit purposes, and only one standard farm crop shall be used for each issue of crop credit notes.
- (3) The estimated quantity and quality of the crop to be so used.
- (4) The estimated amount of money desired to be borrowed against any such crop.
- (5) The period of credit desired, not to exceed six months.
- (6) The estimated number of growers of such standard crop.
- (7) The name of the trustee.

Said application shall be signed by the president and secretary of such association and attested by its seal, and shall be accompanied by a fee of five dollars. [1921 c 121 § 16; RRS § 2925.]

31.16.160 Certificate of authority. Upon the receipt of said application and the filing fee by the director he shall cause investigation thereof to be made covering the information contained in such application, and if he finds the said application in all respects in accordance with this chapter, he shall issue a certificate of authority to the trustee named in said application, in which certificate shall be stated a fair price for credit purposes of the farm crops mentioned in said application, to be used as the basis of credit in the issue of crop credit notes. Said fair price shall be determined by said director from any and all information obtained by him with reference to the particular farm crop, covering the condition of the markets in the United States and elsewhere; the visible supply of such product and the kind, quality and condition of same. Said fair price shall not be considered as in any manner fixing the price at which said products may or shall be bought or sold, but same shall be fixed only for the purpose of further assuring the purchasers of any securities or paper issued on the basis of the credit of such farm crop. [1921 c 121 § 17; RRS § 2926.]

31.16.170 Transfer of security to trustee. Upon the issuance of said certificate of authority to the trustee named in any such application, said trustee shall immediately so inform the officers of the association making such application. The association shall thereupon forthwith deliver to the said trustee all notes, warehouse receipts, securities, insurance policies and certificates of inspection held by it or which shall be required by the

director as security for the proposed issue of crop credit notes, and shall convey full title of all property and securities represented by any evidence of indebtedness or constituting a lien thereon to the said trustee, to be by said trustee used as the security for the issuance of the proposed crop credit notes by said association. [1921 c 121 § 18; RRS § 2927.]

31.16.180 Notes—Issuance and payment—Aggregate amount—Denominations—Contents and form. Thereupon said crop credit association may issue, under the seal and signed by the president and secretary of such association, crop credit notes in the aggregate not to exceed the amount of such issue of notes stated in the certificate of authority of the director to the trustee. Said notes shall be in denominations of not less than fifty dollars nor more than five thousand dollars, payable at a fixed period of maturity, not to exceed six months from the date of the certificate of authority, as shall be determined by the said board of trustees. Said notes shall thereupon be delivered to said trustee, who shall countersign same and deliver them at such times and in such amounts and at such discount as shall be determined by the board of trustees by resolution entered upon the minutes of their proceedings. Said notes shall contain the number of the certificate of authority and the date of issuance thereof, together with the facsimile signature of the director and a series number, and shall state the kind of standard crop held by said trustee as security therefor, and shall otherwise be in such form as the director shall prescribe. [1921 c 121 § 19; RRS § 2928.]

31.16.190 Distribution of proceeds of notes—Brokerage charge. Said trustee shall deliver said notes, properly countersigned, and receive the proceeds of the sale thereof, which proceeds shall be by said trustee immediately distributed to the members of said association in accordance with their credit requirements as shown by a schedule signed by the officers of said association and filed with the trustee showing the name and address of each member borrower, the kind, quantity and value of the crop pledged by him as security for his loan, and the amount borrowed thereon, less a brokerage charge of not to exceed two percent thereof for the use of the association as determined by its trustees. [1921 c 121 § 20; RRS § 2929.]

31.16.200 Compensation of trustee. The trustee holding the said securities herein provided shall be entitled, as compensation for all of its services rendered under this chapter, to a fee not to exceed one percent of the par value of the notes issued by it where such issue shall be fifty thousand dollars or less, and not to exceed one-half of one percent for any such issue of more than fifty thousand dollars, payable from the brokerage charged by the association, as shall be agreed between the association and said trustee, which agreement shall be approved by the director. [1921 c 121 § 21; RRS § 2930.]

31.16.210 Notes, general obligation. All such crop credit notes shall be general obligations of the crop credit association issuing same and shall be secured by the entire number of collateral notes of the members of said association, participating in such issue, deposited with said trustee. [1921 c 121 § 22; RRS § 2931.]

31.16.220 Payment of members' loans. Upon maturity of the notes evidencing the members' indebtedness to the association, the said trustee shall collect and place same in a fund for the retirement of said crop credit notes. Upon the collection of said indebtedness, which shall include the ten percent excess, as hereinbefore provided, any and all warehouse receipts, insurance policies, certificates of inspection, or other security deposited for the security of the indebtedness of said member, shall be delivered to the said member or to his order. The funds so repaid by the members of the association, upon the order of the trustees of such association may be used for the immediate retirement of any outstanding crop credit notes of said issue, at a price not to exceed the face value of such crop credit notes. All members' notes, money, certificates and securities remaining in the hands of said trustee, after permission given it by the director, shall be returned to the crop credit association issuing same, which association shall collect as quickly as possible any remaining indebtedness under said issue then due to it. All sums so collected, less collection fees and expenses, shall be divided among and paid to the members of said association in proportion to the loans severally made to its members: *Provided, however,* That before any such division of moneys remaining after the retirement of any issue of crop credit notes, a full report of the issuance and sale of said notes and the retirement thereof shall be made to the director, and same shall not be distributed to the members of such association until the approval thereof by said director has been made in writing. [1921 c 121 § 23; RRS § 2932.]

31.16.230 Trustee's reports—Association's annual report. A full report of every issue of such crop credit notes shall be made to the director by the trustee at the time of sale of said notes and again at the time of the redemption thereof, said reports to be made upon blanks furnished therefor by said director. The director shall at all times have the right and privilege of inspecting the crops, securities, warehouse receipts and accounts of the said association or the said trustee until the issue secured by same shall have been fully paid and retired. Each association shall make an annual report to the director of markets, showing the gross returns to said association from the business of the previous year; an itemized statement of its expenses; the amount of its net gain, if any, which shall have been transferred to a surplus account; and the amount of money distributed to its members. [1921 c 121 § 24; RRS § 2933.]

Reviser's note: Powers and duties of director of markets devolved on director of agriculture, see note following RCW 31.16.025.

31.16.240 Capital fund. Every permanent association organized under this chapter may establish a capital account which shall be its working capital. It may transfer thereto any membership fees, commissions, fees or charges against its members or profits from sale of supplies to its members, and may use said capital fund in the transaction of any lawful business conducted by the association. [1921 c 121 § 25; RRS § 2934.]

31.16.250 Trustee, banks may act as. Any bank, trust company or mutual savings bank organized under the laws of the state of Washington may be and act as the trustee for the issuance of any crop credit notes provided for herein, and any bank organized under the laws of the United States, may also act as such trustee, subject to the supervision of the directors as in this chapter provided. [1921 c 121 § 26; RRS § 2935.]

Banks and trust companies: Title 30 RCW.

Mutual savings banks: Title 32 RCW.

31.16.255 Issuance of crop credit notes, restrictions—Rules and regulations. No issue of crop credit notes shall be made without first having secured the authority of the director, nor shall any such issue be founded upon any other than standard agricultural crops grown in this state. The director shall make general rules and regulations governing the issuance of such notes and for the proper administration and enforcement of this chapter. [1921 c 121 § 27; RRS § 2936. Formerly RCW 31.16.140.]

31.16.260 Refunding notes. For good cause shown the director may permit the issuance of refunding notes to take up any balance of a series upon maturity thereof: *Provided*, There shall be ample security for said refunding issue in accordance with the requirements of this chapter, said refunding series to be issued at or prior to the maturity of said first series of notes covering any such crop. [1921 c 121 § 28; RRS § 2937.]

31.16.270 Default by association in payment of notes—Procedure. Upon default by any crop credit association in the payment of its crop credit notes promptly at the maturity thereof, notice of protest of which shall be immediately given by the trustee to the director, said director shall take charge of all the business, property, security and assets of said association whether the same be in possession of said association or in the hands of the trustee of its issue of crop credit notes, and shall have the power and authority immediately to market to the best advantage any crops remaining on hand as security for the remainder of said notes. He may make composition with the creditors of said association holding its crop credit notes; he may arrange for an extension of the time of payment thereof, and may otherwise fully liquidate the affairs of said association with all the powers of a receiver, duly and regularly appointed by the court having jurisdiction of the association involved, and said director may make application to the superior court in the county where the principal place of business of such association is located for any additional authority necessary to enable

him properly and promptly to liquidate the affairs of said association and to pay its creditors. In any such liquidation the creditors holding crop credit notes shall be considered to have a first lien upon all the property and assets securing said notes, and thereafter shall share equally with the unsecured creditors of said association in any unencumbered assets thereof. [1921 c 121 § 29; RRS § 2938.]

31.16.280 Liability of director, trustee and members. No liability shall attach to the director; nor to the trustee issuing said certificates by reason of the exercise of the authority granted by this chapter, except that said trustee shall be liable for misfeasance or malfeasance in the administration of said trust. No liability in excess of the membership fee charged by said association shall accrue to or against any member thereof by reason of such membership. [1921 c 121 § 30; RRS § 2939.]

31.16.290 Other associations may operate hereunder. Any cooperative marketing association, stock company or association engaged exclusively in harvesting, storing, preparing for market or marketing the crops or products of its members or stockholders, may take advantage of the provisions of this chapter and shall be entitled to all of the privileges hereof upon filing the application for authority to issue crop credit notes as hereinbefore provided for temporary and permanent crop credit associations. Any certificate of authority issued to or for any corporation so applying shall be deemed to be for one crop season only as in the case of a temporary crop credit association. [1921 c 121 § 31; RRS § 2940.]

31.16.300 Right of member borrower to sell crop. Every member borrower personally or through his duly authorized agent or broker shall have the exclusive right to sell and dispose of the crop pledged by him for his loan: *Provided*, That after the maturity of the indebtedness from him to the association, the association may forthwith and without notice to the borrower, sell said crops to the best advantage and discharge said indebtedness. [1921 c 121 § 32; RRS § 2941.]

31.16.310 Disposition of fees. All fees collected by the director shall inure to the benefit of the State College of Washington for use in the work of the director of marketing and shall be available therefor without any other or further appropriation thereof. A statement of all receipts and expenditures by the director shall be made in his annual report. [1921 c 121 § 33; RRS § 2942.]

Reviser's note: Powers and duties of director of marketing devolved on director of agriculture, see note following RCW 31.16.025.

31.16.320 Penalty. Every person who shall violate or knowingly aid or abet the violation of any provision of this chapter, and every person who fails to perform any act which it is made his duty to perform herein shall be guilty of a gross misdemeanor. [1921 c 121 § 34; RRS § 2943.]

31.16.330 Powers and duties of director of farm marketing transferred to director of agriculture. When the director of agriculture shall have been appointed and qualified and shall assume and exercise the duties of his office, all powers and duties herein conferred and imposed upon the director of farm marketing shall be transferred to the office of the director of agriculture and be assumed and exercised by the incumbent thereof. [1921 c 121 § 36; RRS § 2945. Formerly RCW 31.16.010, part.]

Reviser's note: Regarding the devolution of powers and duties of director of farm marketing, see also 1921 c 7 §§ 83, 90(6) and 135.

31.16.900 Short title. This chapter shall be known and may be cited as the "Washington Crop Credit Act." [1921 c 121 § 1; RRS § 2910.]

31.16.910 Severability—1921 c 121. If any section or part of a section of this chapter shall, for any cause, be held unconstitutional, such holding shall not affect the rest of this chapter or any other section hereof. [1921 c 121 § 35; RRS § 2944.]

Chapter 31.20 DEVELOPMENT CREDIT CORPORATIONS

Sections

31.20.010	Creation under general corporation laws authorized.
31.20.020	Purposes specified.
31.20.030	Corporate powers.
31.20.040	Minimum capital stock.
31.20.050	Board of directors.
31.20.060	Members power to loan funds to corporation.
31.20.070	Members of corporation enumerated.
31.20.080	Members duty to loan funds to corporation—Maximum limits—Proration of calls.
31.20.090	Withdrawal from membership.
31.20.100	Surplus reserve required.
31.20.110	Funds to be deposited in designated depository.
31.20.120	Money deposits prohibited.
31.20.130	Publication of annual statement of assets and liabilities.
31.20.140	Participation in federal act authorized.

31.20.010 Creation under general corporation laws authorized. Organizations to provide development credit are authorized to be created under the general corporation laws of the state, with all of the powers, privileges and immunities conferred on corporations by such laws. [1959 c 213 § 1.]

31.20.020 Purposes specified. The purposes of development credit corporations as authorized herein shall be: (1) To promote, aid, and, through the united efforts of the institutions and corporations which shall from time to time become members thereof, develop and advance the industrial and business prosperity and welfare of the state of Washington; (2) To encourage new industries; (3) To stimulate and help to expand all kinds of business ventures which tend to promote the growth of the state; (4) To act whenever and wherever deemed by it advisable in conjunction with other organizations, the objects of which are the promotion of industrial, agricultural or recreational developments within the state; and (5) To furnish for approved and deserving applicants ready and required money for the carrying

on and development of every kind of business or industrial undertaking whereby a medium of credit is established not otherwise readily available therefor. [1959 c 213 § 2.]

31.20.030 Corporate powers. In furtherance of the purposes set forth in RCW 31.20.020, and in addition to the powers conferred by the general laws relating to corporations, this corporation shall, subject to the restrictions and limitations set forth in this chapter, have the following powers:

(1) To borrow money on secured or unsecured notes from any bank, trust company, savings bank, mutual savings bank, savings and loan association, building and loan association, credit union, insurance company or union funds which shall be members of this corporation and to pledge bonds, notes and other securities as collateral therefor: *Provided*, In no case shall the amount so loaned by any member exceed the limit as hereinafter defined;

(2) To lend money upon secured or unsecured applications: *Provided*, It shall not be the purpose hereof to take from other institutions within the state any such loans or commitments as may be desired by such institutions generally in the ordinary course of their business;

(3) To establish and regulate the terms and conditions of any such loans and charges for interest or service connected therewith;

(4) To purchase, hold, lease and otherwise acquire and to convey such real estate as may, from time to time, be acquired by it in satisfaction of debts or may be acquired by it in the foreclosure of mortgages thereon or upon judgments for debts or in settlements to secure debts. [1959 c 213 § 3.]

31.20.040 Minimum capital stock. No development credit corporation shall be organized with a capital stock of less than twenty-five thousand dollars, which shall be paid into the treasury of the corporation in cash before the corporation shall be authorized to transact any business other than such as relates to its organization. [1959 c 213 § 4.]

31.20.050 Board of directors. All the corporate powers of a development credit corporation shall be exercised by a board of not less than nine directors who shall be residents of this state. The number of directors and their term of office shall be determined by the stockholders at the first meeting held by the incorporators and at each annual meeting thereafter. In the first instance the directors shall be elected by the stockholders to serve until the first annual meeting. At the first annual meeting, and at each annual meeting thereafter, one-third of the directors shall be elected by a vote of the stockholders and the remaining two-thirds thereof shall be elected by members of the corporation herein provided for, each member having one vote. The removal of any director from this state shall immediately vacate his office. If any vacancy occurs in the board of directors through death, resignation or otherwise, the

remaining directors may elect a person to fill the vacancy until the next annual meeting of the corporation. The directors shall be annually sworn to the proper discharge of their duties and they shall hold office until others are elected or appointed and qualified in their stead. [1959 c 213 § 5.]

31.20.060 Members power to loan funds to corporation. Any member, as set forth in RCW 31.20.070, shall have power and authority to loan any of their funds to any development credit corporation of which they are a member, subject to the restrictions as set forth in RCW 31.20.080, notwithstanding any laws to the contrary pertaining to such member. [1959 c 213 § 6.]

31.20.070 Members of corporation enumerated. The members of a development credit corporation shall consist of such banks, trust companies, savings banks, mutual savings banks, savings and loan associations, building and loan associations, credit unions, insurance companies or union funds as may make accepted applications to this corporation to lend funds to it upon call and up to the limit herein provided. [1959 c 213 § 7.]

31.20.080 Members duty to loan funds to corporation—Maximum limits—Proration of calls. Each member of a development credit corporation shall lend funds to the development credit corporation as and when called upon by it to do so to the extent of the member's commitment, but the total amount on loan by any member at any one time shall not exceed the following limit: (1) For banks, trust companies, or insurance companies, three percent of capital and surplus; (2) For mutual savings banks, savings and loan associations, or credit unions, three percent of guaranty and reserve funds; and (3) Comparable limits for other institutions. All loan limits shall be established at the thousand dollars amount nearest to the amount computed on an actual basis. All calls when made by this corporation shall be prorated among the members on the same proportion that the maximum lending commitment of each bears to the aggregate maximum lending commitment of all members. [1959 c 213 § 8.]

31.20.090 Withdrawal from membership. Upon notice given one year in advance a member of the corporation may withdraw from membership in the corporation at the expiration date of such notice and from said expiration date shall be free from obligations hereunder except as to those accrued prior to said expiration date. [1959 c 213 § 9.]

31.20.100 Surplus reserve required. A development credit corporation shall set apart a surplus of not less than ten percent of its net earnings in each and every year until such surplus, with any unimpaired surplus paid in, shall amount to one-half of the capital stock. The said surplus shall be kept to secure against losses and contingencies, and whenever the same becomes impaired it shall be reimbursed in the manner provided for its accumulation. [1959 c 213 § 10.]

31.20.110 Funds to be deposited in designated depository. A development credit corporation shall not deposit any of its funds in any institution unless such institution has been designated as a depository by a vote of a majority of the directors, exclusive of the vote of any director who is an officer or director of the depository so designated. [1959 c 213 § 11.]

31.20.120 Money deposits prohibited. A development credit corporation shall not receive money on deposit. [1959 c 213 § 12.]

31.20.130 Publication of annual statement of assets and liabilities. A development credit corporation, on or before February 15th of each year, shall publish in three consecutive issues of a newspaper of general circulation in the area or areas where the corporation is located a statement of assets and liabilities as of December 31st of the preceding year. [1959 c 213 § 13.]

31.20.140 Participation in federal act authorized. Any development credit corporation desiring to qualify and participate in the federal Small Business Investment Act of 1958 and as hereafter amended may do so and to that end may comply with all the laws of the United States and all the rules, regulations and requirements promulgated pursuant thereto. [1959 c 213 § 14.]

Chapter 31.24

INDUSTRIAL DEVELOPMENT CORPORATIONS

Sections	
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31.24.900	Severability—1963 c 162.

31.24.010 Definitions. As used in this chapter, the following words and phrases, unless differently defined or described, shall have the meanings and references as follows:

(1) Corporation means a Washington industrial development corporation created under this chapter.

(2) Financial institution means any banking corporation or trust company, national banking association, savings and loan association, insurance company or related corporation, partnership, foundation, or other institution engaged primarily in lending or investing funds.

(3) Member means any financial institution authorized to do business within this state which shall undertake to lend money to a corporation created under this chapter, upon its call, and in accordance with the provisions of this chapter.

(4) Board of directors means the board of directors of the corporation created under this chapter.

(5) Loan limit means for any member, the maximum amount permitted to be outstanding at one time on loans made by such member to the corporation, as determined under the provisions of this chapter. [1963 c 162 § 1.]

31.24.020 Articles of incorporation—Contents—

Approval. Fifteen or more persons, a majority of whom shall be residents of this state, who may desire to create an industrial development corporation under the provisions of this chapter, for the purpose of promoting, developing and advancing the prosperity and economic welfare of the state and, to that end, to exercise the powers and privileges hereinafter provided, may be incorporated by filing in the office of the secretary of state, as hereinafter provided, articles of incorporation. The articles of incorporation shall contain:

(1) The name of the corporation, which shall include the words "Development Corporation of Washington."

(2) The location of the principal office of the corporation, but such corporation may have offices in such other places within the state as may be fixed by the board of directors.

(3) The purposes for which the corporation is founded, which shall be to promote, stimulate, develop and advance the business prosperity and economic welfare of Washington and its citizens; to encourage and assist through loans, investments or other business transactions in the location of new business and industry in this state and to rehabilitate and assist existing business and industry; to stimulate and assist in the expansion of all kinds of business activity which will tend to promote the business development and maintain the economic stability of this state, provide maximum opportunities for employment, encourage thrift, and improve the standard of living of citizens of this state; similarly, to cooperate and act in conjunction with other organizations, public or private, in the promotion and advancement of industrial, commercial, agricultural and recreational developments in this state; and to provide financing for the promotion, development, and conduct of all kinds of business activity in this state.

(4) The names and post office addresses of the members of the first board of directors, who, unless otherwise provided by the articles of incorporation or the bylaws, shall hold office for the first year of existence of

the corporation or until their successors are elected and have qualified.

(5) Any provision which the incorporators may choose to insert for the regulation of the business and for the conduct of the affairs of the corporation and any provision creating, dividing, limiting and regulating the powers of the corporation, the directors, stockholders or any class of the stockholders, including, but not limited to a list of the officers, and provisions governing the issuance of stock certificates to replace lost or destroyed certificates.

(6) The amount of authorized capital stock and the number of shares into which it is divided, the par value of each share and the amount of capital with which it will commence business and, if there is more than one class of stock, a description of the different classes; the names and post office addresses of the subscribers of stock and the number of shares subscribed by each. The aggregate of the subscription shall be the minimum amount of capital with which the corporation shall commence business which shall not be less than fifty thousand dollars. The articles of incorporation may also contain any provision consistent with the laws of this state for the regulation of the affairs of the corporation.

(7) The articles of incorporation shall be in writing, subscribed by not less than five natural persons competent to contract and acknowledged by each of the subscribers before an officer authorized to take acknowledgments and filed in the office of the secretary of state for approval. A duplicate copy so subscribed and acknowledged may also be filed.

(8) The articles of incorporation shall recite that the corporation is organized under the provisions of this chapter.

The secretary of state shall not approve articles of incorporation for a corporation organized under this chapter until a total of at least ten national banks, state banks, savings banks, industrial savings banks, federal savings and loan associations, domestic building and loan associations, or insurance companies authorized to do business within this state, or any combination thereof, have agreed in writing to become members of said corporation; and said written agreement shall be filed with the secretary of state with the articles of incorporation and the filing of same shall be a condition precedent to the approval of the articles of incorporation by the secretary of state. Whenever the articles of incorporation shall have been filed in the office of the secretary of state and approved by him and all taxes, fees and charges, have been paid, as required by law, the subscribers, their successors and assigns shall constitute a corporation, and said corporation shall then be authorized to commence business, and stock thereof to the extent herein or hereafter duly authorized may from time to time be issued. [1974 1st ex.s. c 16 § 1; 1963 c 162 § 2.]

31.24.030 Corporate powers. In furtherance of its purposes and in addition to the powers now or hereafter conferred on business corporations by the provisions of chapter 23.01 RCW, the corporation shall,

subject to the restrictions and limitations herein contained, have the following powers:

(1) To elect, appoint and employ officers, agents and employees; to make contracts and incur liabilities for any of the purposes of the corporation: *Provided*, That the corporation shall not incur any secondary liability by way of guaranty or endorsement of the obligations of any person, firm, corporation, joint stock company, association or trust, or in any other manner.

(2) To borrow money from its members and the small business administration and any other similar federal agency, for any of the purposes of the corporation; to issue therefor its bonds, debentures, notes or other evidence of indebtedness, whether secured or unsecured, and to secure the same by mortgage, pledge, deed of trust or other lien on its property, franchises, rights and privileges of every kind and nature or any part thereof or interest therein, without securing stockholder or member approval: *Provided*, That no loan to the corporation shall be secured in any manner unless all outstanding loans to the corporation shall be secured equally and ratably in proportion to the unpaid balance of such loans and in the same manner.

(3) To make loans to any person, firm, corporation, joint-stock company, association or trust, and to establish and regulate the terms and conditions with respect to any such loans and the charges for interest and service connected therewith: *Provided*, That the corporation shall not approve any application for a loan unless and until the person applying for said loan shall show that he has applied for the loan through ordinary banking channels and that the loan has been refused by at least one bank or other financial institution.

(4) To purchase, receive, hold, lease, or otherwise acquire, and to sell, convey, transfer, lease or otherwise dispose of real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and the use thereof, including, but not restricted to, any real or personal property acquired by the corporation from time to time in the satisfaction of debts or enforcement of obligations.

(5) To acquire the good will, business, rights, real and personal property, and other assets, or any part thereof, or interest therein, of any persons, firms, corporations, joint-stock companies, associations or trusts, and to assume, undertake, or pay the obligations, debts and liabilities of any such person, firm, corporation, joint-stock company, association or trust; to acquire improved or unimproved real estate for the purpose of constructing industrial plants or other business establishments thereon or for the purpose of disposing of such real estate to others for the construction of industrial plants or other business establishments; and to acquire, construct or reconstruct, alter, repair, maintain, operate, sell, convey, transfer, lease, or otherwise dispose of industrial plants or business establishments.

(6) To acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of the stock, shares, bonds, debentures, notes or other securities and evidences of interest in, or indebtedness of, any person, firm, corporation, joint-stock company, association or trust, and while the owner or holder thereof to

exercise all the rights, powers and privileges of ownership, including the right to vote thereon.

(7) To mortgage, pledge, or otherwise encumber any property, right or things of value, acquired pursuant to the powers contained in subsections (4), (5), or (6) of this section, as security for the payment of any part of the purchase price thereof.

(8) To cooperate with and avail itself of the facilities of the United States department of commerce, the department of commerce and economic development, and any other similar state or federal governmental agencies; and to cooperate with and assist, and otherwise encourage organizations in the various communities of the state in the promotion, assistance and development of the business prosperity and economic welfare of such communities or of this state or of any part thereof.

(9) To do all acts and things necessary or convenient to carry out the powers expressly granted in this chapter. [1963 c 162 § 3.]

31.24.040 Organizations authorized to acquire, hold and dispose of corporate bonds, securities, stock, etc.—Membership—Rights and powers—Limitation on stock ownership. Notwithstanding any rule at common law or any provision of any general or special law or any provision in their respective charters, agreements of association, articles of organization or trust indentures:

(1) Any person including all domestic corporations organized for the purpose of carrying on business within this state and further including without implied limitation public utility companies and insurance companies, and foreign corporations licensed to do business within this state, and all financial institutions as defined herein, and all trustees, are hereby authorized to acquire, purchase, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of any bonds, securities or other evidences of indebtedness created by, or the shares of the capital stock of, the corporation, and while owners of said stock to exercise all the rights, powers and privileges of ownership, including the right to vote thereon, all without the approval of any regulatory authority of the state except as otherwise provided in this chapter: *Provided*, That a financial institution which does not become a member of the corporation shall not be permitted to acquire any shares of the capital stock of the corporation;

(2) All financial institutions are hereby authorized to become members of the corporation and to make loans to the corporation as provided herein; and

(3) Each financial institution which becomes a member of the corporation is hereby authorized to acquire, purchase, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of, any bonds, securities or other evidences of indebtedness created by, or the shares of the capital stock of, the corporation, and while owners of said stock, to exercise all the rights, powers and privileges of ownership, including the right to vote thereon, all without the approval of any regulatory authority of the state: *Provided*, That the amount of the capital stock of the corporation which may be acquired

by any member pursuant to the authority granted herein shall not exceed ten percent of the loan limit of such member.

The amount of capital stock of the corporation which any member is authorized to acquire pursuant to the authority granted herein is in addition to the amount of capital stock in corporations which such member may otherwise be authorized to acquire. [1963 c 162 § 4.]

31.24.050 Membership by financial institutions—Loans to corporation by members—Limitations—Interest. Any financial institution may request membership in the corporation by making application to the board of directors on such form and in such manner as said board of directors may require, and membership shall become effective upon acceptance of such application by said board.

Each member of the corporation shall make loans to the corporation as and when called upon by it to do so on such terms and other conditions as shall be approved from time to time by the board of directors, subject to the following conditions:

(1) All loan limits shall be established at the thousand dollar amount nearest to the amount computed in accordance with the provisions of this section.

(2) No loan to the corporation shall be made if immediately thereafter the total amount of the obligations of the corporation would exceed fifteen times the amount then paid in on the outstanding capital stock of the corporation.

(3) The total amount outstanding on loans to the corporation made by any member at any time, when added to the amount of the investment in the capital stock of the corporation then held by such member, shall not exceed:

(a) Thirty percent of the total amount then outstanding on loans to the corporation by all members, including in said total amount outstanding, amounts validly called for loan but not yet loaned.

(b) The following limit, to be determined as of the time such member becomes a member on the basis of the audited balance sheet of such member at the close of its fiscal year immediately preceding its application for membership, or thereafter on the basis of the preceding fiscal year, or in the case of an insurance company, its last annual statement to the state insurance commissioner; or thereafter on the basis of its last annual statement to the insurance commissioner, two and one-half percent of the capital and surplus of commercial banks and trust companies; one-half of one percent of the total outstanding loans made by savings and loan associations, and building and loan associations; two and one-half percent of the capital and unassigned surplus of stock insurance companies, except fire insurance companies; two and one-half percent of the unassigned surplus of mutual insurance companies, except fire insurance companies; one-tenth of one percent of the assets of fire insurance companies; and such limits as may be approved by the board of directors of the corporation for other financial institutions.

(4) Subject to subsection (3)(a) of this section, each call made by the corporation shall be prorated among

the members of the corporation in substantially the same proportion that the adjusted loan limit of each member bears to the aggregate of the adjusted loan limits of all members. The adjusted loan limit of a member shall be the amount of such member's loan limit, reduced by the balance of outstanding loans made by such member to the corporation and the investment in capital stock of the corporation held by such member at the time of such call.

(5) All loans to the corporation by members shall be evidenced by bonds, debentures, notes, or other evidences of indebtedness of the corporation, which shall be freely transferable at all times, and which shall bear interest at a rate of not less than one-quarter of one percent in excess of the rate of interest determined by the board of directors to be the prime rate prevailing at the date of issuance thereof on unsecured commercial loans. [1974 1st ex.s. c 16 § 2; 1973 1st ex.s. c 90 § 1; 1963 c 162 § 5.]

31.24.060 Membership—Duration—Withdrawal. Membership in the corporation shall be for the duration of the corporation: *Provided*, That upon written notice given to the corporation five years in advance, a member may withdraw from membership in the corporation at the expiration date of such notice.

A member shall not be obligated to make any loans to the corporation pursuant to calls made subsequent to notice of the intended withdrawal of said member. [1963 c 162 § 6.]

31.24.070 Powers of stockholders and members—Voting rights—Proxy voting. The stockholders and the members of the corporation shall have the following powers of the corporation:

(1) To determine the number of and elect directors as provided in RCW 31.24.090;

(2) To make, amend and repeal bylaws;

(3) To amend this charter as provided in RCW 31.24.080;

(4) To dissolve the corporation as provided in RCW 31.24.150;

(5) To do all things necessary or desirable to secure aid, assistance, loans and other financing from any financial institutions, and from any agency established under the small business investment act of 1958, public law 85-699, 85th congress, or other similar federal laws now or hereafter enacted.

(6) To exercise such other of the powers of the corporation consistent with this chapter as may be conferred on the stockholders and the members by the bylaws.

As to all matters requiring action by the stockholders and the members of the corporation, said stockholders and said members shall vote separately thereon by classes, and, except as otherwise herein provided, such matters shall require the affirmative vote of a majority of the votes to which the stockholders present or represented at the meeting shall be entitled and the affirmative vote of a majority of the votes to which the members present or represented at the meeting shall be entitled.

Each stockholder shall have one vote, in person or by proxy, for each share of capital stock held by him, and each member shall have one vote, in person or by proxy, except that any member having a loan limit of more than one thousand dollars shall have one additional vote, in person or by proxy, for each additional one thousand dollars which such member is authorized to have outstanding on loans to the corporation at any one time as determined under subsection (3)(b) of RCW 31.24.050. [1963 c 162 § 7.]

31.24.080 Amendment of articles—Articles of amendment—Contents—Filing. The articles of incorporation may be amended by the votes of the stockholders and the members of the corporation, voting separately by classes, and such amendments shall require approval by the affirmative vote of two-thirds of the votes to which the stockholders shall be entitled and two-thirds of the votes to which the members shall be entitled: *Provided*, That no amendment of the articles of incorporation which is inconsistent with the general purposes expressed herein or which authorizes any additional class of capital stock to be issued, or which eliminates or curtails the right of the state supervisor of banking to examine the corporation or the obligation of the corporation to make reports as provided in RCW 31.24.120, shall be made: *Provided, further*, That no amendment of the articles of incorporation which increases the obligation of a member to make loans to the corporation, or makes any charge in the principal amount, interest rate, maturity date, or in the security or credit position of an outstanding loan of a member to the corporation, or affects a member's right to withdraw from membership as provided herein, or affects a member's voting rights as provided herein, shall be made without the consent of each membership affected by such amendment.

Within thirty days after any meeting at which an amendment of the articles of incorporation has been adopted, articles of amendment signed and sworn to by the president, treasurer, and a majority of the directors, setting forth such amendment and due adoption thereof, shall be submitted to the secretary of state, who shall examine them and if he finds that they conform to the requirements of this chapter, shall so certify and endorse his approval thereon. Thereupon, the articles of amendment shall be filed in the office of the secretary of state and no such amendment shall take effect until such articles of amendment shall have been filed as aforesaid. [1963 c 162 § 8.]

31.24.090 Board of directors. The business and affairs of the corporation shall be managed and conducted by a board of directors, a president, a vice president, a secretary, a treasurer, and such other officers and such agents as the corporation by its bylaws shall authorize. The board of directors shall consist of such number, not less than eleven nor more than twenty-one, as shall be determined in the first instance by the incorporators and thereafter annually by the members and the stockholders of the corporation. The board of directors may exercise all the powers of the corporation except such as

are conferred by law or by the bylaws of the corporation upon the stockholders or members and shall choose and appoint all the agents and officers of the corporation and fill all vacancies except vacancies in the office of director which shall be filled as hereinafter provided. The board of directors shall be elected in the first instance by the incorporators and thereafter at the annual meeting, the day and month of which shall be established by the bylaws of the corporations, or, if no annual meeting shall be held in the year of incorporation, then within ninety days after the approval of the articles of incorporation at a special meeting as hereinafter provided. At each annual meeting, or at each special meeting held as provided in this section, the members of the corporation shall elect two-thirds of the board of directors and the stockholders shall elect the remaining directors. The directors shall hold office until the next annual meeting of the corporation or special meeting held in lieu of the annual meeting after the election and until their successors are elected and qualified unless sooner removed in accordance with the provisions of the bylaws. Any vacancy in the office of a director elected by the members shall be filled by the directors elected by the members, and any vacancy in the office of a director elected by the stockholders shall be filled by the directors elected by the stockholders.

Directors and officers shall not be responsible for losses unless the same shall have been occasioned by the wilful misconduct of such directors and officers. [1974 1st ex.s. c 16 § 3; 1963 c 162 § 9.]

31.24.100 Earnings and surplus—Reserves. Each year the corporation shall set apart as earned surplus not less than ten percent of its net earnings for the preceding fiscal year until such surplus shall be equal in value to one-half of the amount paid in on the capital stock then outstanding. Whenever the amount of surplus established herein shall become impaired, it shall be built up again to the required amount in the manner provided for its original accumulation. Net earnings and surplus shall be determined by the board of directors, after providing for such reserves as said directors deem desirable, and the determination of the directors made in good faith shall be conclusive on all persons. [1963 c 162 § 10.]

31.24.110 Funds to be deposited in designated depository—Money deposits prohibited. The corporation shall not deposit any of its funds in any banking institution unless such institution has been designated as a depository by a vote of a majority of the directors present at an authorized meeting of the board of directors, exclusive of any director who is an officer or director of the depository so designated. The corporation shall not receive money on deposit. [1963 c 162 § 11.]

31.24.120 Examinations by supervisor—Reports—Authority of supervisor. The corporation shall be examined at least once annually by the state supervisor of banking and shall make reports of its condition

not less than annually to said state supervisor of banking and more frequently upon call of the state supervisor of banking, who in turn shall make copies of such reports available to the state insurance commissioner and the governor; and the corporation shall also furnish such other information as may from time to time be required by the state supervisor of banking and secretary of state. The corporation shall pay the actual cost of said examinations. The state supervisor of banking shall exercise the same power and authority over corporations organized under this chapter as is now exercised over banks and trust companies by the provisions of the Title 30 RCW, where the provisions of Title 30 RCW are not in conflict with this chapter. [1963 c 162 § 12.]

31.24.130 First meeting. The first meeting of the corporation shall be called by a notice signed by three or more of the incorporators, stating the time, place and purpose of the meeting, a copy of which notice shall be mailed, or delivered, to each incorporator at least five days before the day appointed for the meeting. Said first meeting may be held without such notice upon agreement in writing to that effect signed by all the incorporators. There shall be recorded in the minutes of the meeting a copy of said notice or of such unanimous agreement of the incorporators.

At such first meeting, the incorporators shall organize by the choice, by ballot, of a temporary clerk; by the adoption of bylaws, by the election by ballot of directors; and by action upon such other matters within the powers of the corporation as the incorporators may see fit. The temporary clerk shall be sworn and shall make and attest a record of the proceedings. Ten of the incorporators shall be a quorum for the transaction of business. [1963 c 162 § 13.]

31.24.140 Duration of corporation. Unless otherwise provided in the articles of incorporation, the period of duration of the corporation shall be perpetual, subject, however, to the right of the stockholders and the members to dissolve the corporation prior to the expiration of said period as provided in RCW 31.24.150. [1963 c 162 § 14.]

31.24.150 Dissolution—Method—Distribution of assets. The corporation may upon the affirmative vote of two-thirds of the votes to which the stockholders shall be entitled and two-thirds of the votes to which the member shall be entitled dissolve said corporation as provided by chapter 23.01 RCW, insofar as said chapter 23.01 RCW is not in conflict with the provisions of this chapter. Upon any dissolution of the corporation, none of the corporation's assets shall be distributed to the stockholders until all sums due the members of the corporation as creditors thereof have been paid in full. [1963 c 162 § 15.]

31.24.160 Credit of state not pledged. Under no circumstances shall the credit of the state of Washington be pledged to any corporation organized under the provisions of this chapter. [1963 c 162 § 16.]

31.24.170 Corporations designated state development companies—Scope of operations. Any corporation organized under the provisions of this chapter shall be a state development company, as defined in the small business investment act of 1958, public law 85-699, 85th congress, or any other similar federal legislation, and shall be authorized to operate on a statewide basis. [1963 c 162 § 17.]

31.24.180 Calendar year adopted as fiscal year. Corporations organized under this chapter shall adopt the calendar year as their fiscal year. [1963 c 162 § 18.]

31.24.190 Formation of industrial development corporation for purpose of preservation of historic buildings or areas. In addition to the purposes specified in RCW 31.24.020(2) [(3)] an industrial development corporation may be formed to encourage and stimulate the preservation of historic buildings or areas by returning them to economically productive uses which are compatible with or enhance the historic character of such buildings or areas; to stimulate and assist in the development of business or other activities which have an impact upon the preservation of historic buildings or areas; to cooperate and act in conjunction with other organizations, public or private, in the promotion and advancement of historical preservation activities; and to provide financing through loans, investments of other business transactions for the promotion, development, and conduct of all kinds of business activity which encourages or relates to historic preservation. An industrial development corporation created to carry out the purposes of this section shall not engage in the broad economic and business promotion activities permitted by RCW 31.24.020(3) which are not related to the purposes of this section. Any such industrial development corporation shall in all other respects be subject to the provisions of this chapter. [1973 1st ex.s. c 90 § 2.]

31.24.900 Severability—1963 c 162. The provisions of this chapter are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions. [1963 c 162 § 19.]

TITLE 32

MUTUAL SAVINGS BANKS

Chapters

- 32.04 General provisions.
- 32.08 Organization and powers.
- 32.12 Deposits—Earnings—Dividends—Interest.
- 32.16 Officers and employees.
- 32.20 Investments.
- 32.24 Insolvency and liquidation.
- 32.28 Satellite facilities.
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Banks claiming tax exemptions, prohibited as depositaries for public funds: RCW 35.38.120, 35.38.130, 36.48.160, 36.48.170, 43.85.250, 43.85.260.

Credit life insurance and credit accident and health insurance: Chapter 48.34 RCW.

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Public depositaries, deposit and investment of public funds: Chapter 39.58 RCW.

Retail installment sales of goods and services: Chapter 63.14 RCW.

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The Washington Principal and Income Tax Act: Chapter 11.104 RCW.

Chapter 32.04 GENERAL PROVISIONS

Sections

- 32.04.010 Scope of title.
- 32.04.020 Definitions.
- 32.04.022 "Mortgage" includes deed of trust.
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- 32.04.040 Changing place of business.
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- 32.04.070 Certified copies of records as evidence.
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- 32.04.170 Conversion to mutual savings bank of savings and loan association.
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Banks and trust companies: Title 30 RCW.

- Corporate seals, effect of absence from instrument: RCW 64.04.105.*
- Depositaries of state funds: Chapter 43.85 RCW.*
- Federal bonds and notes as investment or collateral: Chapter 39.60 RCW.*
- Indemnification of directors, officers, employees, etc. by corporation authorized, insurance: RCW 23A.08.025.*
- Law against discrimination: Chapter 49.60 RCW.*
- Negotiable instruments: Title 62 RCW.*
- Powers of appointment: Chapter 64.24 RCW.*
- Slander of financial institution: RCW 9.58.100.*

32.04.010 Scope of title. This title shall not be construed as amending or repealing any other law of the state authorizing the incorporation of banks or regulating the same, but shall be deemed to be additional legislation for the sole purpose of authorizing the incorporation and operation of mutual savings banks as herein prescribed. Savings banks incorporated on the stock plan and other stock banks having savings departments as authorized by RCW 30.20.060, or by any other law of the state heretofore or hereafter enacted, shall not be in any manner affected by the provisions of this title, or any amendment thereto. [1955 c 13 § 32.04.010. Prior: 1915 c 175 § 52; RRS § 3381.]

32.04.020 Definitions. The use of the term "savings bank" in this title refers to mutual savings banks only.

The use of the words "mutual savings" as part of a name under which business of any kind is or may be transacted by any person, firm, or corporation, except such as were organized and in actual operation on June 9, 1915, or as may be thereafter organized and operated under the requirements of this title is hereby prohibited.

The use of the term "supervisor" in this title refers to the supervisor of banking. [1955 c 13 § 32.04.020. Prior: 1915 c 175 § 49; RRS § 3378.]

32.04.022 "Mortgage" includes deed of trust. The word "mortgage" as used in this title includes deed of trust. [1969 c 55 § 13.]

32.04.025 Powers as to horizontal property regimes or condominiums. The words "real estate" and "real property" as used in this title shall include apartments or other portions, however designated, of horizontal property regimes, or a condominium interest in property, as may be created under any laws now in existence or hereafter enacted. A mutual savings bank may do any act necessary or appropriate in connection with its interest in or ownership of any portion of a horizontal property regime or condominium. [1963 c 176 § 10.]

Horizontal property regimes: Chapter 64.32 RCW.

32.04.030 Offices—Branches. (1) A savings bank shall not do business or be located in the same room with, or in a room connecting with, any other bank, or a trust company that receives deposits of money or commercial paper, or a national banking association.

(2) No savings bank, or any officer or director thereof, shall receive deposits or transact any of its usual business at any place other than its principal place of business or an authorized branch.

(3) A savings bank, with the approval of the supervisor, may establish and operate branches but only upon the conditions and subject to the limitations following:

(a) If its guaranty fund is not less than the aggregate paid-in capital which would be required by law as a prerequisite to the establishment and operation of an equal number of branches in like locations by a bank.

(b) Branches may be established in any county of the state; and

(c) A branch shall not be established at a place at which the supervisor would not permit a proposed new savings bank to engage in business, by reason of any consideration contemplated by RCW 32.08.040, 32.08.050 and 32.08.060, the provisions of which, insofar as applicable, including those relating to appeals, shall extend to applications to establish branches. [1955 c 80 § 1; 1955 c 13 § 32.04.030. Prior: 1933 c 143 § 1; 1925 ex.s. c 86 § 10; 1915 c 175 § 15; RRS § 3344.]

32.04.040 Changing place of business. Any savings bank may make a written application to the supervisor for leave to change its place of business to another place in the same county. The application shall state the reasons for such proposed change, and shall be signed and acknowledged by a majority of its board of trustees. If the proposed place of business is within the limits of the city or town in which the present place of business of the savings bank is located, such change may be made upon the written approval of the supervisor; if beyond such limits, notice of intention to make such application, signed by two principal officers of the savings bank, shall be published once a week for two successive weeks immediately preceding such application in a daily newspaper published in the city of Olympia and shall be published in like manner in a newspaper to be designated by the supervisor, published in the county in which the present place of business of the bank is located. If the supervisor grants his certificate authorizing the change of location, which in his discretion he may do, the savings bank shall cause such certificate to be published once in each week for two successive weeks in the newspapers in which the notice of application was published. When the requirements of this section have been fully complied with, the savings bank may, upon or after the day specified in the certificate, remove its property and effects to the location designated therein, and thereafter its principal place of business shall be the location so specified; and it shall have all the rights and powers in such new location which it possessed at its former location. [1955 c 13 § 32.04.040. Prior: 1915 c 175 § 48; RRS § 3377.]

32.04.050 Reports. A savings bank shall render to the supervisor, in such form as he shall prescribe, at least three regular reports each year exhibiting its resources and liabilities as of such dates as the supervisor shall designate, which shall be the dates designated by the comptroller of the currency of the United States for reports of national banking associations. Every such report, in a condensed form to be prescribed by the supervisor, shall be published once in a newspaper of general circulation, published in the place where the bank is located. A savings bank shall also make such special reports as the supervisor shall call for. A regular report shall be filed with the supervisor within twelve days and proof of the publication thereof within twenty days from the date of the issuance of the call for the report. A special report shall be filed within such time as the supervisor shall indicate in the call therefor. A savings bank that fails to file within the prescribed time any report required by this section or proof of the publication of any report required to be published shall be subject to a penalty to the state of ten dollars for each day's delay, recoverable by a civil action brought by the attorney general in the name of the state. [1955 c 13 § 32.04.050. Prior: 1925 ex.s. c 86 § 13; 1915 c 175 § 39; RRS § 3368a.]

32.04.060 Expenses of operation limited. No savings bank shall in the course of any fiscal year (which fiscal year shall be deemed to expire on the last day of December in each year) pay or become liable to pay either directly or indirectly for expenses of management and operation more than two and one-half percent of its average assets during such year. [1955 c 13 § 32.04.060. Prior: 1915 c 175 § 44; RRS § 3373.]

32.04.070 Certified copies of records as evidence. Copies from the records, books, and accounts of a savings bank shall be competent evidence in all cases, equal with originals thereof, if there is annexed to such copies an affidavit taken before a notary public or clerk of a court under seal, stating that the affiant is the officer of the bank having charge of the original records, and that the copy is true and correct and is full so far as the same relates to the subject matter therein mentioned. [1955 c 13 § 32.04.070. Prior: 1915 c 175 § 47; RRS § 3376.]

32.04.080 Employees' pension plan. A mutual savings bank may provide for pensions for its disabled or superannuated employees and may pay a part or all of the cost of providing such pensions in accordance with a plan adopted by its board of trustees and approved in writing by the supervisor of banking. Whenever the trustees of the bank shall have formulated and adopted a plan providing for such pensions it shall, within ten days thereafter, transmit the same to the supervisor of banking. The supervisor of banking shall thereupon examine such plan and investigate the feasibility and practicability thereof and within thirty days of the receipt thereof by him notify the bank in writing of his approval or rejection of the same. After the approval of

the supervisor the mutual savings bank shall be authorized and empowered to put such plan into effect. The board of trustees of a savings bank may set aside from current earnings reserves in such amounts as the board shall deem wise to provide for the payment of future pensions. [1955 c 80 § 2; 1955 c 13 § 32.04.080. Prior: 1949 c 119 § 1; 1937 c 64 § 2; 1935 c 87 § 1; Rem. Supp. 1949 § 3366-1.]

32.04.082 Pension benefits—Waiver by bank of offsets attributable to social security. With respect to pension payments or retirement benefits payable by a mutual savings bank to any employee heretofore or hereafter retired, such bank may waive all or any part of any offsets thereto attributable to social security benefits receivable by such employee. [1957 c 80 § 7.]

32.04.085 Pension benefits—Supplementation. Any pension payment or retirement benefits payable by a mutual savings bank to a former officer or employee, or to a person or persons entitled thereto by virtue of service performed by such officer or employee, in the discretion of a majority of all the trustees of such bank, may be supplemented from time to time. Whenever the trustees of the bank shall have formulated and adopted a plan providing for such supplemental payments, within ten days thereafter said trustees shall transmit the same to the supervisor of banking. The supervisor of banking shall thereupon examine such plan and investigate the feasibility and practicability thereof and, within thirty days of the receipt thereof by him, notify the bank in writing of his approval or rejection of the same. After the approval of the supervisor the mutual savings bank shall be authorized and empowered to put such plan into effect. The board of trustees of a savings bank may set aside from current earnings, reserves in such amounts as the board shall deem appropriate to provide for the payments of future supplemental payments. [1971 ex.s. c 222 § 1.]

Severability—1971 ex.s. c 222: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 222 § 9.]

This applies to RCW 32.04.085, 32.16.130, 32.20.217, 32.20.430, 32.20.440 and to the 1971 amendments to RCW 32.20.255, 32.20.270 and 32.20.330.

32.04.090 Group plan life insurance for officers and employees. Group plan life insurance for officers and employees, see banks and trust companies, RCW 30.12.200.

Employee welfare trust funds: Chapter 48.52 RCW.

32.04.100 Penalty for falsification. Every person who knowingly subscribes to or makes or causes to be made any false statement or false entry in the books of any savings bank, or knowingly subscribes to or exhibits any false or fictitious security, document or paper, with the intent to deceive any person authorized to examine into the affairs of any savings bank, or makes or publishes any false statement of the amount of the assets or liabilities of any such savings bank shall be guilty of a

felony. [1955 c 13 § 32.04.100. Prior: 1931 c 132 § 11; RRS § 3379b.]

32.04.110 Penalty for concealing or destroying evidence. Every trustee, officer, employee, or agent of any savings bank who for the purpose of concealing any fact suppresses any evidence against himself, or against any other person, or who abstracts, removes, mutilates, destroys, or secretes any paper, book, or record of any savings bank, or of the supervisor of banking, or anyone connected with his office shall be guilty of a felony. [1955 c 13 § 32.04.110. Prior: 1931 c 132 § 12; RRS § 3379c.]

32.04.120 Specific penalties invoked. The provisions of RCW 9.24.050, 9.24.040 and 9.24.030 shall apply to the corporations authorized under this title. [1955 c 13 § 32.04.120. Prior: 1915 c 175 § 50; RRS § 3379.]

32.04.130 General penalty. Any person who does anything forbidden by chapter 32.04, 32.08, 32.12, 32.16 or 32.24 of this title for which a penalty is not provided in this title, or in some other law of the state, shall be guilty of a gross misdemeanor and be punished accordingly. [1955 c 13 § 32.04.130. Prior: 1915 c 175 § 51; RRS § 3380.]

32.04.140 Official communications. See banks and trust companies, RCW 30.04.270.

32.04.150 Cost of examination. See banks and trust companies, RCW 30.04.070.

32.04.160 Secrecy required of supervisor. See state government—executive, RCW 43.19.070

32.04.170 Conversion to mutual savings bank of savings and loan association. See savings and loan associations, chapter 33.44 RCW.

32.04.190 Bank stabilization act. See banks and trust companies, chapter 30.56 RCW.

32.04.200 Capital notes or debentures. See banks and trust companies, chapter 30.36 RCW.

32.04.210 Saturday closing authorized. See banks and trust companies, RCW 30.04.330.

**Chapter 32.08
ORGANIZATION AND POWERS**

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32.08.210	Power to act as trustee—Authorized trusts—Limitations—Use of word "trust"

Federal bonds and notes as investment of collateral: Chapter 39.60 RCW.

32.08.010 Authority to organize—Incorporators—Certificate. When authorized by the supervisor, as hereinafter provided, not less than nine nor more than thirty persons may form a corporation to be known as a "mutual savings bank." Such persons must be citizens of the United States; at least four-fifths of them must be residents of this state, and at least two-thirds of them must be residents of the county where the bank is to be located and its business transacted. They shall subscribe and acknowledge an incorporation certificate in triplicate which shall specifically state:

(1) The name by which the savings bank is to be known, which name shall include the words "mutual savings bank";

(2) The place where the bank is to be located, and its business transacted, naming the city or town and county;

(3) The name, occupation, residence, and post office address of each incorporator;

(4) The sums which each incorporator will contribute in cash to the initial guaranty fund, and to the expense fund respectively, as provided in RCW 32.08.090 and 32.08.100;

(5) A declaration that each incorporator will accept the responsibilities and faithfully discharge the duties of a trustee of the savings bank, and is free from all the disqualifications specified in RCW 32.16.010. [1955 c 13 § 32.08.010. Prior: 1915 c 175 § 1; 1905 c 129 § 2; RRS § 3313.]

32.08.020 Notice of intention. At the time of executing the incorporation certificate, the proposed incorporators shall sign a notice of intention to organize the mutual savings bank, which shall specify their names, the name of the proposed corporation, and its location as set forth in the incorporation certificate. The original of such notice shall be filed in the office of the supervisor within sixty days after the date of its execution, and a copy thereof shall be published at least once a week for four successive weeks in a newspaper designated by the supervisor, the publication to be commenced within thirty days after such designation. At least fifteen days before the incorporation certificate is submitted to the supervisor for examination, as provided in RCW 32.08.030, a copy of such notice shall be served upon each savings bank doing business in the city or town named in the incorporation certificate, by mailing such copy (postage prepaid) to such bank. [1955 c 13 § 32.08.020. Prior: 1915 c 175 § 2; RRS § 3314.]

32.08.030 Submission of certificate—Proof of service of notice. After the lapse of at least twenty-eight days from the date of the first due publication of the notice of intention to incorporate, and within ten days after the date of the last publication thereof, the incorporation certificate executed in triplicate shall be submitted for examination to the supervisor at his office in Olympia, with affidavits showing due publication and service of the notice of intention to organize prescribed in RCW 32.08.020. [1955 c 13 § 32.08.030. Prior: 1915 c 175 § 3; RRS § 3315.]

32.08.040 Examination and action by supervisor. When any such certificate has been filed for examination the supervisor shall thereupon ascertain from the best source of information at his command, and by such investigation as he may deem necessary, whether the character, responsibility, and general fitness of the person or persons named in such certificate are such as to command confidence and warrant belief that the business of the proposed bank will be honestly and efficiently conducted in accordance with the intent and purpose of this title, and whether the public convenience and advantage will be promoted by allowing such proposed bank to be incorporated and engage in business, and whether greater convenience and access to a savings bank would be afforded to any considerable number of depositors by opening a mutual savings bank in the place designated, whether the population in the neighborhood of such place, and in the surrounding country, affords a reasonable promise of adequate support for the proposed bank, and whether the contributions to the initial guaranty fund and expense fund have been paid in cash. After the supervisor has satisfied himself by such investigation whether it is expedient and desirable to permit such proposed bank to be incorporated and engage in business, he shall within sixty days after the date of the filing of the certificate for examination indorse upon each of the triplicates thereof over his official signature the word "approved" or the word "refused," with the date of such indorsement. In case of refusal he shall forthwith return one of the triplicates so indorsed to the proposed incorporators from whom the certificate was received. [1955 c 13 § 32.08.040. Prior: 1915 c 175 § 4, part; RRS § 3316, part.]

32.08.050 Appeal from adverse decision. From the supervisor's refusal to issue a certificate of authorization, the applicants or a majority of them, may within thirty days from the date of the filing of the certificate of refusal with the secretary of state, appeal to a board of appeal composed of the governor, the attorney general and the supervisor of banking by filing in the office of the supervisor a notice that they appeal to such board from his refusal. The procedure upon the appeal shall be such as the board may prescribe, and its determination shall be certified, filed, and recorded in the same manner as the supervisor's, and shall be final. [1955 c 13 § 32.08.050. Prior: 1915 c 175 § 4, part; RRS § 3316, part.]

32.08.060 Procedure upon approval. In case of approval, the supervisor shall forthwith give notice thereof to the proposed incorporators, and file one of the triplicate certificates in his own office, shall transmit another triplicate to the county auditor of the county in which such bank is to be located and shall transmit the third triplicate to the secretary of state. Upon receipt from the proposed incorporators of the same fees as are required for filing and recording other incorporation certificates, the county auditor and the secretary of state shall file the certificate in their respective offices, and the secretary of state shall record the same. Upon the filing of said incorporation certificate in triplicate approved as aforesaid in the offices of the supervisor, the secretary of state and county auditor, the persons named therein and their successors shall thereupon become and be a corporation, which corporation shall have the powers and be subject to the duties and obligations prescribed in this title and its corporate existence shall be perpetual, unless sooner terminated pursuant to law, but such corporation shall not receive deposits or engage in business until authorized so to do by the supervisor as provided in RCW 32.08.070. [1957 c 80 § 1; 1955 c 13 § 32.08.060. Prior: 1915 c 175 § 4, part; RRS § 3316, part.]

32.08.061 Extension of period of existence—Procedure. A mutual savings bank may amend its incorporation certificate to extend the period of its corporate existence for a further definite time or perpetually by a resolution adopted by a majority vote of its board of trustees. Triplicate copies of the resolution, subscribed and acknowledged by the president and secretary of such bank, shall be filed in the office of the supervisor within thirty days after its adoption. If the supervisor finds that the resolution conforms to law he shall, within sixty days after the date of the filing thereof, endorse upon each of the triplicates thereof, over his official signature, his approval and forthwith give notice thereof to the bank and shall file one of the triplicate certificates in his own office, shall transmit another triplicate to the county auditor of the county in which the main office of such bank is located and shall transmit the third triplicate to the secretary of state. Upon receipt from the mutual savings bank of the same fees as are required of general corporations for filing corresponding instruments, the county auditor and the secretary of state shall file the resolution in their respective offices, and the secretary of state shall record the same. Upon the filing of said resolution in triplicate, approved as aforesaid in the offices of the supervisor, the secretary of state and county auditor, the corporate existence of said bank shall continue for the period set forth in said resolution unless sooner terminated pursuant to law. [1963 c 176 § 1; 1957 c 80 § 8.]

32.08.070 Authorization certificate. Before a mutual savings bank shall be authorized to do any business the supervisor shall be satisfied that the corporation has in good faith complied with all the requirements of law and fulfilled all the conditions precedent to commencing business imposed by this title. If satisfied that the

corporation has in good faith complied with all the requirements of law, and fulfilled all the conditions precedent to commencing business imposed by this title, the supervisor shall within six months after the date upon which the proposed organization certificate was filed with him for examination, but in no case after the expiration of that period, issue under his hand and official seal in quadruplicate an authorization certificate to such corporation. Such authorization certificate shall state that the corporation therein named has complied with all the requirements of law, that it is authorized to transact at the place designated in its certificate of incorporation, the business of a mutual savings bank. One of the quadruplicate authorization certificates shall be transmitted by the supervisor to the corporation therein named, and the other three authorization certificates shall be filed by the supervisor in the same public offices where the certificate of incorporation is filed, and shall be attached to said incorporation certificate. [1955 c 13 § 32.08.070. Prior: 1915 c 175 § 5; RRS § 3317.]

32.08.080 Conditions precedent to reception of deposits. Before such corporation shall be authorized to receive deposits or transact business other than the completion of its organization, the supervisor shall be satisfied that:

(1) The incorporators have made the deposit of the initial guaranty fund required by this title;

(2) That the incorporators have made the deposit of the expense fund required by RCW 32.08.090 and if the supervisor shall so require, have entered into the agreement or undertaking with him and have filed the same and the security therefor as prescribed in said section;

(3) That the corporation has transmitted to the supervisor the name, residence, and post office address of each officer of the corporation;

(4) That its certificate of incorporation in triplicate has been filed in the respective public offices designated in this title. [1955 c 13 § 32.08.080. Prior: 1915 c 175 § 6; RRS § 3318.]

32.08.090 Expense fund—Agreement to contribute further—Security. Before any mutual savings bank shall be authorized to do business, its incorporators shall create an expense fund from which the expense of organizing such bank and its operating expenses may be paid, until such time as its earnings are sufficient to pay its operating expenses in addition to such dividends as may be declared and credited to its depositors from its earnings. The incorporators shall deposit to the credit of such savings bank in cash as an expense fund the sum of five thousand dollars. They shall also enter into such an agreement or undertaking with the supervisor as trustee for the depositors with the savings bank as he may require to make such further contributions in cash to the expense fund as may be necessary to pay its operating expenses until such time as it can pay them from its earnings, in addition to such dividends as may be declared and credited to its depositors. Such agreement or undertaking shall fix the maximum liability assumed thereby which shall be a reasonable amount

approved by the supervisor and the same shall be secured to his satisfaction, which security in his discretion may be by a surety bond executed by a domestic or foreign corporation authorized to transact within this state the business of surety. The agreement or undertaking and security shall be filed in the office of the supervisor. Such agreement or undertaking and such security need not be made or furnished unless the supervisor shall require the same. The amounts contributed to the expense fund of said savings bank by the incorporators or trustees shall not constitute a liability of the savings bank except as hereinafter provided. [1955 c 13 § 32.08.090. Prior: 1915 c 175 § 8; RRS § 3320.]

32.08.100 Guaranty fund. Before any mutual savings bank shall be authorized to do business, its incorporators shall create a guaranty fund for the protection of its depositors against loss on its investments, whether arising from depreciation in the market value of its securities or otherwise:

(1) Such guaranty fund shall consist of payments in cash made by the original incorporators and of all sums credited thereto from the earnings of the savings bank as hereinafter required.

(2) The incorporators shall deposit to the credit of such savings bank in cash as an initial guaranty fund at least five thousand dollars.

(3) Prior to the liquidation of any such savings bank such guaranty fund shall not be in any manner encroached upon, except for losses and the repayment of contributions made by incorporators or trustees as hereinafter provided, until such fund together with undivided profits exceeds twenty-five percent of the amount due depositors.

(4) The amounts contributed to such guaranty fund by the incorporators or trustees shall not constitute a liability of the savings bank, except as hereinafter provided, and any loss sustained by the savings bank in excess of that portion of the guaranty fund created from earnings may be charged against such contributions pro rata. [1955 c 13 § 32.08.100. Prior: 1915 c 175 § 7; RRS § 3319.]

32.08.110 Guaranty fund—Purpose. The contributions of the incorporators, or trustees of any such savings bank under the provisions of RCW 32.08.100, and the sums credited thereto from its net earnings under the provisions of RCW 32.08.120, shall constitute a guaranty fund for the security of its depositors, and shall be held to meet any contingency or loss in its business from depreciation of its securities or otherwise, and for no other purpose except as provided in RCW 32.08.130, and RCW 32.12.090(5). [1955 c 13 § 32.08.110. Prior: 1915 c 175 § 21; RRS § 3350.]

32.08.120 Guaranty fund—Replenishment—Dividends. (1) If at the close of any dividend period the guaranty fund of a savings bank is less than ten percent

of the amount due to depositors, there shall be deducted from its net earnings and credited to its guaranty fund not less than five percent of its net earnings for such period.

(2) The balance of its net earnings for such dividend period, plus any earnings from prior accounting periods not previously disbursed and not reserved for losses or other contingencies or required to be maintained in the guaranty fund, shall be available for dividends.

While the trustees of such savings bank are paying its expenses or any portion thereof, the amounts to be credited to its guaranty fund shall be computed at the same percentage upon the total dividends credited to its depositors instead of upon its net earnings. If the guaranty fund accumulated from earnings equals or exceeds ten percent of the amount due to depositors, the minimum dividend shall be four percent, if the net earnings for such period are sufficient therefor. [1955 c 13 § 32.08.120. Prior: 1941 c 15 § 4; 1929 c 123 § 3; 1927 c 184 § 6; 1915 c 175 § 24; Rem. Supp. 1941 § 3353.]

32.08.130 Reimbursement fund. When the portion of the guaranty fund created from earnings amounts to not less than five thousand dollars (including in the case of a savings bank converted from a building and loan or savings and loan association or society the amount of the initial guaranty fund), the board of trustees, with the written consent of the supervisor, may establish a reimbursement fund from which to repay contributors to the expense fund and the initial guaranty fund (excepting the initial guaranty fund in the case of a bank converted from a building and loan or savings and loan association or society), and may transfer to the reimbursement fund any unexpended balance of contributions to the expense fund. At the close of each dividend period the trustees may place to the credit of the reimbursement fund not more than one percent of the net earnings of the bank during that period. Payments from the reimbursement fund may be made from time to time in such amounts as the board of trustees shall determine, and shall be made first to the contributors to the expense fund in proportion to their contributions thereto until they shall have been repaid in full, and then shall be made to the contributors to the guaranty fund in proportion to their contributions thereto until they shall have been repaid in full. In case of the liquidation of the savings bank before the contributions to the expense fund and the initial guaranty fund have been fully repaid as above contemplated, any portion of the contributions not needed for the payment of the expenses of liquidation and the payment of depositors in full shall be paid to the contributors to the expense fund in proportion to their contributions thereto until they have been repaid in full, and then shall be paid to the contributors to the guaranty fund in proportion to their contributions thereto until they have been repaid in full. [1955 c 13 § 32.08.130. Prior: 1945 c 135 § 1; 1927 c 178 § 1; 1915 c 175 § 9; Rem. Supp. 1945 § 3321.]

32.08.140 Powers of bank. Every mutual savings bank incorporated under this title shall have, subject to the restrictions and limitations contained in this title the following powers:

(1) To receive deposits of money, to invest the same in the property and securities prescribed in this title, to declare dividends in the manner prescribed in this title, and to exercise by its board of trustees or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of a savings bank.

(2) To issue transferable certificates showing the amounts contributed by any incorporator or trustee to the guaranty fund of such bank, or for the purpose of paying its expenses. Every such certificate shall show that it does not constitute a liability of the savings bank, except as otherwise provided in this title.

(3) To purchase, hold and convey real property as prescribed in RCW 32.20.280.

(4) To pay depositors as hereinafter provided, and when requested, pay them by drafts upon deposits to the credit of the savings bank in any city in the United States, and to charge current rates of exchange for such drafts.

(5) To borrow money in pursuance of a resolution adopted by a vote of a majority of its board of trustees duly entered upon its minutes whereon shall be recorded by ayes and noes the vote of each trustee, for the purpose of repaying depositors, and to pledge or hypothecate securities as collateral for loans so obtained. Immediate written notice shall be given to the supervisor of all amounts so borrowed, and of all assets so pledged or hypothecated.

(6) Subject to such regulations and restrictions as the supervisor finds to be necessary and proper, to borrow money in pursuance of a resolution adopted by a vote of a majority of its board of trustees duly entered upon its minutes whereon shall be recorded by ayes and noes the vote of each trustee, for purposes other than that of repaying depositors and to pledge or hypothecate its assets as collateral for any such loans, provided that no amount shall at any time be borrowed by a savings bank pursuant to this subsection (6), if such amount, together with the amount then remaining unpaid upon prior borrowings by such savings bank pursuant to this subsection (6), exceeds ten percent of the assets of the savings bank. When it shall appear to the supervisor that any bank is habitually borrowing for the purpose of reloaning, he may require the bank to pay off such borrowed money.

(7) To collect or protest promissory notes or bills of exchange owned by such bank or held by it as collateral, and remit the proceeds of the collections by drafts upon deposits to the credit of the savings bank in any city in the United States, and to charge the usual rates or fees for such collection and remittance for such protest.

(8) To sell gold or silver received in payment of interest or principal of obligations owned by the savings bank or from depositors in the ordinary course of business.

(9) To act as insurance agent for the purpose of writing fire insurance on property in which the bank has an insurable interest, the property to be located in the city in which the bank is situated and in the immediate contiguous suburbs, notwithstanding anything in any other statute to the contrary.

(10) To let vaults, safes, boxes or other receptacles for the safekeeping or storage of personal property, subject to laws and regulations applicable to, and with the powers possessed by, safe deposit companies.

(11) To elect or appoint in such manner as it may determine all necessary or proper officers, agents, boards, and committees, to fix their compensation, subject to the provisions of this title, and to define their powers and duties, and to remove them at will.

(12) To make and amend bylaws consistent with law for the management of its property and the conduct of its business.

(13) To wind up and liquidate its business in accordance with this title.

(14) To adopt and use a common seal and to alter the same at pleasure.

(15) To do all other acts authorized by this title. [1963 c 176 § 2; 1957 c 80 § 2; 1955 c 13 § 32.08.140. Prior: 1927 c 184 § 1; 1925 ex.s. c 86 § 1; 1915 c 175 § 10; RRS § 3322.]

Mutual savings banks may act as trustee for issuance of crop credit notes: RCW 31.16.250.

Safe deposit repository lease agreements ineffective to create joint ownership or transfer property at death: RCW 11.02.090(3).

32.08.145 Safe deposit companies. See chapter 22.28 RCW.

32.08.150 Merchandising—Certificates of deposit.

(1) A savings bank shall not purchase, deal or trade in any goods, wares, merchandise, or commodities whatsoever except such personal property as may be necessary for the transaction of its authorized business.

(2) Such bank shall not make or issue any certificate of deposit payable either on demand or at a fixed day, except the bank may issue savings certificates of deposit in such form as the bank may determine upon the following terms:

(a) The certificates may provide for the payment of interest at a rate fixed in advance by the bank, provided certificates carrying a fixed rate shall mature in a period not exceeding five years from the date of issuance;

(b) The certificates may be payable at a fixed future time not less than thirty days after the date of issuance or may contain provisions requiring thirty or more days' notice of demand for payment;

(c) The certificates may be issued at a discount instead of stipulating a rate of interest, or interest thereon may be deferred to be paid at maturity or other stipulated date. [1969 c 55 § 1; 1959 c 41 § 1; 1959 c 14 § 1; 1957 c 80 § 3; 1955 c 13 § 32.08.150. Prior: 1915 c 175 § 13; RRS § 3342.]

32.08.160 Writing of fire insurance restricted. When a savings bank is itself acting as an insurance agent, a trustee, officer, or employee of the bank shall not act as

an insurance agent to write fire insurance on property in which the bank has an insurable interest, and no part of a room used by a savings bank in the transaction of its business shall be occupied or used by any person other than the bank in the writing of fire insurance. [1955 c 13 § 32.08.160. Prior: 1925 ex.s. c 86 § 7; RRS § 3342a.]

32.08.170 Effect of failure to organize or commence business. See banks and trust companies, RCW 30.08.070.

32.08.180 Extension of existence. See banks and trust companies, RCW 30.08.080.

32.08.190 May borrow from home loan bank. See banks and trust companies, RCW 30.32.030.

32.08.200 May act as trustee for crop credit notes. See miscellaneous loan agencies, RCW 31.16.250.

32.08.210 Power to act as trustee—Authorized trusts—Limitations—Use of word "trust". A mutual savings bank shall have the power to act as trustee under:

(1) A retirement plan established pursuant to the provisions of the act of Congress entitled "Self-Employed Individuals Tax Retirement Act of 1962", as now constituted or hereafter amended. If a retirement plan, which in the judgment of the mutual savings bank, constituted a qualified plan under the provisions of that act at the time accepted by the mutual savings bank, is subsequently determined not to be a qualified plan or subsequently ceases to be a qualified plan in whole or in part, the mutual savings bank may, nevertheless, continue to act as trustee of any deposits theretofore made under the plan and to dispose of the same in accordance with the directions of the trustor and the beneficiaries thereof.

(2) A trust established by an inter vivos trust agreement or under the will of a deceased person, but only if all the trust assets are required by the terms of the trust to be invested in accounts with mutual savings banks. The trustee shall deposit the trust assets in savings accounts with itself as soon as practical after establishment of the trust.

(3) A trust established in connection with any collective bargaining agreement or labor negotiation wherein the beneficiaries of the trust include the employees concerned under the agreement or negotiation.

A mutual savings bank may be appointed to and accept the appointment of executor of the last will and testament, or administrator with will annexed, of the estate of any deceased person wherein the will establishes a trust wherein the mutual savings bank may act as trustee.

The restrictions, limitations and requirements in Title 30 RCW shall apply to a mutual savings bank exercising the powers granted under this section insofar as the restrictions, limitations, and requirements relate to exercising the powers granted under this section. A mutual savings bank shall not use the word "trust" in its

name, but may use the word "trust" in its business or advertising. [1969 c 55 § 12.]

Chapter 32.12 DEPOSITS—EARNINGS—DIVIDENDS— INTEREST

Sections	
32.12.010	Deposits which a savings bank may establish—Limitations.
32.12.020	Repayment of deposits and dividends.
32.12.025	Withdrawals by savings bank's drafts in accordance with depositor's instructions authorized.
32.12.030	Deposits of minors, in trust, of joint tenants.
32.12.050	Accounting—Entry of assets, real estate, securities, etc.
32.12.060	Bad debts—Uncollected judgments.
32.12.070	Computation of earnings.
32.12.080	Misleading advertisement of surplus or guaranty fund.
32.12.090	Interest—Rate—Declaration of—Extra—Notice of changed rate.
32.12.100	Deposits or investments of public funds.
32.12.110	Payment to foreign executor or administrator—Form, publication of notice of application by such executor or administrator—Payment in lieu to domestic executor or administrator—Consent of tax commission.
32.12.120	Adverse claim to a deposit to be accompanied by court order or bond—Exception.

Depositaries, city: Chapter 35.38 RCW.

Depositaries, county: Chapter 36.48 RCW.

Depositaries of state funds: Chapter 43.85 RCW.

Receiving deposits after insolvency prohibited: State Constitution Art. 12 § 12; RCW 9.24.030.

Uniform disposition of unclaimed property: Chapter 63.28 RCW.

32.12.010 Deposits which a savings bank may establish—Limitations. Deposits which a savings bank may establish include but are not limited to the following:

(1) Deposits in the name of the depositor and another or others in joint form with right of survivorship.

(2) Deposits in the name of the depositor as trustee for another under a voluntary and revocable trust.

(3) Deposits in the name of the depositor and another in joint form with right of survivorship as trustee for another under a voluntary and revocable trust.

(4) Deposits in the name of, or on behalf of, a partnership or other form of multiple ownership enterprise.

(5) Deposits in the name of a corporation, society, or unincorporated association.

(6) Deposits maintained by a person, society, or corporation as administrator, executor, guardian, or trustee under a will or trust agreement.

(7) Deposits designated as community property of a marital community, whether in the name of either or both of the members of the community.

(8) Deposits designated as separate property of the depositor.

Every such bank may limit the aggregate amount which an individual or any corporation or society may have to his or its credit to such sum as such bank may deem expedient to receive; and may in its discretion refuse to receive a deposit, or may at any time return all or any part of any deposits or require the withdrawal of any dividends or interest. Any account in excess of one hundred thousand dollars may only be accepted or held in accordance with such regulations as the supervisor

may establish. [1967 c 145 § 1; 1961 c 80 § 1; 1959 c 41 § 2; 1957 c 80 § 4; 1955 c 13 § 32.12.010. Prior: 1953 c 238 § 1; 1949 c 119 § 4; 1941 c 15 § 2; 1929 c 123 § 1; 1927 c 184 § 5; 1921 c 156 § 2; 1919 c 200 § 2; 1915 c 175 § 17; Rem. Supp. 1949 § 3346.]

32.12.020 Repayment of deposits and dividends. The sums deposited with any savings bank, together with any dividends or interest credited thereto, shall be repaid to the depositors thereof respectively, or to their legal representatives, after demand in such manner, and at such times, and under such regulations, as the board of trustees shall prescribe, subject to the provisions of this section and RCW 32.12.030. Such regulations shall be posted in a conspicuous place in the room where the business of such savings bank shall be transacted, and shall be available to depositors upon request. All such rules and regulations, and all amendments thereto, from time to time in effect, shall be binding upon all depositors.

(1) Such bank may at any time by a resolution of its board of trustees require a notice of not more than six months before repaying deposits, in which event no deposit shall be due or payable until the required notice of intention to withdraw the same shall have been personally given by the depositor: *Provided*, That such bank at its option may pay any deposit or deposits before the expiration of such notice. But no bank shall agree with its depositors or any of them in advance to waive the requirement of notice as herein provided.

(2) Except as provided in subdivisions (3), (4), and (5) of this section the savings bank shall not pay any dividend, or interest, or deposit, or portion thereof, or any check drawn upon it by a depositor unless the certificate of deposit is produced, or the passbook of the depositor is produced and the proper entry is made therein, at the time of the payment.

(3) The board of trustees of any such bank may by its bylaws provide for making payments in cases of loss of passbook or certificate of deposit, or other exceptional cases where the passbooks or certificates of deposit cannot be produced without loss or serious inconvenience to depositors, the right to make such payments to cease when so directed by the supervisor upon his being satisfied that such right is being improperly exercised by any such bank; but payments may be made at any time upon the judgment or order of a court.

(4) The board of trustees of any such bank may by its bylaws provide for making payments to depositors at their request, of dividends or interest payable on any deposit, without requiring the production of the passbook or certificate of deposit of the depositor, and any payment made in accordance with any such request and the receipt or acquittance of the one to whom such payment is made shall be a valid and sufficient release and discharge to such savings bank for all payments made on account of such request prior to receipt by such savings bank of notice in writing not to pay such sums in accordance with the terms of such request.

(5) The issuance of a passbook or certificate of deposit may be omitted for any account if a ledger record thereof is maintained in lieu of a passbook or certificate

of deposit on which shall be entered deposits, withdrawals, and interest credited: *Provided*, That in any event a passbook or certificate of deposit shall be issued upon the request of any depositor.

(6) If any person dies leaving in any such bank an account on which the balance due him does not exceed one thousand dollars and no executor or administrator of his estate has been appointed, such bank may in its discretion pay the balance of his account to his widow (or if the decedent was a married woman, then to her husband), next of kin, funeral director, or other creditor who may appear to be entitled thereto. As a condition of such payment such bank may require proof by affidavit as to the parties in interest, the filing of proper waivers, the execution of a bond of indemnity with surety or sureties by the person to whom the payment is to be made, and a proper receipt and acquittance for such payment. For any such payment pursuant to this section such bank shall not be liable to the decedent's executor or administrator thereafter appointed, unless the payment was made within six months after the decedent's death, and an action to recover the amount is commenced within six months after the date of payment. On the death of any depositor of any savings bank, the bank may also pay out the moneys on deposit to the credit of the deceased upon presentation of an affidavit as provided in RCW 11.62.010. [1974 1st ex.s. c 117 § 40; 1969 c 55 § 2; 1967 c 145 § 2; 1963 c 176 § 3; 1961 c 80 § 2; 1959 c 41 § 3; 1955 c 13 § 32.12.020. Prior: 1945 c 228 § 6; 1921 c 156 § 3; 1915 c 175 § 18; Rem. Supp. 1945 § 3347.]

Application, construction—Severability—Effective date—1974 1st ex.s. c 117: See RCW 11.02.080 and notes following.

32.12.025 Withdrawals by savings bank's drafts in accordance with depositor's instructions authorized. Subject to the provisions of RCW 32.12.020(1), a savings bank may, on instructions from a depositor, effect withdrawals from a savings account by the savings bank's drafts payable to parties and on terms as so instructed; to the extent of the subjection of accounts to such withdrawal instruction, such accounts may be specifically classified under RCW 32.12.090(2) and ineligible to receive interest or eligible only for limited interest. [1967 c 145 § 3.]

32.12.030 Deposits of minors, in trust, of joint tenants. (1) When any deposit shall be made by or in the name of any minor, the same shall be held for the exclusive right and benefit of such minor, and free from the control or lien of all other persons, except creditors, and shall be paid, together with dividends thereon, to the person in whose name the deposit shall have been made, and his receipt or acquittance shall be a valid discharge.

(2) When any deposit shall be made by any person in trust for another, and no other or further notice of the existence and terms of a legal and valid trust shall have been given in writing to such savings bank, in the event of the death of the trustee, the deposit or any part thereof, together with the dividends thereon, may be paid to the person for whom the deposit was made.

(3) After any deposit shall be made by any person in the names of such depositor and one or more other persons and in form to be paid to any of them or the survivor of them, such deposit and any additions thereto made by any of such persons after the making thereof, shall become the property of such persons as joint tenants, and the same, together with all dividends thereon, shall be held for the exclusive use of such persons and may be paid to any of them during their lifetimes or to the survivor or survivors and such payment and the receipt or acquittance of the one to whom such payment is made shall be a valid and sufficient release and discharge to such savings bank for all payments made on account of such deposit prior to the receipt by such savings bank of notice in writing not to pay such deposit in accordance with the terms thereof. The making of the deposit in such form shall, in the absence of fraud or undue influence, be conclusive evidence, in any action or proceeding to which either such savings bank or the surviving depositor is a party, of the intention of all depositors to vest title to such deposit and the additions thereto in the survivor or survivors. [1963 c 176 § 4; 1961 c 280 § 7; 1955 c 13 § 32.12.030. Prior: 1929 c 123 § 2; 1915 c 175 § 19; RRS § 3348.]

Deposits in trust: RCW 30.20.035.

Joint tenancies with right of survivorship: Chapter 64.28 RCW.

Joint tenants, simultaneous death: RCW 11.05.030.

32.12.050 Accounting—Entry of assets, real estate, securities, etc. (1) No savings bank shall by any system of accounting, or any device of bookkeeping, directly or indirectly, enter any of its assets upon its books in the name of any other individual, partnership, unincorporated association, or corporation, or under any title or designation that is not in accordance with the actual facts.

(2) The bonds, notes, mortgages, or other interest bearing obligations purchased or acquired by a savings bank, shall not be entered on its books at more than the actual cost thereof, and shall not thereafter be carried upon its books for a longer period than until the next declaration of dividends, or in any event for more than one year, at a valuation exceeding their present cost as determined by amortization, that is, by deducting from the cost of any such security purchased for a sum in excess of the amount payable thereon at maturity and charging to "profit and loss" a sufficient sum to bring it to par at maturity, or adding to the cost of any such security purchased at less than the amount payable thereon at maturity and crediting to "profit and loss" a sufficient sum to bring it to par at maturity.

(3) No such bank shall enter, or at any time carry on its books, the real estate and the building or buildings thereon used by it as its place of business at a valuation exceeding their actual cost to the bank.

(4) Every such bank shall conform its methods of keeping its books and records to such orders in respect thereof as shall have been made and promulgated by the supervisor. Any officer, agent, or employee of any savings bank who refuses or neglects to obey any such order shall be punished as hereinafter provided.

(5) Real estate acquired by a savings bank, other than that acquired for use as a place of business, may be entered on the books of the bank at the actual cost thereof but shall not be carried beyond the current dividend period at an amount in excess of the amount of the debt in protection of which such real estate was acquired, plus the cost of any improvements thereto.

An appraisal made by two or more persons appointed by the board of trustees, shall be made of every such parcel of real estate within six months from the date of conveyance and also within six months from date when any expenditure to improve such real estate is added to the book value. If the value at which such real estate is carried on the books is in excess of the value found on appraisal the book value shall, at the end of the dividend period during which such appraisal was made, be reduced to an amount not in excess of such appraised value.

(6) No such bank shall enter or carry on its books any asset which has been disallowed by the supervisor or the trustees of such bank, or any debt owing to it which has remained due without prosecution and upon which no interest has been paid for more than one year, or on which a judgment has been recovered which has remained unsatisfied for more than two years, unless the supervisor upon application by such savings bank has fixed a valuation at which such debt may be carried as an asset, or unless such debt is secured by first mortgage upon real estate, in which latter case it may be carried at the actual cash value of such real estate as determined by written appraisal signed by two or more persons appointed by the board of trustees and filed with it. [1955 c 13 § 32.12.050. Prior: 1941 c 15 § 1; 1915 c 175 § 16; Rem. Supp. 1941 § 3345.]

32.12.060 Bad debts—Uncollected judgments. Any debt due a savings bank on which interest is one year or more past due and unpaid, unless such debt is well secured and in course of collection by legal process or probate proceedings, shall be considered a bad debt, and shall be charged off of the books of such bank. A judgment held by a savings bank shall not be considered an asset of the corporation after two years from the date of its rendition, unless with the written permission of the supervisor specifying an additional period: *Provided*, That time consumed by any appeal shall be excluded. [1955 c 13 § 32.12.060. Prior: 1931 c 132 § 1; RRS § 3354a.]

32.12.070 Computation of earnings. (1) Gross current operating earnings. Every savings bank shall close its books, for the purpose of computing its net earnings, at the end of any period for which a dividend is to be paid, and in no event less frequently than semiannually. To determine the amount of gross earnings of a savings bank during any dividend period the following items may be included:

(a) All earnings actually received during such period, less interest accrued and uncollected included in the last previous calculation of earnings;

(b) Interest accrued and uncollected upon debts owing to it secured by authorized collateral, upon

which there has been no default for more than one year, and upon corporate bonds, or other interest bearing obligations owned by it upon which there is no default;

(c) The sums added to the cost of securities purchased for less than par as a result of amortization;

(d) Any profits actually received during such period from the sale of securities, real estate or other property owned by it;

(e) Such other items as the supervisor, in his discretion and upon his written consent, may permit to be included.

(2) Net current earnings. To determine the amount of its net earnings for each dividend period the following items shall be deducted from gross earnings:

(a) All expenses paid or incurred, both ordinary and extraordinary, in the transaction of its business, the collection of its debts and the management of its affairs, less expenses incurred and interest accrued upon its debts deducted at the last previous calculation of net earnings for dividend purposes;

(b) Interest paid or accrued and unpaid upon debts owing by it;

(c) The amounts deducted through amortization from the cost of bonds or other interest bearing obligations purchased above par in order to bring them to par at maturity;

(d) Contributions to any corporation or any community chest fund or foundation organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation. The total contributions for any calendar year shall not exceed a sum equal to one-half of one percent of the net earnings of such savings bank for the preceding calendar year.

The balance thus obtained shall constitute the net earnings of the savings bank for such period.

(3) Earnings paid by a savings bank on deposits may be referred to as "dividends" or as "interest". [1955 c 80 § 3; 1955 c 13 § 32.12.070. Prior: 1953 c 238 § 2; 1941 c 15 § 3; 1915 c 175 § 23; Rem. Supp. 1941 § 3352.]

32.12.080 Misleading advertisement of surplus or guaranty fund. No savings bank shall put forth any sign or notice or publish or circulate any advertisement or advertising literature upon which or in which it is stated that such savings bank has a surplus or guaranty fund other than as determined in the manner prescribed by law. [1955 c 13 § 32.12.080. Prior: 1929 c 123 § 5; 1915 c 175 § 27; RRS § 3356.]

32.12.090 Interest—Rate—Declaration of—Extra—Notice of changed rate. (1) Every savings bank shall regulate the rate of interest upon the amounts to the credit of depositors therewith, in such manner that depositors shall receive as nearly as may be all the earnings of the bank after transferring the amount required by RCW 32.08.120 and such further amounts as its trustees may deem it expedient and for the security of the depositors to transfer to the guaranty fund, which

to the amount of ten percent of the amount due its depositors the trustees shall gradually accumulate and hold. Such trustees may also deduct from its net earnings, and carry as reserves for losses, or other contingencies, or as undivided profits, such additional sums as they may deem wise.

(2) Every savings bank may classify its depositors according to the character, amount, regularity, or duration of their dealings with the savings bank, and may regulate the interest in such manner that each depositor shall receive the same ratable portion of interest as all others of his class.

(3) Unimpaired contributions to the initial guaranty fund and to the expense fund, made by the incorporators or trustees of a savings bank, shall be entitled to have dividends apportioned thereon, which may be credited and paid to such incorporators or trustees.

Whenever the guaranty fund of any savings bank is sufficiently large to permit the return of such contributions, the contributors may receive interest thereon not theretofore credited or paid at the same rate paid to depositors.

(4) A savings bank shall not:

(a) Declare, credit or pay any interest except as authorized by a vote of a majority of the board of trustees duly entered upon its minutes, whereon shall be recorded the ayes and noes upon each vote;

(b) Pay any interest other than the regular quarterly or semiannual interest, or the interest on savings certificates of deposit, or the extra dividends prescribed elsewhere in this title: *Provided*, That such bank may pay interest not less often than annually on the anniversary dates of accounts separately classified for this purpose;

(c) Declare, credit or pay interest on any amount to the credit of a depositor for a longer period than the same has been credited: *Provided*, That deposits made not later than the tenth day of any month (unless the tenth day is not a business day, in which case it may be the next succeeding business day), or withdrawn upon one of the last three business days of the month ending any quarterly or semiannual interest period, may have interest paid upon them for the whole of the period or month when they were so deposited or withdrawn: *Provided further*, That if the bylaws so provide, accounts closed between interest periods may be credited with interest at the rate of the last interest, computing from the first interest period to the date when closed.

(5) The trustees of any savings banks whose undivided profits and guaranty fund, determined in the manner prescribed in RCW 32.12.070, amount to more than twenty-five percent of the amount due its depositors, shall at least once in three years divide equitably the accumulation beyond such twenty-five percent as an extra dividend to depositors in excess of the regular dividend authorized.

A notice posted conspicuously in a savings bank of a change in the rate of interest shall be equivalent to a personal notice. [1969 c 55 § 3; 1961 c 80 § 3; 1957 c 80 § 5; 1955 c 13 § 32.12.090. Prior: 1953 c 238 § 3; 1921 c 156 § 4; 1919 c 200 § 3; 1915 c 175 § 25; RRS § 3354.]

32.12.100 Deposits or investments of public funds. Any funds of the state and of any municipal corporation, taxing district, political subdivision, or political entity thereof, and any funds held in trust by or under the management of any of the above may be deposited or invested in a mutual savings bank.

All the deposits or investments must be fully insured by the federal deposit insurance corporation. [1965 c 111 § 3; 1963 c 176 § 11.]

Investment of agricultural commodity commission funds in savings or time deposits of banks, trust companies and mutual savings banks: RCW 30.04.370.

Investment of county funds not required for immediate expenditures, service fee: RCW 36.29.020.

Investment of funds of school district not needed for immediate necessities—Service fee: RCW 28A.58.440.

32.12.110 Payment to foreign executor or administrator—Form, publication of notice of application by such executor or administrator—Payment in lieu to domestic executor or administrator—Consent of tax commission. Upon the death of any person having funds held by or on deposit with any mutual savings bank, such mutual savings bank may with full acquittance to it pay over the balance of such funds to the executor or administrator of the estate of such deceased person appointed under the laws of any other state or territory or country, after (1) such foreign executor or administrator has caused a notice to be published substantially in the manner and form herein provided for, in a newspaper of general circulation in the county in which is located the office or branch of the bank holding or having on deposit said funds, or if none, then in a newspaper of general circulation in an adjoining county, at least once a week for at least three successive weeks; (2) expiration of at least ninety days after the date of first publication of such notice; and (3) consent of the tax commission to such payment or receipt for payment of any inheritance tax due has been received by such bank: *Provided*, That if an executor or administrator of the estate of said deceased person shall be appointed and qualify as such under the laws of this state and deliver a certified copy of his letters testamentary or of administration or certificate of qualification to the office or branch of such mutual savings bank holding or having on deposit such funds prior to its transmitting the same to a foreign executor or administrator, then such funds shall be paid to or to the order of the executor or administrator of said estate appointed and qualified in this state. The notice herein provided for may be published in substantially the following form:

In the Matter of the Estate of
-----, deceased

Notice is hereby given that the undersigned representative of the estate of said deceased person has applied for transfer to the undersigned of funds of said deceased held or on deposit at the ----- office of -----, the address of which is -----, in the state of Washington; and that such transfer may be made after ninety days from first publication of this notice unless an executor or administrator of said estate is appointed and qualified within the state of

Washington and said bank receives written notice thereof at its said address prior to transmittal of such funds to the undersigned.

Date of first publication: -----

----- of said estate
Address: -----

Affidavit of the publisher of the publication of such notice filed with such mutual savings bank shall be sufficient proof of such publication. [1963 c 176 § 12. Cf. 1961 c 280 § 5; RCW 30.20.100.]

32.12.120 Adverse claim to a deposit to be accompanied by court order or bond—Exception. Notice to any mutual savings bank doing business in this state of an adverse claim to a deposit standing on its books to the credit of any person shall not be effectual to cause said bank to recognize said adverse claimant unless said adverse claimant shall also either procure a restraining order, injunction or other appropriate process against said bank from a court of competent jurisdiction in a cause therein instituted by him wherein the person to whose credit the deposit stands is made a party and served with summons or shall execute to said bank, in form and with sureties acceptable to it, a bond, in an amount which is double either the amount of said deposit or said adverse claim, whichever is the lesser, indemnifying said bank from any and all liability, loss, damage, costs and expenses, for and on account of the payment of such adverse claim or the dishonor of the check or other order of the person to whose credit the deposit stands on the books of said bank: *Provided*, That this law shall not apply in any instance where the person to whose credit the deposit stands is a fiduciary for such adverse claimant, and the facts constituting such relationship as also the facts showing reasonable cause of belief on the part of said claimant that the said fiduciary is about to misappropriate said deposit, are made to appear by the affidavit of such claimant. [1963 c 176 § 13. Cf. 1961 c 280 § 4; RCW 30.20.090.]

**Chapter 32.16
OFFICERS AND EMPLOYEES**

- Sections
- 32.16.010 Board of trustees—Number—Qualifications.
- 32.16.012 Age requirements.
- 32.16.020 Oath of trustees—Declaration of incumbency.
- 32.16.030 Vacancies, when to be filled.
- 32.16.040 Quorum—Meetings—Statement of securities dealings and loans.
- 32.16.050 Compensation of trustees.
- 32.16.060 Change in number of trustees.
- 32.16.070 Restrictions on trustees.
- 32.16.080 Removal of trustees—Vacancies—Eligibility to reelection.
- 32.16.090 Removal of trustee, officer or employee on objection of supervisor.
- 32.16.100 Examination by trustees' committee—Report.
- 32.16.110 Officers.
- 32.16.120 Fidelity bonds.
- 32.16.130 Conversion of savings and loan association to mutual savings bank—Director may serve as trustee.

32.16.010 Board of trustees—Number—Qualifications. (1) There shall be a board of trustees who shall have the entire management and control of the affairs of the savings bank. The persons named in the certificate of authorization shall be the first trustees. The board shall consist of not less than nine nor more than thirty members.

(2) A person shall not be a trustee of a savings bank, if he

(a) Is not a resident of this state;

(b) Has been adjudicated a bankrupt or has taken the benefit of any insolvency law, or has made a general assignment for the benefit of creditors;

(c) Has suffered a judgment recovered against him for a sum of money to remain unsatisfied of record or unsecured on appeal for a period of more than three months;

(d) Is a trustee, officer, clerk, or other employee of any other savings bank.

(3) Nor shall a person be a trustee of a savings bank solely by reason of his holding public office. [1955 c 13 § 32.16.010. Prior: 1915 c 175 § 28; RRS § 3357.]

32.16.012 Age requirements. The bylaws of a savings bank may prescribe a maximum age beyond which no person shall be eligible for election to the board of trustees and may prescribe a mandatory retirement age of seventy-five years or less for trustees subject to the following limitations:

(1) No person shall be eligible for initial election as a trustee after December 31, 1969, who is seventy years of age or more; and

(2) No person shall continue to serve as a trustee after December 31, 1973, who is seventy-five years of age or more and the office of any such trustee shall become vacant on the last day of the month in which the trustee reaches his seventy-fifth birthday or December 31, 1973, whichever is the latest.

If a savings bank does not adopt a bylaw prescribing a mandatory retirement age for trustees prior to January 1, 1970, or does not maintain thereafter a bylaw prescribing a mandatory retirement age, the office of a trustee of such savings bank shall become vacant on the last day of the month in which such trustee reaches his seventieth birthday or on December 31, 1969, whichever is the latest. [1969 c 55 § 14.]

32.16.020 Oath of trustees—Declaration of incumbency. (1) Each trustee, whether named in the certificate of authorization or elected to fill a vacancy, shall, when such certificate of authorization has been issued, or when notified of such election, take an oath that he will, so far as it devolves on him, diligently and honestly administer the affairs of the savings bank, and will not knowingly violate, or willingly permit to be violated, any of the provisions of law applicable to such savings bank. Such oath shall be subscribed by the trustee making it and certified by the officer before whom it is taken, and shall be immediately transmitted to the supervisor and filed and preserved in his office.

(2) Prior to the first day of March in each year, every trustee of every savings bank shall subscribe a declaration to the effect that he is, at the date thereof, a trustee of the savings bank, and that he has not resigned, become ineligible, or in any other manner vacated his office as such trustee. Such declaration shall be acknowledged in like manner as a deed to be entitled to record and shall be transmitted to the supervisor and filed in his office prior to the tenth day of March in each year. [1955 c 13 § 32.16.020. Prior: 1915 c 175 § 29; RRS § 3358.]

32.16.030 Vacancies, when to be filled. A vacancy in the board of trustees shall be filled by the board as soon as practicable, at a regular meeting thereof. [1955 c 13 § 32.16.030. Prior: 1915 c 175 § 36; RRS § 3365.]

32.16.040 Quorum—Meetings—Statement of securities dealings and loans. (1) A quorum at any regular or special or adjourned meeting of the board of trustees shall consist of not less than five of whom the president shall be one, except when he is prevented from attending by sickness or other unavoidable detention, when he may be represented in forming a quorum by the first vice president, or in case of his absence for like cause, by the second vice president; but less than a quorum shall have power to adjourn from time to time until the next regular meeting.

Regular meetings of the board of trustees shall be held at least once a month.

(2) The board of trustees shall by resolution duly recorded in the minutes, designate an officer or officers whose duty it shall be to prepare and submit to the trustees at each regular meeting of the board, or to an executive committee of not less than five members of such board, a written statement of the purchases and sales of securities, and of loans, made since the last regular meeting of the board. The statement shall be in such form as the board from time to time shall determine and there may be omitted from the statement such purchases and sales of securities and such loans as determined by the board. [1969 c 55 § 4; 1955 c 13 § 32.16.040. Prior: 1915 c 175 § 31; RRS § 3360.]

32.16.050 Compensation of trustees. (1) A trustee of a savings bank shall not directly or indirectly receive any pay or emolument for services as trustee, except as provided in this section.

(2) A trustee may receive, by affirmative vote of a majority of all the trustees, reasonable compensation for (a) attendance at meetings of the board of trustees; (b) service as an officer of the savings bank, provided his duties as officer require and receive his regular and faithful attendance at the savings bank; (c) service in appraising real property for the savings bank; and (d) service as a member of a committee of the board of trustees: *Provided*, That a trustee receiving compensation for service as an officer pursuant to (b) shall not receive any additional compensation for service under (a), (c) or (d).

(3) An attorney for a savings bank, although he is a trustee thereof, may receive a reasonable compensation

for his professional services, including examinations and certificates of title to real property on which mortgage loans are made by the savings bank; or if the bank requires the borrowers to pay all expenses of searches, examinations, and certificates of title, including the drawing, perfecting, and recording of papers, such attorney may collect of the borrower and retain for his own use the usual fees for such services, excepting any commissions as broker or on account of placing or accepting such mortgage loans.

(4) If an officer or attorney of a savings bank receives, on any loan made by the bank, any commission which he is not authorized by this section to retain for his own use, he shall immediately pay the same over to the savings bank. [1957 c 80 § 6; 1955 c 13 § 32.16.050. Prior: 1915 c 175 § 32; RRS § 3361.]

32.16.060 Change in number of trustees. The board of trustees of every savings bank may, by resolution incorporated in its bylaws, increase or reduce the number of trustees named in the original charter or certificate of authorization.

(1) The number may be increased to a number designated in the resolution not exceeding thirty: *Provided*, That reasons therefor are shown to the satisfaction of the supervisor and his written consent thereto is first obtained.

(2) The number may be reduced to a number designated in the resolution but not less than nine. The reduction shall be effected by omissions to fill vacancies occurring in the board. [1955 c 13 § 32.16.060. Prior: 1915 c 175 § 33; RRS § 3362.]

32.16.070 Restrictions on trustees. (1) A trustee of a savings bank shall not

(a) Have any interest, direct or indirect, in the gains or profits of the savings bank, except to receive dividends (i) upon the amounts contributed by him to the guaranty fund and the expense fund of the savings bank as provided in RCW 32.08.090 and 32.08.100, and (ii) upon any deposit he may have in the bank, the same as any other depositor and under the same regulations and conditions.

(b) Become a member of the board of directors of a bank, trust company, or national banking association of which board enough other trustees of the savings bank are members to constitute with him a majority of the board of trustees.

(2) Neither a trustee nor an officer of a savings bank shall

(a) For himself or as agent or partner of another, directly or indirectly use any of the funds or deposits held by the savings bank, except to make such current and necessary payments as are authorized by the board of trustees.

(b) Receive directly or indirectly and retain for his own use any commission on or benefit from any loan made by the savings bank, or any pay or emolument for services rendered to any borrower from the savings bank in connection with such loan, except as authorized by RCW 32.16.050.

(c) Become an indorser, surety, or guarantor, or in any manner an obligor, for any loan made by the savings bank.

(d) For himself or as agent or partner of another, directly or indirectly borrow any of the funds or deposits held by the savings bank, or become the owner of real property upon which the savings bank holds a mortgage. A loan to or a purchase by a corporation in which he is a stockholder to the amount of fifteen percent of the total outstanding stock, or in which he and other trustees of the savings bank hold stock to the amount of twenty-five percent of the total outstanding stock, shall be deemed a loan to or a purchase by such trustee within the meaning of this section, except when the loan to or purchase by such corporation occurred without his knowledge or against his protest. A deposit in a bank shall not be deemed a loan within the meaning of this section. [1955 c 13 § 32.16.070. Prior: 1925 ex.s. c 86 § 12; 1915 c 175 § 34; RRS § 3363.]

32.16.080 Removal of trustees—Vacancies—Eligibility to reelection. (1) Whenever, in the judgment of three-fourths of the trustees, the conduct and habits of a trustee of any savings bank are of such character as to be injurious to such bank, or he has been guilty of acts that are detrimental or hostile to the interests of the bank, he may be removed from office, at any regular meeting of the trustees, by the affirmative vote of three-fourths of the total number thereof: *Provided*, That a written copy of the charges made against him has been served upon him personally at least two weeks before such meeting, that the vote of such trustees by ayes and noes is entered in the record of the minutes of such meeting, and that such removal receives the written approval of the supervisor which shall be attached to the minutes of such meeting and form a part of the record.

(2) The office of a trustee of a savings bank shall immediately become vacant whenever he

(a) Fails to comply with any of the provisions of RCW 32.16.020 relating to his official oath and declaration;

(b) Becomes disqualified for any of the reasons specified in RCW 32.16.010(2);

(c) Has failed to attend the regular meetings of the board of trustees, or to perform any of his duties as trustee, for a period of six successive months, unless excused by the board for such failure;

(d) Violates any of the provisions of RCW 32.16.070 imposing restrictions upon trustees and officers, except subsection (2) (c) thereof.

(3) A trustee who has forfeited or vacated his office shall not be eligible to reelection, except when the forfeiture or vacancy occurred solely by reason of his

(a) Failure to comply with the provisions of RCW 32.16.020, relating to his official oath and declaration; or

(b) Neglect of his official duties as prescribed in subsection (2) (c) of this section; or

(c) Disqualification through becoming a nonresident, or becoming a trustee, officer, clerk or other employee of another savings bank, or becoming a director of a bank, trust company, or national banking association

under the circumstances specified in RCW 32.16.070(1)(b) and such disqualification has been removed. [1955 c 13 § 32.16.080. Prior: 1915 c 175 § 35; RRS § 3364.]

32.16.090 Removal of trustee, officer or employee on objection of supervisor. Whenever the supervisor finds that any trustee, officer, or employee of any savings bank is dishonest, reckless, or incompetent, or fails to perform any duty of his office, he shall notify the board of trustees of such savings bank, in writing, of his objections to any such trustee, officer or employee, and such board shall within twenty days after receiving such notification meet and consider such objections, first giving notice to the supervisor of the time and place of such meeting. If the board finds the objections to be well-founded, such trustee, officer or employee shall be immediately removed. [1955 c 13 § 32.16.090. Prior: 1931 c 132 § 2; RRS § 3364a.]

32.16.100 Examination by trustees' committee—Report. The trustees of every savings bank, by a committee of not less than three of their number, on or before the first days of January and July in each year, shall fully examine the records and affairs of such savings bank for the purpose of determining its financial condition. The trustees may employ such assistants as they deem necessary in making the examination. A report of each such examination shall be presented to the board of trustees at a regular meeting within thirty days after the completion of the same, and shall be filed in the records of the savings bank. [1955 c 13 § 32.16.100. Prior: 1941 c 15 § 5; 1915 c 175 § 38; Rem. Supp. 1941 § 3367.]

32.16.110 Officers. The board of trustees shall elect from their number, or otherwise, a president and two vice presidents and such other officers as they may deem fit. [1955 c 13 § 32.16.110. Prior: 1915 c 175 § 30; RRS § 3359.]

32.16.120 Fidelity bonds. The trustees of every savings bank shall have power to require from the officers, clerks, and agents thereof such security for their fidelity and the faithful performance of their duties as the trustees deem necessary. Such security may be accepted from any company authorized to furnish fidelity bonds and doing business under the laws of this state, and the premiums therefor may be paid as a necessary expense of the savings bank. [1955 c 13 § 32.16.120. Prior: 1915 c 175 § 37; RRS § 3366.]

32.16.130 Conversion of savings and loan association to mutual savings bank—Director may serve as trustee. In the event a savings and loan association is converted to a mutual savings bank, any person, who at the time of such conversion was a director of the savings and loan association, may serve as a trustee of the mutual savings bank until he reaches the age of seventy-five years or until one year following the date of conversion of such savings and loan association, whichever is later. The bylaws of any mutual savings bank may modify

this provision by requiring earlier retirement of any trustee affected hereby. [1971 ex.s. c 222 § 2.]

Severability—1971 ex.s. c 222: See note following RCW 32.04.085.

Chapter 32.20 INVESTMENTS

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Federal bonds and notes as investment or collateral: Chapter 39.60 RCW.

32.20.010 Definitions. The words "mutual savings bank" and "savings bank," whenever used in this chapter, shall mean a mutual savings bank organized and existing under the laws of the state of Washington.

The words "its funds," whenever used in this chapter, shall mean and include moneys deposited with a mutual savings bank, sums credited to the guaranty fund of a mutual savings bank, and the income derived from such deposits or fund, or both. [1955 c 13 § 32.20.010. Prior: 1929 c 74 § 1; RRS § 3381-1.]

32.20.020 Investments limited by chapter. A mutual savings bank shall have the power to invest its funds in the manner hereinafter in this chapter specified and not otherwise. [1955 c 13 § 32.20.020. Prior: 1929 c 74 § 2; RRS § 3381-2.]

32.20.030 Bonds or obligations of United States and Canada. A mutual savings bank may invest its funds in the bonds or obligations of the United States or the Dominion of Canada or those for which the faith of the United States or the Dominion of Canada is pledged to provide for the payment of the interest and principal, including bonds of the District of Columbia: *Provided*, That in the case of bonds of the Dominion or those for which its faith is pledged the interest and principal is payable in the United States or with exchange to a city in the United States and in lawful money of the United States or its equivalent. [1955 c 13 § 32.20.030. Prior: 1937 c 95 § 1; 1929 c 74 § 3; 1925 ex.s. c 86 § 2; 1921 c 156 §§ 11, 11a; RRS § 3381-3.]

32.20.040 Federally insured or secured loans, securities, etc. A mutual savings bank may invest its funds:

(1) In such loans and advances of credit and purchases of obligations representing loans and advances of credit as are eligible for insurance by the Federal Housing Administrator, and may obtain such insurance.

(2) In such loans secured by mortgage on real property as the Federal Housing Administrator insures or makes a commitment to insure, and may obtain such insurance.

(3) In such other loans or contracts or advances of credit as are insured or guaranteed or which are covered by a repurchase agreement in whole or in part by

the United States or through any corporation, administrator, agency or instrumentality which is or hereafter may be created by the United States, and may obtain such insurance or guarantee.

(4) In capital stock, notes, bonds, debentures, or other such obligations of any national mortgage association.

(5) In such loans as are secured by contracts of the United States or any agency or department thereof assigned under the "Assignment of Claims Act of 1940," approved October 9, 1940, and acts amendatory thereof or supplementary thereto, and may participate with others in such loans.

(6) In notes or bonds secured by mortgages issued under sections 500 to 505, inclusive, of Title III of the Servicemen's Readjustment Act of 1944 (Public Law 346, 78th congress), and any amendments thereto, and the regulations, orders or rulings promulgated thereunder.

No law of this state prescribing the nature, amount, or form of security or requiring security or prescribing or limiting interest rates or prescribing or limiting the term, shall be deemed to apply to loans, contracts, advances of credit or purchases made pursuant to the foregoing subdivisions (1), (2), (3), (4), (5), and (6). [1963 c 176 § 5; 1955 c 13 § 32.20.040. Prior: 1945 c 228 § 1; 1941 c 15 § 6; 1939 c 33 § 1; 1935 c 10 § 1; 1929 c 74 § 3a; Rem. Supp. 1945 § 3381-3a.]

32.20.045 Obligations of corporations created as federal agency or instrumentality. A mutual savings bank may invest its funds in capital stock, notes, bonds, debentures, or other such obligations of any corporation which is or hereafter may be created by the United States as a governmental agency or instrumentality: *Provided*, That the total amount a mutual savings bank may invest pursuant to this section shall not exceed fifteen percent of the funds of such savings bank: *Provided further*, That the amounts heretofore or hereafter invested by a mutual savings bank pursuant to any law of this state other than this section, even if such investment might also be authorized under this section, shall not be limited by the provisions of this section and amounts so invested pursuant to any such other law of this state shall not be included in computing the maximum amount which may be invested pursuant to this section. [1967 c 145 § 4; 1957 c 80 § 10.]

32.20.047 Stock of small business investment companies regulated by United States. A savings bank may purchase and hold for its own investment account stock in small business investment companies licensed and regulated by the United States, as authorized by the Small Business Act, Public Law 85-536, 72 Statutes at Large 384, in an amount not to exceed one percent of the guaranty fund of such mutual savings bank. [1959 c 185 § 2.]

32.20.050 Bonds of state of Washington and its agencies. A mutual savings bank may invest its funds in the bonds or interest bearing obligations of this state, or any agency thereof, issued pursuant to the authority of

any law of this state, whether such bonds or interest bearing obligations are general or limited obligations of the state or such agency. [1955 c 13 § 32.20.050. Prior: 1953 c 238 § 5; 1929 c 74 § 9; 1921 c 156 § 11b; RRS § 3381-4.]

32.20.060 Bonds of other states. A mutual savings bank may invest its funds in the bonds or obligations of any other state of the United States upon which there is no default. [1955 c 13 § 32.20.060. Prior: 1937 c 95 § 2; 1929 c 74 § 5; 1921 c 156 § 11c; RRS § 3381-5.]

32.20.070 Bonds and warrants of counties, municipalities, etc., of Washington. A mutual savings bank may invest its funds in the valid warrants or bonds of any county, city, town, school district, port district, water district, or other municipal corporation in the state of Washington issued pursuant to law and for the payment of which the faith and credit of such county, municipality, or district is pledged and taxes are leviable upon all taxable property within its limits.

A mutual savings bank may invest its funds in the water revenue, sewer revenue, or electric revenue bonds of any city or public utility district of this state for the payment of which the entire revenue of the city's or district's water system, sewer system, or electric system, less maintenance and operating costs, is irrevocably pledged. [1955 c 13 § 32.20.070. Prior: 1941 c 15 § 7; 1937 c 95 § 3; 1929 c 74 § 6; 1925 ex.s. c 86 § 3; 1921 c 156 § 11d; Rem. Supp. 1941 § 3381-6.]

32.20.080 Municipal bonds in adjoining state. A mutual savings bank may invest its funds in the valid bonds of any incorporated city having a population in excess of three thousand inhabitants as shown by the last decennial federal census or of any county or school district situated in one of the states of the United States which adjoins the state of Washington: *Provided*, That the indebtedness of such city or school district, together with the indebtedness of any other district or other municipal corporation or subdivision (except a county) which is wholly or in part included within the boundaries or limits of the city or school district, less its water debt and sinking fund, does not exceed twelve percent, or the indebtedness of the county less its sinking fund does not exceed seven percent, of the valuation thereof for the purposes of taxation. [1955 c 13 § 32.20.080. Prior: 1937 c 95 § 4; 1929 c 74 § 7; 1925 ex.s. c 86 § 4; 1921 c 156 § 11e; RRS § 3381-7.]

32.20.090 Municipal bonds in any state. A mutual savings bank may invest its funds in the bonds of any county, incorporated city, or the school district of any such city, situated in the United States: *Provided*, That such county, city, or school district has a population as shown by the federal census next preceding the investment, of not less than forty-five thousand inhabitants, and has power to levy taxes on the taxable real property therein for the payment of such obligations without limitation of rate or amount, and at the time of the investment the indebtedness of such county does not exceed seven percent of the valuation of such county for

the purposes of taxation, or the indebtedness of such city or school district, together with the indebtedness of any district (other than local improvement district) or other municipal corporation or subdivision, except a county, which is wholly or in part included within the bounds or limits of said city or school district, less its water debt and sinking fund, does not exceed twelve percent of the valuation of such city or school district for purposes of taxation: *Or provided*, That such county, city, or school district has a population as shown by the last decennial federal census of not less than one hundred fifty thousand inhabitants, and has taxable real property with an assessed valuation in excess of two hundred million dollars, and has power to levy taxes on the taxable real property therein for the payment of such obligations without limitation of rate or amount. [1955 c 13 § 32.20.090. Prior: 1937 c 95 § 5; 1929 c 74 § 8; 1921 c 156 § 11f; RRS § 3381-8.]

32.20.100 Revenue bonds of certain cities in any state. A mutual savings bank may invest its funds in the water revenue or electric revenue bonds of any incorporated city situated in the United States: *Provided*, That the city has a population as shown by the last decennial federal census of at least forty-five thousand inhabitants, and the entire revenue of the city's water or electric system less maintenance and operating costs is irrevocably pledged to the payment of the interest and principal of the bonds. [1955 c 13 § 32.20.100. Prior: 1941 c 15 § 8; 1937 c 95 § 6; Rem. Supp. 1941 § 3381-8a.]

32.20.110 District bonds secured by taxing power. A mutual savings bank may invest its funds in the bonds of any port district, water district, sanitary district, sewer district, tunnel district, bridge district, flood control district, park district, or highway district in the United States which has a population as shown by the last decennial federal census of not less than one hundred fifty thousand inhabitants, and has taxable real property with an assessed valuation in excess of two hundred million dollars and has power to levy taxes on the taxable real property therein for the payment of the bonds without limitation of rate or amount. [1955 c 13 § 32.20.110. Prior: 1937 c 95 § 7; RRS § 3381-8b.]

32.20.120 Local improvement district bonds. A mutual savings bank may invest not to exceed fifteen percent of its funds in the bonds or warrants of any local improvement district of any city or town of this state (except bonds or warrants issued for an improvement consisting of grading only), unless the total indebtedness of the district after the completion of the improvement for which the bonds or warrants are issued, plus the amount of all other assessments of a local or special nature against the land assessed or liable to be assessed to pay the bonds, exceed fifty percent of the value of the benefited property, exclusive of improvements, at the time the bonds or warrants are purchased or taken by the bank, according to the actual valuation last placed upon the property for general taxation.

Before any such bonds or warrants are purchased or taken as security the condition of the district's affairs shall be ascertained and the property of the district examined by at least two members of the board of investment who shall report in writing their findings and recommendations; and no bonds or warrants shall be taken unless such report is favorable, nor unless the executive committee of the board of trustees after careful investigation is satisfied of the validity of the bonds or warrants and of the validity and sufficiency of the assessment or other means provided for payment thereof: *Provided*, That, excepting bonds issued by local improvement districts in cities of the first or second class, for improvements ordered after June 7, 1927, no local improvement district bonds falling within the twenty-five percent in amount of any issue last callable for payment, shall be acquired or taken as security. [1955 c 13 § 32.20.120. Prior: 1953 c 238 § 5; 1929 c 74 § 9; 1921 c 156 § 11h; RRS § 3381-9.]

32.20.130 Bonds of irrigation, diking, drainage districts. A mutual savings bank may invest not to exceed five percent of its funds in the bonds of any irrigation, diking, drainage, diking improvement, or drainage improvement district of this state, unless the total indebtedness of the district after the completion of the improvement for which the bonds are issued, plus the amount of all other assessments of a local or special nature against the land assessed or liable to be assessed to pay the bonds, exceeds forty percent of the value of the benefited property, exclusive of improvements, at the time the bonds are purchased or taken by the bank, according to the actual valuation last placed upon the property for general taxation.

Before any such bonds are purchased or taken as security the condition of the district's affairs shall be ascertained and the property of the district examined by at least two members of the board of investment of the mutual savings bank, who shall report in writing their findings and recommendations; and no bonds shall be taken unless such report is favorable, nor unless the executive committee of the board of trustees after careful investigation is satisfied of the validity of the bonds and of the sufficiency of the assessment or other means provided for payment thereof: *Provided*, That no mutual savings bank shall invest a sum greater than three percent of its funds, or, in any event, more than three hundred thousand dollars, in the bonds of any one district described in this section. [1955 c 13 § 32.20.130. Prior: 1929 c 74 § 10; 1921 c 156 § 11h; RRS § 3381-10.]

32.20.140 Railroad obligations. A mutual savings bank may invest its funds in the obligations of a railroad corporation, other than a street railroad corporation, which comply with the following requirements:

(1) For a period of six years prior to the investment the railroad corporation shall have paid punctually the matured principal and interest of its bond indebtedness and shall either (a) own and operate not less than five hundred miles of standard gauge railroad, exclusive of

sidings, in the United States or the Dominion of Canada, or (b) have had operating revenues of at least ten million dollars each year for at least five of the six fiscal years next preceding the investment, and

(2) In each of the six fiscal years next preceding the investment the railroad corporation shall either (a) have had earnings, after deducting rent for hire of equipment and joint facilities from total income, of not less than the remaining deductions from total income as defined in the accounting regulations of the interstate commerce commission, and in the fiscal year next preceding the investment have had earnings, after deducting rent for hire of equipment and joint facilities from total income, of not less than one and one-half times the remaining deductions from total income as defined in such accounting regulations, and which obligations shall be either (i) fixed interest bearing bonds secured by a mortgage on railroad property operated by the railroad corporation, or (ii) bonds secured by a first mortgage upon terminal, depot, bridge, or tunnel property, including lands, buildings, and appurtenances used in the service of transportation by a railroad corporation, or (iii) collateral trust bonds secured by irrevocable pledge of other railroad bonds, which pledged bonds are legal investments for mutual savings banks under this chapter, and which pledged bonds have a par value not less than the par value of the bonds they secure, or (b) in at least five of the six fiscal years next preceding the investment have had earnings, after deducting rent for hire of equipment and joint facilities from total income, of not less than twice the remaining deductions from total income as defined by the accounting regulations of the interstate commerce commission.

Not more than fifteen percent of the funds of any savings bank shall be invested in the bonds, notes, and certificates defined herein and in RCW 32.20.150, and not more than three percent of its funds shall be invested in the bonds, notes, and certificates of any one such railroad corporation. [1955 c 13 § 32.20.140. Prior: 1937 c 95 § 8; 1929 c 74 § 11; 1921 c 156 §§ 11i, j, k; RRS § 3381-11.]

32.20.150 Railway mortgage bonds. A mutual savings bank may invest its funds in the mortgage bonds of any class one railroad, as defined by the interstate commerce commission, meeting the following requirements:

(1) Such railroad shall have carried fifty net revenue ton miles per year each year for the five years next preceding the proposed investment for each dollar of mortgage bonds of the funded debt of the railroad prior or equal in lien to such bonds, and

(2) Such railroad shall have had a traffic density of at least one million net revenue ton miles per mile of line mortgaged to secure such bonds each and every year for a period of at least five years prior to the investment by the bank in such bonds, and

(3) The trust indentures of such bonds and of any bonds prior in lien to such bonds secured by mortgages on said railroad and portions thereof shall prohibit the issuance of any additional bonds equal or prior in lien

to such bonds except for the purpose of retiring existing prior lien bonds. [1955 c 13 § 32.20.150. Prior: 1929 c 74 § 12; 1921 c 156 §§ 11i, j, k; RRS § 3381-12.]

32.20.160 Railroad equipment obligations or equipment trust certificates. A mutual savings bank may invest not to exceed fifteen per cent of its funds in railroad equipment obligations or equipment trust certificates which comply with the following requirements:

(1) They must be the whole or part of an issue originally made payable within not more than fifteen years in annual or semiannual installments substantially equal in amount, beginning not later than one year after the date of the issue;

(2) They must be secured by or be evidence of a prior or preferred lien upon or interest in, or of reservation of title to, the equipment in respect of which they have been issued or sold, or by an assignment of or prior interest in the rent or purchase notes given for the hiring or purchase of such equipment;

(3) The total amount of principal of such issue of equipment obligations or trust certificates shall not exceed eighty-five percent of the cost or purchase price of the equipment in respect of which they were issued. [1955 c 13 § 32.20.160. Prior: 1937 c 95 § 9; 1929 c 74 § 13; 1921 c 156 §§ 11i, j, k; RRS § 3381-13.]

32.20.170 Utility bonds. A mutual savings bank may invest its funds in the bonds of any corporation which at the time of the investment is incorporated under the laws of the United States or any state thereof, or the District of Columbia, and is transacting the business of supplying electrical energy, or artificial gas or natural gas purchased and supplied in substitution for, or in mixture with, artificial gas, for light, heat, power, and other purposes, or of supplying water for municipal, industrial, and domestic use, or is transacting any or all of such business: *Provided*, That at least seventy-five percent of the gross operating revenues of the corporation are derived from such business, and not more than fifteen percent of the gross operating revenues are derived from any one kind of business other than supplying electricity or gas or electricity and gas or water: *Provided further*, That the corporation is subject to regulation by a public service commission or public utility commission, or other similar regulatory body duly established by the laws of the United States or the states in which the corporation operates, subject to the following conditions:

(1) The corporation shall make public in each year a statement and a report giving the income account covering the previous fiscal year and a balance sheet showing in reasonable detail the assets and liabilities at the end of the year;

(2) The outstanding fully paid capital stock together with premiums thereon and the surplus of the corporation shall be equal to at least two-thirds of the total debt secured by mortgage lien on any part or all of its property: *Provided*, That in the case of a corporation having nonpar value shares, the amount of capital which the shares represent shall be the capital as shown by the books of the corporation;

(3) The corporation shall have been in existence for a period of not less than eight fiscal years and at no time within the period of eight fiscal years next preceding the date of the investment shall the corporation have failed to pay promptly and regularly the matured principal and interest of all its indebtedness direct, assumed, or guaranteed, but the period of life of the corporation, together with the period of life of any predecessor corporation or corporations from which a major portion of its property was acquired by consolidation, merger, or purchase shall be considered together in determining the required period;

(4) For a period of five fiscal years next preceding the investment the net earnings of the corporation shall have averaged per year not less than twice the average annual interest charges on its total funded debt applicable to that period, and for the last fiscal year preceding such investment such net earnings shall have been not less than twice the interest charges for a full year on its total funded debt outstanding at the time of such investment, and for such period the gross operating revenues of the corporation shall have averaged per year not less than one million dollars;

(5) In determining the qualifications of any bond under this section where a corporation has acquired its property or any substantial part thereof within five years immediately preceding the date of the investment by consolidation or merger, or by the purchase of all or a substantial portion of the property of any other corporation or corporations, the gross operating revenues, net earnings, and interest charges of the several predecessor or constituent corporations shall be consolidated and adjusted so as to ascertain whether the requirements of subdivision (4) of this section have been complied with;

(6) The gross operating revenues and expenses of a corporation for the purposes of this section shall be, respectively, the total amount earned from the operation of, and the total expense of maintaining and operating, all property owned and operated by or leased and operated by the corporation, as determined by the system of accounts prescribed by the public service commission, or public utility commission or other similar regulatory body having jurisdiction. The gross operating revenues and expenses, as defined above, of subsidiary companies may be included: *Provided*, That all the mortgage bonds and a controlling interest in the stock or stocks of the subsidiary companies are pledged as part security for the mortgage debt of the principal company;

The net earnings of any corporation for the purpose of this section shall be the balance obtained by deducting from its gross operating revenues, its operating and maintenance expenses, taxes other than federal and state income taxes, rentals, and provisions for renewals and retirements of the physical assets of the corporation, and by adding to said balance its income from securities and miscellaneous sources but not, however, to exceed fifteen percent of said balance.

(7) The bonds must be part of an issue of not less than one million dollars and must be mortgage bonds secured by a first or refunding mortgage secured by

property owned and operated by the corporation issuing or assuming them, or must be underlying mortgage bonds secured by property owned and operated by the corporations issuing or assuming them: *Provided*, That such bonds are to be refunded by a junior mortgage providing for their retirement: *Provided further*, That the bonds under the junior mortgage comply with the requirements of this section, and that the underlying mortgage is either a closed mortgage or remains open solely for the issue of additional bonds which are to be pledged under the junior mortgage. The aggregate principal amount of bonds secured by the first or refunding mortgage plus the principal amount of all the underlying outstanding bonds shall not exceed sixty percent of the value of the physical property owned as shown by the books of the corporation and subject to the lien of the mortgage or mortgages securing the total mortgage debt: *Provided*, That if a refunding mortgage, it must provide for the retirement on or before the date of their maturity of all bonds secured by prior liens on the property.

Not more than fifteen percent of the funds of any mutual savings bank shall be invested in the bonds defined herein and in RCW 32.20.180 and not more than three percent of its funds shall be invested in the bonds of any one such corporation. [1955 c 80 § 4; 1955 c 13 § 32.20.170. Prior: 1937 c 95 § 10; 1929 c 74 § 14; RRS § 3381-14.]

32.20.180 Telephone company bonds. A mutual savings bank may invest its funds in the bonds of any corporation which at the time of the investment is incorporated under the laws of the United States or any state thereof, or the District of Columbia, and is authorized to engage, and is engaging, in the business of furnishing telephone service in the United States: *Provided*, That the corporation is subject to regulation by the federal communications commission or a public service commission, or public utility commission, or other similar federal or state regulatory body, duly established by the laws of the United States or the states in which such corporation operates, subject to the following conditions:

(1) The corporation shall have been in existence for a period of not less than eight fiscal years and at no time within the period of eight fiscal years next preceding the date of the investment shall the corporation have failed to pay promptly and regularly the matured principal and interest of all its indebtedness direct, assumed, or guaranteed, but the period of life of the corporation together with the period of life of any predecessor corporation or corporations from which a major portion of its property was acquired by consolidation, merger or purchase shall be considered together in determining the required period; and the corporation shall make public in each year a statement and a report giving the income account covering the previous fiscal year and a balance sheet showing in reasonable detail the assets and liabilities at the end of the year;

(2) The outstanding fully paid capital stock of the corporation shall at the time of the investment be equal

to at least two-thirds of the total debt secured by all mortgage liens on any part or all of its property;

(3) For a period of five fiscal years next preceding the investment the net earnings of the corporation shall have averaged per year not less than twice the average annual interest charges on its total funded debt applicable to that period, and for the last fiscal year preceding such investment such net earnings shall have been not less than twice the interest charges for a full year on its total funded debt outstanding at the time of such investment, and for such period the gross operating revenues of the corporation shall have averaged per year not less than one million dollars;

(4) The bonds must be part of an issue of not less than one million dollars and must be secured by a first or refunding mortgage, and the aggregate principal amount of bonds secured thereby, plus the principal amount of all underlying outstanding bonds shall not exceed sixty percent of the value of the property real and personal owned absolutely and subject to the lien of the mortgage: *Provided*, That if a refunding mortgage, it must provide for the retirement of all bonds secured by prior liens on the property. Not more than thirty-three and one-third percent of the property required as security for the bonds in order to comply with the provisions of this subdivision may consist of stock or unsecured obligations of affiliated or other telephone companies, or both;

(5) In determining the qualifications of any bond under this section where a corporation has acquired its property or any substantial part thereof within five years immediately preceding the date of the investment by consolidation or merger or by the purchase of all or a substantial portion of the property of any other corporation or corporations, the gross operating revenues, net earnings, and interest charges of the several predecessor or constituent corporations shall be consolidated and adjusted so as to ascertain whether the requirements of subdivision (3) of this section have been complied with;

(6) The gross operating revenues and expenses of a corporation for the purpose of this section shall be respectively the total amount earned from the operation of, and the total expense of maintaining and operating, all property owned and operated by or leased and operated by the corporation, as determined by the system of accounts prescribed by the federal communications commission or the public service commission, or public utility commission, or other similar federal or state regulatory body having jurisdiction;

(7) The net earnings of any corporation for the purpose of this section shall be the balance obtained by deducting from its gross operating revenues, its operating and maintenance expenses, provision for depreciation of the physical assets of the corporation, taxes other than federal and state income taxes, rentals, and miscellaneous charges, and by adding to the balance its income from securities and miscellaneous sources but not, however, to exceed fifteen percent of the balance. The term funded debt shall be construed to mean all interest bearing debt maturing more than one year from

date of issue. [1955 c 13 § 32.20.180. Prior: 1937 c 95 § 11; 1929 c 74 § 15; RRS § 3381-15.]

32.20.190 Telephone and electric company bonds, notes, etc. A mutual savings bank may invest not to exceed five percent of its funds in the bonds, notes, or debentures of corporations engaged in the business of furnishing telephone service or electrical energy, meeting the following requirements, even though less than seventy-five percent of the gross revenues are derived from the operation of such property:

(1) Such corporation shall be subject to regulation by the interstate commerce commission, or by the federal communications commission or by a similar regulatory body of the United States, or by the public service commission or similar regulatory body of the states in which it operates;

(2) The official reports issued by the corporation for a period of ten fiscal years next preceding the investment in any such bonds, notes, or debentures shall show annual gross revenues of not less than fifty million dollars during any year;

(3) Such corporation shall have paid regularly and promptly each and every year for ten years next preceding the investment, the matured interest and matured principal of all its indebtedness direct, guaranteed, or assumed;

(4) The net earnings of the corporation available for fixed charges for the ten year period next preceding such investment shall have been not less than three times such fixed charges during any year;

(5) Such bonds, notes, or debentures shall be part of an original issue of at least five million dollars; and

(6) Not more than two percent of the funds of any mutual savings bank shall be invested in such bonds, notes, or debentures of any one such corporation. [1955 c 13 § 32.20.190. Prior: 1937 c 95 § 12; 1929 c 74 § 16; RRS § 3381-16.]

32.20.210 Obligations of International Bank for Reconstruction and Development. A mutual savings bank may invest not to exceed five percent of its funds in interest bearing obligations of the International Bank for Reconstruction and Development. [1955 c 13 § 32.20.210. Prior: 1949 c 119 § 3; Rem. Supp. 1949 § 3381-16b.]

32.20.215 Obligations issued or guaranteed by Inter-American Development Bank. A mutual savings bank may invest not to exceed five percent of its funds in obligations issued or guaranteed by the Inter-American Development Bank. [1963 c 176 § 14.]

32.20.217 Obligations of Asian Development Bank. A mutual savings bank may invest not to exceed five percent of its funds in obligations issued or guaranteed by the Asian Development Bank. [1971 ex.s. c 222 § 7.]

Severability—1971 ex.s. c 222: See note following RCW 32.04.085.

32.20.220 Bankers' acceptances and bills of exchange. A mutual savings bank may invest not to exceed twenty percent of its funds in bankers' acceptances and bills of exchange of the kind and character following:

(1) Bankers' acceptances, and bills of exchange made eligible by law for rediscount with federal reserve banks, provided the same are accepted by a bank or trust company which is a member of the federal reserve system and which has a capital and surplus of not less than two million dollars.

(2) Bills of exchange drawn by the seller on the purchaser of goods and accepted by such purchaser, of the kind made eligible by law for rediscount with federal reserve banks, provided the same are indorsed by a bank or trust company which is a member of the federal reserve system and which has a capital and surplus of not less than two million dollars.

The aggregate amount of the liability of any bank or trust company to any mutual savings bank, whether as principal or indorser, for acceptances held by such savings bank and deposits made with it, shall not exceed twenty-five percent of the paid up capital and surplus of such bank or trust company, and not more than five percent of the funds of any mutual savings bank shall be invested in the acceptances of or deposited with a bank or trust company of which a trustee of such mutual savings bank is a director. [1955 c 13 § 32.20.220. Prior: 1929 c 74 § 17; RRS § 3381-17.]

32.20.230 Notes secured by investments. A mutual savings bank may invest its funds in promissory notes payable to the order of the savings bank, secured by the pledge or assignment of investments lawfully purchasable by a savings bank. No such loan shall exceed ninety percent of the cash market value of such investments so pledged. Should any of the investments so held in pledge depreciate in value after the making of such loan, the savings bank shall require an immediate payment of such loan, or of a part thereof, or additional security therefor, so that the amount loaned thereon shall at no time exceed ninety percent of the market value of the investments so pledged for such loan. [1969 c 55 § 5; 1963 c 176 § 6; 1955 c 13 § 32.20.230. Prior: 1945 c 228 § 2; 1929 c 74 § 18; Rem. Supp. 1945 § 3381-18.]

Interest and usury in general: Chapter 19.52 RCW.

32.20.235 Notes secured by pledge or assignment of first mortgages or real estate contracts. A mutual savings bank may invest its funds in promissory notes secured by a pledge or assignment of one or more first mortgages or real estate contracts lawfully permissible for investments by a mutual savings bank. The loan may be made or renewed in an amount not exceeding the percentage of the value of the property covered by the mortgage or contract authorized for such mortgage or contract by this chapter. The amount of the loan shall not exceed the balance due on such mortgages or contracts.

If the mortgages or contracts offered as collateral are not within the classes permissible for investment under

RCW 32.20.040, before the collateral loan is made or renewed the value of each of the properties covered by the mortgages or contracts offered or pledged as collateral shall be certified in accordance with the provisions of RCW 32.20.250. Each of the mortgages or contracts accepted as collateral and the mortgage notes secured thereby, if any, shall be assigned and endorsed to the savings bank. [1963 c 176 § 15.]

32.20.240 Notes secured by pledge or assignment of account. A mutual savings bank may invest its funds in promissory notes made payable to the order of the savings bank, secured by the pledge or assignment of the account of the mutual savings bank as collateral security for the payment thereof. No such loan shall exceed the balance due the holder of such account. [1967 c 145 § 5; 1955 c 13 § 32.20.240. Prior: 1945 c 228 § 3; 1929 c 74 § 19; 1921 c 156 § 11m; Rem. Supp. 1945 § 3381-19.]

Interest and usury in general: Chapter 19.52 RCW.

32.20.250 Real estate mortgages. A mutual savings bank may invest its funds in loans secured by first mortgages on real estate subject to the following restrictions:

In all cases of loans upon real property, a note secured by a mortgage on the real estate upon which the loan is made shall be taken by the savings bank from the borrower;

The savings bank shall also be furnished by the borrower, either

(1) A complete abstract of title of the mortgaged property, which abstract shall be signed by the person or corporation furnishing the abstract of title, and which abstract shall be examined by a competent attorney and shall be accompanied by his opinion approving the title and showing that the mortgage is a first lien; or

(2) A policy of title insurance; or

(3) A duplicate certificate of ownership issued by a registrar of titles.

Where the real estate is other than a single family residential property, it must be improved to such extent that the net annual income thereof or reasonable annual rental value thereof in the condition existing at the time of making the loan is sufficient to pay the annual interest accruing on such loan in addition to taxes and insurance and a reasonable amount for maintenance and upkeep commensurate with the type of property involved.

No loan on real estate shall be:

(1) For an amount greater than ninety percent of the value of such real estate including improvements if it is property improved with owner-occupied single family residential dwellings (including but not being limited to condominiums); or

(2) For an amount greater than eighty percent of the value of other real estate, including improvements; except that in the event such savings bank obtains, as additional collateral, an assignment of a policy or policies of life insurance issued by a company authorized to do business in this state, such loan may exceed the limits specified in (1) or (2), but such excess shall not be more

than eighty percent of the cash surrender value of such assigned life insurance.

No mortgage loan shall be made in excess of fifty percent of the value of the security unless its terms require the payment of principal and interest in annual, semiannual, quarterly or monthly payments, at a rate which if continued would repay the loan in full in not more than thirty years, beginning within one year and continuing until the loan is reduced to fifty percent or less of the value of the security.

A loan may be made on real estate which is to be improved by a building or buildings to be constructed with the proceeds of such loan, if it is arranged that such proceeds will be used for that purpose and that when so used the property will qualify under this section.

No mortgage loan, or renewal or extension thereof for a period of more than one year, shall be made except upon written application showing the date, name of the applicant, the amount of loan requested, and the security offered, nor except upon the written report of at least two members of the board of investment of the bank certifying on such application according to their best judgment the value of the property to be mortgaged; and the application and written report thereon shall be filed and preserved with the savings bank records.

Every mortgage and assignment of a mortgage taken or held by a savings bank shall be taken and held in its own name, and shall immediately be recorded in the office of the county auditor of the county in which the mortgaged property is located.

A mortgage on real estate shall be deemed a first mortgage and lien within the meaning of this section even though

(1) There is outstanding upon the real estate a lease to which the mortgage is subject, and two members of the board of investment of the bank deem the lease advantageous to the owner of the mortgaged property, and the mortgagee in case of foreclosure of the mortgage can compel the application upon the mortgage debt of substantially all of the rents thereafter to accrue; and/or

(2) There are outstanding nondelinquent taxes or special assessments or both, and the sum of the assessments and the amount of the loan does not exceed the limits herein specified. [1969 c 55 § 6; 1967 c 145 § 6; 1963 c 176 § 7; 1961 c 80 § 4; 1959 c 41 § 4; 1955 c 80 § 5; 1955 c 13 § 32.20.250. Prior: 1945 c 228 § 4; 1937 c 95 § 13; 1929 c 74 § 20; 1927 c 184 § 2; 1925 ex.s. c 86 § 6; 1921 c 156 § 11n; Rem. Supp. 1945 § 3381-20.]

32.20.255 Real estate contracts, loans and deeds of trust. A mutual savings bank may invest its funds in real estate contracts and in loans secured by real estate mortgages or deeds of trust or real estate contracts not otherwise eligible for investment by the savings bank, which are prudent real estate investments for the bank in the opinion of its board of trustees or of officers or committees designated by the board, whose action is ratified by the board at its regular meeting next following the investment. The total amount a mutual savings

bank may invest pursuant to this section shall not exceed fifty percent of the total of its guaranty fund, undivided profits, and unallocated reserves. [1971 ex.s. c 222 § 8; 1969 c 55 § 16.]

Severability—1971 ex.s. c 222: See note following RCW 32.04.085.

32.20.260 Real estate contracts. A mutual savings bank may invest not to exceed fifteen percent of its funds in contracts for the sale of real estate subject to the following restrictions:

(1) That it acquire the title in fee to the property covered by such contract;

(2) That the property subject to the contract is such as would be eligible, and that the balance owing thereon is no greater and is payable within the times prescribed under RCW 32.20.250 for a mortgage loan secured by the property;

(3) That the purchaser shall not be in default in any of the terms of the contract. [1963 c 176 § 8; 1961 c 80 § 5; 1955 c 13 § 32.20.260. Prior: 1953 c 238 § 6; 1945 c 228 § 5; Rem. Supp. 1945 § 3381-20a.]

32.20.265 Valuation of property to be mortgaged—Appraiser's opinion. When, under any provision of this title, a written report is required of members of the board of investment of a mutual savings bank certifying according to their best judgment the value of any property to be mortgaged such value may be determined upon the signed opinion in writing of an appraiser appointed by the board of trustees of such bank. [1957 c 80 § 9.]

32.20.270 First mortgages upon leaseholds. A mutual savings bank may invest its funds in loans secured by first mortgages upon leasehold estates in improved real property, subject to the following restrictions:

In all cases of loans upon leasehold estates, a note secured by a mortgage upon the leasehold interest upon which the loan is made shall be taken by the savings bank from the borrower.

The savings bank shall also be furnished by the borrower, either

(1) A complete abstract of title of the mortgaged property, which abstract shall be signed by the person or corporation furnishing the abstract of title, and which abstract shall be examined by a competent attorney and shall be accompanied by his opinion approving the title and showing that the mortgage is a first lien upon the leasehold estate; or

(2) A policy of title insurance; or

(3) A duplicate certificate of ownership issued by a registrar of titles.

The mortgage shall contain provisions requiring the mortgagor to maintain insurance on the buildings in such reasonable amount as shall be stipulated in the mortgage, the policy to be payable to the savings bank in case of loss, or the proceeds of such policy to be impounded or payable to a trustee for use in repairing or rebuilding or replacing improvements on the leasehold.

No mortgage loan upon a leasehold, or any renewal or extension thereof for a period of more than six

months, shall be made except on a written application showing the date, the name of the applicant, the amount of the loan requested, and the security offered, nor except upon the written report of at least two members of the board of investment of the bank certifying upon such application according to their best judgment the value of the leasehold interest to be mortgaged and recommending the loan; and the application and written report thereon shall be filed with the bank records.

Every leasehold mortgage and every assignment of a leasehold mortgage taken or held by a savings bank shall be taken and held in its own name and shall immediately be recorded in the office of the county auditor of the county in which the property under lease is situated.

No loan shall be made upon a leasehold interest in real estate for a period in excess of thirty years, or in any case where the term of the loan will exceed eighty percent of the unexpired term of the lease.

No loan shall be made upon a leasehold interest in real estate unless its terms require substantially equal semiannual, quarterly or monthly payments which, if continued at the same rate, would extinguish the debt at least five years prior to the expiration of the lease.

No loan on a leasehold estate shall be for an amount greater than eighty percent of the value of such leasehold estate. A loan may be made on a leasehold estate which is to be improved by a building or buildings to be constructed with the proceeds of such loan, if it is arranged that such proceeds will be used for that purpose and that when so used the property will qualify under this section. [1971 ex.s. c 222 § 5; 1967 c 145 § 7; 1963 c 176 § 9; 1961 c 80 § 6; 1959 c 41 § 5; 1955 c 13 § 32.20.270. Prior: 1929 c 74 § 21; RRS § 3381-21.]

Severability—1971 ex.s. c 222: See note following RCW 32.04.085.

32.20.275 First mortgages participated in by others. A mutual savings bank may invest in loans secured by first mortgages which are eligible for investment by such banks, the making or holding of which is participated in by others. The note, mortgage and insurance may run to the participants as their interests may appear, or to any one of the participants if the other participants are furnished documents evidencing their interests which are suitable for recording, and such note, mortgage and insurance may be held by any one of the participants for the benefit of all participants as their interests may appear. [1961 c 80 § 7; 1955 c 13 § 32.20.275. Prior: 1953 c 238 § 7.]

32.20.280 Investments in real estate. A mutual savings bank may invest its funds in real estate as follows:

(1) A tract of land whereon there is or may be erected a building or buildings suitable for the convenient transaction of the business of the savings bank, from portions of which not required for its own use revenue may be derived: *Provided*, That the cost of the land and building or buildings for the transaction of the business of the savings bank shall in no case exceed

fifty percent of the guaranty fund, undivided profits, reserves, and subordinated securities of the savings bank, except with the approval of the supervisor; and before the purchase of such property is made, or the erection of a building or buildings is commenced, the estimate of the cost thereof, and the cost of the completion of the building or buildings, shall be submitted to and approved by the supervisor. "The cost of the land and building or buildings" means the amounts paid or expended therefor less the reasonable depreciation thereof taken by the bank against such improvements during the time they were held by the bank.

(2) Such lands as shall be conveyed to the savings bank in satisfaction of debts previously contracted in the course of its business.

(3) Such lands as the savings bank shall purchase at sales under judgments, decrees, or mortgages held by it.

All real estate purchased by any such savings bank, or taken by it in satisfaction of debts due it, under this section, shall be conveyed to it directly by name, and the conveyance shall be immediately recorded in the office of the proper recording officer of the county in which such real estate is situated.

Every parcel of real estate purchased or acquired by a savings bank under this section, shall be sold by it within five years from the date on which it was purchased or acquired, or in case it was acquired subject to a right of redemption, within five years from the date on which the right of redemption expires, unless:

(1) There is a building thereon occupied by the savings bank and its offices, or

(2) The supervisor, on application of the board of trustees of the savings bank, extends the time within which such sale shall be made. [1973 1st ex.s. c 31 § 6; 1969 c 55 § 7; 1955 c 13 § 32.20.280. Prior: 1929 c 74 § 22; 1921 c 156 § 110; 1915 c 175 § 12; RRS § 3381-22.]

Construction—1973 1st ex.s. c 31: See RCW 32.20.500.

32.20.285 Investments through purchase of real estate—Improvements. A mutual savings bank may invest its funds in such real estate, improved or unimproved, and its fixtures and equipment, as the savings bank shall purchase either alone or with others or through ownership of interests in entities holding such real estate. The savings bank may improve property which it owns, and rent, lease, sell, and otherwise deal in such property, the same as any other owner thereof. The total amount a mutual savings bank may invest pursuant to this section shall not exceed fifty percent of the total of its guaranty fund, undivided profits, and unallocated reserves, or five percent of its funds, whichever is less. No officer or trustee of the bank shall own or hold any interest in any property in which the bank owns an interest, and in the event the bank owns an interest in property hereunder with or as a part of another entity, no officer or trustee of the bank shall own more than two and one-half percent of the equity or stock of any entity involved, and all of the officers and trustees of the bank shall not own more than five percent of the equity or stock of any entity involved. [1969 c 55 § 15.]

32.20.290 Depository of funds. No savings bank shall deposit any of its funds with any bank, trust company, or other moneyed corporation or concern which has not been approved by the supervisor as a depository for the savings bank's funds and designated a depository by vote of a majority of the trustees of the savings bank, exclusive of any trustee who is an officer, director, or trustee of or who owns more than one-half of one percent of the outstanding stock in the depository so designated. [1967 c 145 § 8; 1955 c 13 § 32.20.290. Prior: 1929 c 74 § 23; 1925 ex.s. c 86 § 9; 1915 c 175 § 14; RRS § 3381-23.]

32.20.300 Home loan bank as depository. Federal home loan bank as depository, see banks and trust companies, RCW 30.32.040.

32.20.310 Deposit of securities. A savings bank may deposit securities owned by it, for safekeeping, with any duly designated depository for the bank's funds. The written statement of the depository that it holds for safekeeping specified securities of a savings bank may be taken as evidence of the facts therein shown by any public officer or any officer of the bank or committee of its trustees whose duty it is to examine the affairs and assets of the bank. [1955 c 13 § 32.20.310. Prior: 1929 c 74 § 24; 1927 c 184 § 4; RRS § 3381-24.]

32.20.320 Investment of funds. The trustees of every savings bank shall as soon as practicable invest the moneys deposited with it in the securities prescribed in this title.

The purchase by a savings bank of a negotiable certificate of deposit or similar security issued by a bank need not be considered a deposit if the certificate or security is eligible for investment by a savings bank under any other provision of this title. [1969 c 55 § 8; 1955 c 13 § 32.20.320. Prior: 1929 c 74 § 25; 1925 ex.s. c 86 § 11; 1915 c 175 § 20; RRS § 3381-25.]

32.20.330 Obligations of industrial corporations. A mutual savings bank may invest not to exceed fifteen percent of its funds in such interest bearing obligations issued, guaranteed or assumed by corporations commonly accepted as industrial corporations or engaged in communications, transportation, furnishing utility or telephone services, manufacturing, mining, merchandising or commercial financing, incorporated under the laws of the United States, or any state thereof, or the District of Columbia, or the Dominion of Canada, or any province thereof, as mature within thirty years from the time of the investment, subject to the following conditions:

(1) Not more than two percent of said bank's funds shall be invested in such obligations of any one such corporation, pursuant to this section or otherwise.

(2) Such obligations at the time of purchase are rated among the three highest classifications of one or more nationally recognized investment rating services. [1973 1st ex.s. c 31 § 7; 1971 ex.s. c 222 § 6; 1955 c 80 § 6.]

Construction—1973 1st ex.s. c 31: See RCW 32.20.500.

Severability—1971 ex.s. c 222: See note following RCW 32.04.085.

32.20.340 Stock or bonds of federal home loan bank. May become member and invest in stock or bonds of federal home loan bank, see banks and trust companies, RCW 30.32.020.

32.20.350 Stock of federal reserve bank or Federal Deposit Insurance Corporation. May become member and invest in stock of federal reserve bank and invest in stock of Federal Deposit Insurance Corporation, see banks and trust companies, RCW 30.32.010.

32.20.360 Investment in safe deposit corporation authorized. Investment in safe deposit corporation authorized, see banks and trust companies, RCW 30.04.122.

32.20.361 Capital stock of banking service corporations. Investment in capital stock of banking service corporations authorized, see banks and trust companies, RCW 30.04.128.

32.20.370 Corporate bonds and other interest-bearing or discounted obligations. A mutual savings bank may invest its funds in bonds or other interest bearing or discounted obligations of corporations not otherwise eligible for investment by the savings bank which are prudent investments for such bank in the opinion of its board of trustees or of a committee thereof whose action is ratified by such board at its regular meeting next following such investment. The total amount a mutual savings bank may invest pursuant to this section shall not exceed fifty percent of the total of its guaranty fund, undivided profits, and unallocated reserves, or five percent of its deposits, whichever is less. [1967 c 145 § 9; 1959 c 41 § 6.]

32.20.380 Stocks, securities, of certain corporations not otherwise eligible for investment. A mutual savings bank may invest its funds in stocks or other securities of corporations other than banks whose home offices are located in the state of Washington not otherwise eligible for investment by the savings bank which are prudent investments for the bank in the opinion of its board of trustees or of a committee thereof whose action is ratified by the board at its regular meeting next following the investment. The total amount a mutual savings bank may invest pursuant to this section shall not exceed fifty percent of the total of its guaranty fund, undivided profits, and unallocated reserves, or five percent of its deposits, whichever is less. [1963 c 176 § 16.]

32.20.390 Obligations of corporations or associations federally authorized to insure or market real estate mortgages—Loans, etc., eligible for insurance. A mutual savings bank may invest its funds:

(1) In capital stock, notes, bonds, debentures, participating certificates, and other obligations of any corporation or association which is or hereafter may be created pursuant to any law of the United States for the purpose of insuring or marketing real estate mortgages: *Provided*, That the amount a mutual savings bank may

invest in the capital stock of any one such corporation shall not exceed five percent of the funds of the mutual savings bank and the total amount it may invest in capital stock pursuant to this subsection (1) shall not exceed ten percent of the funds of the mutual savings bank.

(2) In such loans, advances of credit, participating certificates, and purchases of obligations representing loans and advances of credit as are eligible for insurance by any corporation or association which is or hereafter may be created pursuant to any law of the United States for the purpose of insuring real estate mortgages. The bank may do all acts necessary or appropriate to obtain such insurance. No law of this state prescribing the nature, amount, or form of security, or prescribing or limiting the period for which loans or advances of credit may be made shall apply to loans, advances of credit, or purchases made pursuant to this subsection (2). [1963 c 176 § 17.]

32.20.400 Loans for home or property repairs, alterations, appliances, improvements, additions, furnishings, underground utilities, education, or mobile homes. A mutual savings bank may invest not to exceed five percent of its funds in loans for home or property repairs, alterations, appliances, improvements, or additions, home furnishings, for installation of underground utilities, for educational purposes, for mobile homes used or to be used for permanent or semi-permanent housing, or for nonbusiness family purposes: *Provided*, That

(1) The principal amount of any loan shall not exceed five thousand dollars; except in the case of loans for mobile homes which shall not exceed fifteen thousand dollars;

(2) The application therefor shall state that the proceeds are to be used for one of the above purposes;

(3) The term of the loan shall not exceed sixty-two months, except in the case of loans for underground utilities, mobile homes or educational loans which may require repayment at such time and upon such terms as the bank may determine; and

(4) Nothing in this section shall permit a mutual savings bank to make secured or unsecured loans on or for inventory as that term is defined in section 9-109(4), chapter 157, Laws of 1965, RCW 62A.9-109(4). [1969 c 55 § 9; 1967 c 145 § 10; 1963 c 176 § 18.]

32.20.410 Limitation of total investment in certain obligations. The aggregate total amount a mutual savings bank may invest in the following shall not exceed eighty percent of its funds:

(1) Mortgages upon real estate and participations therein;

(2) Contracts for the sale of realty;

(3) Mortgages upon leasehold estates; and

(4) Notes secured by pledges or assignments of first mortgages or real estate contracts. [1969 c 55 § 10; 1963 c 176 § 19.]

32.20.420 Loans for financing land acquisition and development for commercial, industrial, or residential usage. A mutual savings bank may invest not to exceed

five percent of its funds in loans on the security, and for the purpose of financing the acquisition and development, of land for primarily commercial, industrial, or residential usage. Within the five percent limit, and subject to the further limit hereinafter set forth, the bank may loan up to seventy-five percent of the appraised value of the land as of the completion of the development thereof into building lots or sites ready for construction thereon. Each such loan shall be repayable within a period of not more than ten years and the interest thereon shall be payable at least semiannually. When any portion of the security is released from the lien of the mortgage, the principal amount of such loan shall be reduced in an amount at least equal to that portion of the total loan secured by the property released.

No loan made hereunder may exceed a sum equal to seventy-five percent of the amount of the borrower's investment in the property given (or remaining after a release or releases) as security for such loan. The "amount of the borrower's investment" may include all sums paid for the property and improvements thereto, taxes, assessments and the like thereon plus a sum equal to six percent per annum on such amounts.

A loan may be made on real estate which is to be developed with the developments to be paid for with the proceeds of such loan, if it is arranged that the proceeds will be used for that purpose and that when so used the property will qualify under this section. [1969 c 55 § 11; 1967 c 145 § 11.]

32.20.430 Loans to banks or trust companies. A mutual savings bank may invest its funds in loans to banks or trust companies which mature on the next business day following the day of making such loan. The loans may be evidenced by any writing or ledger entries deemed adequate by the mutual savings bank and may be secured or unsecured. The loans made hereunder are payable on the same basis as are regular deposits in such banks, and therefore the transactions may be characterized for accounting and statement purposes and carried on the books of the mutual savings bank as either a deposit with or a loan to the bank. [1971 ex.s. c 222 § 3.]

Severability—1971 ex.s. c 222: See note following RCW 32.04.085.

32.20.440 Purchase of United States securities from banks or trust companies. A mutual savings bank may invest its funds in the purchase of United States government securities from a bank or trust company, subject to the selling bank's or trust company's agreement to repurchase such securities on the business day next following their purchase by the mutual savings bank. The securities may be purchased at par, or at a premium or discount, as the mutual savings bank may agree, and may be characterized for accounting and statement purposes and carried on the books of the mutual savings bank as such securities to the extent of their market value, and as due from such banks or trust companies to the extent that the repurchase price

agreed to be paid exceeds such market value. [1971 ex.s. c 222 § 4.]

Severability—1971 ex.s. c 222: See note following RCW 32.04.085.

32.20.450 Low-cost housing—Legislative finding. The legislature finds there is a shortage of adequate housing in a suitable environment in many parts of this state for people of modest means, which shortage adversely affects the public in general and the mutual savings banks of this state and their depositors. The legislature further finds that the making of loans or investments to alleviate this problem which may provide a less than market rate of return and entail a higher degree of risk than might otherwise be acceptable, will benefit this state, the banks, and their depositors. [1973 1st ex.s. c 31 § 1.]

Construction—1973 1st ex.s. c 31: See RCW 32.20.500.

32.20.460 Low-cost housing—Factory built housing—Mobile homes. In addition to the portions of its funds permitted to be invested in real estate loans under RCW 32.20.250 as limited by RCW 32.20.410 and in loans for home or property repairs, alterations, appliances, improvements, or additions, home furnishings, for installation of underground utilities, for educational purposes, for mobile homes used or to be used for permanent or semipermanent housing, or for nonbusiness family purposes under RCW 32.20.400, a mutual savings bank may invest not to exceed five percent of its funds in loans and investments made after July 16, 1973 as follows:

(1) Loans for the rehabilitation, remodeling, or expansion of existing housing, if it is arranged that the loan proceeds will be used for such purpose. Such loans may be secured by second mortgages, shall require the payment of principal and interest in annual, semiannual, quarterly or monthly payments at a rate which if continued would repay the loan in full in not more than fifteen years, and shall be in a principal amount not to exceed nine thousand five hundred dollars per living unit for single family housing or seven thousand five hundred dollars per living unit for multi-family housing.

(2) Loans in connection with, or participation in:

(a) Housing programs of any agency of federal, state or local government; and

(b) Housing programs of any nonprofit, union, community, public, or quasi-public corporation or entity.

Such housing must be made available to all without regard to race, creed, sex, color, or national origin.

(3) Loans for purchasing or constructing factory built housing, including but not limited to mobile homes used or to be used for permanent or semipermanent housing, where the principal balance of any such loan does not exceed in the case of a new mobile home one hundred percent of the manufacturer's invoice price of such mobile home (including any equipment installed by the manufacturer, or installed or to be installed by the dealer); or in the case of a used mobile home, one hundred percent of the wholesale value of such used

mobile home (including any installed equipment) as established in the dealer's market. The loan shall be secured by a first mortgage on the real estate, except that no real estate mortgage need be obtained if provision satisfactory to the bank is made for removal of the mobile home or other housing in the event of default and realization on the security.

(4) In mobile home chattel paper which finances the acquisition of inventory by a mobile home dealer if the inventory is to be held for sale in the ordinary course of business by the mobile home dealer, the monetary obligation evidenced by such chattel paper is the obligation of the mobile home dealer and the amount thereof does not exceed the amount allowed to be loaned on such mobile homes under subsection (3) of this section. [1973 1st ex.s. c 31 § 2.]

Construction—1973 1st ex.s. c 31: See RCW 32.20.500.

32.20.470 Improvement of private land for public parks and recreation areas. Subject to the limits hereinafter set forth, a mutual savings bank may expend its funds for the improvement for public use of privately owned land as parks or recreation areas, including but not limited to "vest pocket" parks, provided that the owner of such land will:

(1) Permit public use thereof for a period of at least eighteen months or for such longer period and subject to such other requirements as the bank may impose; and

(2) At or before the end of public use, permit the removal of all such improvements which in the bank's judgment reasonably may be accomplished.

As used in this section, "public use" means use without regard to race, creed, sex, color, or national origin. The amount expended hereunder and under RCW 32.23.070(2)(d) in any calendar year shall not exceed one-half of one percent of the net earnings of bank for the preceding year. [1973 1st ex.s. c 31 § 3.]

Construction—1973 1st ex.s. c 31: See RCW 32.20.500.

32.20.480 Loans or investments to provide adequate housing and environmental improvements—Criteria—Restrictions. Loans or investments made under *this 1973 amendatory act may provide a less than market rate of return and entail a higher degree of risk than might otherwise be acceptable to the general market, so long as the board of trustees of the bank determines the loan or investment may be beneficial to the community where made, without the need to show a direct corporate benefit, and so long as any private individual who benefits is not, and is not related to any person who is, an officer, employee, or trustee of the bank. It is hereby recognized that the mutual savings banks of the state of Washington and their depositors are affected adversely by the absence of adequate low-cost housing and environmental developments and improvements within the communities they serve and the state of Washington.

The amount a mutual savings bank may invest under *this 1973 amendatory act during any twelve month

period at less than a market rate of return shall not exceed two percent of the total principal amount of all real estate loans made by the bank during the preceding twelve months. [1973 1st ex.s. c 31 § 4.]

*Reviser's note: (1) "this 1973 amendatory act" consists of RCW 32.20.450-32.20.500 and the amendments to RCW 32.20.280 and 32.20.330 by 1973 1st ex.s. c 31.

(2) Construction—1973 1st ex.s. c 31: See RCW 32.20.500.

32.20.490 Single family residences—First mortgages—Insured loans. A mutual savings bank may invest its funds in first mortgages on single family residences, which loans are insured in whole or in part by an insurance company authorized to do business in the state of Washington and in the business of insuring real estate mortgages. Except as provided in subsections (1) and (2) of this section, the provisions of RCW 32.20.250 shall apply to such loans:

(1) Any loan so insured may exceed ninety percent of the value of the real estate, including improvements, but shall not exceed ninety-five percent of such value.

(2) The terms of payment and the ultimate maturity of such loan may exceed the limits as set forth in RCW 32.20.250. [1973 1st ex.s. c 31 § 5.]

Construction—1973 1st ex.s. c 31: See RCW 32.20.500.

32.20.500 Construction—1973 1st ex.s. c 31. The powers granted by *this 1973 amendatory act are in addition to and not in limitation of the powers conferred upon a mutual savings bank by other provisions of law. [1973 1st ex.s. c 31 § 8.]

*Reviser's note: "this 1973 amendatory act", see note following RCW 32.20.480.

**Chapter 32.24
INSOLVENCY AND LIQUIDATION**

Sections	
32.24.010	Liquidation of solvent bank.
32.24.020	Procedure to liquidate and dissolve.
32.24.030	Transfer to another bank for consolidation or liquidation.
32.24.040	Unsafe practices—Notice to correct.
32.24.050	Liquidation of bank in unsound condition or insolvent.
32.24.060	Possession by supervisor—Bank may contest.
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32.24.080	Transfer of assets when insolvent—Penalty.
32.24.090	Federal deposit insurance corporation as receiver or liquidator—Appointment—Powers and duties.
32.24.100	Payment or acquisition of deposit liabilities by federal deposit insurance corporation—Not hindered by judicial review—Liability.

32.24.010 Liquidation of solvent bank. If the trustees of any solvent mutual savings bank deem it necessary or expedient to close the business of such bank, they may, by affirmative vote of not less than two-thirds of the whole number of trustees, at a meeting called for that purpose, of which one month's notice has been given, either personally or by mailing such notice to the post office address of each trustee, declare by resolution their determination to close such business and pay the moneys due depositors and creditors and to surrender the corporate franchise. Subject to the approval and under the direction of the supervisor, such savings bank

may adopt any lawful plan for closing up its affairs, as nearly as may be in accordance with the original plan and objects. [1955 c 13 § 32.24.010. Prior: 1915 c 175 § 45; RRS § 3374.]

32.24.020 Procedure to liquidate and dissolve. When the trustees, acting under the provisions of RCW 32.24.010, have paid the sums due respectively to all creditors and depositors, who, after such notice as the supervisor of banking shall prescribe, claim the money due and their deposits, the trustees shall make a transcript or statement from the books in the bank of the names of all depositors and creditors who have not claimed or have not received the balance of the credit due them, and of the sums due them, respectively, and shall file such transcript with the supervisor and pay over and transfer all such unclaimed and unpaid deposits, credits, and moneys to the supervisor. The trustees shall then report their proceedings, duly verified, to the superior court of the county wherein the bank is located, and upon such report and the petition of the trustees, and after notice to the attorney general and the supervisor, and such other notice as the court may deem necessary, the court shall adjudge the franchise surrendered and the existence of the corporation terminated. Certified copies of the judgment shall be filed in the offices of the secretary of state, supervisor of banking and auditor of the county wherein the bank is located and shall be recorded in the office of the secretary of state. [1955 c 13 § 32.24.020. Prior: 1931 c 132 § 4; 1915 c 175 § 46; RRS § 3375.]

32.24.030 Transfer to another bank for consolidation or liquidation. A mutual savings bank may for the purpose of consolidation or voluntary liquidation transfer its assets and liabilities to another mutual savings bank, by the affirmative vote or with the written consent of two-thirds of the whole number of its trustees, but only with the written consent of the supervisor and upon such terms and conditions as he may prescribe.

Upon any such transfer being made, or upon the liquidation of any such mutual savings bank for any cause whatever, or upon its being no longer engaged in the business of a mutual savings bank, the supervisor shall terminate its certificate of authority, which shall not thereafter be revived or renewed. When the certificate of authority of any such corporation has been revoked, it shall forthwith collect and distribute its remaining assets, and when that is done, the supervisor shall certify the fact to the secretary of state, whereupon the corporation shall cease to exist and the secretary of state shall note the fact upon his records.

In case of the consolidation with or voluntary liquidation of a mutual savings bank by another mutual savings bank, as herein provided, any sums advanced by its incorporators, or others, to create or maintain its guaranty fund or its expense fund shall not be liabilities of such mutual savings bank unless the mutual savings bank, so assuming its liabilities shall specifically undertake to pay the same, or a stated portion thereof. [1955 c 13 § 32.24.030. Prior: 1931 c 132 § 5; RRS § 3375a.]

32.24.040 Unsafe practices—Notice to correct. Whenever it appears to the supervisor that any mutual savings bank is conducting its business in an unsafe manner or that it refuses to submit its books, papers, or concerns to lawful inspection, or that any trustee or officer thereof refuses to submit to examination on oath touching its concerns, or that it has failed to carry out any authorized order or direction of the supervisor, such supervisor may give notice to the mutual savings bank so offending or delinquent or whose trustee or officer is thus offending or delinquent to correct such offense or delinquency, and if the mutual savings bank fails to comply with the terms of such notice within thirty days from the date of its issuance, or within such further time as the supervisor may allow, then the supervisor may take possession of such mutual savings bank as in the case of insolvency. [1955 c 13 § 32.24.040. Prior: 1931 c 132 § 6; RRS § 3375b.]

32.24.050 Liquidation of bank in unsound condition or insolvent. Whenever it appears to the supervisor that any offense or delinquency referred to in RCW 32.24.040 renders a mutual savings bank in an unsound or unsafe condition to continue its business, or that it has suspended payment of its obligations, or is insolvent, such supervisor may take possession thereof without notice.

Upon taking possession of any mutual savings bank, the supervisor shall forthwith proceed to liquidate the business, affairs, and assets thereof and such liquidation shall be had in accordance with the provisions of law governing the liquidation of insolvent banks and trust companies. [1955 c 13 § 32.24.050. Prior: 1931 c 132 § 7; RRS § 3375c.]

32.24.060 Possession by supervisor—Bank may contest. Within ten days after the supervisor takes possession thereof, a mutual savings bank may serve notice upon such supervisor to appear before the superior court in the county wherein such corporation is located, at a time to be fixed by said court, which shall not be less than five nor more than fifteen days from the date of the service of such notice, to show cause why such corporation should not be restored to the possession of its assets. Upon the return day of such notice, or such further day as the matter may be continued to, the court shall summarily hear said cause and shall dismiss the same, if it finds that possession was taken by the supervisor in good faith and for cause, but if it finds that no cause existed for the taking possession of such corporation, it shall require the supervisor to restore the bank to the possession of its assets and enjoin him from further interference therewith without cause. [1955 c 13 § 32.24.060. Prior: 1931 c 132 § 8; RRS § 3375d.]

32.24.070 Receiver prohibited except in emergency. No receiver shall be appointed by any court for any mutual savings bank, nor shall any assignment of any such bank for the benefit of creditors be valid, excepting only that a court otherwise having jurisdiction may in case of imminent necessity appoint a temporary receiver to take possession of and preserve the assets of

the mutual savings bank. Immediately upon any such appointment, the clerk of the court shall notify the supervisor by telegram and mail of such appointment and the supervisor shall forthwith take possession of the mutual savings bank, as in case of insolvency, and the temporary receiver shall upon demand of the supervisor surrender up to him such possession and all assets which have come into his hands. The supervisor shall in due course pay such receiver out of the assets of the mutual savings bank such amount as the court shall allow. [1955 c 13 § 32.24.070. Prior: 1931 c 132 § 9; RRS § 3375e.]

32.24.080 Transfer of assets when insolvent—Penalty. Every transfer of its property or assets by any mutual savings bank in this state, made in contemplation of insolvency, or after it has become insolvent, with the view to the preference of one creditor over another, or to prevent equal distribution of its property and assets among its creditors, shall be void. Every trustee, officer, or employee making any such transfer shall be guilty of a felony. [1955 c 13 § 32.24.080. Prior: 1931 c 132 § 10; RRS § 3379a.]

32.24.090 Federal deposit insurance corporation as receiver or liquidator—Appointment—Powers and duties. The federal deposit insurance corporation is hereby authorized and empowered to be and act without bond as receiver or liquidator of any mutual savings bank the deposits in which are to any extent insured by that corporation and which shall have been closed on account of inability to meet the demands of its depositors. In the event of such closing, the supervisor of banking may appoint the federal deposit insurance corporation as receiver or liquidator of such mutual savings bank. If the corporation accepts such appointment, it shall have and possess all the powers and privileges provided by the laws of this state with respect to a liquidator of a mutual savings bank, its depositors and other creditors, and be subject to all the duties of such liquidator, except insofar as such powers, privileges, or duties are in conflict with the provisions of the federal deposit insurance act, as now or hereafter amended. [1973 1st ex.s. c 54 § 3.]

32.24.100 Payment or acquisition of deposit liabilities by federal deposit insurance corporation—Not hindered by judicial review—Liability. The pendency of any proceedings for judicial review of the supervisor's actions in taking possession and control of a mutual savings bank and its assets for the purpose of liquidation shall not operate to defer, delay, impede, or prevent the payment or acquisition by the federal deposit insurance corporation of the deposit liabilities of the mutual savings bank which are insured by the corporation. During the pendency of any proceedings for judicial review, the supervisor of banking shall make available to the federal deposit insurance corporation such facilities in or of the mutual savings bank and such books, records, and other relevant data of the mutual savings bank as may be necessary or appropriate to

enable the corporation to pay out or to acquire the insured deposit liabilities of the mutual savings bank. The federal deposit insurance corporation and its directors, officers, agents, and employees, the supervisor of banking, and his agents and employees shall be free from liability to the mutual savings bank, its directors, stockholders, and creditors for or on account of any action taken in connection herewith. [1973 1st ex.s. c 54 § 4.]

Chapter 32.28 SATELLITE FACILITIES (SEE CHAPTER 30.43 RCW)

Chapter 32.98 CONSTRUCTION

Sections	
32.98.010	Continuation of existing law.
32.98.020	Title, chapter, section headings not part of law.
32.98.030	Invalidity of part of title not to affect remainder.
32.98.031	Severability—1963 c 176.
32.98.050	Repeals and saving.
32.98.060	Emergency—1955 c 13.

32.98.010 Continuation of existing law. The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. [1955 c 13 § 32.98.010.]

32.98.020 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law. [1955 c 13 § 32.98.020.]

32.98.030 Invalidation of part of title not to affect remainder. If any provision of this title, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected. [1955 c 13 § 32.98.030.]

32.98.031 Severability—1963 c 176. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1963 c 176 § 20.]

32.98.050 Repeals and saving. The following acts or parts of acts are each repealed:

- (1) Chapter 175, Laws of 1915;
- (2) Chapter 156, Laws of 1921;
- (3) Chapter 86, Laws of 1925, extraordinary session;
- (4) Chapter 184, Laws of 1927;
- (5) Chapter 74, Laws of 1929;
- (6) Chapter 123, Laws of 1929;
- (7) Sections 1, 2, and 4 through 12, chapter 132, Laws of 1931;
- (8) Chapter 10, Laws of 1935;
- (9) Chapter 87, Laws of 1935;
- (10) Chapter 95, Laws of 1937;

- (11) Chapter 15, Laws of 1941;
- (12) Chapter 135, Laws of 1945;
- (13) Chapter 228, Laws of 1945;
- (14) Chapter 119, Laws of 1949;
- (15) Chapter 238, Laws of 1953;

but such repeals shall not be construed as affecting any existing right acquired under the provisions of the statutes repealed, nor as affecting any proceeding instituted thereunder. [1955 c 13 § 32.98.050.]

32.98.060 Emergency—1955 c 13. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately. [1955 c 13 § 32.98.060.]

TITLE 33

SAVINGS AND LOAN ASSOCIATIONS

Chapters

- 33.04 General provisions.
- 33.08 Organization—Articles—Bylaws.
- 33.12 Powers and restrictions.
- 33.16 Directors, officers and employees.
- 33.20 Members—Savings.
- 33.24 Loans and investments.
- 33.28 Fees and taxes.
- 33.32 Foreign associations.
- 33.36 Prohibited acts.
- 33.40 Insolvency, liquidation, merger.
- 33.43 Conversion to and from federal association.
- 33.44 Conversion to mutual savings bank.
- 33.48 Guaranty stock savings and loan associations.
- 33.52 Miscellaneous—Governmental investments.
- 33.54 Satellite facilities.

Assignment for benefit of creditors: Chapter 7.08 RCW.

Banks and trust companies: Title 30 RCW.

Bonds and notes of federal agencies as investment and collateral: Chapter 39.60 RCW.

Corporate seals, effect of absence from instrument: RCW 64.04.105.

Corporation fee, exemptions for savings and loan associations: RCW 23A.44.110.

Corporation fees, in general: Chapter 23A.40 RCW.

Corporations: Titles 23A, 24 RCW.

Credit life insurance and credit accident and health insurance: Chapter 48.34 RCW.

False representations: Chapter 9.38 RCW.

Home loan bank as depository: RCW 30.32.040.

Home loan bank, may borrow from: RCW 30.32.030.

Husband and wife, rights, liabilities: Chapter 26.16 RCW.

Indemnification of officers, directors, employees, etc. by corporation, insurance: RCW 23A.08.025.

Infants: Chapter 26.28 RCW.

Interest and usury in general: Chapter 19.52 RCW.

Investment in federal home loan bank stock or bonds authorized: RCW 30.32.020.

Investment of county funds not required for immediate expenditures, service fee: RCW 36.29.020.

Investment of funds of school districts not needed for immediate necessities—Service fee: RCW 28A.58.440.

Joint tenants, simultaneous death: RCW 11.05.030.

Law against discrimination: Chapter 49.60 RCW, RCW 49.60.217.

Miscellaneous loan agencies: Title 31 RCW.

Mortgages: Title 61 RCW.

Mutual savings banks: Title 32 RCW.

Partnerships: Title 25 RCW.

Powers and duties of director of public institutions transferred to director of general administration: RCW 43.19.015.

Powers of appointment: Chapter 64.24 RCW.

Real property and conveyances: Title 64 RCW.

Retail installment sales of goods and services: Chapter 63.14 RCW.

Safe deposit companies: Chapter 22.28 RCW.

Safe deposit repository lease agreements ineffective to create joint ownership or transfer property at death: RCW 11.02.090(3).

Slander of financial institutions: RCW 9.58.100.

State division of savings and loan associations: Chapter 43.19 RCW.

Supervisor of banking: Chapter 43.19 RCW.

The Washington Principal and Income Act: Chapter 11.104 RCW.

Uniform disposition of unclaimed property act: Chapter 63.28 RCW.

Veterans' loan insurance: Chapter 73.12 RCW.

Chapter 33.04 GENERAL PROVISIONS

Sections

- 33.04.010 Definitions.
- 33.04.011 "Mortgage" includes deed of trust.
- 33.04.020 Supervisor—Powers and duties.
- 33.04.025 Rules and regulations.
- 33.04.030 Compelling attendance of witnesses.
- 33.04.040 Examination of foreign association or corporation—Expense.
- 33.04.050 Actions and proceedings.
- 33.04.060 Appeals.
- 33.04.070 Appointment and qualifications of supervisor.
- 33.04.080 Secrecy required of supervisor.
- 33.04.090 Saturday closing authorized.

33.04.010 Definitions. Whenever, in this title or any prior acts relating to savings and loans, the term "Supervisor" or "Supervisor of Savings and Loans" appears, it is understood that the director of the department of finance, budget and business may act for and in lieu of the said supervisor of savings and loans, if and when there is no supervisor of savings and loans duly qualified to act. [1945 c 235 § 119—A; Rem. Supp. 1945 § 3717—238. Prior: 1935 c 171 § 5; 1933 c 183 § 2; 1890 p 56 § 22.]

Reviser's note: The powers and duties of the "director of the department of finance, budget and business", referred to herein, have devolved upon the director of the department of general administration through a chain of statutes as follows: 1947 c 114 § 5; 1955 c 195; 1955 c 285. See particularly 1955 c 285 §§ 2, 3, 4, 7, and 8 codified as RCW 43.17.010, 43.17.020, 43.19.010, 43.19.100 and 43.19.110.

Short title: "This act shall be known as the 'Savings and Loan Association Act of 1945.'" [1945 c 235 § 1. Prior: 1933 c 183 § 1.]

Severability—1945 c 235: "If any section, provision, or part of this act shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the act as a whole, or of any section, provision, or part thereof not adjudged to be invalid or unconstitutional." [1945 c 235 § 119. Prior: 1935 c 171 § 5; 1933 c 183 § 112.]

The two foregoing annotations apply to chapters 33.04 through 33.43 and 33.48 RCW.

33.04.011 "Mortgage" includes deed of trust. See RCW 33.24.005.

33.04.020 Supervisor—Powers and duties. The supervisor (1) shall be charged with the administration and enforcement of this title and shall have and exercise all powers necessary or convenient thereunto;

(2) shall issue to each association doing business hereunder, when it shall have paid its annual license fee and be duly qualified otherwise, a certificate of authority authorizing it to transact business;

(3) shall require of each association an annual statement and such other reports and statements as he may deem desirable, on forms to be furnished by him;

(4) shall require each association to conduct its business in compliance with the provisions of this title;

(5) shall visit and examine into the affairs of every association, at least once in each biennium; may appraise and revalue its investments and securities; and shall have full access to all the books, records, papers, securities, correspondence, bank accounts, and other papers of such association for such purposes;

(6) may accept or exchange any information or reports with the examining division of the federal savings and loan insurance corporation or other like agency which may insure the accounts in an association or to which an association may belong;

(7) shall have power to administer oaths to and to examine any person under oath concerning the affairs of any association and, in connection therewith, to issue subpoenas and require the attendance and testimony of any person or persons at any place within this state, and to require witnesses to produce any books, papers, documents, or other things under their control material to such examination; and

(8) shall have any and all other powers incidental to the purposes of such examination and administration. [1973 c 130 § 22; 1945 c 235 § 95; Rem. Supp. 1945 § 3717–214. Prior: 1933 c 183 §§ 79, 94, 95; 1919 c 169 § 12; 1913 c 110 § 19; 1890 p 56 § 19.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.04.025 Rules and regulations. The supervisor shall adopt uniform rules and regulations in accordance with the administrative procedure act, chapter 34.04 RCW, to govern examinations and reports of savings and loan associations and the form in which they shall report their assets, liabilities, and reserves, charge off bad debts and otherwise keep their records and accounts, and otherwise to govern the administration of this title. He shall mail a copy of the rules and regulations to each savings and loan association at its principal place of business, and they shall be effective thirty days after the mailing thereof. The person doing the mailing shall make and file his affidavit thereof in the office of the supervisor. [1973 c 130 § 20.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.04.030 Compelling attendance of witnesses. In event any person shall refuse to appear in compliance with any subpoena issued by the supervisor or shall refuse to testify thereunder, the superior court of the state of Washington for the county in which such witness was required by said subpoena to appear, upon application of the supervisor, shall have jurisdiction to compel such witness to attend and testify and to punish for contempt any witness not complying with the order of the court. [1945 c 235 § 96; Rem. Supp. 1945 § 3717–215. Prior: 1933 c 183 §§ 94, 95; 1919 c 169 § 12; 1913 c 110 § 19.]

33.04.040 Examination of foreign association or corporation—Expense. The supervisor may make an examination of any foreign association or like corporation doing business in this state, whenever he may deem such examination advisable, and the association shall pay the actual costs of each such examination, such cost to include the usual per diem compensation of his examiners. The supervisor may require an advance deposit of the anticipated expenses of such examination. [1945 c 235 § 97; Rem. Supp. 1945 § 3717–216. Prior: 1933 c 183 § 94; 1919 c 169 § 12; 1913 c 110 § 19; 1890 p 56 § 9.]

33.04.050 Actions and proceedings. The supervisor shall have power to commence and prosecute actions and proceedings to enforce the provisions of this title, to enjoin violations thereof, and to collect sums due to the state of Washington from any association. [1945 c 235 § 101; Rem. Supp. 1945 § 3717–220. Prior: 1933 c 183 §§ 94, 97.]

33.04.060 Appeals. An association may petition the superior court of the state of Washington for Thurston county for the review of any decision, ruling, requirement or other action or determination of the supervisor, by filing its complaint, duly verified, with the clerk of the court and serving a copy thereof upon the supervisor. Upon the filing of the complaint, the clerk of the court shall docket the same as a cause pending therein.

The supervisor may answer the complaint and the petitioner reply thereto, and the cause shall be heard before the court as in other civil actions. Both the petitioner and the supervisor may appeal from the decision of the court to the supreme court or the court of appeals of the state of Washington. [1971 c 81 § 84; 1945 c 235 § 115; Rem. Supp. 1945 § 3717–234. Prior: 1933 c 183 § 95.]

33.04.070 Appointment and qualifications of supervisor. See RCW 43.19.100.

33.04.080 Secrecy required of supervisor. See RCW 43.19.120.

33.04.090 Saturday closing authorized. See RCW 30.04.330.

Chapter 33.08

ORGANIZATION—ARTICLES—BYLAWS

Sections

- 33.08.010 Compliance required—Use of words in name or advertising—Penalty—Saving.
- 33.08.020 Who may form association.
- 33.08.030 Articles of incorporation.
- 33.08.040 Bylaws.
- 33.08.050 Articles and bylaws to supervisor.
- 33.08.060 Investigation—Fee.
- 33.08.070 Approval or refusal—Appeal.
- 33.08.080 Articles and bylaws to be filed.
- 33.08.090 Amendment of articles.
- 33.08.100 Amendment of bylaws.
- 33.08.110 Branch association—Authorized—Procedure—Limitations.
- 33.08.120 Publication of notice of application for a new association or branch—Protests.

33.08.010 Compliance required—Use of words in name or advertising—Penalty—Saving. No person, firm, company, association, fiduciary, co-partnership, or corporation, either foreign or domestic, shall organize as, carry on or conduct the business of an association except in conformity with the terms and provisions of this title or unless incorporated as a savings and loan association under the laws of the United States or use in name or advertising any of the following:

Any collocation employing either or both of the words "building" or "loan" with one or more of the words "saving", "savings", "thrift", or words of similar import except in conformity with this title;

Any collocation employing one or more of the words "saving", "savings", "thrift" or words of similar import, with one or more of the words "association", "institution", "society", "company", "corporation", or words of similar import, or abbreviations thereof except in conformity with this title or unless authorized to do business under the laws of this state or of the United States relating to savings and loan associations, banks, or mutual savings banks; nor shall the word "federal" be used as a part of such name unless the user is incorporated as a savings and loan association under the laws of the United States.

Neither shall the words "saving", or "savings", be used in any name or advertising or to represent in any manner to indicate that his or its business is of the character or kind of business carried on or transacted by an association or which is calculated to lead any person to believe that his or its business is that of an association unless authorized to do business under the laws of this state or of the United States relating to savings and loan associations, banks, or mutual savings banks.

Every person who, and every director and officer of every corporation which, to the knowledge of such director or officer, violates any provision of this section, shall be guilty of a gross misdemeanor. Such conduct shall also be deemed a nuisance and subject to abatement in the manner prescribed by law at the instance of the state supervisor of savings and loan associations or any other public body or officer authorized to do so.

The provisions of this section shall have no application to use of any word or collocation of words or to any representation or advertising which had been adopted and lawfully used by any person, firm, company, association, fiduciary, co-partnership or corporation lawfully engaged in business at the effective date of this act. [1959 c 280 § 1; 1945 c 235 § 2; Rem. Supp. 1945 § 3717–121. Prior: 1933 c 183 §§ 84, 100; 1919 c 169 § 1; 1913 c 110 §§ 2, 25; 1890 p 56 §§ 2, 22, 37.]

Reviser's note: The "effective date of this act" is March 24, 1959.

33.08.020 Who may form association. Seven or more persons, citizens of the United States and resident in this state, at least two-thirds of whom shall be residents of the county in which the association is to have its principal place of business, may form a savings and loan association under this title. [1945 c 235 § 3; Rem. Supp. 1945 § 3717–122. Prior: 1933 c 183 § 3; 1925 ex.s. c 144 § 1; 1913 c 110 § 1; 1903 c 116 § 1; 1890 p 56 § 1.]

33.08.030 Articles of incorporation. Such persons shall subscribe and acknowledge articles of incorporation in quadruplicate, which articles shall specifically state:

- (1) The name of the association, which shall include the words "Savings Association" and may include the words "and Loan";
- (2) The city or town and county in which it is to have its principal place of business;
- (3) The name, occupation, and place of residence of each incorporator;
- (4) Its purposes;
- (5) Its duration, which may be for a stated number of years or perpetual;
- (6) The amount of paid-in savings with which the association will commence business;
- (7) The first directors (not less than seven), with their respective occupations and post office addresses.

The articles of incorporation may contain any other provisions consistent with the laws of this state and the provisions of this title pertaining to the association's business or the conduct of its affairs. [1949 c 20 § 1; 1945 c 235 § 4; Rem. Supp. 1949 § 3717–123. Prior: 1933 c 183 § 4; 1925 ex.s. c 144 § 1; 1919 c 169 § 5; 1913 c 110 §§ 1, 6; 1903 c 116 § 1; 1890 p 56 § 1.]

33.08.040 Bylaws. The incorporators shall prepare, in duplicate, bylaws for the government of the association, which shall contain provisions:

- (1) Naming the offices of the association and the respective duties thereto assigned;
- (2) Making any desired regulations for the conduct of the business of the association;

(3) Pertaining to any other matters deemed necessary or expedient.

Such bylaws must conform in all respects to the provisions of this title and the laws of this state. [1945 c 235 § 5; Rem. Supp. 1945 § 3717–124. Prior: 1933 c 183 § 5; 1919 c 169 § 1; 1913 c 110 § 2; 1890 p 56 § 3.]

33.08.050 Articles and bylaws to supervisor. The incorporators shall deliver to the supervisor of savings and loan associations the quadruplicate originals of the articles of incorporation and the duplicate copies of its proposed bylaws. [1945 c 235 § 6; Rem. Supp. 1945 § 3717–125. Prior: 1933 c 183 § 6; 1890 p 56 § 3.]

33.08.060 Investigation—Fee. Upon receipt of such articles of incorporation and bylaws, the supervisor shall proceed to determine, from all sources of information and by such investigation as he may deem necessary, whether the proposed articles and bylaws comply with all requirements of law, and whether the incorporators and directors possess the qualifications required by this title, and whether the incorporators have available for the operation of such business at the specified location sufficient cash assets, exclusive of the contingent fund, and whether the general fitness of the persons named in the articles of incorporation are such as to command confidence and warrant belief that the business of the proposed association will be honestly and efficiently conducted in accordance with the intent and purposes of this title, and whether the public convenience and advantage will be promoted by allowing such association to be incorporated and engage in business in the community indicated, and whether the population and industry of the neighborhood and the surrounding country afford reasonable promise of adequate support for the proposed association. For the purpose of this investigation and determination, the incorporators, when delivering the articles and bylaws to the supervisor, shall deliver to the supervisor the sum of one thousand dollars, by certified check payable to the state treasurer, to cover the expense of such investigation and determination. [1969 c 107 § 1; 1963 c 246 § 1; 1945 c 235 § 7; Rem. Supp. 1945 § 3717–126. Prior: 1933 c 183 § 6; 1925 ex.s. c 144 § 2; 1919 c 169 § 2; 1913 c 110 § 3; 1890 p 56 § 3.]

33.08.070 Approval or refusal—Appeal. The supervisor, not later than six months after receipt of the proposed articles and bylaws shall endorse upon each copy thereof the word "approved" or "refused" and the date thereof. In case of refusal, he shall forthwith return one copy of the articles and bylaws to the incorporators, and the refusal shall be final unless the incorporators, or a majority of them, within thirty days after the refusal, appeal to the superior court of Thurston county. The appeal may be accomplished by the incorporators preparing a notice of appeal, serving a copy of it upon the supervisor, and filing the notice with the clerk of the court, whereupon the clerk, under the direction of the judge, shall give notice to the appellants and to the supervisor of a date for the hearing of the appeal. The

appeal shall be tried de novo by the court. At the hearing a record shall be kept of the evidence adduced, and the decision of the court shall be final unless an appeal therefrom is taken to the supreme court or the court of appeals as in other cases. [1971 c 81 § 85; 1953 c 71 § 1; 1945 c 235 § 8; Rem. Supp. 1945 § 3717–127. Prior: 1933 c 183 § 7; 1925 ex.s. c 144 § 2; 1919 c 169 § 2; 1913 c 110 § 3; 1890 p 56 § 3.]

33.08.080 Articles and bylaws to be filed. If the supervisor shall approve the incorporation of said proposed corporation, he shall forthwith return three of said articles of incorporation and one of said bylaws to the incorporators, retaining the others as a part of the files of his office. The incorporators, thereupon, shall file one set of said articles with the secretary of state and one set with the auditor of the county in which it is to have its principal place of business and retain the other set of the articles of incorporation and the bylaws as a part of its minute records, paying to the secretary of state and the county auditor such fees and charges as are required by law. Upon receiving an original set of such approved articles of incorporation, duly endorsed by the supervisor as herein provided, together with the required fees, the secretary of state shall issue his certificate of incorporation and deliver the same to the incorporators, whereupon the corporate existence of the association shall begin. Unless an association whose articles of incorporation and bylaws have been approved by the supervisor shall engage in business within one year from the date of such approval, its right to engage in business shall be deemed revoked and of no effect. [1945 c 235 § 9; Rem. Supp. 1945 § 3717–128. Prior: 1933 c 183 § 8; 1925 ex.s. c 144 § 2; 1919 c 169 § 2; 1913 c 110 § 3; 1890 p 56 § 1.]

33.08.090 Amendment of articles. The members, at any meeting called for the purpose, may amend the articles of incorporation of the association. Such amended articles shall be filed with the supervisor and be subject to the same procedure of approval, refusal, appeal, and filing with the secretary of state and county auditor as provided for the original articles of incorporation. Proposed amendments of the articles of incorporation shall be submitted to the supervisor at least thirty days prior to the meeting of the members. [1945 c 235 § 10; Rem. Supp. 1945 § 3717–129. Prior: 1933 c 183 §§ 9, 10; 1925 ex.s. c 144 § 1; 1913 c 110 § 1; 1903 c 116 § 1; 1890 p 56 §§ 16, 17.]

33.08.100 Amendment of bylaws. The bylaws adopted by the incorporators and approved by the supervisor shall be the bylaws of the association. The members, at any meeting called for the purpose, may amend the bylaws of the association on a majority vote of the members present, in person or by proxy, or the directors at any regular or special meeting called under the provisions of RCW 33.16.090 may amend the bylaws of the association on a two-thirds majority vote of the directors. Proposed amendments of the bylaws shall be submitted to the supervisor in duplicate at least thirty days prior to the meeting at which the amendments will be

considered. The supervisor shall endorse thereon the word "approved" or "disapproved" and return one copy to the association within the thirty day period prior to the meeting. Amendments of the bylaws which have been approved by the supervisor shall become effective after being adopted by the board or the members. The supervisor shall be advised of the effective date. [1967 c 49 § 1; 1945 c 235 § 11; Rem. Supp. 1945 § 3717-130. Prior: 1933 c 183 §§ 9, 10; 1890 p 56 § 3.]

33.08.110 Branch association—Authorized—Procedure—Limitations. An association with the written approval of the supervisor, may establish and operate branches in any county of the state.

An association desiring to establish a branch shall file a written application therefor with the supervisor, who shall approve or disapprove the application within six months after receipt.

The supervisor's approval shall be conditioned on a finding that the resources in the neighborhood of the proposed location and in the surrounding country offer a reasonable promise of adequate support for their proposed branch and that the proposed branch is not being formed for other than the legitimate objects covered by this title. A branch shall not be established or permitted if the contingent fund, loss reserves and guaranty stock are less than the aggregate paid-in capital which would be required by law as a prerequisite to the establishment and operation of an equal number of branches in like locations by a commercial bank. If the application for a branch is not approved, the association shall have the right to appeal in the same manner and within the same time as provided by RCW 33.08.070 as now or hereafter amended. The association when delivering said application to the supervisor shall transmit to him a check for five hundred dollars to cover the expense of the investigation. An association shall not move any office from its immediate vicinity without prior approval of the supervisor. [1974 1st ex.s. c 98 § 1; 1969 c 107 § 2; 1959 c 280 § 7.]

33.08.120 Publication of notice of application for a new association or branch—Protests. At least thirty days prior to approving an application for the establishment of a new association or branch the supervisor shall have published on three different dates in a newspaper of general circulation in the community in which the new office is to be established, a notice stating he has received an application for a new association or branch office to be established in a given specific location. A similar notice shall also be mailed by the supervisor to all savings and loan association offices within a fifty mile area of the proposed new office. Persons interested in protesting the application may contact the supervisor in person or by writing prior to a date which shall be given in said notice. [1959 c 280 § 8.]

Chapter 33.12

POWERS AND RESTRICTIONS

Sections

33.12.010 Powers in general.

33.12.015	Safe deposit companies.
33.12.020	Commercial or checking accounts prohibited.
33.12.030	Assets, how held and carried.
33.12.040	Management agreements prohibited.
33.12.050	Borrowing and pledging securities.
33.12.060	Dealings with directors, officers, agents, or employees or certain public officers.
33.12.070	Limit of bank deposits.
33.12.080	Deposits in bank of which director is officer.
33.12.090	Dividends.
33.12.110	Segregating assets—Transfer to new corporation.
33.12.120	Segregation corporation debentures—Liquidation.
33.12.130	Available fund requirements.
33.12.140	Expense and contingent funds.
33.12.150	Semiannual credit to contingent fund.
33.12.160	Federal insurance reserve fund may be credited to contingent fund.
33.12.170	May borrow from home loan bank.
33.12.180	Trustee of retirement plan established under federal act entitled "Self-Employed Individuals Tax Retirement Act of 1962".

33.12.010 Powers in general. An association shall have the same capacity to act as possessed by natural persons, but shall have authority to perform only such acts as are necessary or proper to accomplish its purposes and which are not repugnant to law.

Subject to the restrictions and limitations of this title, every such association shall have authority:

(1) To have a corporate seal and to alter the same at pleasure;

(2) To continue as an association for the time limited in its articles of incorporation or, if no such time limit is specified, then perpetually;

(3) To sue or be sued in its corporate name;

(4) To acquire, hold, sell, dispose of, pledge, mortgage, or encumber property, as its interests and purposes may require;

(5) To conduct business in this state and elsewhere as may be permitted by law and, to this end, to comply with any law, regulation, or other requirements incident thereto;

(6) To acquire capital in the form of savings deposits, shares, or other accounts for fixed, minimum or indefinite periods of time (all of which are referred to in this section as savings accounts and all of which shall have the same priority upon liquidation) as are authorized by its bylaws, and may issue such passbooks, time certificates of deposit, or other evidence of savings accounts;

(7) To declare and pay dividends or interest;

(8) To borrow money and to pledge, mortgage, or hypothecate its properties and securities in connection therewith;

(9) To collect or protest promissory notes or bills of exchange owned or held as collateral by the association;

(10) To let vaults, safes, boxes, or other receptacles for the safekeeping or storage of personal property, subject to the laws and regulations applicable to and with the powers possessed by safe deposit companies; and to act as escrow holder;

(11) To act as fiscal agent for the United States of America; to purchase, own, vote, or sell stock in, or act as fiscal agent for any federal home loan bank, the federal housing administration, home owners' loan corporation, or other state or federal agency, organized under

the authority of the United States or of the state of Washington and authorized to loan to or act as fiscal agent for savings and loan associations or to insure savings accounts or mortgages; and in the exercise of these powers, to comply with any requirements of law or rules or regulations or orders promulgated by such federal or state agency and to execute any contracts and pay any charges in connection therewith;

(12) To procure insurance of its mortgages and of its savings accounts from any state or federal corporation or agency authorized to write such insurance and, in the exercise of these powers, to comply with any requirements of law or rules or regulations or orders promulgated and to execute any contracts and pay any premiums required in connection therewith;

(13) To loan money and to sell any of its notes or other evidences of indebtedness, together with the collateral securing the same;

(14) To make, adopt, and amend bylaws for the management of its property and the conduct of its business;

(15) To deposit moneys and securities in any bank or other like depository;

(16) To dissolve and wind up its business;

(17) To collect or compromise debts due to it and, in so doing, to apply to the indebtedness the savings accounts of the member debtors, and to receive, as collateral or otherwise, other securities, property or property rights of any kind or nature;

(18) To become a member of, deal with, or make reasonable payments or contribution to any organization to the extent that such organization assists in furthering or facilitating the association's purposes, powers or community responsibilities, and to comply with any reasonable conditions of eligibility;

(19) To sell money orders, travelers checks and similar instruments as agent for any organization empowered to sell such instruments through agents within this state and to receive money for transmission through a federal home loan bank;

(20) To service loans and investments for others: *Provided*, That the loans or investments were sold by the association;

(21) To sell without recourse and to purchase mortgages or other loans authorized by Title 33 RCW as now or hereafter amended, including participating interests therein;

(22) To use abbreviations, words or symbols in connection with any document of any nature and on checks, proxies, notices and other instruments which abbreviations, words, or symbols shall have the same force and legal effect as though the respective words and phrases for which they stand were set forth in full for the purposes of all statutes of the state and all other purposes;

(23) The powers granted in this section shall not be construed as limiting or enlarging any grant of authority made elsewhere by this title, or as a limitation on the purposes for which an association may be incorporated;

(24) To exercise, by and through its board of directors and duly authorized officers and agents, all such incidental powers as may be necessary to carry on the

business of the association. [1969 c 107 § 3; 1963 c 246 § 2; 1945 c 235 § 29; Rem. Supp. 1945 § 3717-148. Prior: 1939 c 98 §§ 6, 7; 1935 c 171 § 1; 1933 c 183 §§ 47, 48, 55, 59.]

Safe deposit repository lease agreements ineffective to create joint ownership or transfer property at death: RCW 11.02.090(3).

33.12.015 Safe deposit companies. See chapter 22.28 RCW.

33.12.020 Commercial or checking accounts prohibited. An association shall not carry any commercial or checking accounts. [1945 c 235 § 30; Rem. Supp. 1945 § 3717-149. Prior: 1939 c 98 § 7; 1933 c 183 § 48; 1913 c 110 § 12.]

33.12.030 Assets, how held and carried. An association shall not permit any of its assets to be held or carried in the name or possession of any other person, except that its funds may be deposited in depositories designated by the board of directors.

The assets of an association shall be entered on its books at no more than the actual cost thereof. When purchased at a premium, they shall be amortized to par, in equal annual installments, to maturity. When real estate under contract of sale or securities are purchased by an association at a discount, such discount may be amortized to par in equal annual installments to maturity.

Whenever an association shall acquire real property on which there exists prior incumbrances, such incumbrances shall be carried on the books of the association as a liability. [1945 c 235 § 31; Rem. Supp. 1945 § 3717-150. Prior: 1933 c 183 § 81.]

33.12.040 Management agreements prohibited. An association shall not make an operating or management agreement with any person fixing its cost of doing business. [1945 c 235 § 33; Rem. Supp. 1945 § 3717-152. Prior: 1933 c 183 § 61.]

33.12.050 Borrowing and pledging securities. An association shall not borrow money or pledge, mortgage, or hypothecate any of its securities as collateral or security for the repayment of money borrowed except pursuant to a resolution adopted by a vote of two-thirds of the members of its board of directors, which resolution and the vote thereon shall be entered upon the minutes. [1961 c 222 § 1; 1945 c 235 § 34; Rem. Supp. 1945 § 3717-153. Prior: 1939 c 98 § 7; 1933 c 183 § 48; 1903 c 116 § 3; 1890 p 56 § 6.]

33.12.060 Dealings with directors, officers, agents, or employees or certain public officers. An association shall make no loan to or sell to or purchase any real property or securities from any director, officer, agent or employee of an association or to or from any public officer or public employee whose duties have to do with the supervision, regulation, or insurance of the association or its savings accounts or mortgages.

The foregoing provisions shall not apply to loans secured by the pledge or assignment of the savings account of the borrowing member, nor to loans made to directors, officers, agents or employees of the association upon their property which is occupied principally by such director, officer, agent or employee as a home, the amount of such loan to be based upon the appraised value of said property as established by two independent appraisers who are not officers, agents, directors, employees, or appraisers of the association.

A loan to or a purchase or sale to or from a partnership or corporation of which such a director, officer, agent or employee is an owner or stockholder to the amount of fifteen percent of the total ownership or stock, or in which he and other directors of the association hold an ownership or stock to the amount of twenty-five percent of the total ownership or stock, shall be deemed a loan to or a purchase or sale to or from such director within the meaning of this section except when the transaction occurred without the knowledge or against the protest of such director, officer, agent or employee of the association. [1953 c 71 § 2; 1947 c 257 § 3; 1945 c 235 § 35; Rem. Supp. 1947 § 3717-154. Prior: 1939 c 98 § 10; 1933 c 183 §§ 51, 53.]

33.12.070 Limit of bank deposits. An association shall not carry on deposit in any bank or trust company a sum in excess of twenty-five percent of the capital and surplus of such bank or trust company unless authorized by the supervisor. [1945 c 235 § 36; Rem. Supp. 1945 § 3717-155.]

33.12.080 Deposits in bank of which director is officer. An association shall not carry on deposit in any bank or trust company in which a director of the association is a trustee, director, officer, or employee, a sum in excess of five percent of the amount of its savings accounts. This restriction shall not apply to depositors in and with a federal home loan bank. [1945 c 235 § 37; Rem. Supp. 1945 § 3717-156.]

33.12.090 Dividends. An association by a majority vote of the board of directors may declare and pay dividends from net earnings or from amounts remaining in the undivided profits or unallocated reserve accounts.

An association shall not declare, credit, or pay dividends on any amount to the credit of a savings member for a longer period than it has been credited: *Provided*, That savings paid in not later than the tenth day of any month (unless the tenth day is not a business day, in which case it may be the next succeeding business day) or withdrawn during the last three business days ending a dividend period, may have dividends declared upon them for the whole of the month or period in which they were paid in.

An association may not be required to pay dividends on balances of less than five dollars, and may make a service charge of not more than one dollar in any calendar year against any savings account if no funds have been paid in or withdrawn during the preceding three years and the whereabouts of the member is unknown to the association and he has not responded within

thirty days to a registered or certified letter mailed to his last known address which stated that a service charge will be made unless the account be increased, posted, or closed. [1967 c 49 § 2; 1963 c 246 § 3; 1953 c 71 § 3; 1945 c 235 § 49; Rem. Supp. 1945 § 3717-168. Prior: 1939 c 98 § 13; 1933 c 183 §§ 64, 65; 1925 ex.s. c 144 § 4; 1919 c 169 § 6; 1913 c 110 § 7.]

33.12.110 Segregating assets—Transfer to new corporation. An association, to stabilize its condition, with the approval of the supervisor may segregate its assets into classes and cancel members' outstanding requests for withdrawal. An association so segregating its assets into classes, with the approval of the supervisor, may convey the assets in one or more of such classes to a corporation, formed for the purpose under the uniform business corporation act, the directorate of which shall be identical to that of the association and the capital stock of which shall be owned by the association: *Provided, however*, That qualifying shares in the corporation may be issued, in trust, to its directors. [1945 c 235 § 55; Rem. Supp. 1945 § 3717-174. Prior: 1939 c 98 § 6; 1935 c 171 § 2; 1933 c 183 § 47.]

Washington business corporation act: Title 23A RCW.

33.12.120 Segregation corporation debentures—Liquidation. Upon segregation, the savings accounts of the members of the association shall be reduced ratably and proportionately and, in lieu of such reduction, the corporation shall issue its certificates or debentures, proportionately to the savings members of the association, upon such terms and conditions as its directors shall determine and the supervisor shall approve.

The assets of such segregation corporation shall be liquidated and its affairs wound up and the net proceeds distributed to its certificate or debenture holders ratably and proportionately: *Provided*, That whenever funds are available, the segregation corporation may pay to its certificate or debenture holders, whose certificates or debentures are not in excess of five dollars, the full amount thereof.

Such segregation corporation shall be subject to examination and supervision and shall pay an annual license fee on the same basis, for the same purposes, and to the same extent as savings and loan associations. [1945 c 235 § 56; Rem. Supp. 1945 § 3717-175. Prior: 1939 c 98 § 6; 1935 c 171 § 1; 1933 c 183 § 47.]

33.12.130 Available fund requirements. Every association shall have at all times cash on hand and balances due from solvent banks or checks in transit for collection from solvent banks, or funds deposited on time or demand with the federal home loan bank of which the association is a stockholder, certificates of deposit or time deposits in a bank, or savings accounts in other insured savings and loan associations or banks, or bonds or obligations authorized by RCW 33.24.020 to 33.24.040 and 33.24.090, which cash, bonds or other obligations shall not be pledged or otherwise held as security for the payment of any obligations of the association, an amount not less than ten percent of the aggregate of the savings accounts of its members:

Provided, That for associations insured by the federal savings and loan insurance corporation liquidity requirements shall not be greater than those required by the federal home loan bank system.

Whenever an association shall have on hand less available funds or bonds or obligations than are hereinabove required, it shall discontinue the making of any loans or other investments, except those for which its commitments have previously been issued, until a status complying with the provisions of this section shall be reestablished. [1967 c 49 § 3; 1961 c 222 § 3; 1959 c 280 § 2; 1949 c 20 § 5; 1945 c 235 § 57; Rem. Supp. 1949 § 3717–176. Prior: 1941 c 222 § 3; 1939 c 98 § 8; 1935 c 171 § 2; 1933 c 183 § 49; 1903 c 116 § 3; 1890 p 56 §§ 6, 15.]

33.12.140 Expense and contingent funds. Before any savings and loan association shall be authorized to receive savings or transact any business, its incorporators shall create an expense fund, in such amount as the supervisor may determine, from which the expense of organizing such association and its operating expenses may be paid until such time as its earnings are sufficient to pay its operating expenses and the incorporators shall enter into an undertaking with the supervisor to make such further contributions to the expense fund as may be necessary to pay its operating expenses until such time as it can pay them from its earnings.

Before any savings and loan association shall be authorized to receive savings or transact any business, its incorporators shall create a contingent fund for the protection of its savings members against investment losses, in an amount to be determined by the supervisor.

Such contingent fund shall consist of payments in cash made by the incorporators as herein provided and of all sums credited thereto from the earnings of the association as hereinafter required.

Prior to the liquidation of any association such contingent fund shall not be encroached upon in any manner except for losses and for the repayment of contributions made by the incorporators.

No repayment of such contribution of incorporators shall be made until the net balance credited to the contingent fund from earnings of the association, after such repayment, shall equal five percent of the amount due savings members.

The incorporators may receive dividends upon the amount of their contributions to the contingent fund at the same rate as is paid, from time to time, to savings members.

The amounts contributed to the contingent fund by the incorporators shall not constitute a liability of the association except as hereinafter provided, and any loss sustained by the association in excess of that portion of the contingent fund created from earnings may be charged against such contributions pro rata. [1945 c 235 § 13; Rem. Supp. 1945 § 3717–132. Prior: 1933 c 183 § 77; 1925 ex.s. c 144 § 7; 1919 c 169 § 8; 1913 c 110 §§ 13, 14; 1903 c 106 §§ 3, 5; 1890 p 56 §§ 6, 15, 31.]

33.12.150 Semiannual credit to contingent fund. The contingent fund shall constitute a reserve for the absorption of losses of an association.

Members shall not have, individually or collectively, any right or claim to the contingent fund except upon dissolution of the association.

Every association, as of June 30th and December 31st in each year, shall determine its net semiannual earnings, and shall credit to the contingent fund an amount equal to two percent of the amount by which the aggregate of loans and real estate contracts outstanding at the end of said six months' period exceeds the amount of such loans and real estate contracts outstanding at the beginning of the period or one-twentieth of one percent of the total savings accounts in the association at the end of the period, whichever is the greater, such sum so credited from earnings into the contingent fund to be in no event less than five percent of the net earnings of the association for such period. The amount so credited need not exceed fifteen percent of the net earnings during the first three years after an association opens for business. The amount required herein shall not be greater than the amount of insurance reserve allocations required by the Federal Savings and Loan Insurance Corporation for associations whose savings accounts are insured by that corporation. [1963 c 246 § 4; 1961 c 222 § 2; 1945 c 235 § 51; Rem. Supp. 1945 § 3717–170. Prior: 1933 c 183 §§ 63, 67; 1925 ex.s. c 144 § 7; 1919 c 169 § 8; 1913 c 110 §§ 13, 14; 1903 c 116 § 5; 1890 p 56 § 31.]

33.12.160 Federal insurance reserve fund may be credited to contingent fund. Any federal insurance reserve fund of an association may be incorporated into the contingent fund. Whenever the aggregate of the contingent fund, undivided profits account and other reserves except those allocated for specific losses, shall exceed ten percent of the amount of members' savings of an association, the credits to the contingent fund as set forth in RCW 33.12.150 shall not be required. [1949 c 20 § 4; 1947 c 257 § 4; 1945 c 235 § 52; Rem. Supp. 1949 § 3717–171.]

33.12.170 May borrow from home loan bank. See RCW 30.32.030.

Home loan bank as depositary: RCW 30.32.040.

Investment in federal home loan bank stock or bonds authorized: RCW 30.32.020.

33.12.180 Trustee of retirement plan established under federal act entitled "Self-Employed Individuals Tax Retirement Act of 1962". A savings and loan association shall have the power to act as trustee under:

A retirement plan established pursuant to the provisions of the act of congress entitled "Self-Employed Individuals Tax Retirement Act of 1962" (76 Stat. 809, 26 U.S.C. Sec. 37), as now constituted or hereafter amended. If a retirement plan, which in the judgment of the savings and loan association, constituted a qualified plan under the provisions of that act at the time

accepted by the savings and loan association, is subsequently determined not to be a qualified plan or subsequently ceases to be a qualified plan in whole or in part, the savings and loan association may, nevertheless, continue to act as trustee of any deposits theretofore made under the plan and to dispose of the same in accordance with the directions of the trustor and the beneficiaries thereof. [1973 1st ex.s. c 93 § 1.]

Chapter 33.16 DIRECTORS, OFFICERS AND EMPLOYEES

Sections

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33.16.030	Directors—Prohibited acts.
33.16.040	Removal of director, officer or employee on objection of supervisor.
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33.16.160	Board to designate depositories.
33.16.170	Federal home loan bank as depository.

Indemnification of directors, officers, employees, etc. by corporation, insurance: RCW 23A.08.025.

33.16.010 Directors—Number—Vacancies. The business and affairs of every association shall be managed and controlled by a board of not less than seven nor more than fifteen directors, a majority of which shall not be officers or employees of the association. The persons designated in the articles of incorporation shall be the first directors.

Vacancies in the board of directors shall be filled by vote of the members at the annual meetings or at a special meeting called for the purpose. The board of directors may fill vacancies occurring on the board, such appointees to serve until the next annual meeting of the members. [1947 c 257 § 1; 1945 c 235 § 14; Rem. Supp. 1947 § 3717-133. Prior: 1933 c 183 § 11; 1925 ex.s. c 144 § 3; 1919 c 169 § 3; 1913 c 110 § 4; 1890 p 56 § 32.]

33.16.020 Directors—Qualifications—Eligibility. The directors shall be members of the association, and a director shall cease to be such when he ceases to be a member.

The board of directors shall be chosen at the annual meeting, unless the bylaws of the association shall otherwise provide.

A person shall not be a director of an association if he:

- (1) Is not a resident of this state;
- (2) Has been adjudicated bankrupt or has taken the benefit of any assignment for the benefit of creditors or has suffered a judgment recovered against him for a sum of money to remain unsatisfied of record or unsuperseded on appeal for a period of more than three months; or

(3) Is a director, officer, or employee of any other savings and loan association or a mutual savings bank. Existing associations shall comply with the restriction of this subsection within two years after approval of this title.

To be eligible to hold the position of director of an association, a person must be a member of the association, of full age, and must have savings or guaranty stock or a combination thereof in the sum or the aggregate sum of at least one thousand dollars. Such minimum amount shall not be reduced either by withdrawal or by pledge for a loan or in any other manner, so long as he remains a director of the association. [1963 c 246 § 5; 1945 c 235 § 15; Rem. Supp. 1945 § 3717-134. Prior: 1933 c 183 §§ 12, 14; 1925 ex.s. c 144 § 3; 1919 c 169 § 3; 1913 c 110 § 4.]

33.16.030 Directors—Prohibited acts. A director of a savings and loan association shall not:

(1) Have any interest, direct or indirect, in the gains or profits of the association, except to receive dividends upon his contribution to the contingent fund and upon his savings account;

(2) Receive and retain, directly or indirectly, for his own use any commission on any loan, or purchase of real property or securities, made by the association;

(3) Become an endorser, surety, or guarantor, or in any manner an obligor, for any loan made by the association;

(4) For himself or as agent, partner, stockholder, or officer of another, directly or indirectly, borrow from the association, except as hereinafter provided, or become the owner of real property upon which the association holds a mortgage. [1945 c 235 § 16; Rem. Supp. 1945 § 3717-135. Prior: 1933 c 183 §§ 21, 62.]

33.16.040 Removal of director, officer or employee on objection of supervisor. If the supervisor shall notify the board of directors of any association in writing, that he has information that any director, officer, or employee of such association is dishonest, reckless, or incompetent or is failing to perform any duty of his office, the board shall meet and consider such matter forthwith and the supervisor shall have notice of the time and place of such meeting. If the board shall find the supervisor's objection to be well founded, such director, officer, or employee shall be removed immediately. If the board does not remove the director, officer, or employee against whom the objections have been filed, or if the board fails to meet, consider or act upon the objections within twenty days after receiving the same, the supervisor may forthwith or within twenty days thereafter, remove such individual by complying with the administrative procedure act, Title 34 RCW. If the supervisor feels that the public interest or safety of the association, requires the immediate removal of such individual, he may petition the superior court for a temporary injunction removing such individual pending the administrative procedure hearing. [1973 c 130 § 21; 1945 c 235 § 17; Rem. Supp. 1945 § 3717-136. Prior: 1933 c 183 § 18.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.16.050 Removal of director for cause. Any director may be removed from office if he has become ineligible or if his conduct or habits are such as to reflect discredit upon the association or if other good cause exists, by an affirmative vote of two-thirds of the members of the board of directors at any regular meeting of the board or at any special meeting called for that purpose. No such vote upon removal of a director shall be taken until he has been advised of the reasons therefor and has had opportunity to submit to the board of directors his statement relative thereto, either oral or written. If the director affected is present at the meeting, he shall retire after his statement shall have been submitted and prior to the vote upon the matter of his removal. [1945 c 235 § 19; Rem. Supp. 1945 § 3717-138. Prior: 1933 c 183 § 17; 1925 ex.s. c 144 § 3; 1919 c 169 § 3; 1913 c 110 § 4.]

33.16.060 Fiduciary relationship—Oath. Directors and officers of an association shall be deemed to stand in a fiduciary relation to the association and shall discharge the duties of their respective positions in good faith and with that diligence, care, and skill which ordinary, prudent men would exercise under similar circumstances in like position.

Each director named in the articles of incorporation shall take and subscribe to an oath in writing, before commencing to serve, that each will, so far as the duty devolves upon him, diligently and honestly administer the affairs of the association and will not knowingly violate the laws of the state of Washington or the bylaws of the association in so doing; and each new director, before commencing to serve, shall take such oath. The oaths of the several directors shall be filed with and retained by the supervisor. [1945 c 235 § 20; Rem. Supp. 1945 § 3717-139. Prior: 1933 c 183 § 15; 1925 ex.s. c 144 § 3; 1919 c 169 § 3; 1913 c 110 § 4.]

33.16.070 Compensation. The directors of an association shall not charge or receive, directly or indirectly, any pay or emolument for their services as directors. This provision shall not prevent reasonable compensation to officers of the association who are also directors, nor the payment of the reasonable compensation to directors for attendance upon meetings of the board, or for special services performed by directors for the board when the resolution directing such services shall stipulate and provide for such compensation. [1945 c 235 § 21; Rem. Supp. 1945 § 3717-140. Prior: 1933 c 183 § 16.]

33.16.080 Directors to elect officers. The board of directors of the association shall elect the officers named in the bylaws of the association, which officers shall serve at the pleasure of the board, and shall approve, at the next monthly meeting, the naming of any employee and his compensation. [1945 c 235 § 22; Rem. Supp. 1945 § 3717-141. Prior: 1939 c 98 § 2; 1933 c 183 §§ 19, 20.]

33.16.090 Board meetings. The board of directors of each association shall hold a regular meeting at least once each month, at a time to be designated by it. Special meetings of the board of directors may be held upon notice to each director sufficient to permit his attendance.

At any meeting of the board of directors, a majority of the members shall constitute a quorum for the transaction of business.

The president or any three members of the board may call a meeting of the board by giving notice to all of the directors. [1945 c 235 § 23; Rem. Supp. 1945 § 3717-142. Prior: 1933 c 183 § 19.]

33.16.100 Reports on sales and purchases. The board of directors, by resolution duly recorded in the minutes, shall designate an officer whose duty it shall be to prepare and submit, at each regular meeting of the board, a written statement of all the purchases and sale of real estate and securities, and of every loan or contract made or purchased since the last regular meeting of the board, describing the collateral securing such loan, which statement, certified by the designated officer to be correct as of the date of the meeting at which submitted, shall be considered by the board at such meeting and be filed as a part of the minute records. [1945 c 235 § 24; Rem. Supp. 1945 § 3717-143. Prior: 1933 c 183 § 19.]

33.16.110 Budget—Limit of expenses. The board of directors, not later than at the regular meeting in January of each year, shall adopt a budget of expenses for the ensuing calendar year, which budget may be revised at any regular monthly meeting by a two-thirds vote of the entire board of directors.

The officers shall maintain the expenses of the association within the budget so adopted.

The secretary shall transmit forthwith to the supervisor a copy of the budget, and of each amendment thereof, upon adoption. [1973 c 130 § 25; 1945 c 235 § 25; Rem. Supp. 1945 § 3717-144. Prior: 1941 c 222 § 5; 1933 c 183 §§ 19, 66; 1919 c 169 § 9; 1913 c 110 § 15.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.16.120 Statement of assets and liabilities—Reports. The board of directors shall cause to be prepared, from the books of the association, a statement of assets and of liabilities, as of December 31st in each year, which statement shall be published on or before the 15th day of January of each year, in a newspaper of general circulation in the county where the principal office of the association is located.

The board shall also cause to be prepared, certified, and filed with the supervisor, upon blanks to be furnished by him, such reports and statements as he, from time to time, may require. [1973 c 130 § 23; 1945 c 235 § 27; Rem. Supp. 1945 § 3717-146. Prior: 1933 c 183 § 79; 1919 c 169 §§ 11, 12; 1913 c 110 §§ 18, 19; 1890 p 56 §§ 18, 36.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.16.130 Bonds of officers and employees. The board of directors of every association shall procure a bond or bonds, covering all of its officers, agents, or employees who have control of or access to cash or securities of the association, with duly qualified corporate surety authorized to do business in the state of Washington, conditioned that the surety will indemnify and save harmless the association against any and all loss or losses arising through the larceny, theft, embezzlement, or other fraudulent or dishonest act or acts of any such officer, agent, or employee. Such bond or bonds shall be in such amount, as to each of said officers or employees, as the directors shall deem advisable, and said bond or bonds shall be subject to the approval of the supervisor and shall be filed with him. The board shall review such bond or bonds, at its regular meeting in January of each year, and by resolution determine such bond coverage for the ensuing year. [1945 c 235 § 28; Rem. Supp. 1945 § 3717-147. Prior: 1939 c 98 § 2; 1933 c 183 § 20; 1925 ex.s. c 144 § 3; 1919 c 169 § 3; 1913 c 110 § 4; 1890 p 56 § 21.]

33.16.140 Official communications. Every official communication by the supervisor to any association shall be read at the next meeting of the board of directors and made a part of the minutes of such meeting. [1945 c 235 § 18; Rem. Supp. 1945 § 3717-137. Prior: 1933 c 183 § 80.]

33.16.150 Pension and retirement plans. An association may provide for pensions, retirement plans and other benefits for its officers and employees, and may contribute to the cost thereof in accordance with the plan adopted by its board of directors. [1945 c 235 § 38; Rem. Supp. 1945 § 3717-157.]

33.16.160 Board to designate depositaries. The board of directors shall designate the depositary or depositaries for funds of the association. [1947 c 257 § 2; 1945 c 235 § 26; Rem. Supp. 1947 § 3717-145. Prior: 1933 c 183 §§ 19, 59.]

33.16.170 Federal home loan bank as depository. See RCW 30.32.040.

**Chapter 33.20
MEMBERS—SAVINGS**

Sections

33.20.010 Member's interest in assets—Meetings—Voting—Proxies.

33.20.020 Membership fee, fine or penalty against savings member prohibited.

33.20.030 Joint tenants.

33.20.040 Minors as members.

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33.20.060 State, municipalities, fiduciaries as members.

33.20.070 Accounts in trust.

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33.20.150 Savings to be repaid on request—Withdrawals—Postponement.

33.20.170 Withdrawals may be limited—Conditions.

33.20.180 Classification of savers or depositors—Regulation of earnings according to class.

33.20.190 Withdrawal instructions—Accounts authorized to be subject to.

33.20.010 Member's interest in assets—Meetings—Voting—Proxies. Each member having savings or deposits in an association shall have a proportionate proprietary interest in its assets or net earnings subordinate to the claims of its other creditors. Each borrower and each contract purchaser indebted to an association shall also be a member thereof but, as such, shall have no interest in its assets. At any meeting of the members of an association, each member shall be entitled to at least one vote. An association, by its by-laws, may provide that each savings member shall be entitled to one vote for each one hundred dollars of his savings account. At any meeting of the members, voting may be in person or by proxy. Proxies shall be in writing and signed by the member and, when filed with the secretary, shall continue in force until revoked or superseded by subsequent proxies. Written notice of the time and place of the holding of special meetings (other than the regular annual meeting) shall be mailed to each member at his last known address not more than thirty days, nor less than ten days prior to the meeting. The regular annual meeting of the association shall be announced by publication of a notice thereof in a newspaper published in the city or town, or, if the association is not in a city or town, in the county in which the association is located at least ten days prior to the date of such meeting, or by ten days' written notice to the members mailed to the last known address of each member. [1969 c 107 § 4; 1949 c 20 § 2; 1945 c 235 § 12; Rem. Supp. 1949 § 3717-131. Prior: 1933 c 183 §§ 13, 39; 1919 c 169 § 4; 1913 c 110 § 5; 1903 c 116 § 6; 1890 p 56 § 39.]

33.20.020 Membership fee, fine or penalty against savings member prohibited. An association shall not charge a savings member any membership fee, fine, or penalty. [1945 c 235 § 32; Rem. Supp. 1945 § 3717-151. Prior: 1933 c 183 § 45; 1919 c 169 § 4; 1913 c 110 § 5.]

33.20.030 Joint tenants. Savings may be received by an association in the name of two or more members as joint tenants with right of survivorship. In such case, payment to either member shall discharge the association from liability upon such savings account and, upon the death of either of such joint tenants, the association shall be liable only to the survivor or survivors. [1945 c 235 § 40; Rem. Supp. 1945 § 3717-159. Prior: 1933 c 183 § 41.]

Joint tenants, simultaneous death: RCW 11.05.030.

33.20.040 Minors as members. Minors may become members of an association and all contracts entered into between a minor and an association, with respect to his membership or his savings therein, shall be valid and enforceable, and all savings accounts of minors shall be held for the exclusive right and benefit of such

minor and free from the control or lien of all other persons, except creditors, and shall be paid, together with the dividends thereon, to the minor member, and his receipt or acquittance shall be a valid discharge of the obligation.

A minor may not disaffirm, because of his minority, any such membership or agreement in connection therewith. [1945 c 235 § 41; Rem. Supp. 1945 § 3717-160. Prior: 1933 c 183 §§ 24, 40; 1919 c 169 § 5; 1913 c 110 § 6.]

33.20.050 Married persons as members. Married persons may become members of an association and all contracts entered into between a married person and an association, with respect to such person's membership or such person's savings therein, shall be valid and enforceable and, unless notice shall be given to the association that the same are community funds, all savings accounts of a married person shall be held for the exclusive right and benefit of such married person and free from the control or lien of all other persons, except creditors, and shall be paid, together with dividends thereon, to such member, and such person's receipt or acquittance shall be a valid discharge of the obligation. [1973 1st ex.s. c 154 § 50; 1945 c 235 § 43; Rem. Supp. 1945 § 3717-162. Prior: 1933 c 183 § 42.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Husband and wife, rights, liabilities: Chapter 26.16 RCW.

33.20.060 State, municipalities, fiduciaries as members. The state of Washington and the municipal corporations thereof, and trustees, administrators, executors, guardians, and other fiduciaries, either individual or corporate, in their fiduciary capacity, may become members in savings and loan associations. [1945 c 235 § 44; Rem. Supp. 1945 § 3717-163.]

33.20.070 Accounts in trust. When any savings account shall be made in the name of any person in trust for another, in the event of the death of such trustee, the savings accounts, together with the dividends thereon, or any portion thereof shall be payable in conformity with the provisions of the trust agreement, if any.

If such savings account in trust shall be made without any express trust agreement or the association shall have no other or further notice of the existence and terms of any regular and valid trust, in the event of the death of the trustee such account, together with the dividends thereon, or any portion thereof, shall be payable to the person for whom the account was made or, if such beneficiary be a minor or an incompetent, to his guardian, and his receipt or acquittance shall be a valid discharge of the obligation. [1945 c 235 § 45; Rem. Supp. 1945 § 3717-164.]

Trustees' accounting act: Chapter 30.30 RCW.

33.20.080 Account of deceased person. If any person shall die having any savings account in an association amounting to not more than one thousand dollars, and the association has no knowledge that an executor or administrator has been appointed, such association may

pay such account to the surviving spouse, next of kin, funeral director or other creditor who may appear entitled thereto. For any such payment, the association may require such proofs, waivers, indemnity and receipt and acquittance as it may deem proper. For any payment made hereunder, the association shall not be liable to the decedent's executor or administrator. On the death of any person having any savings account in an association, the association may also pay out the moneys on deposit to the credit of the deceased upon presentation of an affidavit as provided in RCW 11.62.010. [1974 1st ex.s. c 117 § 41; 1963 c 246 § 6; 1945 c 235 § 46; Rem. Supp. 1945 § 3717-165. Prior: 1890 p 56 § 29.]

Application, construction—Severability—Effective date—1974 1st ex.s. c 117: See RCW 11.02.080 and notes following.

33.20.090 Fully paid, installment, and juvenile savings. In addition to its usual savings accounts for which credit is given in a pass book, an association may receive fully paid, installment, and juvenile savings and issue its passbooks or certificates therefor showing to which class such savings accounts belong.

Fully paid savings are those for which the association issues its fully paid certificate at the time they are received. The bylaws of the association may provide the terms and conditions under which fully paid savings are received.

Installment savings are those upon which regular stipulated payments are agreed to be made at stated periods until the sum of such payments and the dividends credited thereon completes payment of the agreed amount. The bylaws of the association may provide the terms and the conditions under which installment savings are received.

Juvenile savings are those received from minors. The bylaws of the association may provide the terms and conditions under which juvenile savings are received.

The bylaws of the association may provide for payment of a higher dividend rate on fully paid and installment savings than is concurrently paid on other savings in the association, upon such terms and conditions as the board of directors shall prescribe. [1945 c 235 § 39; Rem. Supp. 1945 § 3717-158. Prior: 1939 c 98 § 3; 1933 c 183 §§ 23, 25, 36; 1919 c 169 § 5; 1913 c 110 § 6.]

33.20.100 School savings. An association may provide for school savings, upon such terms and conditions as its board of directors by resolution shall provide, and issue its certificates, passbooks, or debentures therefor. [1945 c 235 § 42; Rem. Supp. 1945 § 3717-161. Prior: 1933 c 183 § 26.]

33.20.110 Savings to share proportionately in earnings. An association shall not receive savings upon which a stipulated rate of dividend shall be payable. Except as otherwise expressly provided or authorized in this title, all savings shall share proportionately in all net earnings and all losses of the association. [1945 c 235 § 47; Rem. Supp. 1945 § 3717-166. Prior: 1933 c 183 §§ 22, 27, 43; 1919 c 169 § 5; 1913 c 110 § 6.]

33.20.120 Savings certificates or passbooks. An association shall issue its certificate or passbook for all savings received from its members. [1945 c 235 § 48; Rem. Supp. 1945 § 3717–167. Prior: 1939 c 98 §§ 4, 7; 1933 c 183 §§ 28, 48.]

33.20.130 Dormant accounts. When any savings member shall have neither paid in nor withdrawn any funds from his savings account in the association for seven consecutive years, and his whereabouts is unknown to the association and he shall not respond to a letter from the association inquiring as to his whereabouts, sent by registered mail to his last known address, the association may transfer his account to a "Dormant Accounts" fund. Any savings account in the "Dormant Accounts" fund shall not participate in the earnings of the association except by permissive action of the directors of the association. The member, or his or its executor, administrator, successors or assigns, may claim the amount so transferred from his account to the dormant accounts fund at any time after such transfer. Should the association be placed in liquidation while any savings account shall remain credited in the dormant accounts fund and before any valid claim shall have been made thereto, as hereinabove provided, such savings account so credited, upon order of the supervisor and without any other escheat proceedings, shall escheat to the state of Washington. [1945 c 235 § 53; Rem. Supp. 1945 § 3717–172. Prior: 1933 c 183 § 38.]

Escheats: Chapter 11.08 RCW.

Uniform disposition of unclaimed property: Chapter 63.28 RCW.

33.20.150 Savings to be repaid on request—Withdrawals—Postponement. The savings paid into an association, together with dividends credited thereon, shall be repaid to the savings members thereof respectively, or to their legal representatives, upon request.

Every request for withdrawal shall be in writing. If, in the judgment of the board, circumstances warrant deferment of the payment of withdrawals to a later date, thereafter withdrawals shall be paid proportionately, on a percentage basis, to all members requesting withdrawal until full withdrawal requests are paid to all members.

The board shall, however, have the right in its discretion, where need is shown, to pay not exceeding one hundred dollars to any account holder in one month. Every member shall participate in the dividends of the association until his withdrawal is paid.

If, upon examination the supervisor finds that further postponement of withdrawals is unwarranted, he may order the association to resume full payment of withdrawals and cancel all written withdrawal requests. Such order shall be in writing.

The association's failure, during a period of postponement, to pay withdrawal requests shall not authorize the supervisor to take charge of or liquidate the association. [1953 c 71 § 5; 1945 c 235 § 54; Rem. Supp. 1945 § 3717–173. Prior: 1939 c 98 § 5; 1933 c 183 §§ 29, 30, 31, 32, 33, 34, 37; 1919 c 169 § 10; 1913 c 110 § 16; 1890 p 56 § 27.]

33.20.170 Withdrawals may be limited—Conditions. The supervisor further is empowered, if in his judgment the circumstances warrant it, to issue in writing a declaration that an acute business depression, state of panic, or economic emergency exists, in which event the directors of any association, state or federal, within the state may limit withdrawals by resolution, subject to the following conditions; that incoming funds shall be applied:

First, to the payment of operating expenses, indebtedness, taxes, insurance, and to the necessary charges for the protection of the association and its investments;

Second, to the payment to members of emergency withdrawals not exceeding twenty-five dollars per month to any member. The board of directors of any association, with the prior written approval of the supervisor, by resolution may authorize the payment of emergency withdrawals not exceeding one hundred dollars per month to any member;

Third, to the payment of dividends on the savings of its members;

Fourth, three-fourths of all remaining receipts of the association, except interest payments, shall be applied to the payment of withdrawals, until all withdrawal requests have been paid.

All such withdrawal payments shall be made to members having withdrawal requests on file in proportion to the amount of such withdrawal requests. [1945 c 235 § 99; Rem. Supp. 1945 § 3717–218. Prior: 1939 c 98 § 5; 1933 c 183 §§ 29, 30, 31, 32, 33, 34; 1919 c 169 § 10; 1913 c 110 § 16; 1890 p 56 § 27.]

33.20.180 Classification of savers or depositors—Regulation of earnings according to class. Every savings and loan association may classify its savers or depositors according to the character, amount, frequency or duration of their dealings with the association and may regulate the earnings in such manner that each saver or depositor shall receive the same returnable portion of dividends as all others of his class. [1969 c 107 § 9.]

33.20.190 Withdrawal instructions—Accounts authorized to be subject to. A savings and loan association may, on instruction from a saver or depositor, effect withdrawals from his account by the association's drafts payable to parties and on terms as so instructed: *Provided, however,* That no account or deposit in a savings and loan association shall be subject to a check or to withdrawal or transfer on negotiable or transferable order or authorization to the savings and loan association. To the extent of the subjection of accounts to such withdrawal instructions, such accounts may be specifically classified under RCW 33.20.180 and ineligible to receive interest or eligible only for limited interest. [1969 c 107 § 10.]

Chapter 33.24 LOANS AND INVESTMENTS

Sections

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- 33.24.350 Acquisition of control of savings and loan association—Definitions.
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- 33.24.380 Acquisition of control of savings and loan association—Penalty.

Federal bonds and notes as investment or collateral: Chapter 39.60 RCW.

Interest and usury in general: Chapter 19.52 RCW.

Mortgages: Title 61 RCW.

Real property and conveyances: Title 64 RCW.

Veterans' loan insurance: Chapter 73.12 RCW.

33.24.005 "Mortgage" includes deed of trust. The word "mortgage" as used in this title includes deed of trust. [1973 c 130 § 28.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.24.010 Loans on one property or to one person or community—Limitations. An association may invest its funds only as provided in this chapter.

It shall not invest more than two and a half percent of its assets or twenty thousand dollars, whichever is the greater, in a loan or loans, or in the purchase of contracts on the security of any one property, except with the written approval of the supervisor.

It shall not loan to or purchase contracts payable by any one person, or community consisting of husband and wife, in an amount in excess of two and a half percent of its assets, or twenty thousand dollars, whichever

is the greater, except with written approval of the supervisor. [1963 c 246 § 7; 1953 c 71 § 6; 1947 c 257 § 5; 1945 c 235 § 58; Rem. Supp. 1947 § 3717–177. Prior: 1939 c 98 § 11; 1933 c 183 §§ 39, 52, 56, 58; 1925 ex.s. c 144 § 5; 1913 c 110 §§ 8, 9; 1903 c 116 § 2; 1890 p 56 §§ 4, 30.]

33.24.020 Obligations of United States or Canada. An association may invest its funds in loans upon or purchases of the bonds or obligations of or bonds or obligations guaranteed by the United States of America, including bonds of the District of Columbia, of the Dominion of Canada, or those for which the faith of the United States or the Dominion of Canada is pledged to provide for the payment of interest and principal: *Provided, That*, in the case of bonds of the Dominion of Canada or those for which its faith is pledged, the interest and principal shall be payable in the United States or with exchange to a city in the United States and in lawful money of the United States or its equivalent. [1947 c 257 § 6; 1945 c 235 § 59; Rem. Supp. 1947 § 3717–178. Prior: 1939 c 98 § 11; 1935 c 9 §§ 1, 2, 3; 1933 c 183 § 56.]

33.24.030 Obligations of this state. An association may invest its funds in the bonds or interest bearing obligations of this state or any agency thereof. [1955 c 126 § 1; 1945 c 235 § 60; Rem. Supp. 1945 § 3717–179. Prior: 1939 c 98 § 11; 1933 c 183 § 56.]

33.24.040 Obligations of other states. An association may invest its funds in the bonds or interest bearing obligations of any other state of the United States upon which there is no existing default and upon which there has been no default for more than ninety days within ten years immediately preceding the investment: *Provided, That* such state has not been in default for more than ninety days, within said ten years, in the payment of any part of the principal or interest of any debt contracted by it or for which the faith of such state was pledged. [1945 c 235 § 61; Rem. Supp. 1945 § 3717–180. Prior: 1939 c 98 § 11; 1933 c 183 § 56.]

33.24.050 Obligations of municipal corporations in this state. An association may invest its funds in the valid warrants or bonds of any city, town, county, school district, port district, or other municipal corporation in the state of Washington which are issued pursuant to law and for the payment of which the faith and credit of such municipal corporations is pledged and taxes are leviable upon all taxable property within its limits. The aggregate of the investments of an association in any issue of such warrants or bonds shall at no time exceed five percent of the amount of its savings accounts. [1945 c 235 § 62; Rem. Supp. 1945 § 3717–181. Prior: 1939 c 98 § 11; 1933 c 183 § 56.]

33.24.060 Obligations of municipal corporations in any state. An association may invest its funds in the valid warrants or bonds of any city, county, school district, port district, or other municipal corporation in the United States having a population of not less than fifty

thousand inhabitants as determined by the last federal census, which municipal corporation has not defaulted in the payment of interest or principal upon any general obligation, including those for which its credit was pledged, within ten years last past, and for the payment of which the faith and credit of such municipal corporation is pledged and taxes are leviable upon all taxable property within its limits. No such investment shall be made unless the warrants or bonds for purchase are rated not less than BAA by Moody's Investors' Service, or have equivalent rating of another standard rating bureau, and the aggregate of the investments of an association in any issue of such warrants or bonds shall at no time exceed five percent of the amount of its savings accounts. [1945 c 235 § 63; Rem. Supp. 1945 § 3717-182. Prior: 1939 c 98 § 11; 1933 c 183 § 56.]

33.24.070 City or district light, water, and sewer revenue bonds. An association may invest its funds in the revenue bonds of any city, town, district, or political subdivision of this state for the payment of which revenue of the city, town, district or political subdivision utility or revenue producing facility is irrevocably pledged.

It may invest its funds in the light, water, or sewer revenue bonds of any city or other municipal corporation in the United States having a population of not less than fifty thousand inhabitants as determined by the last federal census, which has not defaulted in the payment of interest or principal upon this or any like obligation, including those for which its credit was pledged, within ten years last past, for the payment of which the entire revenue of the city's or other municipal corporation's light, water, or sewer system, less maintenance and operating costs, is irrevocably pledged.

The aggregate of the investments of an association in any issue of such revenue bonds shall at no time exceed five percent of the amount of its savings accounts. [1955 c 126 § 2; 1945 c 235 § 64; Rem. Supp. 1945 § 3717-183. Prior: 1939 c 98 § 11; 1933 c 183 § 56.]

33.24.080 Local improvement district bonds. An association may invest its funds in the bonds of any local improvement district of any city of this state (except bonds issued for an improvement consisting of grading only), the ultimate payment of which is guaranteed by the municipality under the provisions of guaranty laws of this state: *Provided*, That one-half of the lots in the district are improved with revenue producing houses or other improvements and that local improvement district bonds falling within the twenty-five percent, in amount of any issue, last callable for payment shall neither be acquired nor taken as security. The aggregate of the investments of an association in any issue of such bonds shall at no time exceed three percent of the amount of its savings accounts, and it may not have invested, at any one time, more than one hundred thousand dollars in the bonds of any such district. [1953 c 71 § 7; 1945 c 235 § 65; Rem. Supp. 1945 § 3717-184. Prior: 1939 c 98 § 11; 1933 c 183 § 56.]

33.24.090 Obligations of federal and state agencies—Investment in other associations. An association may invest its funds in stock or notes, bonds, debentures, or other such obligations of any federal home loan bank, the Home Owners' Loan Corporation, any federal land bank, the Federal Savings and Loan Insurance Corporation, the Federal Housing Administration, the Federal National Mortgage Association, or any other instrumentality of the federal government, or any state or federal agency organized under the laws of the United States or of the state of Washington authorized to loan to or act as a fiscal agency for, or insurer of, a savings and loan association.

An association may become a member of and invest its funds in other savings and loan associations organized under either federal or state law, which have an authorized office in this state: *Provided*, That the investment in any such other savings and loan association shall not exceed the amount which is insured by the Federal Savings and Loan Insurance Corporation. [1959 c 280 § 3; 1953 c 71 § 8; 1945 c 235 § 66; Rem. Supp. 1945 § 3717-185. Prior: 1939 c 98 § 11; 1935 c 9 §§ 1, 2, 3; 1933 c 183 § 56.]

33.24.095 Unimproved real estate for resale. Any association having a contingent fund and other bad debt reserves exceeding the amount required by the Federal Savings and Loan Insurance Corporation, or five percent of its aggregate savings, whichever is greater, may invest an amount not exceeding one percent of its aggregate savings, in unimproved real estate for resale to builders and prospective home owners. Such real estate shall be primarily for housing sites, and any such association may survey and plat such land, lay out and improve streets, install water mains, sewers, sidewalks and similar improvements, as may be necessary to prepare such sites for home building purposes: *Provided*, That the total investment therein does not exceed the limitation as herein provided. Any such real estate not sold within five years from date of acquirement by the association shall be depreciated ten percent per annum at the close of each calendar year thereafter, unless an extension of time is granted by the supervisor. [1955 c 126 § 3. Prior: 1939 c 98 § 11; 1933 c 183 § 56.]

33.24.100 Loans secured by real estate mortgages. An association may invest its funds in loans secured by first mortgages on improved real estate, subject to the following conditions and restrictions:

(1) No mortgage loan shall be made in excess of fifty percent of the value of the security unless its terms require the payment of the principal and interest in annual, semiannual, quarterly or monthly payments, at a rate which if continued would repay the loan in full in not more than thirty years, beginning within one year and continuing until the loan is reduced to fifty percent or less of the value of the security as then determined upon a reappraisal. No loan upon which payments in reduction of principal are not being made at least annually shall continue for more than five years, unless,

at the expiration of each five year period, it shall be re-appraised and the loan reduced to an amount not in excess of fifty percent of the new appraised value.

(2) Notwithstanding any other provision of this title, an association may make any loan which is insured or guaranteed in whole or in part by the federal housing administrator, the veterans' administration, or any other state or federal agency, or for which said administrator, administration, or agency has issued commitment to insure or guarantee such loan.

(3) Other loans shall not be in excess of:

(a) Ninety percent of the appraised value if secured by a first mortgage lien on property on which is situated a dwelling.

(b) Seventy-five percent of the appraised value, if secured by a first mortgage lien on property improved with a building or buildings other than as above described.

(4) Notwithstanding the provisions of this section, an association may make any loan which is permitted to a federal savings and loan association doing business in this state. [1969 c 107 § 5; 1949 c 20 § 6; 1945 c 235 § 67; Rem. Supp. 1949 § 3717-186. Prior: 1939 c 98 § 11; 1935 c 9 §§ 1, 2, 3; 1933 c 183 §§ 56, 58; 1925 ex.s. c 144 § 5; 1913 c 110 §§ 8, 9; 1903 c 116 § 2; 1890 p 56 § 4.]

33.24.110 Loans to construct building. An association may invest its funds in a loan secured by a first mortgage lien on real estate which is to be improved by a building or buildings to be constructed with the proceeds of such loan. Such loans shall be so arranged that the proceeds of the loan will be used for the payment of the costs of the improvements and that, when so used, the property will be improved to the extent that the appraised value, upon completion, will be as provided in this title.

In determining the appraised valuation for the purpose of such loan, all accessories which are installed or to be installed as a part of said building, such as furnaces, oil burners, stokers, ranges, refrigerators, deep freeze units, linoleum, and blinds, which are acknowledged by the borrower to be a part of the improvements shall be considered as real estate and may be included in the appraised valuation. [1947 c 257 § 7; 1945 c 235 § 68; Rem. Supp. 1947 § 3717-187. Prior: 1939 c 98 § 11; 1933 c 183 § 56; 1925 ex.s. c 144 § 5; 1913 c 110 § 8.]

33.24.120 Appraisal for mortgage loans. For every mortgage loan, the borrower shall execute a note and a mortgage which shall constitute a first lien upon a fee estate in improved real property. For such loan, the appraised value shall be the value of the land and the permanent improvements thereon. Appraisals for loan purposes shall be made by two appraisers appointed by the board of directors, either or both of whom, if qualified, may be directors of the association: *Provided*, That the directors of an association may by resolution authorize the reduction in the number of appraisers on every type loan to one qualified appraiser. In cases of loans insured or guaranteed in whole or in part by a

government agency, the appraisal made by the government agency shall be sufficient.

Every appraisal shall be made in writing, shall state that each appraiser has personally examined said property, has no personal interest therein, the conservative value of the property as so determined, and shall be signed by the appraiser. Such appraisal shall be filed with the association, before any mortgage loan shall be made.

Every mortgage loan, before making, shall be approved by the directors of the association or by a loan committee appointed by the directors for that purpose. [1973 c 130 § 26; 1959 c 280 § 4; 1949 c 20 § 7; 1945 c 235 § 69; Rem. Supp. 1949 § 3717-188. Prior: 1939 c 98 § 11; 1933 c 183 §§ 56, 58; 1925 ex.s. c 144 § 5; 1913 c 110 §§ 8, 9; 1903 c 116 § 2; 1890 p 56 § 4.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.24.130 Mortgage loans—Insurance—Evidence of title. For every mortgage loan made, the association shall require that the mortgagor procure and maintain fire insurance upon the buildings and improvements situated on the mortgaged premises, in a company authorized to write fire insurance in this state, in such amount as shall be stipulated in the mortgage, with loss payable to the association, and that the policy or policies of insurance be deposited with and held by the association until the loans shall be paid: *Provided*, That an association need not hold the policy or policies if it carries a policy which protects the association should a mortgagor fail to maintain his insurance.

The association may require such other insurance at any time as its board of directors may deem advisable for its protection up to the balance of its loan account.

Before making any mortgage loan, the association shall require:

(1) Title insurance issued by a duly qualified title insurance company; or

(2) In the case of lands registered under the Torren's system, a duplicate certificate of ownership issued by a registrar of titles; or

(3) An abstract of title, certified to the date of the loan by a duly qualified abstract company of the county in which the land is situated, accompanied by a written opinion of a competent attorney to the effect that the proposed mortgage will constitute a first lien upon such property. [1967 c 49 § 4; 1945 c 235 § 70; Rem. Supp. 1945 § 3717-189. Prior: 1939 c 98 § 11; 1933 c 183 § 56; 1925 ex.s. c 144 § 5; 1913 c 110 § 8.]

33.24.140 Real estate contracts. An association may invest its funds in the purchase of or loan upon real estate contracts under the following conditions only:

(1) That it shall acquire the title in fee to the property covered by such contracts;

(2) That the type of property be such as would be eligible for a mortgage loan under this chapter; and

(3) That not less than twenty percent of the principal of the purchase price under the contract has been paid or that the amount due under the contract shall not exceed seventy-five percent of the appraised value of the

property, whichever is the lower, and that the purchaser shall not be in default in performance of any of the terms of the contract. An association, subject to the provisions of RCW 33.24.010, may purchase any real estate contract which a federal association doing business in this state is permitted to purchase.

Before making any such purchase, or loan, the property shall be appraised and the purchase approved as in the case of mortgage loans. [1953 c 71 § 9; 1945 c 235 § 71; Rem. Supp. 1945 § 3717-190. Prior: 1939 c 98 § 11; 1933 c 183 §§ 56, 58; 1925 ex.s. c 144 § 6; 1913 c 110 §§ 9, 11; 1903 c 116 § 2; 1890 p 56 §§ 4, 5.]

33.24.150 Notes or loans secured by savings account. An association may invest in promissory notes fully secured by the pledge or assignment of the savings account of the borrowing member.

An association may invest its funds in loans upon the security of a savings account in any other savings and loan association doing business in this state, if such account be insured by the federal savings and loan insurance corporation or any other federal or state agency. Any such loan shall not exceed ninety percent of the amount of such account or ninety percent of the amount of the insurance thereon, whichever is the smaller.

The pledge to any association or federal savings and loan association of all or part of a savings account in joint tenancy signed by that person or those persons who are authorized in writing to make withdrawals from the account shall, unless the terms of the savings account provide specifically to the contrary, be a valid pledge and transfer to the association of that part of the account pledged, and shall not operate to sever or terminate the joint and survivorship ownership of all or any part of the account. [1967 c 49 § 5; 1959 c 280 § 5; 1945 c 235 § 72; Rem. Supp. 1945 § 3717-191. Prior: 1939 c 98 § 11; 1933 c 183 §§ 56, 58; 1913 c 110 § 9; 1903 c 116 § 2; 1890 p 56 § 4.]

33.24.160 Office equipment. An association may invest its funds in the purchase of furniture, fixtures and office equipment convenient and necessary for the carrying on of its business. [1945 c 235 § 73; Rem. Supp. 1945 § 3717-192. Prior: 1939 c 98 § 11; 1933 c 183 § 56.]

33.24.170 Real estate for its own use. An association may invest a reasonable amount of its funds in real property or leasehold interests therein for use in the transaction of its business when:

(1) The aggregate of its contingent fund, surplus, and undivided profits accounts equals five percent of the aggregate of its savings accounts;

(2) its directors, by three-fourths majority vote, approve the making of such investment; and

(3) the total investment in such property does not exceed seven and one-half percent of the aggregate of its savings accounts.

The foregoing restrictions of this section shall not affect existing investments of associations. No association

may invest its funds in real property or leasehold interests therein for use in the transaction of its business without the prior written approval of the supervisor.

Any real estate, except that used for the transaction of its business which is not sold by an association within five years from and after the time title is acquired, shall be depreciated at not less than ten percent of the book value at the close of each annual period, unless an extension of time be granted by the supervisor. [1959 c 280 § 6; 1949 c 20 § 8; 1945 c 235 § 74; Rem. Supp. 1949 § 3717-193. Prior: 1939 c 98 §§ 11, 12; 1933 c 183 §§ 56, 57; 1925 ex.s. c 144 § 6; 1913 c 110 § 11; 1890 p 56 § 5.]

33.24.180 Assets of segregation corporation. Notwithstanding any other provisions of this title, an association may invest its funds in the assets of its segregation corporation or equivalent agency whenever a three-fourths majority of its directors approve the making of such investment.

If the purchase price of any one asset from the segregation corporation or equivalent agency amounts to more than two percent of the savings accounts of the association, such purchase may not be made without the prior written approval thereof by the supervisor. [1945 c 235 § 75; Rem. Supp. 1945 § 3717-194. Prior: 1939 c 98 § 11; 1933 c 183 § 56.]

33.24.190 Investments permitted to federal associations. Notwithstanding any provision of this title, an association may invest its funds in any loan or purchase which is permitted to a federal savings and loan association doing business in this state. [1947 c 257 § 8; Rem. Supp. 1947 § 3717-193B.]

33.24.200 Personal liability on unlawful loans. Every director, officer, agent, or employee of an association who shall borrow or who shall knowingly permit any person to borrow any of its funds in violation of the provisions of this title shall be personally liable for any loss or damage which the association may sustain in consequence thereof. [1945 c 235 § 94; Rem. Supp. 1945 § 3717-213.]

33.24.210 Revenue bonds of public utility districts. See RCW 54.24.120.

33.24.220 Stock or bonds of federal home loan bank. See RCW 30.32.020.

Home loan bank as depositary: RCW 30.32.040.

May borrow from home loan bank: RCW 30.32.030.

33.24.230 Mobile dwellings. An association may invest its funds in loans upon the security of mobile dwellings used as semi-permanent or permanent housing. Loans made pursuant to this section shall not exceed ten percent of the association's assets, except with the written approval of the supervisor. [1973 c 130 § 24; 1967 c 49 § 7.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.24.240 Home or property repairs, alterations, improvements, additions, home furnishings or appliances. An association may invest not to exceed five percent of its assets in secured or unsecured loans for home or property repairs, alterations, improvements or additions, or home furnishings or appliances: *Provided*, That the principal amount of any such loan shall not exceed five thousand dollars and shall be repayable in equal monthly installments commencing not more than sixty days after the date of such loan and extending over a payment period of not to exceed seven years. [1967 c 49 § 8.]

33.24.250 Loans secured by life insurance. An association may invest its funds in loans secured by the pledge of policies of life insurance, the assignment of which is properly acknowledged by the insurer, but not exceeding the cash value of such policies. [1969 c 107 § 11.]

33.24.260 Loans secured by pledge of loans or investments. An association may invest its funds in loans secured by the pledge of loans or investments, the assignment of which need not be recorded, or a type in which the association is authorized to invest: *Provided*, That the loans and investments so pledged shall be subject to all restrictions and requirements which would be applicable were the association to invest directly in such loans or investments. [1969 c 107 § 12.]

33.24.270 Stock in small business investment companies. A savings and loan association may purchase and hold for its own investment accounts stock in small business investment companies licensed and regulated by the United States as authorized by the small business act, Public Law 85-536, as amended and now in force, in an amount not to exceed one percent of its assets. [1973 c 130 § 30; 1969 c 107 § 13.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.24.280 Capital stock, capital debentures and bonds issued by corporations. An association may invest in capital stock, capital debentures and bonds issued by any corporation organized under the laws of the United States or any state, subject to the further limitations and conditions that at the time of such investment the aggregate of the reserves, surplus, undivided profits and guaranty stock, if any, of the association is at least equal to five percent of the assets of the association and that immediately upon the making of any investment under authority of this paragraph, the aggregate amount of all investments then held by the association under authority of this paragraph does not exceed fifty percent of its guaranty stock, reserves, surplus, and undivided profits. [1973 c 130 § 31; 1969 c 107 § 14.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.24.290 Loans for payment of college or university education, or vocational training. An association may, with or without security, make loans, advance credit,

and purchase obligations representing loans and advances of credit (all of which are hereinafter referred to in this section as "loans") for the payment of expenses of vocational training, college or university education: *Provided*, That an association making a loan under this section may require a comaker or comakers, insurance, guaranty under a government student loan guarantee plan, or other protection against contingencies. The borrower shall certify to the association that the proceeds of the loan are to be used by a full time student solely for the payment of expenses of vocational training, college or university education. For the purpose of this section the term "college or university education" means education at an institution which provides an education program for which it awards a doctoral, master's or a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit towards such a degree. Any person under the age of twenty-one years securing an educational loan under this section or an educational loan made by a federal association shall be deemed to have full legal capacity to contract and shall have all the rights, powers, privileges and obligations of a person of full age with respect thereto. [1972 ex.s. c 42 § 1; 1969 c 107 § 15.]

33.24.295 Loans for nonbusiness family purposes. An association may also invest not to exceed five percent of its assets in secured or unsecured loans for any non-business family purposes: *Provided*, That the principal amount of any such loan shall not exceed five thousand dollars and shall be repayable in monthly, quarterly, or semiannual installments commencing not more than sixty days after the date of such loan and extending over a payment period of not to exceed seven years. [1973 c 130 § 27.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.24.350 Acquisition of control of savings and loan association—Definitions. As used in *this 1973 amendatory act the following words, unless differently defined shall have the meanings and references as follows:

(1) "Subsidiary" of a person or company for purposes of *this 1973 amendatory act, means any person or company which is controlled by such person or company.

(2) "Control" means directly or indirectly or acting in concert with one or more other persons or companies, or through one or more subsidiaries, owning, controlling, or holding with the power to vote twenty-five percent or more of the outstanding guaranty stock of a savings and loan association.

(3) "Acquiring party" means the person, company, or subsidiary acquiring control of a savings and loan association. [1973 c 130 § 1.]

***Reviser's note:** "this 1973 amendatory act" [1973 c 130] is codified as RCW 33.04.020, 33.04.025, 33.16.040, 33.16.110, 33.16.120, 33.24.005, 33.24.120, 33.24.230, 33.24.270, 33.24.280, 33.24.295, 33.24.350-33.24.380, 33.40.050 and 33.48.150-33.48.290.

Severability—1973 c 130: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 130 § 32.]

33.24.360 Acquisition of control of savings and loan association—Application—Contents. It is unlawful for any acquiring party to acquire control of a savings and loan association until thirty days after the date of filing with the supervisor an application containing substantially all of the following information and any additional information that the supervisor may prescribe as necessary or appropriate in the public interest or for the protection of savings account holders, borrowers or stockholders:

(1) The identity, character and experience of each acquiring party by whom or on whose behalf acquisition is to be made;

(2) The financial and managerial resources and future prospects of each acquiring party involved in the acquisition;

(3) The terms and conditions of any proposed acquisition and the manner in which such acquisition is to be made;

(4) The source and amount of the funds or other consideration used or to be used in making the acquisition and, if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction and the names of the parties, however, where a source of funds is a loan made in the lender's ordinary course of business, if the person filing such statement so requests, the commissioner shall not disclose the name of the lender to the public;

(5) Any plans or proposals which any acquiring party making the acquisition may have to liquidate such savings and loan association to sell its assets, to merge it with any company, or to make any other major changes in its business or corporate structure or management;

(6) The identification of any persons employed, retained or to be compensated by the acquiring party, or by any person on his behalf, who makes solicitations or recommendations to stockholders for the purpose of assisting in the acquisition, and brief description of the terms of such employment, retainer or arrangements for compensation;

(7) Copies of all invitations for tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition: *Provided*, That when an unincorporated company is required to file the statements under subsections (1), (2) and (6) of this section, the supervisor may require that the information be given with respect to each partner of a partnership or limited partnership, by each member of a syndicate or group, and by each person who controls a partner or member. When an incorporated company is required to file the statements under subsections (1), (2) and (6) of this section, the supervisor may require that the information be given for the corporation and for each officer and director of the corporation and for each person who is directly or indirectly the beneficial owner of twenty-five percent or more of the outstanding voting securities of the corporation: *Provided further*, That if any tender offer, request or invitation for tenders or other agreement to acquire control is proposed to be made by

means of a registration statement under the Securities Act of 1933 (48 Stat. 74, 15 U.S.C. Sec. 77a), as amended, or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934 (48 Stat. 881; 15 U.S.C. Sec. 77b), as amended, or in an application filed with the federal home loan bank board requiring similar disclosure, such registration statement or application may be filed with the supervisor in lieu of the requirements of this section. [1973 c 130 § 2.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.24.370 Acquisition of control of savings and loan association—Preventive action or proceeding to prevent—Grounds. The supervisor may within thirty days after the date of filing of the application referred to in RCW 33.24.360, file an action or proceeding in the superior court to prevent the pending acquisition of control if he finds any of the following:

(1) The acquisition would substantially lessen competition or would in any manner be in restraint of trade or would result in a monopoly, or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the savings and loan business in any part of the state of Washington, unless he also finds that the anticompetitive effects of the proposed acquisition are clearly outweighed in the public interest by the probable effect of the acquisition in meeting the convenience and needs of the community to be served;

(2) The poor financial condition of any acquiring party might jeopardize the financial stability of the savings and loan association being acquired or might prejudice the interests of the savings account holders, borrowers, or stockholders of the savings and loan association or is not in the public interest;

(3) The plan or proposal under which the acquiring party intends to liquidate the savings and loan association, to sell its assets, or to merge it with any person or company, or to make any other major change in its business or corporate structure or management, is not fair and reasonable to the association's savings account holders, borrowers, or stockholders or is not in the public interest; or

(4) The competence, experience and integrity of any acquiring party who would control the operation of the savings and loan association indicates that approval would not be in the interest of the association's savings account holders, borrowers, or stockholders or in the public interest. [1973 c 130 § 3.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.24.380 Acquisition of control of savings and loan association—Penalty. Any person who wilfully violates any provision of RCW 33.24.360, or any regulation or order thereunder, is guilty of a misdemeanor and shall upon conviction be fined not more than one thousand dollars for each day during which the violation continues. [1973 c 130 § 4.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

Chapter 33.28 FEES AND TAXES

Sections

- 33.28.010 Filing and copy fees.
33.28.020 License fees for domestic associations—Examination and supervision costs.
33.28.030 License fees for foreign associations.
33.28.040 Taxation of associations.

33.28.010 Filing and copy fees. The secretary of state shall collect in advance the following fees from each association: For filing articles of incorporation, or amendments thereof, or other certificates required to be filed in his office, ten dollars; for furnishing copies of papers filed in his office, per folio, twenty cents.

Every association shall also pay to the secretary of state or county auditor, for filing any instrument with him, the same fees as are required of general corporations for filing similar papers. [1945 c 235 § 76; Rem. Supp. 1945 § 3717–195.]

Corporations, fees in general: Chapter 23A.40 RCW.

Savings and loan associations, fee exemptions: RCW 23A.44.110.

33.28.020 License fees for domestic associations—Examination and supervision costs. Every savings and loan association organized under the laws of this state shall on or before the 31st day of July in each year, pay to the supervisor a license fee, for the ensuing fiscal year commencing July 1st, of fifty dollars. An additional fee of fifty dollars shall also be paid for each branch office.

The supervisor shall also collect from each association the actual cost for examination and supervision of its condition. [1974 1st ex.s. c 22 § 1; 1969 c 107 § 6; 1961 c 222 § 4; 1945 c 235 § 77; Rem. Supp. 1945 § 3717–196. Prior: 1933 c 183 § 82; 1919 c 169 § 11; 1913 c 110 § 18.]

Effective date—1961 c 222: "The effective date of section 4 of this 1961 amendatory act is July 1, 1961." [1961 c 222 § 6.] This applies to 1961 c 222 § 4 amending RCW 33.28.020.

33.28.030 License fees for foreign associations. Every foreign savings and loan association or like corporation doing business in this state, on or before the 31st day of July of each year shall pay to the supervisor for the privilege of conducting business in this state, a license fee for the ensuing fiscal year, of three hundred dollars and, in addition, thirty cents upon each one thousand dollars or fraction thereof of assets held or of savings received within this state, whichever may be the larger, up to and including two million five hundred thousand dollars of such assets or savings and a fee of fifteen cents per thousand dollars of such assets or savings, or fraction thereof, in excess of two million five hundred thousand dollars. The supervisor may terminate the right of any foreign association or like corporation to do business in this state whenever any fees remain unpaid, and may take possession of any assets of such foreign association or like corporation in this state.

[1945 c 235 § 78; Rem. Supp. 1945 § 3717–196. Prior: 1933 c 183 § 83; 1919 c 169 § 11; 1913 c 110 § 18.]

33.28.040 Taxation of associations. The fees herein provided for shall be in lieu of all other corporation fees, licenses, or excises for the privilege of doing business, except for business and occupation taxes imposed pursuant to chapter 82.04 RCW, and except for license fees or taxes imposed by a city or town under RCW 82.14A.010, notwithstanding any other provisions of this section.

Neither an association nor its members shall be taxed upon its savings accounts as property. An association shall be taxable upon its real and tangible personal property.

An association is a mutual institution for savings and neither it nor its property shall be taxed under any law which shall exempt banks or other savings institutions from taxation.

For all purposes of taxation, the assets represented by the contingent fund and other reserves (other than reserves for expenses and specific losses) of an association shall be deemed its only permanent capital and, in computing any tax, whether property, income, or excise, appropriate adjustments shall be made to give effect to the mutual nature of such association. [1972 ex.s. c 134 § 4; 1970 ex.s. c 101 § 1; 1945 c 235 § 79; Rem. Supp. 1945 § 3717–198. Prior: 1933 c 183 § 86; 1913 c 110 § 17; 1890 p 56 §§ 35, 38.]

Effective date—1972 ex.s. c 134: See RCW 82.14A.900.

Severability—**Effective date**—1970 ex.s. c 101: See notes following RCW 82.04.430.

City or town license fees or taxes on financial institutions: Chapter 82.14A RCW.

Chapter 33.32 FOREIGN ASSOCIATIONS

Sections

- 33.32.010 New foreign associations barred.
33.32.020 Examinations and reports.
33.32.030 Subject to state regulations and laws.
33.32.040 Deposit to secure investors—Exception.
33.32.050 Power of attorney for service of process.
33.32.060 Reciprocity.
33.32.070 Disqualifying acts.
33.32.080 Nonadmitted foreign associations—Powers relative to secured interests.

33.32.010 New foreign associations barred. No foreign association or like corporation, not already authorized to conduct business in the state of Washington, shall be admitted or permitted to conduct business in this state. [1963 c 246 § 8; 1945 c 235 § 80; Rem. Supp. 1945 § 3717–199. Prior: 1933 c 183 § 85.]

33.32.020 Examinations and reports. A foreign savings and loan association or like corporation authorized to do business in this state which, by the laws of the state in which it is incorporated, is required to be examined or to make reports to officers of such state, after each such examination or on the making of each such report, shall furnish to the supervisor a copy of such examination or report, certified by the officer of such

state making such examination or receiving such report. [1945 c 235 § 81; Rem. Supp. 1945 § 3717–200. Prior: 1933 c 183 § 87; 1913 c 110 § 21; 1890 p 56 §§ 14, 37.]

33.32.030 Subject to state regulations and laws. A foreign savings and loan association or like corporation authorized to transact business in this state, shall conduct its business and comply with all requirements of the supervisor in conformance with the provisions of this title.

All agreements made by any foreign association or corporation doing business in this state with any resident of this state shall be deemed and construed to be made within this state. [1945 c 235 § 82; Rem. Supp. 1945 § 3717–201. Prior: 1933 c 183 § 87; 1913 c 110 § 21; 1890 p 56 §§ 9, 14.]

33.32.040 Deposit to secure investors—Exception. Every such foreign association or like corporation shall deposit with the supervisor forthwith cash or bonds of the United States, or bonds of any state, county, or municipality which are a legal investment for a domestic savings and loan association, or acceptable mortgages on improved real estate in the state of Washington, for a total of not less than its liability to investors in the state of Washington and not in excess of one and one-half times such investment. Such deposit shall be held as security until all claims of residents of this state shall have been fully redeemed and paid off, and its contracts and obligations have been fully performed and discharged.

The supervisor, in his discretion, may permit the withdrawal of any such securities upon such terms and conditions as he deems advisable. Such foreign association may collect and use the interest on any securities so deposited, as long as it fulfills its obligations and complies with the provisions of this title.

The foregoing provisions shall not apply to those foreign associations or corporations who have been granted and maintain insurance on their savings accounts from the federal savings and loan insurance corporation. [1961 c 222 § 5; 1945 c 235 § 83; Rem. Supp. 1945 § 3717–202. Prior: 1933 c 183 §§ 58, 87; 1913 c 110 § 9; 1890 p 56 §§ 4, 8.]

33.32.050 Power of attorney for service of process. No foreign savings and loan association or like corporation shall do business in this state until it shall file with the supervisor a written irrevocable power of attorney providing that service upon the supervisor of any process issued against it by any court in this state shall constitute valid service of such process upon it. Such service shall be had by serving upon the supervisor two copies of such summons or other process, together with the sum of two dollars. The supervisor, upon receipt of any such summons or other process, shall forthwith transmit, by registered mail, one copy thereof to the principal office of such foreign association or corporation. [1945 c 235 § 84; Rem. Supp. 1945 § 3717–203. Prior: 1933 c 183 § 87; 1890 p 56 §§ 9, 10, 12.]

33.32.060 Reciprocity. No foreign savings and loan association shall be permitted to do business in this state on more favorable terms and conditions than the associations organized under the laws of this state are permitted to do business in the state in which such foreign association or corporation is organized. [1945 c 235 § 85; Rem. Supp. 1945 § 3717–204. Prior: 1933 c 183 § 88; 1890 p 56 § 13.]

33.32.070 Disqualifying acts. Any foreign savings and loan association or like corporation doing business in this state which shall remove any action commenced against it in a court of this state to a court of the United States, or which shall fail to pay any judgment rendered against it in any court in this state within sixty days after such judgment shall become final, or which shall fail to comply with any provision of this title, or which shall be placed in liquidation or receivership, or other like proceedings, in any state, shall not thereafter transact any business within this state. [1945 c 235 § 86; Rem. Supp. 1945 § 3717–205. Prior: 1933 c 183 § 89; 1913 c 110 § 21; 1890 p 56 §§ 14, 20.]

33.32.080 Nonadmitted foreign associations—Powers relative to secured interests. See chapter 23A.36 RCW.

Chapter 33.36 PROHIBITED ACTS

Sections	
33.36.010	Illegal loans or investments.
33.36.020	Purchase at discount of accounts or certificates.
33.36.030	Preference in case of insolvency.
33.36.040	Falsification of books, etc.
33.36.050	False statement affecting financial standing.
33.36.060	Suppressing, secreting, or destroying evidence or records.

Assignment for benefit of creditors: Chapter 7.08 RCW.

False representations: Chapter 9.38 RCW.

33.36.010 Illegal loans or investments. Any director, officer, agent, or employee of an association who, on behalf of such association, shall knowingly and wilfully make or participate in making or consent to any loan or investment contrary to the provisions of this title shall be guilty of a gross misdemeanor. [1945 c 235 § 87; Rem. Supp. 1945 § 3717–206. Prior: 1933 c 183 §§ 53, 62, 102, 111; 1919 c 169 § 16; 1913 c 110 § 27.]

33.36.020 Purchase at discount of accounts or certificates. Any director, officer, agent, attorney, or employee of an association who, directly or indirectly, shall purchase at a discount any savings account in the association or any certificate or debenture of any segregation corporation holding assets formerly held by the association shall be guilty of a gross misdemeanor. [1945 c 235 § 88; Rem. Supp. 1945 § 3717–207. Prior: 1933 c 183 §§ 62, 101.]

33.36.030 Preference in case of insolvency. Every transfer of its property and assets by any savings and loan association in this state, made in contemplation of insolvency, or after it shall have become insolvent, with

a view to the preference of one creditor or member over another, or to prevent the proper distribution of its property and assets among its creditors and members, shall be void.

Every director, officer, agent, or employee making such transfer or assisting therein shall be guilty of a felony. [1945 c 235 § 89; Rem. Supp. 1945 § 3717-208.]

33.36.040 Falsification of books, etc. Every person who shall subscribe to or knowingly make or cause to be made any false statement or false entry in the books of any association, or shall knowingly subscribe to or exhibit any false or fictitious security, document, or paper, with intent to deceive any person authorized to examine into the affairs of any association, or shall knowingly make or publish any false statement of the amount of the assets or liabilities of the savings association, shall be guilty of a felony. [1945 c 235 § 90; Rem. Supp. 1945 § 3717-209. Prior: 1933 c 183 § 101; 1919 c 169 §§ 12, 18; 1913 c 110 § 19.]

33.36.050 False statement affecting financial standing. Any person who shall wilfully instigate, make, circulate, or transmit to another or others any false statement concerning the moral or financial condition, or affecting the financial standing of any association doing business in this state, or who wilfully counsels, aids, procures or induces another to start, transmit, or circulate any such statement or rumor, shall be guilty of a gross misdemeanor. [1945 c 235 § 92; Rem. Supp. 1945 § 3717-211. Prior: 1933 c 183 § 110.]

33.36.060 Suppressing, secreting, or destroying evidence or records. Any person who, for the purpose of concealing any material fact, shall suppress any evidence or abstract, remove, mutilate, destroy, or secrete any book, paper or record of an association, or of the supervisor, or of anyone connected with the association or the office of the supervisor, shall be guilty of a felony. [1945 c 235 § 91; Rem. Supp. 1945 § 3717-210. Prior: 1933 c 183 § 106; 1919 c 169 § 19.]

Chapter 33.40

INSOLVENCY, LIQUIDATION, MERGER

Sections	
33.40.010	Voluntary liquidation, merger, etc., authorized—Procedure.
33.40.020	Supervisor may take possession on notice for delinquency.
33.40.030	Possession without notice.
33.40.040	Procedure on taking possession.
33.40.050	Involuntary liquidation—Procedure.
33.40.060	Procedure to be as in receivership.
33.40.070	Liquidator's powers.
33.40.075	Investment of liquidation funds—Use of income.
33.40.080	Disposition of records.
33.40.090	Liquidation of segregation corporation.
33.40.100	Disposition of unclaimed dividends and records.
33.40.110	Voluntary liquidation—Disposition of unclaimed dividends and records.
33.40.120	Removal of liquidator—Appeal.
33.40.130	Payment of savings accepted during emergency, etc.

33.40.010 Voluntary liquidation, merger, etc., authorized—Procedure. Any domestic association may determine to enter upon voluntary liquidation, to transfer its assets and liabilities to another association, to merge with another association, to segregate its assets into classes, to charge off its losses in excess of its reserves.

Any such liquidation, transfer, merger, segregation, or charge-off shall be effected by the vote of a majority in amount of the members present, in person or by proxy, at any regular or special meeting of the members called for such purpose. Notice of such meeting, stating the purpose thereof, shall be given the supervisor at least thirty days prior to the meeting and to the members pursuant to the provisions contained in RCW 33.20.010.

If such liquidation, transfer, merger, segregation, or charge-off be authorized by the members at the meeting, the directors of the association are authorized and shall effect such action, and the officers of the association shall execute all proper conveyances, documents, and other papers necessary or proper thereunto. [1949 c 20 § 9; 1945 c 235 § 102; Rem. Supp. 1949 § 3717-221. Prior: 1935 c 171 § 4; 1933 c 183 §§ 60, 78; 1919 c 169 § 17.]

33.40.020 Supervisor may take possession on notice for delinquency. Whenever it shall appear to the supervisor that any association is in an unsound condition or is conducting its business in an unsafe manner or is refusing to submit its books, papers, or concerns to lawful inspection, or that any director or officer thereof refuses to submit to examination on oath touching its concerns and affairs or that it has failed to carry out any authorized order or direction of the supervisor, the supervisor may give notice to the association so offending or delinquent or whose director or officer is thus offending or delinquent to correct such offense or delinquency and, if such association or such director or officer fails to correct said condition, offense, or delinquency within a reasonable time, as determined by the supervisor, the supervisor may take possession of such association. [1945 c 235 § 103; Rem. Supp. 1945 § 3717-222. Prior: 1933 c 183 §§ 68, 71.]

33.40.030 Possession without notice. Whenever it shall appear to the supervisor that any association is in an unsound or unsafe condition to continue business or is insolvent, the supervisor may take possession thereof without notice. [1945 c 235 § 104; Rem. Supp. 1945 § 3717-223. Prior: 1933 c 183 §§ 68, 71.]

33.40.040 Procedure on taking possession. Upon the supervisor taking possession of any association, he shall proceed to liquidate such association unless, in his discretion, he shall determine to call a meeting of the savings members to consider either a proportionate charge-off against the members' savings accounts (except juvenile and school savings) to permit the association thereafter to continue in business, or whether the association should proceed to voluntary liquidation under the management of its board of directors. In such event, if the supervisor shall approve the decision of a

majority in amount of the savings present and voting, he shall order such action to be taken.

During any period of voluntary liquidation, the supervisor may take possession of the association and its assets and complete the liquidation whenever, in his discretion, this seems advisable. [1945 c 235 § 105; Rem. Supp. 1945 § 3717–224. Prior: 1935 c 171 § 4; 1933 c 183 §§ 70, 72, 78; 1919 c 169 § 13; 1913 c 110 § 20.]

33.40.050 Involuntary liquidation—Procedure. Whenever the supervisor shall determine to liquidate the affairs of an association, he shall cause the attorney general to present to the superior court of the county in which such association has its principal place of business a written petition setting forth the date of his taking possession, the reasons therefor, and other material facts concerning the affairs of the association and, if the court shall determine that said association should be liquidated, it shall appoint the supervisor, and no other person, as the liquidator of such association and fix and require a bond to be given by the liquidator conditioned for the faithful performance of his duties as such liquidator, but if the association has the insurance protection provided by Title IV of the National Housing Act, as now or hereafter amended, the court upon the request of the supervisor may tender to the federal savings and loan insurance corporation the appointment as liquidator.

Upon the filing with and approval by the court of such bond, the supervisor shall enter upon his duties as liquidator of the affairs of the association, and, under the direction of the court, shall administer and liquidate the assets thereof and apply the same to the payment of the expenses of liquidation and the debts of the association, and distribute the remainder to the savings members, first paying juvenile and school savings accounts in full, and distributing the then remainder to the remaining savings accounts proportionately.

If the court tenders the appointment as liquidator to the federal savings and loan insurance corporation, and if the insurance corporation accepts such appointment, it shall have and possess all the powers and privileges provided by the laws of this state with respect to a liquidator of a savings and loan association, its depositors and other creditors, and be subject to all the duties of such liquidator, except insofar as such powers, privileges, or duties are in conflict with the provisions of Title IV of the National Housing Act, as now or hereafter amended. In any liquidation proceeding in which the insurance corporation is the liquidator, it may proceed to liquidate without being subject to the control of the court and without bond. [1973 c 130 § 29; 1945 c 235 § 106; Rem. Supp. 1945 § 3717–225. Prior: 1935 c 171 § 4; 1933 c 183 §§ 70, 72, 73, 74, 76, 77, 78; 1919 c 169 § 13; 1913 c 110 § 20.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.40.060 Procedure to be as in receivership. In any such liquidation proceeding, the court, except as otherwise in this title expressly provided, shall have the powers and proceed as in receivership proceedings. [1945 c 235 § 107; Rem. Supp. 1945 § 3717–226. Prior: 1935 c 171 § 4; 1933 c 183 §§ 70, 72, 73, 75, 76, 77, 78; 1919 c 169 § 13; 1913 c 110 § 20.]

33.40.070 Liquidator's powers. The liquidator, upon the approval of the court, may sell, discount, or compromise debts of the association and claims against its debtors. The liquidator, with the approval of the court, may lease, operate, repair, exchange, or sell, either for cash or upon terms, the real and personal property of the association.

The liquidator, with the approval of the court, when funds are available, may pay savings members whose balances amount to not more than five dollars, the full amount of the balances.

Checks issued or payments held by the liquidator which remain undelivered for six months following the final liquidation dividend, shall be deposited with the supervisor, after which the liquidator shall be discharged by the court. During ten years thereafter, the supervisor shall deliver the checks or payments, or his own checks in lieu thereof, to the payee, or his legal representative, upon receipt of satisfactory evidence of his right thereto. After said ten years, the supervisor shall cancel all such checks or payments remaining in his possession and issue his check against the account for the amount thereof, payable to the state treasurer, and deliver it to him. Such payment shall escheat to the state, without further legal proceedings. [1953 c 71 § 10; 1945 c 235 § 108; Rem. Supp. 1945 § 3717–227. Prior: 1935 c 171 § 4; 1933 c 183 §§ 70, 73, 74, 78.]

33.40.075 Investment of liquidation funds—Use of income. All funds received by the supervisor from liquidations may be invested by him in banks and savings and loan associations in amounts not in excess of the amount insured by the federal deposit insurance corporation or the federal savings and loan insurance corporation, or in securities authorized herein, and the earnings from the moneys so held may be applied toward defraying the expenses incurred in the liquidations. [1951 c 105 § 1.]

33.40.080 Disposition of records. Upon the termination of any liquidation proceeding, any files, records, documents, books of account, or other papers in the possession of the liquidator shall be surrendered into the possession of the supervisor, who, in his discretion at any time after the expiration of one year, may destroy any of such files, records, documents, books of account or other papers which appear to him to be obsolete or unnecessary for future reference. [1945 c 235 § 109; Rem. Supp. 1945 § 3717–228.]

33.40.090 Liquidation of segregation corporation. In any liquidation of the segregation corporation of any association, all funds remaining on hand, after the payment of all accounts, certificates or debentures issued

by the segregation corporation or association, together with interest on dividends thereon amounting to, in the aggregate, the rate of dividends credited by the association to its members for the same period, shall be paid to and become the property of the association.

In any such liquidation, any residue remaining amounting to less than one percent of the aggregate original amount of outstanding certificates, debentures or accounts, regardless of the total amount paid to certificate or debenture holders, shall be paid to and become the property of the association. [1945 c 235 § 110; Rem. Supp. 1945 § 3717-229.]

33.40.100 Disposition of unclaimed dividends and records. In the liquidation of a segregation corporation, any checks issued in such liquidation or funds for the payment of liquidation dividends, which remain undelivered for six months following the final liquidating dividend, shall be delivered, together with the books, records, and papers of the corporation, to the association which has been liquidating the said corporation. During five years thereafter, the association shall deliver any such checks or portions of said funds to the payee, or his legal representative, upon receipt of satisfactory evidence of his right thereto. After said five years the association shall cancel all undelivered dividend checks remaining in its possession and issue a check for the amount thereof together with any other funds, which check shall be payable to the state treasurer, and deliver the same to him. Such payment shall escheat to the state, and it shall not be necessary to have such escheat adjudged in any legal proceeding. After said five year period the association may destroy any of the books, records, papers, and documents of the corporation which it deems are obsolete or unnecessary for future reference. [1945 c 235 § 111; Rem. Supp. 1945 § 3717-230.]

33.40.110 Voluntary liquidation—Disposition of unclaimed dividends and records. In a voluntary liquidation of an association, checks issued in the liquidation or funds representing liquidating dividends or otherwise which remain undelivered for six months following the final liquidating dividend, shall be deposited with the supervisor, together with any files, records, documents, books of account, or other papers of the association. The supervisor, at any time after one year, may destroy any of such files, records, documents, books of account, or other papers which appear to him to be obsolete or unnecessary for future reference. During ten years thereafter, the supervisor shall deliver such checks, or his own checks in lieu thereof, or portions of such funds to the payee, or his legal representative, upon receipt of satisfactory evidence of his right thereto. After the ten years, the supervisor shall cancel all such checks remaining in his possession and issue his check payable to the state treasurer for the amount thereof together with any other liquidating funds, and deliver them to him. Such payment shall escheat to the state without further legal proceedings. [1953 c 71 § 11; 1945 c 235 § 112; Rem. Supp. 1945 § 3717-231.]

Uniform disposition of unclaimed property: Chapter 63.28 RCW.

33.40.120 Removal of liquidator—Appeal. The court, upon notice and hearing may remove the liquidator for cause. From such order of removal the supervisor may appeal to the supreme court or the court of appeals by notice of appeal and bond for costs as in other appeals.

During the pendency of any appeal the director of general administration shall act as liquidator of the association, without giving any additional bond for the performance of his duties as such liquidator.

If such order of removal shall be affirmed, the director of general administration shall name another liquidator for the association, which nominee, upon qualifying as required for receivers generally, shall succeed to the position of liquidator of the association. [1971 c 81 § 86; 1945 c 235 § 113; Rem. Supp. 1945 § 3717-232.]

33.40.130 Payment of savings accepted during emergency, etc. Savings received by an association, during a period or periods of postponement of payment of withdrawals or of acute business depression, panic or economic emergency under authorization or declaration of the supervisor as hereinbefore provided, shall be repaid to the members paying in such savings before any liquidation dividends shall be declared or paid if, during such period or periods or at the expiration thereof, the supervisor shall take charge of the association for liquidation, as hereinafter in this title provided. [1945 c 235 § 100; Rem. Supp. 1945 § 3717-219.]

Chapter 33.43 CONVERSION TO AND FROM FEDERAL ASSOCIATION

Sections

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| 33.43.010 | Conversion of domestic association to federal association. |
| 33.43.020 | Federal association—Powers. |
| 33.43.030 | Conversion of federal association to domestic association. |

33.43.010 Conversion of domestic association to federal association. Any domestic association may convert itself into a federal savings and loan association. Any such conversion shall be effected by the vote of a majority in amount of the members present, in person or by proxy, at any regular or special meeting of the members called for such purpose. Notice of such meeting, stating the purpose thereof, shall be given the supervisor at least thirty days prior to the meeting and to the members pursuant to the provisions contained in RCW 33.20.010.

If such conversion be authorized by the members at the meeting the directors of the association are authorized and shall effect such action, and the officers of the association shall execute all proper conveyances, documents, and other papers necessary or proper thereunto.

If conversion be authorized, a copy of the minutes of the meeting shall be filed forthwith with the supervisor.

Upon consummation of such conversion, the successor federal savings and loan association shall succeed to all right, title, and interest of the domestic association

in and to its assets, and to its liabilities to the creditors and members of the association. Upon such conversion, after the execution and delivery of all instruments of transfer, conveyance and assignment, the domestic association shall be deemed dissolved. [1949 c 20 § 10; 1945 c 235 § 116; Rem. Supp. 1949 § 3717-235. Prior: 1933 ex.s. c 15 §§ 1 through 6. Formerly RCW 33.44.100.]

33.43.020 Federal association—Powers. Every federal savings and loan association, the home office of which is located in this state, and the savings accounts therein shall have all the rights, powers and privileges and be entitled to the same immunities and exemptions as pertain to savings and loan associations organized under the laws of this state. [1945 c 235 § 117; Rem. Supp. 1945 § 3717-236. Prior: 1939 c 98 § 9; 1933 c 183 § 50. Formerly RCW 33.44.110.]

33.43.030 Conversion of federal association to domestic association. Any federal savings and loan association the home office of which is located in this state may convert itself into a domestic savings and loan association of this state. For any such conversion, such federal association shall proceed as provided in this title for the conversion of a domestic association into a federal association.

Upon consummation of such conversion, the successor domestic association shall succeed to all right, title, and interest of the federal association in and to its assets, and to its liabilities to the creditors and members of such federal association. [1945 c 235 § 118; Rem. Supp. 1945 § 3717-237. Prior: 1939 c 98 § 1. Formerly RCW 33.44.120.]

Chapter 33.44

CONVERSION TO MUTUAL SAVINGS BANK

Sections

- 33.44.010 Definitions.
- 33.44.020 Conversion to a mutual savings bank—Procedure.
- 33.44.080 Members become depositors—Withdrawal.
- 33.44.090 Transfer of securities—Guaranty fund.

33.44.010 Definitions. In this chapter, unless repugnant to the context, the word "association" means "building and loan or savings and loan association or society;" the word "director" means one of the managing board of such a corporation; and the word "bank" means "mutual savings bank." [1917 c 154 § 4; RRS § 3757.]

33.44.020 Conversion to a mutual savings bank—Procedure. Any going building and loan or savings and loan association or society organized under the laws of this state, may, if its contingent fund regularly accumulated, exclusive of any reserve fund stock, amounts to not less than five thousand dollars, be converted into a mutual savings bank in the following manner:

(1) The board of directors of such association shall pass a resolution declaring their intention to convert the association into a mutual savings bank and shall apply to the supervisor of banking for leave to submit to the

shareholders of the association the question whether the same shall be converted into a mutual savings bank. A duplicate of the application to the supervisor of banking shall be filed with the supervisor of savings and loan associations.

(2) Thereupon the supervisor of banking shall make the same investigation and determine the same questions as he would be required by law to make and determine in case of the submission to him of a certificate of incorporation of a proposed new mutual savings bank, and he shall also determine after conference with the supervisor of savings and loan associations whether by the proposed conversion the business needs and conveniences of the shareholders of such association would be served with facility and safety. After the supervisor of banking shall have satisfied himself by such investigation whether it is expedient and desirable to permit the proposed conversion, he shall, within sixty days after the filing of said application, endorse thereon over his official signature the word "granted" or the word "refused", with the date of such endorsement and shall immediately notify the secretary of such association of his decision: *Provided*, That if the application is granted the supervisor of banking shall require the applicants to enter into such an agreement or undertaking with him as trustee for the depositors with the savings bank to make such contributions in cash to the expense fund of the savings bank as in his judgment will be necessary then and from time to time thereafter to pay the operating expenses of the bank if its earnings should not be sufficient to pay the same in addition to the payment of such dividends as may be declared and credited to depositors from its earnings.

In case of refusal, said board of directors, or a majority thereof, may, within thirty days after receiving the notice of such refusal appeal to a board of appeal composed of the governor, the attorney general and the supervisor of banking, in the same manner and under the same procedure as that prescribed by law for an appeal to such board from the supervisor of banking's refusal to permit the original organization of a mutual savings bank.

(3) If such application be granted by the supervisor of banking or by the board of appeal, as the case may be, the board of directors of such association shall, within sixty days thereafter, submit the question of the proposed conversion to the shareholders of the association at a special meeting called for that purpose. Notice of such meeting shall be given in the manner prescribed by the bylaws of the association. Such notice shall state the time, place and purpose of the meeting, and that the only question to be voted upon will be, "shall the (naming the association) be converted into a mutual savings bank under the laws of the state of Washington?" The vote on said question shall be by ballot. Any shareholder may vote by proxy or may transmit his ballot by mail if the bylaws provide a method for so doing. If two-thirds or more in number of the shareholders voting on the question vote affirmatively, then the board of directors shall have power, and

it shall be their duty, to proceed to convert such association into a mutual savings bank; otherwise, the proposed conversion shall be abandoned and shall not be again submitted to the shareholders within three years from the date of said meeting.

(4) If authority for the proposed conversion has been voted by the shareholders as hereinabove required, the directors shall, within thirty days thereafter, subscribe and acknowledge and file with the supervisor of banking in quadruplicate a certificate of reincorporation, stating:

(a) The name by which the converted corporation is to be known, which name shall include the words "mutual savings bank."

(b) The place where the bank is to be located and its business transacted, naming the city or town and county, which city or town shall be the same as that where the principal place of business of the corporation has theretofore been located.

(c) The name, occupation, residence and post office address of each signer of the certificate.

(d) The amount of the assets of the corporation, the amount of its liabilities and the amount of its contingent fund as of the first day of the then calendar month.

(e) A declaration that each signer will accept the responsibilities and faithfully discharge the duties of a trustee of the savings bank, and is free from all the disqualifications specified in the laws applicable to mutual savings banks.

(5) Upon the filing of said certificate in quadruplicate the supervisor of banking shall, within thirty days thereafter, if satisfied that all the provisions of this chapter have been complied with, issue in quadruplicate an authorization certificate stating that the corporation has complied with all the requirements of law, and that it has authority to transact at the place designated in its certificate of incorporation the business of a mutual savings bank. One of the supervisor's quadruplicate certificates of authorization shall be attached to each of the quadruplicate certificates of reincorporation, and one set of these shall be filed and retained by the supervisor of banking, one set shall be filed in the office of the county auditor of the county in which such bank is located, one set shall be filed in the office of the secretary of state, and one set shall be transmitted to the bank for its files. Upon the receipt from the corporation of the same fees as are required for filing and recording other incorporation certificates or articles the county auditor and secretary of state shall file said certificates in their respective offices and the secretary of state shall record the same; whereupon the conversion of such association shall be deemed complete, and the signers of said reincorporation certificate and their successors shall thereupon become and be a corporation having the powers and being subject to the duties and obligations prescribed by the laws of this state applicable to mutual savings banks, and the time of existence of such corporation shall continue for the period of fifty years from the date of the filing of such certificate, unless sooner terminated pursuant to law. [1927 c 177 § 1; 1917 c 154 § 1; RRS §§ 3749 through 3754. Formerly RCW 33.44.020 through 33.44.070.]

33.44.080 Members become depositors—Withdrawal. Upon the conversion of any association into a mutual savings bank, every person who was a shareholder of the association at the time of the conversion shall become and be deemed to be a depositor of the bank in a sum equal to the withdrawal value of his shares as of the day on which the conversion was consummated, and every such depositor shall share in the earnings of the corporation to that day as though the conversion had not been effected: *Provided, however,* That any person who was a shareholder shall be entitled at any time within sixty days after the conversion was consummated to withdraw the value of his shares as though no conversion had taken place. [1927 c 177 § 2; 1917 c 154 § 2; RRS § 3755.]

33.44.090 Transfer of securities—Guaranty fund. All mortgages, notes and other securities of any association that has been converted into a mutual savings bank, shall on request of the bank, be delivered to it by the supervisor of savings and loan associations or under his direction by any trust company or other depository having possession thereof. The contingent fund of the association shall become the guaranty fund of the bank. Every such bank shall, as soon as practicable and within such time and by such methods as the supervisor of banking may direct, cause its organization, its securities and investments, the character of its business and its methods of transacting the same to conform to the laws applicable to mutual savings banks. [1927 c 177 § 3; 1917 c 154 § 3; RRS § 3756.]

Chapter 33.48 GUARANTY STOCK STATE SAVINGS AND LOAN ASSOCIATIONS

Sections	
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33.48.030	Minimum amount of stock required.
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33.48.170	Organizing permit—Conditions.
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33.48.200	Permit authorizing sale of guaranty stock—Application.
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- 33.48.230 Sales of guaranty stock—Imposition of conditions.
- 33.48.240 Amendment, alteration or revocation of permits—
Grounds.
- 33.48.250 Purchase by association of stock issued by it.
- 33.48.260 Reduction of guaranty stock.
- 33.48.270 Surplus from reduction of stock.
- 33.48.280 Paid-in or contributed surplus or surplus created by re-
duction of stock—Application and uses.
- 33.48.290 RCW 33.48.150 through 33.48.290 inapplicable to for-
eign associations.

33.48.010 Definitions. As used in this chapter:

"Stockholders" means owners of guaranty stock in a guaranty stock savings and loan association;

"Members" means borrowers, obligors, contract purchasers indebted to the association, individuals, and any other legal entities who are the owners of withdrawable savings or guaranty stock in a guaranty stock savings and loan association. [1955 c 122 § 2.]

33.48.020 Charter authorized. The supervisor may, upon terms and conditions required of mutual state savings and loan associations, charter savings and loan associations having guaranty stock. Subject to the specific provisions of this chapter, guaranty associations shall have all the rights, privileges and immunities granted to other associations organized under this title. [1955 c 122 § 3.]

33.48.030 Minimum amount of stock required. Associations chartered under this chapter 33.48 RCW shall be known as guaranty stock savings and loan associations, and shall have a permanent nonwithdrawable stock of the par value of not less than one dollar per share. The minimum amount of such stock shall be twenty-five thousand dollars in the case of associations outside of incorporated cities, or in cities of less than twenty-five thousand population. Associations located in cities of greater population shall have as a minimum, fifty thousand dollars of such stock. The board of such association is authorized and directed to issue and maintain the guaranty stock in the following percentages: Three percent upon the first five million dollars; two percent upon the next three million dollars, and one percent upon all additional withdrawable savings: *Provided*, That associations whose savings are insured by the Federal Savings and Loan Insurance Corporation shall not be required to maintain stock in excess of three hundred thousand dollars. [1969 c 107 § 7; 1963 c 246 § 9; 1955 c 122 § 4.]

33.48.040 Payment for stock—Dividends. The guaranty stock provided for in RCW 33.48.030 shall be paid for in cash at par, except as hereafter in this section provided, and shall not be eligible as security for loans from the association, nor withdrawable except upon liquidation or dissolution. No dividends shall be declared on guaranty stock until the reserves required by law and the total of the guaranty stock, undivided profits and all reserves available for losses, less all estimated and determined losses resulting from the depreciation in value of the assets, is equal to five percent of the savings. Subject to the provisions of this chapter,

guaranty stock shall be entitled to such rate of dividend, if earned, as fixed by the board. Stock dividends may be declared and issued by the board at any time, payable from otherwise unallocated surplus and undivided profits. With the consent of the supervisor, guaranty stock may be issued for a consideration other than cash in connection with mergers, consolidations or transfers. [1955 c 122 § 5.]

33.48.050 When stock less than required percentage—Procedure. In the event that the guaranty stock becomes less than the percentage required under the provisions of this chapter, the executive officer of the association shall promptly inform the board, and the board shall notify the supervisor of the existing condition. The supervisor shall direct the association, in writing, to issue and sell the necessary guaranty stock to comply with this chapter within ninety days from the receipt of such notice. If the board does not comply within said ninety day period, the supervisor may direct that the association cease to accept savings until the percentage deficiency has been removed. [1955 c 122 § 6.]

33.48.060 Stock owners as voting members—No cumulative voting. Owners of guaranty stock shall be considered as members of the association and shall be entitled to one vote for each share of such stock. Guaranty stock shall not be subject to cumulative voting. [1955 c 122 § 7.]

33.48.070 Majority of board must own stock. A majority of the board shall be the owners of guaranty stock in the minimum amounts required by law for directors owning withdrawable savings. [1955 c 122 § 8.]

33.48.080 Members proprietary interest—Creditors priority. Each member having guaranty stock in an association shall have a proportionate proprietary interest in its assets and net earnings subordinate to the claims of its creditors with priorities as established by this chapter 33.48 RCW; but no other member as defined in RCW 33.48.010 shall have any such interest except as provided in RCW 33.48.120 as now or hereafter amended. [1969 c 107 § 8; 1967 c 49 § 6; 1955 c 122 § 9.]

33.48.090 Dividends—Restrictions on payment. No dividend shall be paid or credited upon shares of guaranty stock for any period in which the association shall not have declared and paid dividends upon withdrawable savings. [1955 c 122 § 10.]

33.48.100 Conversion procedure—To mutual or federal savings and loan or mutual savings bank. Guaranty stock associations may convert to mutual or federal savings and loan associations or mutual savings banks under the provisions of applicable statutes and regulations of proper supervisory authorities. In the event of compliance with such statutes and regulations an appraisal of the guaranty stock shall be made by the supervisor, upon written request of the directors of the

association, and the appropriate value of the guaranty stock may be given consideration in the proceedings to convert by giving credit to such stock from surplus and other reserves. [1955 c 122 § 11.]

33.48.110 Conversion procedure—Mutual association to guaranty stock savings and loan. Any mutual association, either state or federal, operating in the state of Washington may convert itself into a guaranty stock savings and loan association. Such conversion shall be effected by the vote of two-thirds of the members present and voting in person or by proxy at any regular or special meeting of the members called for such purpose. Notice of such meeting, stating the purpose thereof, shall be given to the supervisor and to each member by mailing notice to his last known address at least thirty days prior to the meeting.

At such meeting the members may adopt a resolution amending its articles of incorporation and bylaws to provide for operation under this chapter as a guaranty stock association.

Upon adoption of such resolution, savings members shall be given notice of the proposed change and shall be offered, for a period of sixty days following the date of the meeting, the right to subscribe for the proposed guaranty stock at par, pro rata to their savings in such mutual association, and such right shall be transferable. The amount of such guaranty stock shall be as prescribed in this chapter. In the event that the total guaranty stock required has not, at the end of the sixty day period, been fully subscribed, the unsubscribed portion shall be offered to any former subscribers for such guaranty stock.

When the stock has been fully subscribed and paid for, certified copies of the documents relating to the conversion shall be submitted to the supervisor for his approval of the conversion proceedings. Upon notification by the supervisor that he approves the conversion, the directors shall adopt a resolution declaring the association to be a guaranty stock association and thereafter it shall be such. [1955 c 122 § 12.]

33.48.120 Conversion procedure—Disposition of surplus, reserves, etc. The accumulated surplus and unallocated reserves of an association at the time of conversion to a guaranty stock association shall be designated as a permanent loss reserve against which any losses incurred on assets may be charged. In case of liquidation the remaining sum in said permanent loss reserve shall be distributed to the savings members in proportion to the withdrawable value of their savings accounts at the time of liquidation. In liquidation, after payment of all liabilities and the withdrawable value of all types and classes of savings accounts together with the remainder in the permanent loss reserve heretofore mentioned, any excess shall be paid pro rata to the guaranty stockholders. [1955 c 122 § 13.]

33.48.130 Withdrawal of charter amendment or conversion application. The directors of an association which has voted to amend its charter or convert to another type of institution, may withdraw the application

at any time prior to the issuance of the amended charter, by adopting a proper resolution and forwarding a copy to the supervisor. [1955 c 122 § 14.]

33.48.140 Legislative intent—Conflicting provisions of title. It is the intention of the legislature to grant, by this chapter, authority to create guaranty stock savings and loan associations in this state, by either organization or conversion under its provisions, and in the event of conflict between the provisions of this chapter and other provisions of Title 33 RCW, such other provisions shall be construed in favor of the accomplishment of the purposes of this chapter. [1955 c 122 § 15.]

33.48.150 Organizing permit—Required. No subscriptions or funds from proposed stockholders of any proposed association, prior to its incorporation and prior to a decision by the supervisor on its application for approval of its articles of incorporation, may be solicited or taken until a verified application for an organizing permit has been filed and a permit has been issued by the supervisor authorizing such subscription or collection of funds and then, only in accordance with the terms of such permit. [1973 c 130 § 6.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.48.160 Organizing permit—Application. The application for an organizing permit under RCW 33.48.150 shall be in writing, verified as provided by law for the verification of pleadings and shall be filed in the office of the supervisor. Such application shall be signed by the proposed incorporators and shall include the following:

- (1) The names and addresses of its proposed directors, officers and incorporators, to the extent known;
- (2) The proposed location of its office;
- (3) A copy of any contract proposed to be used for the solicitation of stock subscriptions and funds for its preincorporation expenses;
- (4) A copy of any advertisement, circular, or other written matter proposed to be used for soliciting stock subscriptions and funds for its preincorporation expenses;
- (5) A statement of the total funds proposed to be solicited and collected prior to incorporation and an itemized estimate of the preincorporation expenses proposed to be paid;
- (6) A list of the names and addresses and amounts of each of the known proposed stockholders and contributors to the fund for preincorporation expenses; and
- (7) Such additional information as the supervisor may require. [1973 c 130 § 7.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.48.170 Organizing permit—Conditions. The supervisor may impose conditions in his organizing permit issued under RCW 33.48.150 concerning the deposit in escrow of funds collected pursuant to said permit, the manner of expenditure of such funds and such other

conditions as he deems reasonable and necessary or advisable for the protection of the public and the subscribers to such stock or funds for preincorporation expenses. [1973 c 130 § 8.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.48.180 Permit authorizing sale of guaranty stock—Required prior to sale or issuance of stock. No association shall sell, offer for sale, negotiate for the sale of, take subscriptions for, or issue any of its stock until the association applies for and secures from the supervisor a permit authorizing it to sell guaranty stock. [1973 c 130 § 5.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.48.190 Permit authorizing sale of guaranty stock—Required prior to sale of issued or outstanding stock. No issued and outstanding stock of an association shall be sold or offered for sale to the public, nor shall subscriptions be solicited or taken for such sales until the association or the selling stockholders have applied for and secured from the supervisor a permit authorizing the sale of the guaranty stock.

This section shall not apply to an offering involving less than ten percent of the issued and outstanding guaranty stock of an association and less than five hundred thousand dollars nor to an offering made under a registration statement filed under the Securities Act of 1933 (48 Stat. 74; 15 U.S.C. Sec. 77a). [1973 c 130 § 9.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.48.200 Permit authorizing sale of guaranty stock—Application. An application for a permit to sell guaranty stock shall be in writing, verified as provided by law for the verification of pleadings and shall be filed in the office of the supervisor by the association or the selling stockholders.

The application shall include the following:

(1) Regarding the association:

(a) The names and addresses of its officers;

(b) The location of its office;

(c) An itemized account of its financial condition within ninety days of the filing date; and

(d) A copy of all minutes of any proceedings of its directors, shareholders, or stockholders relating to or affecting the issue of such stock;

(2) Regarding the offering:

(a) The names and addresses of the selling stockholders and of the officers of any selling corporation and the partners of any selling partnership;

(b) A copy of any contract concerning the sale of the stock;

(c) A copy of a prospectus or advertisement or other description of the stock prepared for distribution or publication in accordance with requirements prescribed by the supervisor;

(d) A brief description of the method by which the stock is to be offered for sale including the offering

price and the underwriting commissions and expense, if any; and

(3) Such additional information as the supervisor may require. [1973 c 130 § 10.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.48.210 Permit authorizing sale of guaranty stock—Examination and investigation. Upon the filing of the application for a permit to sell guaranty stock, the supervisor shall examine the application and other papers and documents filed therewith and he may make a detailed examination, audit, and investigation of the association and its affairs. If the supervisor finds that the proposed plan for the issue and sale of such stock is fair, just and equitable, the supervisor shall issue to the applicant a permit authorizing it to issue and dispose of its stock in such amounts and for such considerations and upon such terms and conditions as the supervisor may provide in the permit. If the supervisor does not so find he shall deny the application and notify the applicant in writing of his decision. [1973 c 130 § 11.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.48.220 Permit authorizing sale of guaranty stock—Recitation. Every permit to sell guaranty stock shall recite in bold face type that the issuance thereof is permissive only and does not constitute a recommendation or endorsement of the stock permitted to be issued. [1973 c 130 § 12.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.48.230 Sales of guaranty stock—Imposition of conditions. With respect to sales of guaranty stock by an association, the supervisor may impose conditions requiring the impoundment of the proceeds from the sale of guaranty stock, limiting the expense in connection with the sale of such stock, and other conditions as he deems reasonable and necessary or advisable to insure the disposition of the proceeds from the sale of such stock in the manner and for the purposes provided in the permit. [1973 c 130 § 13.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.48.240 Amendment, alteration or revocation of permits—Grounds. The supervisor may amend, alter, or revoke any permit issued to [by] him or temporarily suspend the rights of the association under such permit, if there is a violation of the terms and conditions of the permit or if he determines that the issue and sale is no longer fair, just and equitable. [1973 c 130 § 14.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.48.250 Purchase by association of stock issued by it. An association may purchase stock issued by it in an amount not to exceed the amount of earned surplus or undivided profits available for dividends on its stock if

either: the stock so purchased is included for federal estate tax purposes in determining the gross estate of a decedent, and the amount paid for such purchase is entitled to be treated under section 303 of the Internal Revenue Code of 1954 (68A Stat. 3; 26 U.S.C. Sec. 1), or other applicable federal statute or the corresponding provision of any future federal revenue law, as a distribution in full payment in exchange for the stock so purchased, or such purchase is with the prior consent of the supervisor. Stock so purchased until sold shall be carried as treasury stock. Upon the purchase of any stock issued by the association, an amount equal to the purchase price shall be set aside from earned surplus or undivided profits available for dividends to a specific reserve account established for this purpose. Upon sale of any of such stock, the amount relating thereto in the specific reserve account shall be returned to the surplus or undivided profits account (as the case may be) and shall be available for dividends. Reacquired stock shall not be resold at less than its reacquisition cost, without the specific approval of the supervisor, and shall not be resold or reissued except in accordance with RCW 33.48.190 through 33.48.240. [1973 c 130 § 15.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.48.260 Reduction of guaranty stock. With the prior consent of the supervisor the guaranty stock of an association may be reduced by resolution of the board of directors approved by the vote or written consent of the holders of a majority in amount of the outstanding stock of such association to such amount as the supervisor approves. [1973 c 130 § 16.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.48.270 Surplus from reduction of stock. Any surplus resulting from reduction of stock shall not be available for dividends or other distribution to stockholders or shareholders except upon liquidation. [1973 c 130 § 17.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.48.280 Paid-in or contributed surplus or surplus created by reduction of stock—Application and uses. An association may, by action of its board of directors and with the prior approval of the supervisor, apply any part or all of any paid-in or contributed surplus or any surplus created by reduction of stock to the reduction or writing off of any deficit arising from losses or diminution in value of its assets, or may transfer to or designate as a part of its federal insurance reserve account or any other reserve account irrevocably established for the sole purpose of absorbing losses, any part or all of any paid-in or contributed surplus or any surplus created by reduction of stock. [1973 c 130 § 18.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

33.48.290 RCW 33.48.150 through 33.48.290 inapplicable to foreign associations. RCW 33.48.150 through 33.48.290 shall not apply to foreign associations doing business in this state pursuant to the provisions of chapter 33.32 RCW. [1973 c 130 § 19.]

Severability—1973 c 130: See note following RCW 33.24.350.

Definitions—1973 c 130: See RCW 33.24.350.

Chapter 33.52 MISCELLANEOUS—GOVERNMENTAL INVESTMENTS

Sections

33.52.010 Public funds may be invested in savings and loan associations.

33.52.010 Public funds may be invested in savings and loan associations. Any funds of the state, the counties, cities, towns, municipal corporations, taxing districts, political subdivisions, and political entities of every kind, or any funds held in trust by or under the management of any such entity, which are available for investment, may be invested in savings and loan associations organized under either federal or state law, which are doing business in this state: *Provided*, That the investment of any one fund in any one savings and loan association shall not exceed the amount which is insured by the federal savings and loan insurance corporation.

This section shall not apply to the permanent school fund. [1951 c 6 § 1. Formerly RCW 33.04.100.]

Chapter 33.54 SATELLITE FACILITIES (SEE CHAPTER 30.43 RCW)

TITLE 34

ADMINISTRATIVE LAW

Chapters

34.04 Administrative procedure act.

Procedures of various agencies to accord Administrative Procedure Act:

agricultural commodities, establishment of "station": RCW 22.09.010.

aircraft fuel excise fuel tax: RCW 82.42.040, 82.42.070.

animals, humane slaughter: Chapter 16.50 RCW.

associations of agricultural producers: RCW 24.34.020.

board of tax appeals: RCW 34.04.150, 82.03.150, 82.03.160, 82.03.180.

brand inspection: RCW 16.57.220.

canal commission: Chapter 91.12 RCW.

commercial feed law: RCW 15.53.9012.

commercial fertilizer law: RCW 15.54.310.

community college act, transfer of assets: RCW 28B.50.300.

controlled atmosphere storage of fruits and vegetables: Chapter 15.30 RCW.

dairies and dairy products: RCW 15.32.051, 15.32.584, 15.32.630.

debt adjusting: RCW 18.28.180.

department of agriculture

custom meat facilities act: RCW 16.49.650.

establishment of divisions: RCW 43.23.015.

identification of cattle in certified feed lots: RCW 16.58.070.

schedule of fees for brand inspection: RCW 16.57.220.

Washington pesticide control act: Chapter 15.58 RCW.

department of ecology: RCW 43.21A.070, 43.21A.190, 43.21B.240.

department of social and health services

adoption support demonstration act, under: RCW 74.13.103.

mentally ill, charges: RCW 71.02.412, 71.02.413.

director of highways, motor vehicle wreckers licenses: RCW 46.80.110.

elevators, lifting devices and moving walks: RCW 70.87.090.

food processing: RCW 69.07.070.

gambling commission: RCW 9.46.070(11), 9.46.140.

insurance commissioner: RCW 48.03.070, 48.04.010, 48.04.040, 48.04.090, 48.52.060.

interpreters—Legal proceedings: Chapter 2.42 RCW.

interstate commercial vehicles: RCW 46.86.030, 46.86.070.

limited access highways—Review and appeal on petition of abutter: RCW 47.52.195.

liquor control board, actions relative to permits and licenses: RCW 66.08.150.

milk and milk products for animal food consumption: RCW 15.37.080.

mining leases and contracts: RCW 79.01.618.

motor vehicle dealers and salesmen: RCW 46.70.102.

motor vehicles requiring special operating skills: RCW 46.20.450.

optometry board: RCW 18.54.090, 18.54.110.

planting stock act: RCW 15.14.020, 15.14.080, 15.14.090.

pollution control hearings board: RCW 43.21B.010, 43.21B.130, 43.21B.150, 43.21B.160, 43.21B.180, 43.21B.200, 43.21B.240.

proprietary schools: RCW 18.82.060.

state air pollution control board

rules, regulations and enforcement actions: RCW 70.94.410.

tax credits, appeals: RCW 82.34.110.

state board of education

appeal from actions of: RCW 28A.02.230.

payment of funds by nonhigh districts: RCW 28A.44.110.

state commission on equipment

standards when operating motorcycle or motor-driven cycle: RCW 46.37.530.

vehicle equipment safety commission: RCW 46.38.030.

state department of revenue, pollution control facility tax credits appeals: RCW 47.38.010.

rules: RCW 82.34.040.

state highway commission; safety, rest areas, historic sites and view points: RCW 47.38.010.

state lottery, administrative actions under: RCW 67.67.050, 67.67.210.

superintendent of public instruction, appeal from actions of: RCW 28A.02.230.

vocational rehabilitation: RCW 28A.10.025.

voting devices and tally systems: RCW 29.34.130.

Washington law enforcement officers' training commission: RCW 43.100.080(2).

Washington state fruit commission, creation of subdistricts: RCW 15.28.070.

water pollution control: RCW 90.48.020.

water pollution control commission, tax credits, appeals: RCW 82.34.110.

water rights: RCW 90.14.200.

Chapter 34.04

ADMINISTRATIVE PROCEDURE ACT

Sections

- 34.04.010 Definitions.
- 34.04.020 Adoption of rules of practice and procedure—Organizational description—Records of decisions, orders and opinions open to public—Exceptions—Effect of failure to comply.
- 34.04.022 Uniform procedural rules—Application.
- 34.04.025 Notices of intention to adopt rules—Opportunity to submit data—Noncompliance, effect.
- 34.04.027 Failure to give twenty days notice of intended action—Effect.
- 34.04.030 Emergency rules and amendments.
- 34.04.040 Rules filed with code reviser—Register—Effective dates—Report.
- 34.04.050 Code reviser to compile rules, publish bulletin—County library trustees to keep file—Judicial notice of rules.
- 34.04.055 Regulations on filing and form of rules and notices.
- 34.04.057 Style, format and numbering of rules—Agency compliance.
- 34.04.060 Petition for adoption, amendment, repeal of rule—Agency action.
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- 34.04.080 Declaratory ruling by agency—Petition—Court review.
- 34.04.090 Contested cases—Notice—Hearing—Informal disposition—Record—Findings of fact—Agency's powers.
- 34.04.100 Contested cases—Rules of evidence—Cross-examination.
- 34.04.105 Agency hearings and contested cases—Hearings, oaths, subpoenas, evidence, witnesses—Contempt.
- 34.04.110 Contested cases—Procedure when deciding officials have not heard or read evidence.
- 34.04.115 Consultation by agency officer as to issues.

- 34.04.120 Contested cases—Adverse decisions and orders—
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- 34.04.130 Contested cases—Judicial review.
- 34.04.140 Appeal to supreme court or court of appeals.
- 34.04.150 Exclusions from chapter or parts of chapter.
- 34.04.160 Legislative review of rules.
- 34.04.170 Provisions applicable to licenses and licensing.
- 34.04.900 Severability—1959 c 234.
- 34.04.901 Severability—1967 c 237.
- 34.04.910 General repeal and saving.
- 34.04.920 Effective dates—1959 c 234.
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- 34.04.930 Operation of chapter if in conflict with federal law.
- 34.04.931 Operation of 1967 amendatory act if in conflict with federal law.
- 34.04.940 Savings—Authority of agencies to comply with chapter—Effect of subsequent legislation.

Hearing as provided by chapter 34.04 RCW:

gambling commission: RCW 9.46.110.

interpreters, legal proceedings: Chapter 2.42 RCW.

meat inspection act: RCW 16.49A.570.

public livestock markets act: RCW 16.65.030.

Washington wholesale poultry products act: RCW 16.74.615.

Procedure of various agencies to accord Administrative Procedure Act: See note following title digest.

34.04.010 Definitions. For the purpose of this chapter:

(1) "Agency" means any state board, commission, department, or officer, authorized by law to make rules or to adjudicate contested cases, except those in the legislative or judicial branches.

(2) "Rule" means any agency order, directive or regulation of general applicability (a) the violation of which subjects a person to a penalty or administrative sanction; (b) which establishes, alters or revokes any procedure, practice or requirement relating to agency hearings; (c) which establishes, alters or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law; (d) which establishes, alters or revokes any qualifications or standards for the issuance, suspension or revocation of licenses to pursue any commercial activity, trade or profession; or (e) which establishes, alters or revokes any mandatory standards for any product or material which must be met before distribution or sale. The term includes the amendment or repeal of a prior rule, but does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public, (ii) declaratory rulings issued pursuant to RCW 34.04.080, as now or hereafter amended, or (iii) speed restrictions for motor vehicles established by the state highway commission.

(3) "Contested case" means a proceeding before an agency in which an opportunity for a hearing before such agency is required by law or constitutional right prior or subsequent to the determination by the agency of the legal rights, duties, or privileges of specific parties. Contested cases shall also include all cases of licensing and rate making in which an application for a license or rate change is denied except as limited by RCW 66.08.150, or a license is revoked, suspended, or modified, or in which the granting of an application is contested by a person having standing to contest under the law or agency rules.

(4) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or any form of permission required by law, including agency rule, to engage in any activity, but does not include a license required solely for revenue purposes.

(5) "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or modification of a license. [1967 c 237 § 1; 1959 c 234 § 1.]

34.04.020 Adoption of rules of practice and procedure—Organizational description—Records of decisions, orders and opinions open to public—Exceptions—Effect of failure to comply. In addition to other rule-making requirements imposed by law:

(1) Each agency shall adopt rules governing the formal and informal procedures prescribed or authorized by this chapter and rules of practice before the agency, together with forms and instructions: *Provided*, That RCW 34.04.022 shall apply to agencies which have not adopted comprehensive rules of practice and procedure, in accordance with the provisions of this chapter, prior to July 1, 1967.

(2) To assist interested persons dealing with it, each agency shall adopt as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information and make submissions or requests. No person shall be required to comply with agency procedure not adopted as a rule as herein required.

(3) To the extent not prohibited by federal law or regulation, nor prohibited for reasons of confidentiality by state law, each agency shall keep on file for public inspection all final orders, decisions and opinions in contested cases and any digest or index to those orders, decisions or opinions prepared by the agency for its own use. No agency order, decision or opinion is valid or effective against any person, nor may it be invoked by the agency for any purpose, unless it is available for public inspection as herein required. This provision is not applicable in favor of any person who has actual knowledge thereof. [1967 c 237 § 2; 1959 c 234 § 2.]

34.04.022 Uniform procedural rules—Application. On or before July 1, 1967, the code reviser shall add to Title 1 of the Washington Administrative Code a new chapter to be known as chapter 1-08 WAC—Uniform Procedural Rules, which shall become effective July 1, 1967, and shall govern the administrative practice and procedure in and before all agencies which have not adopted comprehensive rules of practice and procedure prior to that date. Except for the numbering thereof, such rules shall be identical with the rules contained in WAC 308-08-010 through 308-08-590 as the same existed on January 3, 1966: *Provided*, That in publishing chapter 1-08 WAC the reviser may revise such terms as are used in chapter 308-08 WAC to describe "agency", "department", "board", "commission", and like terms, so as to enable the use of such rules by multiple agencies.

This section shall not prohibit any such agency from hereafter adopting its own rules of practice and procedure in the manner provided by this chapter, if such agency shall elect to promulgate comprehensive rules on this subject and shall, in the order of adoption, expressly negative any further applicability to such agency of the rules contained in chapter 1-08 WAC. [1967 c 237 § 12.]

34.04.025 Notices of intention to adopt rules—Opportunity to submit data—Noncompliance, effect. (1) Prior to the adoption, amendment or repeal of any rule, each agency shall:

(a) Give at least twenty days notice of its intended action by filing the notice with the code reviser, mailing the notice to all persons who have made timely request of the agency for advance notice of its rule-making proceedings, and giving public notice as provided in chapter 42.30 RCW, as now or hereafter amended. Such notice shall include (i) reference to the authority under which the rule is proposed, (ii) a statement of either the terms or substance of the proposed rule or a description of the subjects and issues involved, and (iii) the time when, the place where, and the manner in which interested persons may present their views thereon.

(b) Afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. In case of substantive rules, opportunity for oral hearing must be granted if requested by twenty-five persons, by a governmental subdivision or agency, or by an association having not less than twenty-five members. The agency shall consider fully all written and oral submissions respecting the proposed rule. Upon adoption of a rule, the agency, if requested to do so by an interested person either prior to adoption or within thirty days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

(2) No rule hereafter adopted is valid unless adopted in substantial compliance with this section, or, if an emergency rule designated as such, adopted in substantial compliance with RCW 34.04.030, as now or hereafter amended. In any proceeding a rule cannot be contested on the ground of noncompliance with the procedural requirements of this section, or of RCW 34.04.030, as now or hereafter amended, after two years have elapsed from the effective date of the rule. [1971 ex.s. c 250 § 17; 1967 c 237 § 3.]

Construction—Severability—1971 ex.s. c 250: RCW 42.30.910, 42.30.920.

34.04.027 Failure to give twenty days notice of intended action—Effect. When twenty days notice of intended action to adopt, amend or repeal a rule has not been filed with the code reviser, as required in RCW 34.04.025, the code reviser shall not publish such rule and such rule shall not be effective for any purpose. [1967 c 237 § 4.]

34.04.030 Emergency rules and amendments. If the agency finds that immediate adoption or amendment of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to the public interest, the agency may dispense with such requirements and adopt the rule or amendment as an emergency rule or amendment. The agency's finding and a brief statement of the reasons for its finding shall be incorporated in the emergency rule or amendment as filed with the office of the code reviser under RCW 34.04.040. An emergency rule or amendment shall not remain in effect for longer than ninety days. This section does not relieve any agency from compliance with any law requiring that its rules be approved by designated persons or bodies before they become effective. [1959 c 234 § 3.]

34.04.040 Rules filed with code reviser—Register—Effective dates—Report. (1) Each agency shall file forthwith in the office of the code reviser a certified copy of all rules now in effect and hereafter adopted, except the rules contained in tariffs filed with or published by the Washington utilities and transportation commission. The code reviser shall keep a permanent register of such rules open to public inspection.

(2) Emergency rules adopted under RCW 34.04.030 shall become effective upon filing. All other rules hereafter adopted shall become effective upon the expiration of thirty days after the date of filing, unless a later date is required by statute or specified in the rule.

(3) The code reviser shall report to each regular session of the legislature on the state of compliance of the agencies with this section. For this purpose, all agencies shall supply the code reviser with such information as he may request. [1959 c 234 § 4.]

34.04.050 Code reviser to compile rules, publish bulletin—County library trustees to keep file—Judicial notice of rules. (1) The code reviser shall, as soon as practicable after the effective date of this chapter, compile and index all rules adopted by each agency and remaining in effect. Compilations shall be supplemented or revised as often as necessary and at least once every two years.

(2) The code reviser shall publish a monthly bulletin in which he shall set forth the text of all rules filed during the preceding month excluding rules in effect upon the adoption of this chapter.

(3) The code reviser may, in his discretion, omit from the bulletin or the compilation, rules, the publication of which would be unduly cumbersome, expensive or otherwise inexpedient, if such rules are made available in printed or processed form on application to the adopting agency, and if such bulletin or compilation contains a notice stating the general subject matter of the rules so omitted and stating how copies thereof may be obtained.

(4) Bulletins and compilations shall be made available, in written form to officials of this state upon request and to county boards of law library trustees and

to the Olympia representatives of the Associated Press and the United Press International without request, free of charge, and to other persons at a price fixed by the code reviser to cover publication and mailing costs.

(5) The board of law library trustees of each county shall keep and maintain a complete and current set of bulletins and compilations for use and inspection as provided in RCW 27.24.060.

(6) Judicial notice shall be taken of rules filed and published as provided in RCW 34.04.040 and this section. [1959 c 234 § 5.]

34.04.055 Regulations on filing and form of rules and notices. The code reviser may prescribe regulations for carrying out the provisions of this chapter relating to the filing and publication of rules and notices of intention to adopt rules, including the form and style to be employed by the various agencies in the drafting of such rules and notices. [1967 c 237 § 13.]

34.04.057 Style, format and numbering of rules—Agency compliance. After the rules of an agency have been published by the reviser:

(1) All agency orders amending or rescinding such rules, or creating new rules, shall be formulated in accordance with the style, format, and numbering system of the Washington Administrative Code, and

(2) Any subsequent printing or reprinting of such rules shall be printed in the style and format (including the numbering system) of such code. [1967 c 237 § 14.]

34.04.060 Petition for adoption, amendment, repeal of rule—Agency action. Any interested person may petition an agency requesting the promulgation, amendment, or repeal of any rule. Each agency shall prescribe by rule the form for such petitions and the procedure for their submission, consideration, and disposition. Within thirty days after submission of a petition, or at the next meeting of the agency if it does not meet within thirty days, the agency shall formally consider the petition and shall within thirty days thereafter either deny the petition in writing (stating its reasons for the denial) or initiate rule-making proceedings in accordance with RCW 34.04.025. [1967 c 237 § 5; 1959 c 234 § 6.]

34.04.070 Declaratory judgment on validity of rule.

(1) The validity of any rule may be determined upon petition for a declaratory judgment thereon addressed to the superior court of Thurston county, when it appears that the rule, or its threatened application, interferes with or impairs or immediately threatens to interfere with or impair, the legal rights or privileges of the petitioner. The agency shall be made a party to the proceeding. The declaratory judgment may be rendered whether or not the petitioner has first requested the agency to pass upon the validity of the rule in question.

(2) In a proceeding under subsection (1) of this section the court shall declare the rule invalid only if it finds that it violates constitutional provisions or exceeds the statutory authority of the agency or was adopted

without compliance with statutory rule-making procedures. [1959 c 234 § 7.]

34.04.080 Declaratory ruling by agency—Petition—Court review. On petition of any interested person, an agency may issue a declaratory ruling with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by it. A declaratory ruling, if issued after argument and stated to be binding, is binding between the agency and the petitioner on the state of facts alleged, unless it is altered or set aside by a court. Such a ruling is subject to review in the superior court of Thurston county in the manner hereinafter provided for the review of decisions in contested cases. Each agency shall prescribe by rule the form for such petitions and the procedure for their submission, consideration, and disposition. [1959 c 234 § 8.]

34.04.090 Contested cases—Notice—Hearing—Informal disposition—Record—Findings of fact—Agency's powers. (1) In any contested case all parties shall be afforded an opportunity for hearing after not less than twenty days' notice; but no hearing shall be required until the hearing is demanded unless other statutory provisions or agency rules provide otherwise. The notice shall include:

(a) a statement of the time, place and nature of the proceeding;

(b) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(c) a reference to the particular sections of the statutes and rules involved;

(d) a short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon request a more definite and detailed statement shall be furnished.

(2) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

(3) Unless precluded by law, informal disposition may also be made of any contested case by stipulation, agreed settlement, consent order, or default.

(4) The record in a contested case shall include:

(a) all pleadings, motions, intermediate rulings;

(b) evidence received or considered;

(c) a statement of matters officially noticed;

(d) questions and offers of proof, objections, and ruling thereon;

(e) proposed findings and exceptions;

(f) any decision, opinion, or report by the officer presiding at the hearing;

(5) Oral proceedings shall be transcribed for the purposes of agency decision pursuant to RCW 34.04.110, as now or hereafter amended, rehearing, or court review. A copy of the record or any part thereof shall be transcribed and furnished to any party to the hearing upon request therefor and payment of the reasonable costs thereof.

(6) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

(7) Each agency shall adopt appropriate rules of procedure for notice and hearing in contested cases.

(8) Agencies, or their authorized agents, may

(a) administer oaths and affirmations, examine witnesses, and receive evidence, and no person shall be compelled to divulge information which he could not be compelled to divulge in a court of law,

(b) issue subpoenas as provided in RCW 34.04.105,

(c) rule upon offers of proof and receive relevant evidence,

(d) take or cause depositions to be taken pursuant to rules promulgated by the agency, and no person shall be compelled to divulge information which he could not be compelled to divulge by deposition in connection with a court proceeding,

(e) regulate the course of the hearing,

(f) hold conferences for the settlement or simplification of the issues by consent of the parties,

(g) dispose of procedural requests or similar matters,

(h) make decisions or proposals for decisions pursuant to RCW 34.04.110,

(i) take any other action authorized by agency rule consistent with this chapter. [1967 c 237 § 9; 1959 c 234 § 9.]

34.04.100 Contested cases—Rules of evidence—Cross-examination. In contested cases:

(1) Agencies, or their authorized agents, may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. They shall give effect to the rules of privilege recognized by law. They may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

(2) All evidence, including but not limited to records and documents in the possession of the agency of which it desires to avail itself, shall be offered and made a part of the record in the case, and no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

(3) Every party shall have the right of cross-examination of witnesses who testify, and shall have the right to submit rebuttal evidence.

(4) Agencies, or their authorized agents, may take notice of judicially cognizable facts and in addition may take notice of general, technical, or scientific facts within their specialized knowledge. Parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. Agencies, or their authorized agents, may utilize their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them. [1959 c 234 § 10.]

34.04.105 Agency hearings and contested cases—Hearings, oaths, subpoenas, evidence, witnesses—Contempt. (1) In order to determine the necessity or desirability of adopting, amending, repealing, or otherwise revising a rule or proposed rule, agencies may hold public hearings, subpoena witnesses, administer oaths, take the testimony of any person under oath, and in connection therewith, require the production for examination of any books or papers relating to the subject matter of contemplated regulation. Each agency may make rules as to the issuance of subpoenas by the agency or its authorized agents. This subsection shall not preclude the exercise of subpoena powers for investigative purposes granted agencies by other statutory provisions.

(2) In any contested case after service of notice as required in RCW 34.04.090(1), as now or hereafter amended, agencies, their authorized agents, and hearing examiners hearing the case:

(a) Shall issue a subpoena upon the request of any party and, to the extent required by agency rule, upon a statement showing general relevance and reasonable scope of the evidence sought: *Provided, however,* That such subpoena may be issued with like effect by the attorney of record of the party to the contested case in whose behalf the witness is required to appear, and the form of such subpoena in each case may be the same as when issued by the agency except that it shall only be subscribed by the signature of such attorney;

(b) May issue a subpoena upon their own motion.

(3) The subpoena powers created by this section shall be state-wide in effect.

(4) Witnesses in an agency hearing or contested case shall be paid the same fees and allowances, in the same manner and under the same conditions, as provided for witnesses in the courts of this state by chapter 2.40 RCW and by RCW 5.56.010, as now or hereafter amended: *Provided,* That the agency shall have the power to fix the allowance for meals and lodging in like manner as is provided in RCW 5.56.010, as now or hereafter amended, as to courts. Such fees and allowances, and the cost of producing records required to be produced by agency subpoena, shall be paid by the agency or, in a contested case, by the party requesting the issuance of the subpoena.

(5) If an individual fails to obey a subpoena, or obeys a subpoena but refuses to testify when requested concerning any matter under examination or investigation at the hearing, the agency or attorney issuing the subpoena may petition the superior court of the county where the hearing is being conducted for enforcement of the subpoena. The petition shall be accompanied by a copy of the subpoena and proof of service, and shall set forth in what specific manner the subpoena has not been complied with, and shall ask an order of the court to compel the witness to appear and testify before the agency. The court upon such petition shall enter an order directing the witness to appear before the court at a time and place to be fixed in such order and then and there to show cause why he has not responded to the subpoena or has refused to testify. A copy of the order shall be served upon the witness. If it appears to the

court that the subpoena was properly issued and that the particular questions which the witness refuses to answer are reasonable and relevant, and in the case of a rule-making hearing that the requested appearance and testimony are necessary to secure information the expected nature of which would reasonably tend to cause the agency to exercise its rule-making authority, the court shall enter an order that the witness appear at the time and place fixed in the order and testify or produce the required papers, and on failing to obey said order the witness shall be dealt with as for contempt of court. [1967 c 237 § 10.]

34.04.110 Contested cases—Procedure when deciding officials have not heard or read evidence. Whenever in a contested case a majority of the officials of the agency who are to render the final decision have not heard or read the evidence, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made until a proposal for decision, including findings of fact and conclusions of law has been served upon the parties, and an opportunity has been afforded each party adversely affected to file exceptions and present written argument to a majority of the officials who are to render the decision, who shall personally consider the whole record or such portions thereof as may be cited by the parties. Oral arguments may be heard in the discretion of the agency. [1959 c 234 § 11.]

34.04.115 Consultation by agency officer as to issues. Except upon notice and opportunity for all parties to be present or to the extent required for the disposition of ex parte matters as authorized by law, no hearing examiner or agency or member of an agency presiding in a contested case or preparing a decision, or proposal for decision shall consult with any person or party on any issue of fact or law in the proceeding, except that in analyzing and appraising the record for decision any agency member or hearing examiner may (1) consult with members of the agency making the decision, (2) have the aid and advice of one or more personal assistants, (3) have the assistance of other employees of the agency who have not participated in the proceeding in any manner, who are not engaged for the agency in any investigative functions in the same or any current factually related case and who are not engaged for the agency in any prosecutory functions. [1967 c 237 § 11.]

34.04.120 Contested cases—Adverse decisions and orders—Findings and conclusions. Every decision and order adverse to a party to the proceeding, rendered by an agency in a contested case, shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of each fact found upon each contested issue of fact. Parties to the proceeding shall be notified of the decision and order in person or by mail. A copy of the decision and order and accompanying findings and conclusions shall be delivered or mailed to each party or to his attorney of record. [1959 c 234 § 12.]

34.04.130 Contested cases—Judicial review. (1) Any person aggrieved by a final decision in a contested case, whether such decision is affirmative or negative in form, is entitled to judicial review thereof only under the provisions of *this 1967 amendatory act, and such person may not use any other procedure to obtain judicial review of a final decision, even though another procedure is provided elsewhere by a special statute or a statute of general application. Where the agency's rules provide a procedure for rehearing or reconsideration, and that procedure has been invoked, the agency decision shall not be final until the agency shall have acted thereon.

(2) Proceedings for review under this chapter shall be instituted by filing a petition in the superior court, at the petitioner's option, for (a) Thurston county, (b) the county of the petitioner's residence or principal place of business, or (c) in any county where the property owned by the petitioner and affected by the contested decision is located. All petitions shall be filed within thirty days after the service of the final decision of the agency. Copies of the petition shall be served upon the agency and all other parties of record. The court, in its discretion, may permit other interested persons to intervene.

(3) The filing of the petition shall not stay enforcement of the agency decision. Where other statutes provide for stay or supersedeas of an agency decision, it may be stayed by the agency or the reviewing court only as provided therein; otherwise the agency may do so, or the reviewing court may order a stay upon such terms as it deems proper.

(4) Within thirty days after service of the petition, or within such further time as the court may allow, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review; but, by stipulation of all parties to the review proceeding, the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

(5) The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the agency, not shown in the record, testimony thereon may be taken in the court. The court shall, upon request, hear oral argument and receive written briefs.

(6) The court may affirm the decision of the agency or remand the case for further proceedings; or it may reverse the decision if the substantial rights of the petitioners may have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) in violation of constitutional provisions; or
- (b) in excess of the statutory authority or jurisdiction of the agency; or
- (c) made upon unlawful procedure; or
- (d) affected by other error of law; or
- (e) clearly erroneous in view of the entire record as submitted and the public policy contained in the act of the legislature authorizing the decision or order; or

(f) arbitrary or capricious. [1967 c 237 § 6; 1959 c 234 § 13.]

***Reviser's note:** "this 1967 amendatory act" [1967 c 237] is codified as RCW 34.04.010, 34.04.020, 34.04.022, 34.04.025, 34.04.027, 34.04.055, 34.04.057, 34.04.060, 34.04.090, 34.04.105, 34.04.115, 34.04.130, 34.04.150, 34.04.170, 34.04.901, 34.04.910, 34.04.921, 34.04.931, 34.04.940, 48.03.070, 48.04.010, 48.04.040, 48.04.090, 48.52.060, 66.08.150, and 82.32.130. Section 7, chapter 237, Laws of 1967 (RCW 34.04.150) was later amended, and sections 21 and 22, chapter 237, Laws of 1967 (uncodified) were repealed, by chapter 71, Laws of 1967 extraordinary session.

34.04.140 Appeal to supreme court or court of appeals. An aggrieved party may secure a review of any final judgment of the superior court under this chapter by appeal to the supreme court or the court of appeals. Such appeal shall be taken in the manner provided by law for appeals from the superior court in other civil cases. [1971 c 81 § 87; 1959 c 234 § 14.]

34.04.150 Exclusions from chapter or parts of chapter. This chapter shall not apply to the state militia, or the board of prison terms and paroles, or any institution of higher education as defined in RCW 28B.19.020. The provisions of RCW 34.04.090 through 34.04.130 shall not apply to the board of industrial insurance appeals or the board of tax appeals unless an election is made pursuant to RCW 82.03.140 or 82.03.190. The provisions of RCW 34.04.090 through 34.04.130 and the provisions of RCW 34.04.170 shall not apply to the denial, suspension or revocation of a driver's license by the department of motor vehicles. All other agencies, whether or not formerly specifically excluded from the provisions of all or any part of the administrative procedure act, shall be subject to the entire act. [1971 ex.s. c 57 § 17; 1971 c 21 § 1; 1967 ex.s. c 71 § 1; 1967 c 237 § 7; 1963 c 237 § 1; 1959 c 234 § 15.]

Effective date—Severability—1971 ex.s. c 57: See notes following RCW 28B.19.010.

34.04.160 Legislative review of rules. All rules required to be filed pursuant to RCW 34.04.040 shall be subject to review by the legislature to determine whether such rules are within the intent of the statutes purporting to authorize the adoption thereof. The legislative council may biennially review agency regulations to determine if the legislative intent is being correctly followed. A comprehensive report of said biennial review with recommendations shall be submitted to the members of the legislature ten days prior to the start of each regular session. [1963 c 186 § 1.]

34.04.170 Provisions applicable to licenses and licensing. (1) When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, an existing full, temporary, or provisional license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(2) No revocation, suspension, annulment, modification, or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gave notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee was given reasonable opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined. [1967 c 237 § 8.]

34.04.900 Severability—1959 c 234. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable. [1959 c 234 § 16.]

34.04.901 Severability—1967 c 237. If any provision of this 1967 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1967 amendatory act, or the application of the provision to other persons or circumstances is not affected. [1967 c 237 § 27.]

Reviser's note: "this 1967 amendatory act" see note following RCW 34.04.130.

34.04.910 General repeal and saving. All acts or parts of acts, whether special or comprehensive in nature, which are inconsistent with the provisions of this chapter, whether in the review procedures which they establish or otherwise, are hereby repealed, but such repeal shall not affect pending proceedings. [1967 c 237 § 25; 1959 c 234 § 17.]

34.04.920 Effective dates—1959 c 234. Sections 2, 3, 4, and 5 of this act shall take effect upon the elapse of one year from the date of its enactment. The other sections of this act shall take effect upon the elapse of six months from the date of its enactment. [1959 c 234 § 18.]

34.04.921 Effective date—1967 c 237. This act shall take effect on July 1, 1967. [1967 c 237 § 29.]

Reviser's note: "This act", see note following RCW 34.04.130.

34.04.930 Operation of chapter if in conflict with federal law. If any part of this chapter shall be found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state, such conflicting part of this chapter is hereby declared to be inoperative solely to the extent of such conflict and with respect to the agencies directly affected, and such findings or determination shall not affect the operation of the remainder of this chapter in its application to the agencies concerned. [1959 c 234 § 19.]

34.04.931 Operation of 1967 amendatory act if in conflict with federal law. If any part of this 1967 amendatory act shall be found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state, such conflicting part of this 1967 amendatory act is hereby declared to be inoperative solely to the extent of such conflict and with respect to the agencies directly affected, and such findings or determination shall not affect the operation of the remainder of this 1967 amendatory act in its application to the agencies concerned. [1967 c 237 § 26.]

Reviser's note: "this 1967 amendatory act", see note following RCW 34.04.130.

34.04.940 Savings—Authority of agencies to comply with chapter—Effect of subsequent legislation. Nothing in the Administrative Procedure Act shall be held to diminish the constitutional rights of any person or to limit or repeal additional requirements imposed by statute or otherwise recognized by law. Except as otherwise required by law, all requirements or privileges relating to evidence or procedure shall apply equally to agencies and persons. Every agency is granted all authority necessary to comply with the requirements of the Administrative Procedure Act through the issuance of rules or otherwise. No subsequent legislation shall be held to supersede or modify the provisions of the Administrative Procedure Act or its applicability to any agency except to the extent that such legislation shall do so expressly. [1967 c 237 § 24.]

TITLE 35

CITIES AND TOWNS

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- Eminent domain*
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 - generally: State Constitution Art. 1 § 16 (Amendment 9), Chapter 8.12 RCW.*

- limited access streets, acquisition of land, by: RCW 47.52.050.
 military purposes, for: RCW 8.04.170, 8.04.180.
 municipal corporations in adjoining state, eminent domain for watershed: RCW 8.28.050.
 state lands: RCW 8.12.030, 8.12.080, 79.01.128.
 streets and highways, wharves and bridges for state highway purposes: RCW 47.24.030.
 watersheds, municipal corporation in adjoining state: RCW 8.28.050.
 watersheds, state land: RCW 79.01.128.
 Existence of, how pleaded: RCW 4.36.100.
 Expense accounts, falsifying: RCW 9.45.050.
 Explosives, rules and regulations regarding: RCW 70.74.201.
 Fees, special permits for motor vehicle oversize or overweight movement, fees paid to cities and towns, when: RCW 46.44.096.
 Ferries, joint acquisition with counties: RCW 36.54.020.
 Financing procedures, validation: Chapter 39.90 RCW.
 Fines
 payment into police relief and pension fund: RCW 41.20.130.
 superior court jurisdiction to determine legality of: RCW 2.08.010.
 supreme court jurisdiction to determine legality of: RCW 2.04.010.
 Fire department vehicles, lighting, plates: RCW 46.37.184-46.37.188, and 46.37.190.
 Fire prevention, areas withdrawn from fire protection districts: RCW 52.22.040.
 Fire protection districts
 annexed to or incorporated into city or town, firemen's retirement and job security rights protected: RCW 41.16.250.
 joint operation: RCW 52.22.040.
 withdrawal from: RCW 52.22.030.
 Firemen
 chief as member of volunteer firemen's relief and pension board of trustees: RCW 41.24.060.
 civil service, qualifications of applicants for positions: RCW 41.08.070.
 disobedience of orders or interference with: RCW 9.40.020.
 jury duty, exemption from: RCW 2.36.080.
 militia duty, exemption: RCW 38.44.030.
 Firemen's retirement and pension acts: Chapters 41.16, 41.18, 41.24 RCW.
 Fireworks, permit for: RCW 70.77.260-70.77.275.
 First class cities
 assessment rolls, county assessor's duties: RCW 36.21.020.
 birth and death records, furnishing of, fees: RCW 43.20.090.
 clerical help, county treasurer: RCW 36.29.150.
 elections, names of candidates, order on ballots: RCW 29.21.010.
 elections, nonpartisan primaries: Chapter 29.21 RCW.
 harbor improvements, joint planning authorized: RCW 88.32-240, 88.32.250.
 public health pooling fund: Chapter 70.12 RCW.
 retirement and pensions: Chapter 41.28 RCW.
 taxes, collection by county treasurer: RCW 36.29.100, 36.29.110, 36.29.150.
 vital statistics, primary registration district: RCW 70.58.010.
 Fiscal matters, depositaries, publication of deposits prerequisite to receiving: RCW 30.20.080.
 Flood control benefits, liability for: RCW 86.09.529.
 Flood control maintenance, state participation in: Chapter 86.26 RCW.
 Food and beverage workers' permits: Chapter 69.06 RCW.
 Forgery of signature of public officer: RCW 9.44.050.
 Fourth class cities (See Towns, Chapter 35.27 RCW).
 Franchises and privileges, bridges jointly owned or operated with state: RCW 47.44.040.
 Franchises and privileges, electric franchises and rights of way on city streets: RCW 80.32.010.
 Fresh pursuit, uniform act: Chapter 10.89 RCW.
 Funds
 assessment fund for compensation of eminent domain damages by city to be kept separate: RCW 8.12.480.
 city street fund, established, use: RCW 47.24.040.
 city street fund, fines and forfeitures for violations under Title 47 RCW to go into: RCW 47.08.030.
 city street fund, illegal use of, procedure to correct: RCW 47.08.100.
 current expense, sale of unclaimed property: RCW 63.32.030.
 eminent domain by cities, advancement from general funds, reimbursement from local assessments: RCW 8.12.250.
 general, eminent domain compensation, paid from, when: RCW 8.12.040, 8.12.220.
 general, justice and inferior courts act of 1961, bail forfeitures paid into: RCW 3.30.090.
 general, policemen's relief and pension fund, surplus paid into general fund: RCW 41.20.140.
 general, voting machine custodian's salary paid from: RCW 29.33.140.
 motor vehicle fund, purposes authorized for use: RCW 36.82.070.
 police pension, surplus funds to general fund: RCW 41.20.140.
 police pension fund, sale of unclaimed property: RCW 63.32.030.
 public health pooling fund, generally: Chapter 70.12 RCW.
 savings and loan associations, investment in authorized: RCW 33.52.010.
 state-wide city employees' retirement fund: RCW 41.44.100.
 street, county road and bridge violations, fines paid into: RCW 36.82.210.
 street, directional signs, paid from: RCW 47.36.040.
 Gambling activities, cities or towns, as affecting: Chapter 9.46 RCW.
 Garbage, eminent domain by cities for garbage dumps: RCW 8.12.030.
 Garbage and refuse collection company provisions do not apply to: RCW 81.77.020.
 Garnishment: RCW 7.33.060-7.33.080.
 Graft, influencing: RCW 9.18.110.
 Grand jury, inquiry as to misconduct: RCW 10.28.110.
 Harbor areas
 lying in two or more counties, transfer of territory: Chapter 36.08 RCW.
 rental, disposition of: RCW 79.16.180.
 reservation to cities to assume lease: RCW 79.01.504.
 Harbor improvements, joint planning for by first class cities and counties: RCW 88.32.240, 88.32.250.
 Harbor line commission and restraint on disposition: State Constitution Art. 15 § 1 (Amendment 15).
 Health departments
 boarding home licensing, administered by, when: RCW 18.20.100.
 generally: Title 70 RCW.
 mentally ill: Chapter 43.20A RCW.
 vital statistics: Chapter 70.58 RCW, RCW 43.20.090.
 Health districts: Chapter 70.46 RCW.
 Hearses, authority to provide: RCW 68.12.030.
 Highway advertising control act of 1961 restricts placing of signs by: Chapter 47.42 RCW.
 Highway commission
 city street fund, investigation of expenditures, penalty for misuse: RCW 47.08.100, 47.08.110.
 city street improvements, disbursement of funds for: RCW 47.08.090.
 contracts with utilities and municipal corporations without bid, when: RCW 47.01.210.
 Highway funds, allocation of: State Constitution Art. 2 § 40 (Amendment 18).
 Highways
 abandoned, transfer to city or town: RCW 36.75.090.
 franchises: Chapter 47.44 RCW.
 return of street to city or town: RCW 47.24.010.
 roads or streets, cooperative agreements to benefit: RCW 47.28.140.
 sale, lease or gift of municipally owned land to state for, without bids: RCW 47.12.040.
 sale or lease of state highway land for use of: RCW 47.12.070.
 unneded toll facility property, sale to: RCW 47.56.252.
 vertical clearances over: RCW 46.44.020.
 Historical materials, expenditure of funds for preservation and exhibition of authorized: RCW 27.48.010.

- Holidays, legal: RCW 1.16.050.
- Hospitalization and medical aid for public employees and dependents, premiums, governmental contributions authorized: RCW 41.04.180, 41.04.190.
- Hospitals, eminent domain for: RCW 8.12.030.
- Hospitals, joint operation with counties: RCW 36.62.030, 36.62.110.
- Hospitals for mentally ill, private establishments, prescription of standards: RCW 71.12.550.
- Hours of labor: Chapter 49.28 RCW.
- Incorporation, fire protection districts, effect upon: RCW 52.22.020, 52.22.040.
- Incorporation, general laws, must be under: State Constitution Art. 11 § 10 (Amendment 40).
- Indebtedness
 bankruptcy readjustment and relief from debts: Chapter 39.64 RCW.
 computation of: RCW 39.36.030.
 eminent domain, contracting indebtedness to pay compensation for, reimbursement from local assessments: RCW 8.12.250.
 limitations upon: State Constitution Art. 7 § 2 (Amendment 59), Art. 8 § 6 (Amendment 27), Chapter 39.36 RCW, RCW 84.52.050.
 refunding bonds not to exceed debt limitations: RCW 39.52.020.
- Industrial insurance: Title 51 RCW.
- Insurance companies, excise or privilege taxes, state preemption: RCW 48.14.020(4).
- Interfering with public officer: RCW 9.18.090.
- Intergovernmental disposition of property: Chapter 39.33 RCW.
- Intimidating or obstructing public officer: RCW 9.69.050–9.69.060.
- Intoxicating liquor
 enforcement of laws: RCW 66.44.010.
 fines, use of money collected from: RCW 66.44.010.
 liquor control board granting of licenses, objections: RCW 66.24.010(8).
 liquor excise tax fund distribution: RCW 82.08.170.
 liquor revolving fund distribution: RCW 66.08.190, 66.08.210.
 local option: Chapter 66.40 RCW.
 permit to be issued for music, dancing or entertainment on license premises, by: RCW 66.28.080.
 report of seizure: RCW 66.32.090.
 seizure of by police, report and delivery to liquor control board: RCW 66.32.090.
 state preemption, exception for certain police ordinances and regulations: RCW 66.08.120.
- Investment by mutual savings banks in bonds and warrants of: RCW 32.20.070, 32.20.120.
- Investment by savings and loan associations in bonds or warrants of: RCW 33.24.050.
- Investment of municipal funds in savings and loan associations by county or other municipal corporation treasurer authorized: RCW 36.29.020.
- Investment of public and trust funds in federal agency bonds: Chapter 39.60 RCW.
- Irrigation districts: Chapter 87.03 RCW.
- Jails
 eminent domain for: RCW 8.12.030.
 joint operation with counties: RCW 36.63.150, 36.63.160.
 narcotics addicts, examination and treatment: RCW 69.32.090, 69.32.120.
 working of prisoners permitted: RCW 9.92.130.
- Joint governmental activities: Chapter 36.64 RCW.
- Joint operating agencies for electric power: Chapter 43.52 RCW.
- Joint operations by municipal corporations, deposit and control of funds: RCW 43.09.285.
- Judgment against public corporations, enforcement: RCW 6.04.140, 6.04.150.
- Judicial officers, inferior, powers: RCW 2.28.090.
- Justices of the peace and constables: Title 3 RCW.
- Juvenile court law: Chapter 13.04 RCW.
- Law against discrimination: Chapter 49.60 RCW.
- Legal publications: Chapter 65.16 RCW.
- Legislative committee on urban area government: Chapter 44.36 RCW.
- Libraries, conditional sales contracts by cities and towns for purchase of property for libraries authorized, vote required if exceeds indebtedness: RCW 39.30.010.
- Library service, contracts for authorized: RCW 27.12.180.
- Library trustees, removal of: RCW 27.12.190.
- Licenses, exemptions: RCW 36.71.090.
- Liens for employees for contributions to benefit plans: Chapter 60.76 RCW.
- Liens for labor and materials on public works: Chapter 60.28 RCW.
- Limitation of action for breach of duty: RCW 10.01.020.
- Limitation of actions, application of statute of limitations to actions by: RCW 4.16.160.
- Limitation on tax levies: State Constitution Art. 7 § 2 (Amendment 59), RCW 84.52.050.
- Liquor (See Intoxicating liquor).
- Local milk inspection service units: RCW 15.36.560, 15.36.570.
- Magistrates: Chapter 2.20 RCW.
- Markets and marketing, eminent domain by cities for: RCW 8.12.030.
- Material removed for channel or harbor improvement, or flood control—Use for public purpose: RCW 79.01.178.
- Mayor
 agent to receive summons: RCW 4.28.080.
 bonds, signing of: RCW 39.52.020.
 cemetery board, appointment by: RCW 68.12.045.
 cemetery improvement fund, indorsement by of payments from: RCW 68.12.050.
 firemen's pension board, member of: RCW 41.16.020.
 issuance of search warrant by for violation of cigarette tax: RCW 82.24.190.
 justice court districting committee: RCW 3.38.010.
 notification to of illegal use of city road funds: RCW 47.08.100.
 police relief and pension board of trustees, member of: RCW 41.20.010.
 public works contractor's bond, liability of mayor for failure to take: RCW 39.08.015.
 state limited access facility through city or town, board of review to review plan, mayor to appoint members of: RCW 47.52.150.
 volunteer firemen's relief and pension board member: RCW 41.24.060.
- Mayor-council elections, nonpartisan primaries, designation of positions to be filled: RCW 29.21.017.
- Meetings of governmental bodies, open to public: Chapter 42.30 RCW.
- Mental health and retardation services—Interstate contracts by cities in boundary counties: RCW 71.28.010.
- Militia and military affairs, eminent domain for military purposes: RCW 8.04.170, 8.04.180.
- Milk inspection service units, local: RCW 15.36.560.
- Milk inspectors, dairies or dairy products, appointment by cities and towns: RCW 15.32.510.
- Minimum wage and hour act: Chapter 49.46 RCW.
- Minutes of governmental bodies, open to public: Chapter 42.32 RCW.
- Misconduct of public officers: Chapter 42.20 RCW.
- Mosquito control, districts: Chapter 17.28 RCW.
- Mosquito control, generally: Chapter 70.22 RCW.
- Motor vehicle and other police regulations, applicability to port district property: RCW 53.08.230.
- Motor vehicle drivers' training school operators license not to be issued in cities over 15,000: RCW 46.82.040.
- Motor vehicle excise fund, apportionment and distribution to cities and towns, purposes to be used for: RCW 82.44.150.
- Motor vehicle excise fund, preemption by state: RCW 82.36.440.
- Motor vehicle fuel importer use tax proceeds, distribution to: RCW 82.37.190.
- Motor vehicle fuel tax, distribution and allocation of proceeds to: RCW 82.36.020.

- Motor vehicle fuel tax distribution to, use of to pay indebtedness incurred in construction and repair of arterial highways:* RCW 82.36.020(5).
- Motor vehicle fuel tax refunds for urban transportation systems:* RCW 82.36.275.
- Motor vehicle fund, allocation of and distribution:* RCW 46.68.100, 46.68.110.
- Motor vehicle inspection by:* Chapter 46.32 RCW.
- Motor vehicle wreckers' regulation by, to conform with Chapter 46.80 RCW:* RCW 46.80.160.
- Motor vehicles, special permits for oversize or overweight movements, collection of fees:* RCW 46.44.096.
- Municipal corporations, state auditor's office, division of:* RCW 43.09.190–43.09.340.
- Municipal courts**
authorization, establishment, generally: Chapter 3.46 RCW.
jurisdiction: State Constitution Art. 4 §§ 4, 6 (Amendment 28). legislature may provide: State Constitution Art. 4 § 1.
traffic school for offenders, court may compel attendance: RCW 46.83.050.
- Nuisances, powder magazine nearby is public nuisance, when:* RCW 7.48.140.
- Nuisances, public:* Chapter 9.66 RCW.
- Nursing homes, municipal health department's duties concerning:* RCW 18.51.020.
- Officers and employees**
actions against, venue: RCW 4.12.020(2).
code of ethics—Contracts: Chapter 42.23 RCW.
code of ethics—State agencies and legislative employees: Chapter 42.22 RCW.
continuity of government in event of enemy attack, succession: RCW 42.14.050.
eligibility to hold office: RCW 42.04.020.
hospitalization and medical aid for employees and dependents: RCW 41.04.180, 41.04.190.
hours of labor: RCW 49.28.010, 49.28.040.
jury duty, exemption from: RCW 2.36.080.
military leave: RCW 38.40.060.
minimum wage: RCW 49.56.010(5)(i).
misconduct, penalty: Chapter 42.20 RCW.
public moneys deposited with treasurer: State Constitution Art. 11 § 15.
salaries, not be changed during term: State Constitution Art. 11 § 8 (Amendment 57).
subversive activities: Chapter 9.81 RCW.
term not to be extended: State Constitution Art. 11 § 8 (Amendment 57).
use of public money by, felony: State Constitution Art. 11 § 14.
vacancies: Chapter 42.12 RCW.
- Official bonds**
city sealer: RCW 19.94.290.
payment of premiums: RCW 48.28.040.
security to city or town: Chapter 42.08 RCW.
- Offshore items, use of in performance of public works contracts:* Chapter 39.25 RCW.
- Old age and survivors' insurance:* Chapters 41.47, 41.48 RCW.
- Ordinances**
adoption at public meetings: RCW 42.30.060.
air pollution control: Chapter 70.94 RCW.
airport joint operation: RCW 14.08.200(8).
bakery worker's health certificates: RCW 69.12.070.
combined city-county health department, establishment: RCW 70.08.010.
confectioner's health certificate: RCW 69.20.095.
contractor's bond: RCW 39.08.030.
declaratory judgment as to: Chapter 7.24 RCW.
electrical installations: RCW 19.28.010, 19.28.360.
eminent domain, authority to acquire recreational facilities by: RCW 67.20.010.
eminent domain, ordinance to provide methods of payment of compensation: RCW 8.12.040.
evidence, admissible as, when: RCW 5.44.080.
industrial insurance, benefits to injured employees under: RCW 51.12.050.
industrial insurance employer's responsibility for absence of safeguards when required by: RCW 51.48.070.
judicial notice of: RCW 4.36.110.
liquor control, power of municipalities to adopt police regulations: RCW 66.08.120.
minimum wage law supplementary to: RCW 49.46.120.
payment of lower wages than obligated, penalty: RCW 49.52.050.
pleading of: RCW 4.36.110.
plots resurvey authorized and regulation of: RCW 58.10.030, 58.10.040.
port district regulations, adoption: RCW 53.08.220.
recording as evidence of passage: RCW 5.44.080.
state-wide city employees' retirement, election to join by: RCW 41.44.050, 41.44.090.
water distribution system, city may accept conveyance of and agree to maintain by: RCW 57.08.040.
- Organization under general laws required: State Constitution Art. 11 § 10 (Amendment 40).*
- Outdoor recreation land acquisition or improvement under marine recreation land act:* Chapter 43.99 RCW.
- Parental schools, establishment by cities authorized:* RCW 13.12.010.
- Parks and recreation**
authority to acquire and operate: RCW 67.20.010.
conditional sales contracts by cities and towns for purchase of property for parks authorized, vote required if exceeds indebtedness: RCW 39.30.010.
eminent domain by cities for: RCW 8.12.030.
state tidelands and shorelands: RCW 79.08.080, 79.08.090.
- Parks and recreation districts:* Chapter 36.69 RCW.
- Peddlers' and hawkers' licenses:* Chapter 36.71 RCW, RCW 73.04.050, 73.04.060.
- Periodicals, postage, purchase by public agencies, manner of payment:* RCW 42.24.035.
- Pesthouses, authority to provide:* RCW 70.20.010–70.20.030.
- Planning commissions**
airport zoning commission, appointment as: RCW 14.12.070(2).
cemeteries, establishment or extension recommendations concerning: RCW 68.20.080.
coordination of planning by department of commerce and economic development: RCW 43.31.210.
- Planning enabling act (counties):* Chapter 36.70 RCW.
- Plats and boundaries:* Title 58 RCW.
- Police**
civil service, qualifications of applicants for positions: RCW 41.12.070.
communications, injury or interference with, penalty: RCW 9.61.010(11).
enforcement of traffic laws or regulations: Chapter 46.64 RCW.
food fish and shellfish regulations, authority to enforce: RCW 75.08.150.
game laws, duty to enforce: RCW 77.12.070.
health regulations by state board of health, duty to enforce, penalty: RCW 43.20.050.
jury duty, exempt from: RCW 2.36.080.
limited highway access facilities, concurrent jurisdiction: RCW 47.52.200.
militia, exemption from service: RCW 38.44.030.
motor vehicle accident reports: RCW 46.52.070.
motor vehicle dealer's license application, police chief to certify: RCW 46.70.041.
motor vehicle wreckers' records, inspection by: RCW 46.80.080, 46.80.150.
pawn broker reports to: RCW 19.60.040.
regulations to be enforced: State Constitution Art. 11 § 11.
retirement and pensions, first class cities: Chapter 41.20 RCW.
retirement and pensions, state-wide city employees' retirement system: Chapter 41.44 RCW, RCW 41.40.128.
second-hand dealers reports to: RCW 19.60.040.
state law enforcement officers' training, participation in: Chapter 43.100 RCW.
stolen and abandoned vehicles, reports of: RCW 46.52.110.
truant officer, may act as: RCW 28A.27.040.
unclaimed property: Chapter 63.32 RCW.
- Police courts**
jurisdiction, certiorari: RCW 7.16.040.

- jurisdiction, mandamus, jurisdiction to issue: RCW 7.16.160.
 jurisdiction, motor vehicle law, concurrent jurisdiction: RCW 46.08.190.
 jurisdiction, writ of prohibition, jurisdiction prohibited: RCW 7.16.300, 7.16.320.
 proceeding to compel fencing of mine shafts: Chapter 78.12 RCW.
 traffic school for offenders, court may compel attendance: RCW 46.83.050.
- Police judges**
 cities over twenty thousand population, salary allocation if also justice of the peace: RCW 3.16.004.
 justice of peace may act as: State Constitution Art. 4 § 10 (Amendment 28).
 townships, powers: RCW 45.24.010.
- Pollution control, eminent domain by cities for:** RCW 8.12.030.
Pollution control, municipal bonding authority: Chapter 70.95A RCW.
Population determination, generally: Chapter 43.62 RCW.
Port district must submit park or recreational plans to municipal park agency: RCW 53.08.270.
Port districts regulations, adoption as city ordinance: RCW 53.08.220.
Postage, periodicals, purchase by governmental agencies, payment: RCW 42.24.035.
Powers of county commissioners to alter boundaries inapplicable where boundary review board created: RCW 36.93.220.
Prepayment of taxes and assessments: RCW 35.21.650.
Printing: RCW 43.78.130–43.78.160.
Prisons (See Jails).
- Property**
 exchange with state or political subdivision authorized: RCW 39.33.010.
 forest lands, conveying to state for forestry purposes: RCW 76.12.040.
 intergovernmental disposition of: RCW 39.33.010.
 lease to state or political subdivision authorized: RCW 39.33.010.
 sale to state or political subdivision authorized: RCW 39.33.010.
 state highway purposes, acquisition for: RCW 47.12.040.
 transfer with state or political subdivision authorized: RCW 39.33.010.
- Public assistance, community work and training programs:** RCW 74.04.410.
Public buildings, provision to be made for use by aged and handicapped: Chapter 70.92 RCW.
Public contracts and indebtedness, generally: Title 39 RCW.
Public employment
 civil service and retirement rights preserved when elective office assumed: RCW 41.04.120.
 subversive person ineligible: RCW 9.81.040.
 wage deduction for charitable contributions: RCW 41.04.035, 41.04.036.
- Public funds, private use prohibited:** State Constitution Art. 11 § 14.
Public health pooling fund: Chapter 70.12 RCW.
Public highways: Title 47 RCW.
Public lands, assessment against: Chapter 79.44 RCW.
Public lands act, use, rights of way, etc.: Chapter 79.01 RCW.
Public libraries: Chapter 27.12 RCW.
Public markets, eminent domain by cities for: RCW 8.12.030.
Public utilities
 injury to, interference with: RCW 9.61.010, 9.61.020.
 school children of employees, attendance in school district: RCW 28A.58.220.
- Public utility districts**
 restrictions on use of power facilities: RCW 54.04.040.
 tax on revenue: RCW 54.28.070.
- Public works, liens for labor and materials performed:** Chapter 60.28 RCW.
- Purchases**
 authority to acquire and operate certain recreational facilities and camps: Chapter 67.20 RCW.
 conditional sales contracts for purchase of real or personal property: RCW 39.30.010.
 fuel, restriction on purchase or use of out-of-state fuel, penalty: RCW 39.24.020, 39.24.030.
 preferential, exceptions: RCW 19.06.020, 43.78.130–43.78.160.
- Quarantine**
 boats and vessels: Chapter 70.16 RCW.
 generally: Chapter 70.20 RCW.
- Railroad, industrial crossing, inspection, not applicable within limits of first class cities:** RCW 81.54.040.
Railroad crossings, signals and devices, allocations of funds to defray costs of: RCW 81.53.271–81.53.275, 81.53.281.
Railways, street: Chapter 81.64 RCW.
Recall of elective officers: State Constitution Art. 1 §§ 33, 34 (Amendment 8), Chapter 29.82 RCW.
Reclamation districts: Chapter 89.30 RCW.
- Records**
 destruction of, procedure for: RCW 40.14.070.
 historical records, transfer to depository agency, procedure for: RCW 40.14.070.
- Referendum, electric utility transmission line construction and maintenance franchise:** RCW 80.32.040.
Registration of contractor required before issuance of building permit: RCW 18.27.110.
Reincorporation, under general laws permitted to cities under special charter: State Constitution Art. 11 § 10 (Amendment 40).
Reports, claims, etc., filing: RCW 1.12.070.
River and harbor improvement districts, planning: RCW 88.32.240.
Rules for courts of limited jurisdiction: Volume 0 RCW.
Safety regulations, conflicting with those of state department of labor and industries, effect: RCW 49.16.150.
Sale of state highway lands to or permit for use of: RCW 47.12.070.
Sale of unneeded toll facility property to authorized, execution and delivery of deed: RCW 47.56.252.
Sanitary regulations may be enforced: State Constitution Art. 11 § 11.
Sanitation, state health department, assistance: RCW 70.54.040.
School board directors, number and term in reorganized city districts: RCW 28A.57.340.
School districts, intermediate school districts, agreements with other governmental entities for transportation of students, the public, or other noncommon school purposes—Limitations: RCW 28A.24.180.
School districts containing all or part of city or town: RCW 28A.57.150.
- Second class cities**
 elections, nonpartisan primaries: Chapter 29.21 RCW.
 eminent domain by cities, construction of chapter as to second class cities: RCW 8.12.560.
 exceeding indebtedness limitations, construction of bridge over navigable streams: RCW 39.36.040.
 indebtedness, exceeding for bridge construction over navigable waters: RCW 39.36.040.
 tuberculosis, generally: Chapters 70.28, 70.30 RCW.
Service of summons on, personal service: RCW 4.28.080(2).
Sewer and water revenue bonds, mutual savings banks, investment in: RCW 32.20.070, 32.20.100.
Sewer districts, comprehensive plans: RCW 56.08.020.
Sewerage improvement districts: Title 85 RCW.
- Sewerage systems**
 eminent domain by cities for: RCW 8.12.030.
 malicious mischief or injury to, penalty: RCW 9.61.010(9).
 plans, submission to pollution control commission: RCW 90.48.110.
 public nuisances concerning: RCW 7.48.140(2).
- Shorelands**
 generally: Chapters 79.01, 79.16 RCW.
 parks or playgrounds, application, grantor exchange: RCW 79.08.080, 79.08.090.
- Social security for public employees:** Chapters 41.47, 41.48 RCW.
Soil and water conservation districts: Chapter 89.08 RCW.
Standard time, observance of: RCW 1.20.051.
State law enforcement officers' training, participation in: Chapter 43.100 RCW.
State-wide city employees' retirement: Chapter 41.44 RCW.

Streets and alleys

abandoned state highways as: RCW 36.75.090.
 abandonment, waters backed over: RCW 90.28.020.
 aid in construction or maintenance of by state or county, procedure: RCW 47.24.050.
 as extension of county road, shared maintenance: RCW 36.75.205.
 as state highways, jurisdiction, maintenance and control: RCW 47.24.020.
 closure or restrictions on traffic authorized: Chapter 47.48 RCW.
 collection and removal of glass containers: RCW 47.40.090.
 construction and maintenance aid by state or county, procedure: RCW 47.24.050.
 county bridges across: RCW 36.75.200.
 county may aid in construction and maintenance of: RCW 47.24.050.
 dedication of county land for: RCW 36.34.290, 36.34.300.
 dedication upon replat: RCW 79.01.460.
 defined, motor vehicle law: RCW 46.04.120.
 defined, state highway law: RCW 47.04.010(6).
 eminent domain, for: RCW 8.12.030.
 franchise rights on limited access facility and when joint governmental facility: RCW 47.52.090.
 lighting systems, water district powers in regard to: RCW 57.08.060.
 limited access facilities, enforcement of laws within: RCW 47.52.200.
 limited access facilities, generally: Chapter 47.52 RCW.
 obstructing is nuisance: RCW 7.48.120.
 obstructing or interfering with, public nuisance, penalty: RCW 9.66.010(3).
 public nuisances concerning: RCW 7.48.140(4).
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Towns, generally: Chapter 35.27 RCW.

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35.01.010 First class city. A first class city is one having at least twenty thousand inhabitants at the time of its organization or reorganization. [1965 c 7 § 35.01-.010. Prior: 1955 c 319 § 2; prior: (i) 1890 p 140 § 11, part; RRS § 8932, part. (ii) 1907 c 248 § 1, part; 1890 p 140 § 12, part; RRS § 8933, part.]

35.01.020 Second class city. A second class city is one having at least ten thousand inhabitants at the time of its organization or reorganization. [1965 c 7 § 35.01-.020. Prior: 1955 c 319 § 3; prior: (i) 1890 p 140 § 11, part; RRS § 8932, part. (ii) 1907 c 248 § 1, part; 1890 p 140 § 12, part; RRS § 8933, part.]

35.01.030 Third class city. A third class city is one having at least fifteen hundred inhabitants at the time of its organization or reorganization. [1965 c 7 § 35.01-.030. Prior: 1955 c 319 § 4; prior: (i) 1890 p 140 § 11, part; RRS § 8932, part. (ii) 1907 c 248 § 1, part; 1890 p 140 § 12, part; RRS § 8933, part.]

35.01.040 Fourth class—Town. A municipal corporation of the fourth class, which shall be known as a town, is one having not less than three hundred inhabitants and not more than fifteen hundred inhabitants at the time of its organization. [1965 c 7 § 35.01.040. Prior: 1963 c 119 § 2; 1955 c 319 § 5; prior: (i) 1890 p 140 § 11, part; RRS § 8932, part. (ii) 1890 p 141 § 13; RRS § 8934.]

Chapter 35.02

INCORPORATION PROCEEDINGS

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Combined city and county municipal corporations: State Constitution Art. 11 § 16 (Amendment 58).

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Chapter 35.01

MUNICIPAL CORPORATIONS CLASSIFIED

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- 35.01.010 First class city.
- 35.01.020 Second class city.
- 35.01.030 Third class city.
- 35.01.040 Fourth class—Town.

Cities of ten thousand or more may frame charters without changing classification: RCW 35.21.610.

Combined city and county municipal corporations: State Constitution Art. 11 § 16 (Amendment 58).

Determining population, generally: Chapter 43.62 RCW.

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First class cities, generally: Chapter 35.22 RCW.

Metropolitan municipal corporations: Chapter 35.58 RCW.

Second class cities, generally: Chapter 35.23 RCW.

Third class cities, generally: Chapter 35.24 RCW.

Incorporation of municipalities: State Constitution Art. 11 § 10 (Amendment 40).

35.02.010 Authority for incorporation—Number of inhabitants required. Any portion of a county containing not less than three hundred inhabitants lying outside the limits of an incorporated city or town may become incorporated as a municipal corporation of the class to which it belongs: *Provided*, That no area which lies within five air miles of the boundary of any city having a population of fifteen thousand or more and lying within the same county shall be incorporated after June 12, 1969 which contains less than three thousand inhabitants. [1969 c 48 § 1; 1965 c 7 § 35.02.010. Prior: 1963 c 57 § 1; 1890 p 131 § 1; 1888 p 221 § 1; 1877 p 173 § 1; 1871 p 51 § 1; RRS § 8884.]

Validation—1961 ex.s. c 16: Validation of certain incorporations and annexations—Municipal corporations of the fourth class: See note following RCW 35.21.010.

Validating—1899 c 61: "Any municipal corporation which has been incorporated under the existing laws of this state shall be a valid municipal corporation notwithstanding a failure to publish the notice of the election held or to be held for the purpose of determining whether such city should or shall become incorporated, for the length of time required by law governing such incorporation: *Provided*, A notice fulfilling in other respects the requirements of law shall have been published for one week prior to such election in a newspaper printed and published within the boundaries of the corporation." [1899 c 61 p 103 § 1.]

Validating—1893 c 80: "The incorporation of all cities and towns in this state heretofore had or attempted under sections one, two and three of an act entitled 'An act providing for the organization, classification, incorporation and government of municipal corporations, and declaring an emergency,' approved March 24, 1890, and the re-incorporation of all cities and towns in this state heretofore had or attempted under sections one, four and five of said act, under which attempted incorporation or re-incorporation an organized government has been maintained since the date thereof, is hereby for all purposes declared legal and valid, and such cities and towns are hereby declared duly incorporated. And all contracts and obligations heretofore made, entered into or incurred by any such city or town so incorporated or re-incorporated are hereby declared legal and valid and of full force and effect." [1893 c 80 p 183 § 1.]

Validating—1890 c 7: "When so incorporated, the debts due from such town, village or city to any person, firm or corporation may be assumed and paid by the municipal authorities of such town, village or city; and all debts due to such town, village or city from any person, firm or corporation shall be deemed ratified, and may be collected in the same manner and in all respects as though such original incorporation were valid." [1890 c 7 p 136 § 7.]

35.02.020 Petition for incorporation—Signatures. A petition for incorporation must be signed by qualified voters resident within the limits of the proposed city or town equal in number to twenty percent of the votes cast at the last state election and presented to the auditor of the county. [1965 c 7 § 35.02.020. Prior: 1957 c 173 § 2; prior: 1953 c 219 § 1; 1890 p 131 § 2, part; 1888 p 221 §§ 1, 2, part; 1877 p 173 §§ 1, 2, part; 1871 p 51 § 1, part; RRS § 8884, part.]

35.02.030 Petition for incorporation—Contents. The petition for incorporation shall contain the form of government under which a city is to operate in the event it is incorporated, set forth and particularly describe the proposed boundaries of the proposed city or town, state the name of the proposed corporation and state the number of inhabitants therein, as nearly as

may be, and pray that it may be incorporated. [1965 c 7 § 35.02.030. Prior: 1957 c 173 § 3; prior: 1953 c 219 § 2; 1890 p 131 § 2, part; 1888 p 221 §§ 1, 2, part; 1877 p 173 §§ 1, 2, part; 1871 p 51 § 1, part; RRS § 8884, part.]

35.02.035 Petition—Auditor's duties. The county auditor shall within thirty days from the time of receiving said petition determine that the legal description of the area proposed to be incorporated is correct and that there is a sufficient number of valid signatures. Upon such determination, the county auditor shall transmit said petitions accompanied by the certificate of sufficiency, to the board of county commissioners. [1965 c 7 § 35.02.035. Prior: 1953 c 219 § 8.]

35.02.040 Publication of petition and notice. Upon receipt of a petition for incorporation together with a certificate of sufficiency by the county auditor, the board of county commissioners shall give notice of the hearing upon said petition for incorporation by one publication in not more than ten nor less than three days prior to the date set for said hearing in one or more newspapers of general circulation within the county. Said notice shall contain the time and place of said hearing. [1965 c 7 § 35.02.040. Prior: 1957 c 173 § 4; prior: 1953 c 219 § 3; 1890 p 131 § 2, part; 1888 p 221 §§ 1, 2, part; 1877 p 173 §§ 1, 2, part; 1871 p 51 § 1, part; RRS § 8884, part.]

35.02.050 Presentation of petition. If the petition sets forth an estimate of inhabitants of fifteen hundred or more, the chairman of the board of county commissioners, if the board is not in regular session at the time, shall call a special meeting of the board within five days; otherwise the petition may be presented at any regular or special meeting of the board. [1965 c 7 § 35.02.050. Prior: 1957 c 173 § 5; prior: 1890 p 131 § 2, part; 1888 p 221 §§ 1, 2, part; 1877 p 173 §§ 1, 2, part; 1871 p 51 § 1, part; RRS § 8884, part.]

35.02.060 Hearing on petition. When the petition for incorporation is presented the board of county commissioners shall hear it, but may adjourn the hearing from time to time not exceeding two months in all. [1965 c 7 § 35.02.060. Prior: 1957 c 173 § 6; prior: 1890 p 131 § 2, part; 1888 p 221 §§ 1, 2, part; 1877 p 173 §§ 1, 2, part; 1871 p 51 § 1, part; RRS § 8884, part.]

35.02.070 Findings by board of county commissioners—Establishment of boundaries—Limitation. Upon final hearing on a petition for incorporation the board shall establish and define the boundaries of the proposed city or town, being authorized to decrease but not increase the area proposed in the petition and any such decrease shall not exceed twenty percent of the area proposed; it must also determine the number of inhabitants within the boundaries it has established: *Provided*, That the area shall not be so decreased that the number of inhabitants therein shall be less than required by RCW 35.02.010 as now or hereafter amended. [1965 c 7 § 35.02.070. Prior: 1963 c 57 § 2; 1957 c 173 § 7; prior: 1890 p 131 § 2, part; 1888 p 221 §§ 1, 2,

part; 1877 p 173 §§ 1, 2, part; 1871 p 51 § 1, part; RRS § 8884, part.]

35.02.080 Election on question and of officers required. Following the action required of the board of county commissioners by RCW 35.02.070, an election shall be conducted within the area to determine whether it shall be incorporated, and to fill the various elective offices prescribed by law for cities of the class to which it will belong. Said election shall be conducted by the county auditor and the results thereof canvassed by the county canvassing board of election returns. [1965 c 7 § 35.02.080. Prior: 1957 c 173 § 8; prior: 1953 c 219 § 4; 1890 p 131 § 2, part; 1888 p 221 §§ 1, 2, part; 1877 p 173 §§ 1, 2, part; 1871 p 51 § 1, part; RRS § 8884, part.]

Canvassing returns, generally: Chapter 29.62 RCW.
Conduct of elections—Canvass: RCW 29.13.040.

35.02.086 Candidates for elective positions—Filing—Withdrawal—Ballot position. Candidates for city or town elective positions of the class to which such proposed corporation will belong and for the type of government as named in said petition shall file a declaration of candidacy with the county auditor not more than forty-five nor less than thirty days prior to said election. Any candidate may withdraw his declaration at any time within five days after the last day allowed for filing declaration of candidacy. There shall be no fee charged for filing a declaration of candidacy for this incorporation election. All names of candidates to be voted upon shall be printed upon the ballot alphabetically in groups under the designation of the respective titles of offices for which they are candidates. Names of candidates printed upon the ballot need not be rotated. [1965 c 7 § 35.02.086. Prior: 1953 c 219 § 9.]

Arrangement of names on ballot: RCW 29.21.090.

35.02.090 Election—Conduct—Voters' qualifications. The election shall be conducted in accordance with the general election laws of the state. No person shall be entitled to vote thereat unless he is a qualified elector of the county and has resided within the limits of the proposed city or town for at least thirty days next preceding the date of election. [1965 c 7 § 35.02.090. Prior: 1890 p 133 § 3, part; RRS § 8885, part.]

Conduct of elections: RCW 29.13.040.

35.02.100 Notice of election—Contents. The notice of election shall be given as provided by RCW 29.27.080 but shall further describe the boundaries of the proposed city or town, its name and the number of inhabitants, ascertained by the board of county commissioners to reside therein. [1965 c 7 § 35.02.100. Prior: 1957 c 173 § 9; prior: 1953 c 219 § 5; 1890 p 131 § 2, part; 1888 p 221 §§ 1, 2, part; 1877 p 173 §§ 1, 2, part; 1871 p 51 § 1, part; RRS § 8884, part.]

35.02.110 Ballots. The ballots shall contain the words "for incorporation" and "against incorporation" or words equivalent thereto, and also the names of the

persons to be voted for, to fill the various elective offices. [1965 c 7 § 35.02.110. Prior: 1957 c 173 § 10; prior: 1890 p 131 § 2, part; 1888 p 221 §§ 1, 2, part; 1877 p 173 §§ 1, 2, part; 1871 p 51 § 1, part; RRS § 8884, part.]

Arrangement of names on ballot: RCW 29.21.090.

35.02.120 Certification of election results—Order of board declaring incorporation. The county canvassing board of election returns shall certify the results of the election to the board of county commissioners. If the results reveal that a majority of the votes cast are for incorporation, the board by an order entered upon its minutes shall declare the city or town duly incorporated as of the class to which it may belong, naming it under the style of city (or town) of _____. The board shall cause a certified copy of the order to be filed in the office of the secretary of state. [1965 c 7 § 35.02.120. Prior: 1953 c 219 § 6; 1890 p 133 § 3, part; RRS § 8885, part.]

Canvassing returns, generally: Chapter 29.62 RCW.
Conduct of elections—Canvass: RCW 29.13.040.

35.02.130 Effective date of incorporation—Terms of elected officers—First municipal election. The incorporation shall be complete upon the filing of the order of the board of county commissioners declaring it so, in the office of the secretary of state. The county auditor shall issue certificates of election to the successful candidates on or before the twentieth day following an election and said newly elected officials shall assume office on the first Monday following the issuance of the certificate of election and shall continue in office until their successors are elected and qualified at the next general municipal election: *Provided*, That if the date of the next general municipal election is less than seventy-five days after the incorporation election, the officials elected at the incorporation election shall hold office until their successors are elected and qualified at the general municipal election next following. [1965 c 7 § 35.02.130. Prior: 1953 c 219 § 7; 1890 p 133 § 3, part; RRS § 8885, part.]

Times for holding elections: Chapter 29.13 RCW.

35.02.140 Disposition of uncollected road district taxes. Whenever in any territory forming a part of an incorporated city or town which is part of a road district of the county, and road district taxes have been levied but not collected on any property within such territory, the same shall, when collected by the county treasurer, be paid to such city or town and placed in the city or town street fund by the city or town: *Provided*, That this section shall not apply to any special assessments due in behalf of such property. [1965 c 7 § 35.02.140. Prior: 1957 c 180 § 1.]

County road districts: RCW 36.75.060.

35.02.150 Pending final disposition of petition no other petition for incorporation and petition or resolution for annexation to be acted upon—Withdrawal or substitution. After the filing of any petition for incorporation with the county auditor, and pending its final

disposition as provided for in this chapter, no other petition for incorporation and no petition or resolution for annexation which embraces any of the territory included therein shall be acted upon by the county auditor or the board of county commissioners, or by any city or town clerk, city or town council, or by any other public official or body that might otherwise be empowered to receive or act upon such a petition: *Provided*, That any petition for incorporation may be withdrawn, or a new petition embracing other or different boundaries may be substituted therefor, by a majority of the signers thereof, at any time before such petition has been certified by the county auditor to the board of county commissioners, in which case the same proceedings shall be taken as in the case of an original petition. [1973 1st ex.s. c 164 § 1; 1965 c 7 § 35.02.150. Prior: 1961 c 200 § 1.]

Annexation petition, no other annexation petition to be acted upon pending final disposition: RCW 35.13.175.

35.02.160 Cancellation, acquisition, of franchise or permit for operation of public service business in territory incorporated. The incorporation of any territory within the boundaries of any city pursuant to the provisions of chapters 35.02 through 35.04 RCW shall cancel, as of the effective date of such incorporation, any franchise or permit theretofore granted to any person, firm or corporation by the state of Washington, or by the governing body of such incorporated territory, authorizing or otherwise permitting the operation of any public transportation, garbage collection and/or disposal or other similar public service business or facility within the limits of the incorporated territory, but the holder of any such franchise or permit canceled pursuant to this section shall be forthwith granted by the incorporating city a franchise to continue such business within the incorporated territory for a term of not less than the remaining term of the original franchise or permit, or five years, whichever is the shorter period, and the incorporating city, by franchise, permit or public operation, shall not extend similar or competing services to the incorporated territory except upon a proper showing of the inability or refusal of such person, firm or corporation to adequately service said incorporated territory at a reasonable price: *Provided*, That the provisions of this section shall not preclude the purchase by the incorporating city of said franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm or corporation whose franchise or permit has been canceled by the terms of this section shall suffer any measurable damages as a result of any incorporation pursuant to the provisions of chapters 35.02 through 35.04 RCW, such person, firm or corporation shall have a right of action against any city causing such damages. [1965 ex.s. c 42 § 1.]

Chapter 35.03

INCORPORATION OF FIRST CLASS CITIES

Sections

- 35.03.005 "Board of county commissioners" defined.
- 35.03.010 Incorporation authorized—Population—Powers.
- 35.03.020 Petition—Determining population, boundaries—Hearing.
- 35.03.030 Resolution—Election—Conduct of election.
- 35.03.040 Charter—Procedure for adoption—Election of first officials.
- 35.03.050 Charter—Authentication, recording—Effective date of incorporation—Judicial notice.
- 35.03.060 Cancellation, acquisition, of franchise or permit for operation of public service business in territory incorporated.

Combined city and county municipal corporations: State Constitution Art. 11 § 16 (Amendment 58).

Elections: Title 29 RCW.

First class cities, generally: Chapter 35.22 RCW.

Incorporation of municipalities: State Constitution Art. 11 § 10 (Amendment 40).

35.03.005 "Board of county commissioners" defined. As used in chapter 35.03 RCW, "board of county commissioners" means the legislative body of the county. [1969 ex.s. c 270 § 6.]

35.03.010 Incorporation authorized—Population—Powers. Any portion of a county, which portion contains not less than twenty thousand inhabitants and which is not incorporated as a municipal corporation, may become incorporated under the provisions of this chapter, and when so incorporated, shall have the powers conferred, or that may hereafter be conferred, by law upon cities of the first class. [1969 ex.s. c 270 § 1; 1965 c 7 § 35.03.010. Prior: 1951 c 153 § 1.]

35.03.020 Petition—Determining population, boundaries—Hearing. A petition shall first be presented under the provisions of RCW 35.03.005 through 35.03.050 to the county auditor of such county, signed by at least five hundred qualified electors of the county, residents within the limits of such proposed corporation, which petition shall set forth and particularly describe the proposed boundaries of such corporation, state the name of the proposed corporation, and state the number of inhabitants therein as nearly as may be, and shall pray that the same may be incorporated under the provisions of this chapter. The county auditor shall within thirty days from the time of receiving said petition determine that the legal description of the area proposed to be incorporated is correct and that there is a sufficient number of valid signatures. Upon such determination, the county auditor shall transmit said petitions accompanied by the certificate of sufficiency to the board of county commissioners except that in counties in which a boundary review board exists under chapter 36.93 RCW, said petition and the certificate of sufficiency shall be transmitted to the boundary review board. If a period of sixty days shall elapse from the filing of the said petition with the boundary review board without such board's jurisdiction having been invoked, as provided in RCW 36.93.100, the proposed incorporation shall be deemed to have been approved by

the board. Upon presentation of said petition in counties in which there is no boundary review board, the board of county commissioners shall ascertain the number of inhabitants residing within said proposed boundaries. If, in the opinion of the board of county commissioners, the population within such proposed boundaries can be ascertained from the figures compiled from the last federal or state census for said county, such population figures shall be used, otherwise said board of county commissioners shall make an enumeration of all persons residing within said proposed boundaries. If the board of county commissioners shall ascertain that there are twenty thousand or more inhabitants within said proposed boundaries, they shall set a date for hearing on said petition, the same to be published in accordance with the notice required by RCW 29.27.080 prior to such hearing in some newspaper published in said county, together with a notice stating the time and place of the meeting at which said petition will be heard. Such hearing may be adjourned from time to time, not to exceed one month in all, and, on the final hearing, the board of county commissioners shall make such changes in the proposed boundaries as they may find to be proper, but may not enlarge the same, nor reduce the same so that the population therein would be less than twenty thousand inhabitants: *Provided*, That if the jurisdiction of the boundary review board has been invoked and it has approved the proposed incorporation or has modified it so that the statutory requirements for incorporation have still been satisfied, then the said petition shall not be referred to the board of county commissioners for action and hearing thereon as provided above. Within thirty days after the conclusion of the final hearing on the proposed incorporation before a boundary review board, that board shall file its written decision of approval, modification, or rejection with the board of county commissioners. [1969 ex.s. c 270 § 2; 1965 c 7 § 35.03.020. Prior: 1951 c 153 § 2, part.]

35.03.030 Resolution—Election—Conduct of election. If no boundary review board has jurisdiction over a proposed incorporation under RCW 35.03.005 through 35.03.050 or such a board's jurisdiction is not invoked within the sixty day period prescribed in RCW 36.93.100, the board of county commissioners shall by resolution establish and define the boundaries of such corporation, establish and find the number of inhabitants residing therein and state the name of the proposed corporation as specified in the petition for incorporation. Within ninety days after the passage of said resolution or the filing of the decision of approval or modification of the boundary review board with the board of county commissioners, the board of county commissioners shall cause an election to be called and held within the boundaries so established, said election to be conducted in the manner required for the calling of a special election in Title 29 RCW, as now or hereafter amended, except as otherwise provided in this chapter, for the purpose of determining whether such boundaries so established shall be incorporated and of

electing fifteen freeholders, who shall have been residents within said boundaries for a period of at least two years preceding their election and qualified electors of the county, for the purpose of framing a charter for said city. Any qualified person may, not earlier than sixty days nor later than thirty days prior to such election, file with the county auditor of said county his declaration of candidacy in writing. The form of ballot at such election shall be "for incorporation," "against incorporation"; and shall contain the names of the candidates for the office of freeholder to be voted upon to frame said charter. No person shall be entitled to vote at such election unless he shall be a qualified elector of said county and shall have resided within the limits of such proposed corporation for at least thirty days next preceding such election. [1969 ex.s. c 270 § 3; 1965 c 7 § 35.03.030. Prior: 1951 c 153 § 2, part.]

Conduct of elections: RCW 29.13.040.

Election of freeholders to frame charter: State Constitution Art. 11 § 10 (Amendment 40), RCW 35.22.050.

35.03.040 Charter—Procedure for adoption—Election of first officials. The fifteen freeholders receiving the highest number of votes at such election shall be certified by the county auditor as elected as freeholders to form a charter for said city provided a majority of those voting at the election referred to in RCW 35.03.030 vote in favor of incorporation. It shall be the duty of the persons so elected to convene within ten days after their election and frame a charter for said city, and within sixty days thereafter they, or a majority of their number, shall submit such charter to the board of county commissioners which shall within ninety days thereafter cause another election to be called and held in said city and to be conducted in the manner required for the calling of a special election in Title 29 RCW, as now or hereafter amended, except as otherwise provided in this chapter, and in conformity with Article 11, section 10 of the Constitution, for the purpose of submitting said charter to the qualified electors of said city and for the election of the various elective officials to the respective offices named in said charter. The form of ballot at such election shall be "for proposed charter," "against proposed charter," and the names of the candidates for the respective offices named in said proposed charter. At the first election of officials for said city any qualified elector of said city may become a candidate for any of the elective offices set forth in such proposed charter without nomination by filing with the proper election officials of the county a declaration in writing that he desires to be a candidate for a particular office (naming it), such declaration to be filed not earlier than sixty nor later than thirty days prior to such election. Candidates for council positions shall file for a numbered position as provided by RCW 29.21.017. The candidates receiving the highest number of votes for the respective offices shall be declared elected to such office and the county auditor shall issue a certificate of such election. After the first election the nomination and election of officials for said city shall be as prescribed in the charter adopted by the people and the laws of the

state. No person shall be entitled to vote at such election unless he shall be a qualified elector of said city and shall have resided within the limits of said city for at least thirty days preceding such election. If a majority of all the votes cast on the proposed charter are not in favor of the proposed charter, no further proceeding shall be had on the petition for incorporation filed pursuant to RCW 35.03.020, but this shall not bar any new proceeding for such purpose. [1969 ex.s. c 270 § 4; 1965 c 7 § 35.03.040. Prior: 1951 c 153 § 3.]

Conduct of elections: RCW 29.13.040.

Submission of charter: State Constitution Art. 11 § 10 (Amendment 40), RCW 35.22.060.

35.03.050 Charter—Authentication, recording—Effective date of incorporation—Judicial notice. If a majority of the votes cast on such charter are cast in favor of ratification of such charter, the same shall become the organic law of said city, and shall supersede all special laws inconsistent therewith, when authenticated, recorded and attested as hereinafter provided: I, _____, chairman of the board of county commissioners for _____ county, do hereby certify that, in accordance with the provisions of chapter _____ of the Laws of 19__, of the state of Washington, the county commissioners of said county duly caused an election to be held on the _____ day of _____, 19__, within the boundaries hereinafter described, for the purpose of determining whether or not the same should be incorporated and for the purpose of electing fifteen freeholders to form a charter for such city, said boundaries being described as follows: (describe proposed boundaries). At said election _____ votes were cast in favor of incorporation and _____ votes were cast against incorporation, and the following named persons were duly elected freeholders for the purpose of forming a charter for said city, to wit: (name freeholders elected). That thereafter on the _____ day of _____, 19__, said board of freeholders duly returned a proposed charter for said city of _____, signed by the following named members, to wit: (name signers). That thereafter on the _____ day of _____, 19__, at an election duly called for the said purpose, the proposed charter was submitted to the qualified electors of said city, and the returns of said election were duly canvassed, and the result of said election was found to be as follows: For said proposed charter, _____ votes; against said proposed charter, _____ votes. Whereupon, the said charter was declared duly ratified. And I further certify that the annexed charter is a full, true, and correct copy of the proposed charter so voted upon and ratified as aforesaid.

In testimony whereof, I have hereunto set my hand this _____ day of _____, 19__.
(County seal)

Chairman of the board of county commissioners for _____ county.

Said certificate shall be made in duplicate and the board of county commissioners shall cause one copy thereof to be immediately delivered to the secretary of

state and the other copy to be delivered to the mayor-elect of said city. From and after the filing of said certificate with the secretary of state, said incorporation shall be deemed complete, and the officers so elected at said election shall be entitled to enter immediately upon the duties of their respective offices upon qualifying according to the provisions of said charter, and shall hold such offices, respectively, until the next general municipal election and until their successors are elected and qualified. The mayor shall deliver the certificate so delivered to him to the clerk of such city, who shall file the same as an official record of the city. The clerk shall immediately thereafter record the charter in a book to be provided and kept for said purpose and known as the charter book of the city of _____ and when so recorded shall be attested by the clerk and the mayor of the city, under the corporate seal thereof, and thereafter any and all amendments to said charter shall in like manner be recorded and attested and, when so recorded and attested, all courts in this state shall take judicial notice of said charter and all amendments thereto. [1969 ex.s. c 270 § 5; 1965 c 7 § 35.03.050. Prior: 1951 c 153 § 4.]

Authentication of charter: RCW 35.22.110.

Community municipal corporations: Chapter 35.14 RCW.

35.03.060 Cancellation, acquisition, of franchise or permit for operation of public service business in territory incorporated. See RCW 35.02.160.

Chapter 35.04

INCORPORATION OF INTERCOUNTY AREAS

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35.04.070	Determining population.
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35.04.190	Cancellation, acquisition, of franchise or permit for operation of public service business in territory incorporated.

Combined city and county municipal corporations: State Constitution Art. 11 § 16 (Amendment 58).

Elections: Title 29 RCW.

Incorporation of first class cities: Chapter 35.03 RCW.

Incorporation proceedings: Chapter 35.02 RCW.

35.04.010 Definitions. As used in this chapter, unless the context indicates otherwise, "principal county auditor", "principal board of county commissioners", "principal county canvassing board", and "principal county officer" mean respectively those in the county of that part of the proposed corporation in which the largest number of inhabitants reside as of the date of the incorporation thereof. [1965 c 7 § 35.04.010. Prior: 1955 c 345 § 1.]

35.04.020 Incorporation authorized—Number of inhabitants required when proximate to city of fifteen thousand or more in certain counties. Any area lying in two or more counties which is not incorporated as a municipal corporation, may become incorporated under the provisions of this chapter: *Provided*, That when any part of the area to be incorporated lies within five miles of any city having a population of fifteen thousand or more and in a class AA or A county, no petition under RCW 35.04.030 shall be valid unless the limits of the proposed city contain three thousand or more inhabitants. When so incorporated, it shall, unless otherwise provided by law, possess all the powers, duties, and benefits conferred upon or vested in, or that may hereafter be conferred upon or vested in, other municipalities of the same class and upon the officers thereof. [1965 c 7 § 35.04.020. Prior: 1963 c 57 § 3; 1955 c 345 § 2.]

35.04.030 Petition for incorporation. A petition shall first be presented to the principal county auditor signed by qualified voters resident within each area of each county of the proposed corporation equal in number to twenty percent of the votes cast at the last state election. The petition shall set forth and particularly describe the form of government under which the proposed corporation is to operate in the event it is incorporated, the proposed boundaries of the proposed corporation, the number of inhabitants, as nearly as may be, within each area of each county within the proposed corporation, the name of the proposed corporation, and shall pray that the area may be incorporated under the provisions of this chapter. [1965 c 7 § 35.04.030. Prior: 1955 c 345 § 3.]

35.04.040 Petition for incorporation—Duties of county auditors—Certificates of sufficiency. The principal auditor shall, as soon as possible, but in any case not later than thirty days after the date of receiving the petition, determine or cause to be determined whether the legal description of the area to be incorporated in his county is correct, and determine whether there is a sufficient number of valid signatures in his county. Upon such determination the principal county auditor shall transmit the petition to the other county auditor, or if more than one is involved, successively to each, and such other auditors shall determine whether the legal description is correct and whether there is sufficient number of valid signatures from the area within their

respective counties. No one county auditor shall be allowed more than thirty days within which so to check the petition. Thereupon the auditor or auditors shall attach a certificate of sufficiency and return the petition to the principal county auditor who, in turn, shall, not later than five days after receiving it, attach his certificate of sufficiency thereto for his respective county and transmit the petition and certificates to the principal board of county commissioners. [1965 c 7 § 35.04.040. Prior: 1955 c 345 § 4.]

35.04.050 Petition for incorporation—Notice of hearing. The principal board of county commissioners shall meet and fix a date for a hearing on the petition, and shall give notice of the hearing upon the petition and the time and place thereof by at least one publication not more than ten nor less than three days prior to the date set for the hearing in one or more newspapers of general circulation within the respective counties in which the proposed corporation is located. The approval of each board of county commissioners of the other county or counties involved shall first be secured by the principal board of county commissioners prior to action by them under this section. [1965 c 7 § 35.04.050. Prior: 1955 c 345 § 5.]

35.04.060 Petition for incorporation—Hearing—Inclusion and exclusion of lands—Order. The hearing provided for in RCW 35.04.050 shall be held jointly by all the respective boards of county commissioners under the direction of the principal board of county commissioners. The hearing may be adjourned from time to time not to exceed two months in all. If upon final hearing the respective boards find that any land has been unjustly or improperly included within or excluded from the proposed corporation, the respective boards may change and fix the boundary lines of the portion of the proposed corporation within their respective counties in such a manner as they deem reasonable and just and conducive to the public welfare and convenience, and each such board shall thereupon enter an order establishing and defining the boundary lines of the proposed corporation within its respective county: *Provided*, That when any part of the area to be incorporated lies within five miles of any city having a population of fifteen thousand or more and in a class AA or A county, the area shall not be so decreased that the number of inhabitants therein shall be less than three thousand. No land shall be so included within the boundaries described in the petition unless each board of county commissioners of that county in which the area sought to be included is located first obtains the written assent of not less than a number of qualified voters resident within each area to be included in the proposed corporation equal in number to twenty percent of the votes cast at the last state election. Each board of county commissioners shall for the area within its respective county, promptly after the final hearing, by order establish and define the boundaries of the proposed corporation, determine the number of inhabitants residing therein and state the name of the proposed corporation: *Provided*, That for the action

required after the final hearing, the boards may act jointly but in such case a majority of each board must vote favorably on such final action and the order shall be entered in the minutes of each board. [1965 c 7 § 35.04.060. Prior: 1963 c 57 § 4; 1955 c 345 § 6.]

35.04.070 Determining population. For the purpose of the type of incorporation provided for in this chapter, the population shall be determined as follows:

A count shall be made by, or under the direction of, each board of each county in which a portion of the proposed corporation is located, of the number of dwelling units in that area at the time of incorporation or with respect to any area to be annexed thereto later, multiplied by a factor of 2.95, and the population so determined shall constitute the official population of the proposed corporation and subtracted from the official population of the unincorporated area of each of the counties in which the proposed corporation is located. In the event unincorporated territory is annexed to such corporation, the same procedures with respect to population shall be applicable. [1965 c 7 § 35.04.070. Prior: 1955 c 345 § 7.]

35.04.080 Election for incorporation. Within sixty days after the passage of the order required by RCW 35.04.060, the principal county auditor shall cause an election to be held within the boundaries so established for the purpose of determining whether the area described shall be incorporated into the class of corporation to which it belongs and to fill the various elective offices prescribed by law for corporations of such class under the form of government specified in the petition. The election shall be conducted by the principal county auditor in accordance with the general election laws of the state. The principal county officers and principal county canvassing board shall exercise all powers and perform all duties in connection therewith with the assistance of the officers and canvassing board of the other county or counties. If the election is successful, all costs incurred shall be borne by the corporation, but if unsuccessful, all costs incurred shall be borne proportionately by each county in that ratio which the number of inhabitants residing in that part of each county forming a part of the proposed corporation bears to the total number of inhabitants residing within the boundaries of the whole of the proposed corporation. [1965 c 7 § 35.04.080. Prior: 1955 c 345 § 8.]

Canvassing returns, generally: Chapter 29.62 RCW.

Conduct of election—Canvass: RCW 29.13.040.

Times for holding elections: Chapter 29.13 RCW.

35.04.090 Candidates—Filing, withdrawal, ballot position—Qualification of electors. Any qualified person may, not earlier than forty-five days nor later than thirty days prior to such election, file with the principal county auditor his declaration of candidacy. Any candidate may withdraw his declaration at any time within five days after the last day allowed for filing declarations of candidacy. There shall be no fee charged for filing declarations of candidacy for this incorporation election. All names of candidates to be voted upon shall

be printed upon the ballot alphabetically in groups under the designation of the respective titles of office for which they are candidates. Names of candidates printed upon the ballot need not be rotated. No person shall be entitled to vote at such election unless he is a qualified elector of his respective county within the proposed corporation and has resided within the limits of such proposed corporation for at least thirty days next preceding such election. [1965 c 7 § 35.04.090. Prior: 1955 c 345 § 9.]

35.04.100 Notice of election. The notice of election shall be given by the principal county auditor as provided by RCW 29.27.080 as now or hereafter amended, and shall describe the boundaries of the proposed corporation, its name, and the number of inhabitants residing therein as ascertained by the boards of county commissioners of the counties in which it is located. [1965 c 7 § 35.04.100. Prior: 1955 c 345 § 10.]

35.04.110 Form of ballot. The form of ballot at such election shall be "for incorporation", "against incorporation"; and shall contain the names of the candidates for each office to be voted upon. [1965 c 7 § 35.04.110. Prior: 1955 c 345 § 11.]

35.04.120 Certification of election results—Order of incorporation—Candidates elected. The principal county canvassing board shall certify the results of the election to the respective boards of county commissioners. If, at the election, a majority of those voting thereat in each area favor incorporation, the respective boards of county commissioners acting jointly shall, by order, declare such territory to be incorporated as a corporation of the class to which it belongs under the name of (naming it) and such order shall be entered in the minute record of each board. The candidate receiving the highest number of votes for his respective office shall be declared elected and the principal county auditor shall issue a certificate of such election on or before the twentieth day following election. [1965 c 7 § 35.04.120. Prior: 1955 c 345 § 12.]

Canvassing returns: Chapter 29.62 RCW.

Conduct of election—Canvass: RCW 29.13.040.

35.04.130 When incorporation complete—Terms of elected officers—First municipal election. The incorporation shall be complete upon the filing of a certified copy of the order of the boards of county commissioners declaring it so in the office of the secretary of state. The successful candidates shall assume office on the first Monday following the issuance of the certificate of election and shall continue in office until their successors are elected and qualified at the next general municipal election: *Provided*, That if the date of the next general municipal election is less than seventy-five days after the incorporation election, the officials elected at the incorporation election shall hold office until their successors are elected and qualified at the general municipal election next following. [1965 c 7 § 35.04.130. Prior: 1955 c 345 § 13.]

Times for holding elections: Chapter 29.13 RCW.

35.04.140 Municipal election procedure. After such a proposed corporation has been incorporated, the elections shall be conducted as provided in chapter 29.13 RCW except each county auditor in each county in which a part of such corporation is located shall be responsible for closing registration files in accordance with RCW 29.07.160. [1965 c 7 § 35.04.140. Prior: 1955 c 345 § 14.]

35.04.150 Powers and duties of county officers after incorporation—Costs. After incorporation all purposes essential to the maintenance, operation, and administration of the corporation whenever any action is required or may be performed by any county officer or board, such action shall be performed by the respective officer or board of the county of that part of the municipality in which the largest number of inhabitants reside as of the date of the incorporation of the proposed corporation except as provided in RCW 35.04.160, and all costs incurred shall be borne proportionately by each county in that ratio which the number of inhabitants residing in that part of each county forming a part of the proposed corporation bears to the total number of inhabitants residing within the whole of the corporation. [1965 c 7 § 35.04.150. Prior: 1955 c 345 § 15.]

35.04.160 Powers and duties of county officers after incorporation—Finances—Costs. In the case of evaluation, assessment, collection, apportionment, and any other allied power or duty relating to taxes in connection with the corporation, the action shall be performed by the officer or board of the county for that area of the corporation which is located within his respective county, and all materials, information, and other data and all moneys collected shall be submitted to the proper officer of the county of that part of the corporation in which the largest number of inhabitants reside. Any power which may be or duty which shall be performed in connection therewith shall be performed by the officer or board receiving such as though only a corporation in a single county were concerned. All moneys collected from such area constituting a part of such corporation that should be paid to such corporation shall be delivered to the corporate treasurer thereof, and all other materials, information, or data relating to the corporation shall be submitted to the appropriate corporate officials.

Any costs or expenses incurred under this section shall be borne proportionately by each county involved. [1965 c 7 § 35.04.160. Prior: 1955 c 345 § 16.]

35.04.170 Corporate powers in dealings with federal government. Any corporation incorporated as provided in this chapter shall, in addition to all other powers, duties and benefits of corporations of the same class, be authorized to purchase, acquire, lease, or administer any property, real or personal, or property rights and improvements thereon owned by the federal government on such terms and conditions as may be mutually agreed upon, when authorized to do so by the United

States government, and thereafter to sell, transfer, exchange, lease, or otherwise dispose of any such property, and to execute contracts with the federal government with respect to supplying water and for other utility services. [1965 c 7 § 35.04.170. Prior: 1955 c 345 § 17.]

35.04.180 Consolidation and annexation. Any corporation incorporated as provided in this chapter may consolidate or annex other incorporated or unincorporated territory outside the existing boundaries of such corporation but contiguous thereto, whether or not the territory lies in one or more counties, by following the procedure provided by law for such cases when only a single county is involved. [1965 c 7 § 35.04.180. Prior: 1955 c 345 § 18.]

*Annexation of unincorporated areas: Chapters 35.13, 35.13A RCW.
Consolidation including annexation of third class city or town to first class city: Chapter 35.10 RCW.*

35.04.190 Cancellation, acquisition, of franchise or permit for operation of public service business in territory incorporated. See RCW 35.02.160.

**Chapter 35.06
ADVANCEMENT OF CLASSIFICATION**

Sections

35.06.010	Population requirements for advance in classification.
35.06.020	Petition—Local census.
35.06.030	Procedure if census is favorable—Election.
35.06.040	Certifying of returns.
35.06.050	Effect of adverse vote.
35.06.060	Effect of favorable vote.
35.06.070	Transcript of record to secretary of state.
35.06.080	Election of new officers.

*Elections: Title 29 RCW.
Municipal corporations classified: Chapter 35.01 RCW.
Population determinations: Chapter 43.62 RCW.*

35.06.010 Population requirements for advance in classification. A city or town which has, as ascertained by a local census, or which has on the first day of January in any year according to an official report or abstract of the then next preceding federal or state census, at least twenty thousand inhabitants may become a city of the first class; a city or town which has, when ascertained in the same way, at least ten thousand inhabitants may become a city of the second class; a city or town which has, when ascertained in the same way, at least fifteen hundred inhabitants may become a city of the third class. [1965 c 7 § 35.06.010. Prior: 1955 c 319 § 6; prior: (i) 1907 c 248 § 1, part; 1890 p 140 § 12, part; RRS § 8933, part. (ii) 1890 p 141 § 14; RRS § 8936.]

Cities of twenty thousand or more, alternative procedure to become city of first class: RCW 35.21.610.

35.06.020 Petition—Local census. When a petition is filed signed by electors of a city or town, in number equal to not less than one-fifth of the votes cast at the last municipal election, seeking reorganization thereof as a city of a higher class than that indicated by the last preceding federal or state census, the city or town

council to which the petition is presented shall forthwith cause a census to be taken by one or more suitable persons of all the inhabitants of such town or city in which census the full name of each person shall be plainly written, and the names alphabetically arranged and regularly numbered in complete series. The census shall be verified before an officer authorized to administer oaths and filed with the city or town clerk.

If the census shows such city or town qualified for the class named in the petition, the same proceedings shall be had as if the census were a federal or state census.

If the census shows such city or town not qualified for the class named in the petition, no further proceedings shall be had: *Provided*, That the city or town may be reorganized as a city or town of the class indicated by the census, upon a proper petition filed within six months from the filing of such census with the clerk, without other or further census. [1965 c 7 § 35.06.020. Prior: 1955 c 319 § 7; prior: 1907 c 248 § 1, part; 1890 p 140 § 12, part; RRS § 8933, part.]

Allocation of state funds to cities and towns based upon census: RCW 43.62.020, 43.62.030.

35.06.030 Procedure if census is favorable—Election. If the census prescribed in RCW 35.06.020 shows that the city or town belongs to the class named in the petition, the city or town council shall cause notice to be given as in other cases, that at the the next general election of the city or town, or at a special election to be called for that purpose, the electors may vote for or against the advancement, their ballots to contain the words "for advancement" and the words "against advancement." [1965 c 7 § 35.06.030. Prior: 1899 p 60 § 1; 1890 p 141 § 16; RRS § 8937.]

Notice of election: RCW 29.27.080.

Times for holding elections: Chapter 29.13 RCW.

35.06.040 Certifying of returns. The canvassing authority of such election shall forthwith certify in duplicate to the city or town clerk the whole number of votes given at the election, the number in favor of advancement, and the number against it. [1965 c 7 § 35.06.040. Prior: 1890 p 142 § 17; RRS § 8938.]

Canvassing returns, generally: Chapter 29.62 RCW.

Conduct of elections—Canvass: RCW 29.13.040.

35.06.050 Effect of adverse vote. The clerk shall lay the certificate of election and census before the council at its next regular meeting after the same has been filed in his office, and if it appear that all the votes cast for the advancement are not a majority of the votes cast at the election, no further proceedings shall be had on that petition; but this shall not bar any new proceedings for such purpose. [1965 c 7 § 35.06.050. Prior: 1890 p 142 § 19; RRS § 8940.]

35.06.060 Effect of favorable vote. If a majority of votes is in favor of such advancement, and the corporation, according to the federal or state census, or the census taken by order of the council, contains the requisite number of inhabitants, the council shall thereupon, by resolution, declare that the inhabitants of the

corporation have decided on such advancement, and direct the clerk to certify the resolution to the clerk of the board of county commissioners. [1965 c 7 § 35.06.060. Prior: 1890 p 142 § 20; RRS § 8941.]

35.06.070 Transcript of record to secretary of state. It shall be the duty of said board to cause a record of such action to be made, and when the clerk of the board has made the record, he shall certify and forward to the secretary of state a transcript thereof, whereupon the corporation shall be a city of the third, second, or first class, as the case may be, to be organized and governed under the provisions of this title, and when the corporation is actually organized by the election and qualification of its officers, notice of its existence as such shall be taken in all judicial proceedings. [1965 c 7 § 35.06.070. Prior: 1890 p 142 § 21; RRS § 8942.]

35.06.080 Election of new officers. The first election of officers of the new corporation after such proceedings shall be at the next general municipal election or at a special election to be called for that purpose, and the officers of the old corporation shall remain in office until the officers of the new corporation are elected and qualified; and the ordinances, bylaws, and resolutions adopted by the old corporation shall, as far as consistent with the provisions of this title, continue in force until repealed by the council of the new corporation; and the council and officers of the old corporation shall, upon demand, deliver to the proper officers of the new corporation all books of record, documents, and papers in their possession belonging to the old corporation. [1965 c 106 § 1; 1965 c 7 § 35.06.080. Prior: 1890 p 143 § 22; RRS § 8942.]

Chapter 35.07 DISINCORPORATION

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35.07.030	Census.
35.07.040	Calling election—Receiver.
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35.07.060	Ballots.
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35.07.090	Effect of disincorporation—Powers—Officers.
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Census to be made in decennial periods: State Constitution Art. 2 § 3.
Elections: Title 29 RCW.
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Population determinations: Chapter 43.62 RCW.

35.07.010 Authority for disincorporation. Cities of the third class and towns having a population of less than four thousand inhabitants may disincorporate. [1965 c 7 § 35.07.010. Prior: 1897 c 69 § 1; RRS § 8914.]

35.07.020 Petition—Requisites. The petition for disincorporation must be signed by a majority of the registered voters thereof and filed with the city or town council. [1965 c 7 § 35.07.020. Prior: 1897 c 69 § 2, part; RRS § 8915, part.]

35.07.030 Census. Upon the filing of the petition, the council shall appoint a suitable person to make an enumeration of the inhabitants of the municipality unless an enumeration has been made for the city or town, county, state, or the United States within six months next preceding the filing of the petition showing the city's or town's population to be less than four thousand. An enumeration made hereunder, unless impeached for fraud, shall be conclusive. [1965 c 7 § 35.07.030. Prior: 1897 c 69 § 16; RRS § 8929.]

Effect of disincorporation on allocation of state funds to a city or town: RCW 43.62.030.

35.07.040 Calling election—Receiver. If the applicable census shows a population of less than four thousand, the council shall cause an election to be called upon the proposition of disincorporation. If the city or town has any indebtedness or outstanding liabilities, it shall order the election of a receiver at the same time. [1965 c 7 § 35.07.040. Prior: 1897 c 69 § 2, part; RRS § 8915, part.]

35.07.050 Notice of election. Notice of such election shall be given as provided in RCW 29.27.080. [1965 c 7 § 35.07.050. Prior: 1897 c 69 § 3; RRS § 8916.]

35.07.060 Ballots. The ballots for the election shall be printed at the expense of the municipality and there shall be printed thereon the words "for dissolution" in one line and the words "against dissolution" in another line and in other and separate lines, the names of each of the lawfully nominated candidates for receiver. In all other respects the ballots shall be in conformity with the law regulating elections in such cities and towns. [1965 c 7 § 35.07.060. Prior: 1897 c 69 § 4; RRS § 8917.]

Arrangement of names on ballot: RCW 29.21.090.

35.07.070 Conduct of election. The election shall be conducted as other elections are required by law to be conducted in the city or town except as in this chapter otherwise provided. [1965 c 7 § 35.07.070. Prior: 1897 c 69 § 5; RRS § 8918.]

Conduct of elections: RCW 29.13.040.

35.07.080 Canvass of returns. The result of the election, together with the ballots cast, shall be certified by the canvassing authority to the council which shall meet within one week thereafter and shall declare the result which shall be made a matter of record in the journal of the council proceedings. If the vote "For dissolution" be a majority of the registered voters of such city or town voting at such election, such corporation shall be deemed dissolved. [1965 c 7 § 35.07.080. Prior: 1933 c 128 § 1, part; 1897 c 69 § 6, part; Rem. Supp. § 8919, part.]

Canvassing returns, generally: Chapter 29.62 RCW.

Conduct of elections—Canvass: RCW 29.13.040.

35.07.090 Effect of disincorporation—Powers—Officers. Upon disincorporation of a city or town, its powers and privileges as such, are surrendered to the state and it is absolved from any further duty to the state or its own inhabitants and all the offices appertaining thereto shall cease to exist immediately upon the entry of the result: *Provided*, That if a receiver is required, the officers shall continue in the exercise of all their powers until a receiver has qualified as such, and thereupon shall surrender to him all property, money, vouchers, records and books of the city or town including those in any manner pertaining to its business. [1965 c 7 § 35.07.090. Prior: 1933 c 128 § 1, part; 1897 c 69 § 6, part; RRS § 8919, part.]

35.07.100 Effect of disincorporation—Existing contracts. Disincorporation shall not impair the obligation of any contract. If any franchise lawfully granted has not expired at the time of disincorporation, the disincorporation does not impair any right thereunder and does not imply any authority to interfere therewith to any greater extent than the city or town might have, if it had remained incorporated. [1965 c 7 § 35.07.100. Prior: 1897 c 69 § 18; RRS § 8931.]

Obligations of contract shall not be impaired: State Constitution Art. 1 § 23.

35.07.110 Effect of disincorporation—Streets. Upon disincorporation of a city or town, its streets and highways pass to the control of the state and shall remain public highways until closed in pursuance of law; and the territory embraced therein shall be made into a new road district or annexed to adjoining districts as may be ordered by the board of county commissioners of the county embracing such city or town. [1965 c 7 § 35.07.110. Prior: 1897 c 69 § 17; RRS § 8930.]

35.07.120 Receiver—Qualification—Bond. The receiver must qualify within ten days after he has been declared elected, by filing with the county auditor a bond equal in penalty to the audited indebtedness and the established liabilities of the city or town with sureties approved by the board of county commissioners, or if the board is not in session, by the judge of the superior court of the county. The bond shall run to the state and shall be conditioned for the faithful performance of his duties as receiver and the prompt payment in the

order of their priority of all lawful claims finally established as the funds come into his hands to discharge them. The bond shall be filed with the county auditor and shall be a public record and shall be for the benefit of every person who may be injured by the receiver's failure to discharge his duty. [1965 c 7 § 35.07.120. Prior: 1897 c 69 § 7; RRS § 8920.]

35.07.130 Elected receiver—Failure to qualify—Court to appoint. If the person elected receiver fails to qualify as such within the prescribed time, the council shall file in the superior court of the county a petition setting forth the fact of the election, its result and the failure of the person elected receiver to qualify within the prescribed time and praying for the appointment of another person as receiver. Notice of the filing of the petition and of the time fixed for hearing thereon must be served upon the person elected receiver at least three days before the time fixed for the hearing. If he cannot be found within the county, no notice need be served, and the court may proceed with full jurisdiction to determine the matter upon the hearing. Unless good cause to the contrary is shown, the court shall appoint some suitable person to act as receiver, who shall qualify as required by RCW 35.07.120 within ten days from the date of his appointment.

If the council fails to procure the appointment of a receiver, any person qualified to vote in the city or town may file such a petition and make such application. [1965 c 7 § 35.07.130. Prior: 1897 c 69 § 8; RRS § 8921.]

35.07.140 No receiver elected though indebtedness exists—Procedure. If no receiver is elected upon the supposition that no indebtedness existed and it transpires that the municipality does have indebtedness or an outstanding liability, any interested person may file a petition in the superior court asking for the appointment of a receiver, and unless the indebtedness or liability is discharged, the court shall appoint some suitable person to act as receiver who shall qualify as required of any other receiver hereunder, within ten days from the date of his appointment. [1965 c 7 § 35.07.140. Prior: 1897 c 69 § 15; RRS § 8928.]

35.07.150 Duties of receiver—Claims—Priority. The receiver, upon qualifying, shall take possession of all the property, money, vouchers, records and books of the former municipality including those in any manner pertaining to its business and proceed to wind up its affairs. He shall have authority to pay:

- (1) All outstanding warrants and bonds in the order of their maturity with due regard to the fund on which they are properly a charge;
- (2) All lawful claims against the corporation which have been audited and allowed by the council;
- (3) All lawful claims which may be presented to him within the time limited by law for the presentation of such claims, but no claim shall be allowed or paid which is not presented within six months from the date of the disincorporation election;

(4) All claims that by final adjudication may come to be established as lawful claims against the corporation.

As between warrants, bonds and other claims, their priority shall be determined with regard to the fund on which they are properly a charge. [1965 c 7 § 35.07.150. Prior: 1897 c 69 § 9; RRS § 8922.]

Accident claims, audits: Chapter 35.31 RCW, RCW 35.24.260.

35.07.160 Receiver may sue and be sued. The receiver shall have the right to sue and be sued in all cases necessary or proper for the purpose of winding up the affairs of the former city or town and shall be subject to suit in all cases wherein the city or town might have been sued, subject to the limitations provided in this chapter. [1965 c 7 § 35.07.160. Prior: 1897 c 69 § 12; RRS § 8925.]

35.07.170 Receiver—Power to sell property. The receiver shall be authorized to sell at public auction after such public notice as the sheriff is required to give of like property sold on execution, all the property of the former municipality except such as is necessary for his use in winding up its affairs, and excepting also such as has been dedicated to public use.

Personal property shall be sold for cash.

Real property may be sold for all cash, or for one-half cash and the remainder in deferred payments, the last payment not to be later than one year from date of sale. Title shall not pass until all deferred payments have been fully paid. [1965 c 7 § 35.07.170. Prior: 1897 c 69 § 10, part; RRS § 8923.]

35.07.180 Receiver—Power to levy taxes. In the same manner and to the same extent as the proper authorities of the former city or town could have done had it not been disincorporated, the receiver shall be authorized to levy taxes on all taxable property, to receive the taxes when collected and to apply them together with the proceeds arising from sales to the extinguishment of the obligations of the former city or town.

After all the lawful claims against the former city or town have been paid excepting bonds not yet due, no levy greater than fifty cents per thousand dollars of assessed value shall be made; nor shall the levy be greater than sufficient to meet the accruing interest until the bonds mature. [1973 1st ex.s. c 195 § 11; 1965 c 7 § 35.07.180. Prior: 1897 c 69 § 10, part; RRS § 8923, part.]

~~Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.~~

35.07.190 Receiver's compensation. The receiver shall be entitled to deduct from any funds coming into his hands a commission of six percent on the first thousand dollars, five percent on the second thousand and four percent on any amount over two thousand dollars as his full compensation exclusive of necessary traveling expenses and necessary disbursements, but not exclusive of attorney's fees. [1965 c 7 § 35.07.190. Prior: 1897 c 69 § 11; RRS § 8924.]

35.07.200 Receiver—Removal for cause. The receiver shall proceed to wind up the affairs of the corporation with diligence and for negligence or misconduct in the discharge of his duties may be removed by the superior court upon a proper showing made by a taxpayer of the former city or town or by an unsatisfied creditor thereof. [1965 c 7 § 35.07.200. Prior: 1897 c 69 § 13, part; RRS § 8926, part.]

35.07.210 Receiver—Successive appointments. In the case of removal, death, or resignation of a receiver, the court may appoint a new receiver to take charge of the affairs of the former city or town. [1965 c 7 § 35.07.210. Prior: 1897 c 69 § 13, part; RRS § 8926, part.]

35.07.220 Receiver—Final account and discharge. Upon the final payment of all lawful demands against the former city or town, the receiver shall file a final account, together with all vouchers, with the clerk of the superior court. Any funds remaining in his hands shall be paid to the county treasurer for the use of the school district in which the former city or town was situated; and thereupon the receivership shall be at an end. [1965 c 7 § 35.07.220. Prior: 1897 c 69 § 14; RRS § 8927.]

35.07.230 Involuntary dissolution of towns—Authorized. If any town fails for two successive years to hold its regular municipal election, or if the officers elected at the regular election of any town fail for two successive years to qualify and the government of the town ceases to function by reason thereof, the state auditor through the division of municipal corporations may petition the superior court of the county for an order, dissolving the town. In addition to stating the facts which would justify the entry of such an order, the petition shall set forth a detailed statement of the assets and liabilities of the town insofar as they can be ascertained. [1965 c 7 § 35.07.230. Prior: 1925 ex.s. c 76 § 1; RRS § 8931-1.]

35.07.240 Involuntary dissolution of towns—Notice of hearing. Upon the filing of a petition for the involuntary dissolution of a town, the superior court shall enter an order fixing the time for hearing thereon at a date not less than thirty days from date of filing. The state auditor shall give notice of such hearing by publication in a weekly newspaper of general circulation in the county, for three successive issues, and by posting in three public places in the town, stating therein the purpose of the petition and the date and place of hearing thereon. [1965 c 7 § 35.07.240. Prior: 1925 ex.s. c 76 § 2; RRS § 8931-2.]

35.07.250 Involuntary dissolution of towns—Hearing. Any person owning property in or qualified to vote in the town may appear at the hearing and file written objections to the granting of the petition. If the court finds that the town has failed for two successive years to hold its regular municipal election or that its officers elected at a regular election have failed to qualify for two successive years thereby causing the government of

the town to cease to function, it shall enter an order for disincorporation of the town. [1965 c 7 § 35.07.250. Prior: 1925 ex.s. c 76 § 3, part; RRS § 8931-3, part.]

35.07.260 Involuntary dissolution of towns—Alternative forms of order. (1) If the court finds that the town has no indebtedness and no assets, the order of dissolution shall be effective forthwith.

(2) If the court finds that the town has assets, but no indebtedness or liabilities, it shall order a sale of the assets other than cash by the sheriff in the manner provided by law for the sale of property on execution. The proceeds of the sale together with any money on hand in the treasury of the town, after deducting the costs of the proceeding and sale, shall be paid into the county treasury and placed to the credit of the school district in which the town is located.

(3) If the court finds that the town has indebtedness or liabilities and assets other than cash, it shall order the sale of the assets as provided in subsection (2) hereof and that the proceeds thereof and the cash on hand shall be applied to the payment of the indebtedness and liabilities.

(4) If the court finds that the town has indebtedness or liabilities, but no assets or that the assets are insufficient to pay the indebtedness and liabilities, it shall order the board of county commissioners to levy from year to year a tax on the taxable property within the boundaries of the former town until the indebtedness and liabilities are paid. All taxes delinquent at the date of dissolution when collected shall be applied to the payment of the indebtedness and liabilities. Any balance remaining from the collection of delinquent taxes and taxes levied under order of the court, after payment of the indebtedness and liabilities shall be placed to the credit of the school district in which the town is located. [1965 c 7 § 35.07.260. Prior: 1925 ex.s. c 76 § 3, part; RRS § 8931-3, part.]

Chapter 35.10

CONSOLIDATION AND ANNEXATION OF CITIES AND TOWNS

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35.10.200 Consolidation of contiguous municipal corporations through consolidation or annexation authorized—Classification. Two or more contiguous municipal corporations located in the same or different counties may become consolidated into one corporation after proceeding as required by this chapter either by consolidation or annexation by a city or town of all or a portion of another city or town. When municipal corporations are separated by water and/or tide or shore lands upon which no bona fide residence is maintained by any person, they shall be deemed contiguous for all the purposes of this chapter, and may be consolidated under the terms hereof, and upon such consolidation any such intervening water and/or tide or shore lands shall become a part of the consolidated corporation. Notwithstanding chapter 35.01 RCW and RCW 35.02-.010 in the event of such a consolidation, the consolidated city shall have the same classification as the former corporation having the largest population and the annexing city shall retain its same classification regardless of population. [1969 ex.s. c 89 § 1; 1965 c 7 § 35.10.200. Prior: 1929 c 64 § 1; RRS § 8909-1. Formerly RCW 35.10.010, part.]

Validating—1929 c 64: "That the attempted consolidation of two or more contiguous municipal corporations pursuant to the provisions of either chapter 167 of the Laws of 1927 or chapter 293 of the Laws of 1927 be, and any such consolidation of any such cities or towns, is hereby in all respects validated." [1929 c 64 § 16.]

35.10.211 Petition—Joint resolution—Contents—Proposition—Submission to electors. The legislative body of either of such contiguous corporations, upon receiving such petition signed by the qualified electors of either of such contiguous corporations equal in number to at least one-fifth of the votes cast at the last municipal general election held in such corporation requesting that a proposition with respect to the consolidation of two or more contiguous corporations be submitted to the voters, shall, within ninety days after receiving it, or the legislative bodies of any contiguous municipal corporations meeting in joint session upon their own initiative by joint resolution, cause to be submitted to the electors of each of such corporations, at a special election to be held for that purpose, the proposition of whether such corporations shall be consolidated into one corporation. The petition or joint resolution may provide that the consolidation proposition may include (1) the form of government, (2) provision in regard to the assumption of indebtedness, (3) the name of the proposed corporation, and (4) whether a community municipal corporation shall be created for

the smaller city or town as provided in RCW 35.14.010 through 35.14.060, or that any one or more of these items may be submitted to the voters as a separate proposition. [1969 ex.s. c 89 § 2.]

35.10.215 Study of consolidation or annexation—Plan—Contents—Submission to electors. A petition may be signed by the qualified electors of either of such contiguous corporations equal in number to at least one-fifth of the votes cast at the last municipal general election held in such corporation requesting the legislative bodies of contiguous corporations to meet jointly to determine that a study of the consolidation or annexation of such corporations would be desirable or the legislative body of any city or town may request the legislative body of any contiguous corporation to meet jointly to make such determination. If such a finding is made, such legislative bodies shall thereupon within six months immediately following the filing of such petition cause to be developed a proposed consolidation or annexation plan, including but not limited to, whether in connection with the submission of a proposition for the consolidation or annexation of contiguous corporations to the electors, to have the voters also determine to what extent, if any, the indebtedness approved by the voters, contracted, or incurred prior to the date of consolidation by either of the former of such corporations, should be assumed by the other corporation in which the indebtedness did not originate. On or before the expiration of such six month period, such legislative bodies meeting in joint session shall, by majority vote of each, approve the proposed consolidation or annexation plan, or some modification thereof and shall cause to be submitted to the electors of each of such corporations the question (1) whether such corporations shall become consolidated into one corporation, and (2) in case the existing corporations are operating under different forms of government or are operating under the same form of government and desire to consider a different form of government, the question as to which of the forms of government shall be the form of government under which the new corporation shall be organized and operated, (3) a separate proposition "For assumption of indebtedness," and "Against assumption of indebtedness," or words equivalent thereto, and (4) the name or names, not to exceed two, in alphabetical order of the proposed new corporation, and (5) may submit a separate proposition in regard to whether a community municipal corporation for the smaller city or town as provided in RCW 35.14.010 through 35.14-.060 should be created: *Provided*, That in lieu of submitting each of these propositions or questions separately, they may be submitted as a part of the consolidation proposition: *Provided further*, That in all cases wherein any city or town desires to be annexed to another city or town, the question of consolidation, the form of government, and the name of the corporation shall not be submitted to the electors of the annexing city or town, but a separate proposition for or against assumption of indebtedness by the other corporation(s) in which the indebtedness approved by the voters, contracted, or incurred prior to the date of annexation, did

not originate, and a separate proposition in regard to whether a community municipal corporation in the city or town being annexed as provided in RCW 35.14.010 through 35.14.060 should be created, may be submitted to the electors. [1969 ex.s. c 89 § 3.]

35.10.217 Other methods for annexation of cities and towns. Three other methods are available for the annexation of all or a part of a city or town to another city or town:

(1) A petition for an election to vote upon the annexation of all or a part of a city or town to another city or town signed by qualified electors of the city or town proposed to be annexed equal in number to at least one-fifth of the votes cast at the last municipal general election held therein may be filed with the legislative body of the city or town to be annexed. Such legislative body, in turn, shall, by resolution, advise the legislative body of the city or town to which annexation is proposed of the receipt of such petition and request the latter legislative body to indicate by resolution whether it will accept the proposed annexation, and if so, on what terms. If such resolution of the annexing city states that its legislative body is favorably disposed toward such annexation, the legislative body of the city or town to be annexed shall submit to the electors in such territory proposed to be annexed, the question of whether such territory shall be annexed and such other propositions as are deemed appropriate.

(2) The legislative body of a city or town may on its own initiative by resolution indicate its desire to be annexed to a city or town either in whole or in part. In case such resolution is passed, such resolution shall be transmitted to the city or town to which it desires to be annexed, and the legislative body of such city or town shall by resolution indicate whether it will accept the proposed annexation, and if so, on what terms.

(3) In the event there are no qualified electors residing within a part of a city or town which said city or town wishes to have annexed to another contiguous city or town, then the issue of annexation will be decided by the legislative body of the city or town from which the territory is to be withdrawn. This decision, which shall be by majority vote of said legislative body, shall be considered as if it was an election by qualified voters of said territory and handled accordingly under the other applicable sections of this chapter.

If the legislative body of the city or town to which annexation is proposed indicates a willingness to accept the annexation, then the question of whether such territory shall be annexed to such corporation and become a part thereof and such other propositions as are deemed appropriate shall be submitted to the electors in the territory to be annexed by the legislative body of the city or town or part thereof to be annexed at an election which such legislative body shall cause to be called for that purpose. [1969 ex.s. c 89 § 4.]

35.10.220 Designation of election date—Notice to other corporations affected. The legislative body receiving such petition shall designate a day upon which such special election shall be held in each of the corporations

proposed to be consolidated to determine whether such consolidation or creation of a community municipal corporation, or both, as the case may be, shall be effected, and shall give written notice thereof to the legislative body of each of the corporations proposed to be consolidated, or in case the legislative bodies of contiguous municipal corporations by joint resolution initiate a proposal to consolidate such corporations, the day on which such special election is to be held shall be specified in such resolution. Such notice shall designate the suggested name or names in alphabetical order of the proposed new corporation in all cases except in the case of the proposed annexation of all or a portion of any city or town to another city or town. [1969 ex.s. c 89 § 5; 1967 c 73 § 15; 1965 c 7 § 35.10.220. Prior: 1929 c 64 § 3; RRS § 8909-3. Formerly RCW 35.10.020, part, and 35.10.040.]

Times for holding elections: Chapter 29.13 RCW.

35.10.230 Duty to give notice of election—Notice requirements. Upon the giving and/or receiving of such notice, it shall be the duty of the legislative body of each of the corporations proposed to be consolidated or consolidated with provision for creation of a community municipal corporation, or in case of a proposed annexation of all or a portion of a city or town to another city or town the legislative body of the city or town proposed to be annexed, to cause the election notice required by RCW 29.27.080 to be given of each special election. Such notice shall distinctly state the propositions to be submitted, the names of the corporations proposed to be consolidated, the name or names in alphabetical order of the proposed new corporation, and the class to which such proposed new corporation will belong, and the question of assumption of indebtedness by the other corporations in which the indebtedness did not originate, and shall invite the electors to vote upon such proposition by placing a cross "X" upon their ballots after the words "For consolidation" or "Against consolidation," and, if appropriate, the words "For creation of community municipal corporation" and "Against creation of community municipal corporation" or words equivalent thereto or "For consolidation and creation of community municipal corporation" or "Against consolidation and creation of community municipal corporation" and, in case the question of the form of government of the proposed new corporation is submitted, to place a cross "X" upon their ballots after the words describing the forms being submitted, for example "For commission form of government" or "For councilmanic form of government" or "For council-manager form of government": *Provided, however,* That in the event of such annexation no proposition in regard to the name or form of government is to be submitted to the voters. [1969 ex.s. c 89 § 6; 1967 c 73 § 16; 1965 c 7 § 35.10.230. Prior: 1929 c 64 § 4; RRS § 8909-4. Formerly RCW 35.10.050, 35.10.060, and 35.11.020, part.]

35.10.240 Canvass of votes—Joint convention—Statement of votes—Contents, filing. In all cases of consolidation or annexation, the county canvassing board or boards shall canvass the votes cast thereat.

In an election on the question of consolidation the votes cast in each of such corporations shall be canvassed separately, and a statement shall be prepared showing the whole number of votes cast, the number of votes cast for consolidation and the number of votes cast against consolidation, the number of votes cast for creation of a community municipal corporation and the number of votes cast against creation of a community municipal corporation, or both, as the case may be, in each of such corporations. In case the question of the form of government of the new corporation shall have been submitted at such election, the votes thereon and on the name of the new corporation shall be canvassed, and the result of such canvass shall be included in the statement, showing the total number of votes cast in all of the corporations for each form of government submitted. A certified copy of such statement shall be filed with the legislative body of each of the corporations affected.

If it shall appear upon such statement of canvass that a majority of the votes cast in each of such corporations were in favor of consolidation or consolidation and creation of a community municipal corporation, the legislative bodies of each of such corporations shall meet in joint convention at the usual place of meeting of the legislative body of that one of the corporations having the largest population as shown by the last United States census or the determination of the planning and community affairs agency on or before the second Monday next succeeding the receipt of the statement of canvass to prepare a statement of votes cast and declaring the consolidation adopted or consolidation adopted and a community municipal corporation created, and if such issue were submitted, declaring the form of government to be that form for which a majority of all the votes on that issue were cast and the name of the consolidated city to be that name for which the greatest number of votes were cast.

In an election on the question of the annexation of all or a part of a city or town to another city or town, the votes cast in the city or town or portion thereof to be annexed shall be canvassed, and if a majority of the votes cast be in favor of annexation, the results shall be included in a statement indicating the total number of votes cast.

Both with respect to consolidation and annexation, a proposition for the assumption of indebtedness outside the constitutional and/or statutory limits by the other corporation(s) in which the indebtedness did not originate shall be deemed approved if a majority of at least three-fifths of the electors of the corporation in which the indebtedness did not originate votes in favor thereof, and the number of persons voting on such proposition constitutes not less than forty percent of the total number of votes cast in such corporations in which indebtedness did not originate at the last preceding general election: *Provided, however,* That if general obligation bond indebtedness was incurred by action by

the city legislative body, a proposition for the assumption of such indebtedness by the other corporation(s) in which such indebtedness did not originate shall be deemed approved if a majority of the electors of the corporation in which such indebtedness did not originate votes in favor thereof.

A duly certified copy of such statement of either a consolidation or annexation election shall be filed with the legislative body of each of the corporations affected and recorded upon its minutes, and it shall be the duty of the clerk, or other officer performing the duties of clerk, of each of such legislative bodies, to transmit to the secretary of state and the planning and community affairs agency a duly certified copy of the record of such statement. [1973 1st ex.s. c 195 § 12; 1969 ex.s. c 89 § 7; 1967 c 73 § 17; 1965 c 7 § 35.10.240. Prior: 1929 c 64 § 5; RRS § 8909-5. Formerly RCW 35.10.070.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Canvassing returns, generally: Chapter 29.62 RCW.

Conduct of elections—Canvass: RCW 29.13.040.

35.10.245 Wards—Election of councilmen. The legislative body of the consolidated or the annexing city or town may, in its discretion, divide the city by ordinance, into a convenient number of wards of substantially equal population and fix the boundaries thereof, and change the same from time to time. Whenever such city is so divided into wards, the city council shall designate by ordinance the number of councilmen to be elected from each ward, apportioning the same in proportion to the population of the wards. Thereafter the councilmen so designated shall be elected by the qualified electors resident in such ward, or by general vote of the whole city as may be designated in such ordinance. [1969 ex.s. c 89 § 8.]

35.10.250 Consolidation—Election of officers of new corporation. Immediately after the filing of the statement of a consolidation election, the mayor of the city or town having the largest population, as shown by the last census of the planning and community affairs agency, shall call a meeting of the legislative authorities of the cities and/or towns to be consolidated. Such legislative authorities shall cause to be called a special election, to be held in such new corporation, for the election of the officers required by law to be elected in corporations of the class and form of government to which such new corporation belongs, which election shall be held within six months thereafter: *Provided,* That if the next regular general election of officers in cities of the class and form of government of such new corporation will be held within one year and not less than two months from the date of such consolidation election, then the officers of such new corporation shall be elected at the said next regular election. Such regular or special election shall be called and conducted and canvassed in all respects in the manner prescribed, or that may be hereafter prescribed, by law for municipal elections in corporations of the class of such new corporation, and the results transmitted by the canvassing authority to the legislative body, who shall immediately

declare the result thereof and cause the same to be entered upon its journal, and file certified copies of such result with the legislative body of each of the other corporations affected, who in like manner shall cause the same to be entered upon its journal and a copy thereof shall be filed with the secretary of state. [1969 ex.s. c 89 § 9; 1965 c 7 § 35.10.250. Prior: 1929 c 64 § 6; RRS § 8909-6. Formerly RCW 35.10.080.]

Canvassing returns, generally: Chapter 29.62 RCW.

Conduct of elections—Canvass: RCW 29.13.040.

Times for holding elections: Chapter 29.13 RCW.

35.10.260 Effective date of consolidation, creation of community municipal corporation—Terms of office. From and after the date of such entry such corporations shall be deemed to be consolidated into one corporation under the name and style of "The City, (or town as the case may be) of _____" (naming it), with the powers conferred, or that may hereafter be conferred, by law, upon municipal corporations of the class to which the same shall belong, and the officers elected at such election, upon qualifying as provided by law, shall be entitled to enter immediately upon the duties of their respective offices, and shall hold such offices respectively until the next municipal general election to be held in such city or town, and until their successors are elected and qualified. The consolidation shall become effective on the date on which the persons elected at such election have qualified and assumed office and in any event such date shall not extend beyond the third Tuesday following such election. If the proposition also provided for the creation of a community municipal corporation, such corporation shall be deemed organized with the powers granted to such corporation by *this 1967 amendatory act. [1969 ex.s. c 89 § 11; 1967 c 73 § 18; 1965 c 7 § 35.10.260. Prior: 1929 c 64 § 7; RRS § 8909-7. Formerly RCW 35.10.090.]

***Reviser's note:** The language "this 1967 amendatory act" first appeared in the amendment to this section by section 18, chapter 73, Laws of 1967. For the codification of chapter 73, Laws of 1967, see note following RCW 35.14.010.

Times for holding elections: Chapter 29.13 RCW.

35.10.265 Annexation—When effective—Ordinance. Immediately after the filing of the statement of an annexation election, the legislative body of the annexing city may, if it deems it wise or expedient, adopt an ordinance providing for the annexation. Upon the date fixed in the ordinance of annexation, the area annexed shall become a part of the annexing city or town. The clerk of the annexing city shall transmit a certified copy of this ordinance to the secretary of state and the planning and community affairs agency. [1969 ex.s. c 89 § 10.]

35.10.300 Disposition of property and assets. Upon the consolidation of two or more corporations, or the annexation of any city or town to another city or town, as provided in this chapter, the title to all property and assets owned by, or held in trust for, such former corporation, or city or town, shall vest in such consolidated corporation, or annexing city or town, as the case may

be: *Provided*, That if any such former corporation, or city or town, shall be indebted, the proceeds of the sale of any such property and assets not required for the use of such consolidated corporation, or annexing city, shall be applied to the payment of such indebtedness, if any exist at the time of such sale. [1969 ex.s. c 89 § 12; 1965 c 7 § 35.10.300. Prior: 1929 c 64 § 11; RRS § 8909-11. Formerly RCW 35.10.100 and 35.11.080, part.]

35.10.310 Assets and liabilities of component cities—Taxation to pay claims. Such consolidation, or annexation, shall in no wise affect or impair the validity of claim or chose in action existing in favor of or against, any such former corporation or city or town so consolidated or annexed, or any proceeding pending in relation thereto, but such consolidated corporation, or annexing city or town, shall collect such claims in favor of such former corporation, or cities or towns, and shall apply the proceeds to the payment of any just claims against them respectively, and shall when necessary levy and collect taxes against the taxable property within any such former corporation, or city or town, sufficient to pay all just claims against it. [1969 ex.s. c 89 § 13; 1965 c 7 § 35.10.310. Prior: 1929 c 64 § 12; RRS § 8909-12. Formerly RCW 35.10.110, 35.10.130, part, and 35.11.080, part.]

35.10.315 Adoption of final budget and levy of property taxes. Upon the consolidation of two or more corporations, or the annexation of any city or town after March 1st and prior to the date of adopting the final budget and levying the property tax dollar rate on the first Monday in October for the next calendar year, the legislative body of the consolidated city or the annexing city is authorized to adopt the final budget and to levy the property tax dollar rate for the consolidated cities or towns and any city or town annexed. [1973 1st ex.s. c 195 § 13; 1969 ex.s. c 89 § 14.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

35.10.317 Receipt of state funds. Upon the consolidation of two or more corporations, or the annexation of any city or town, the consolidated or annexing city shall receive all state funds to which the component cities or towns would have been entitled to receive during the year when such consolidation or annexation became effective. [1969 ex.s. c 89 § 15.]

35.10.320 Continuation of ordinances. All ordinances in force within any such former corporation, at the time of consolidation or annexation, not in conflict with the laws governing the consolidated corporation, or with the ordinances of the former corporation having the largest population, as shown by the last census of the planning and community affairs agency shall remain in full force and effect until superseded or repealed by the legislative body of the consolidated corporation, or annexing city or town, and shall be enforced by such corporation or city or town, but all ordinances of such former corporations, in conflict with such laws, charters or ordinances shall be deemed repealed by, and from

and after, such consolidation or annexation, but nothing in this section shall be construed to discharge any person from any liability, civil or criminal, for any violation of any ordinance of such former corporation incurred prior to such consolidation or annexation. [1969 ex.s. c 89 § 16; 1965 c 7 § 35.10.320. Prior: 1929 c 64 § 13; RRS § 8909–13. Formerly RCW 35.10.120 and 35.11.080, part.]

35.10.331 Unassumed indebtedness. Unless indebtedness approved by the voters, contracted, or incurred prior to the date of consolidation or annexation as provided herein has been assumed by the voters in the other corporation(s) in which such indebtedness did not originate, such indebtedness continues to be the obligation of the city or town in which it originated, and the legislative body of the consolidated or annexing city shall continue to levy the necessary taxes within the former corporation that incurred this indebtedness to amortize such indebtedness. [1969 ex.s. c 89 § 17.]

35.10.350 Cancellation, acquisition, of franchise or permit for operation of public service business in territory annexed. See RCW 35.13.280.

35.10.900 Severability—1969 ex.s. c 89. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1969 ex.s. c 89 § 19.]

Chapter 35.13

ANNEXATION OF UNINCORPORATED AREAS

Sections

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- 35.13.260 Determining population of annexed territory—Certificate—As basis for allocation of state funds—Revised certificate.
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Consolidation and annexation of cities and towns: Chapter 35.10 RCW.

Elections: Title 29 RCW.

Local governmental organizations, actions affecting boundaries, review by boundary review board: Chapter 36.93 RCW.

Population determinations: Chapter 43.62 RCW.

Provisions relating to city annexation review boards not applicable where boundary review board created: RCW 36.93.220.

35.13.010 Authority for annexation—Consent of county commissioners for certain property. Any portion of a county not incorporated as part of a city or town but lying contiguous thereto may become a part of the city or town by annexation: *Provided*, That property owned by a county, and used for the purpose of an agricultural fair as provided in chapter 15.76 RCW or chapter 36.37 RCW shall not be subject to annexation without the consent of the majority of the board of county commissioners. An area proposed to be annexed to a city or town shall be deemed contiguous thereto even though separated by water or tide or shore lands on which no bona fide residence is maintained by any person. [1965 c 7 § 35.13.010. Prior: 1959 c 311 § 1;

prior: (i) 1937 c 110 § 1; 1907 c 245 § 1; RRS § 8896. (ii) 1945 c 128 § 1; Rem. Supp. 1945 § 8909–10.]

Validation—1961 ex.s. c 16: Validation of certain incorporations and annexations—Municipal corporations of the fourth class: See 1961 ex.s. c 16 § 1 in note following RCW 35.21.010.

35.13.015 Election method—Resolution for election—Contents of resolution. In addition to the method prescribed by RCW 35.13.020 for the commencement of annexation proceedings, the legislative body of any city or town may, whenever it shall determine by resolution that the best interests and general welfare of such city or town would be served by the annexation of unincorporated territory contiguous to such city or town, file a certified copy of the resolution with the board of county commissioners of the county in which said territory is located. The resolution of the city or town initiating such election shall describe the boundaries of the area to be annexed, as nearly as may be state the number of voters residing therein, pray for the calling of an election to be held among the qualified voters therein upon the question of annexation, and provide that said city or town will pay the cost of the annexation election. The resolution may require that there also be submitted to the electorate of the territory sought to be annexed a proposition that all property within the area annexed shall, upon annexation, be assessed and taxed at the same rate and on the same basis as the property of such annexing city or town is assessed and taxed to pay for all or any portion of the then outstanding indebtedness of the city or town to which said area is annexed, approved by the voters, contracted, or incurred prior to, or existing at, the date of annexation. Whenever a city or town has prepared and filed a comprehensive plan for the area to be annexed as provided for in RCW 35.13.177 and 35.13.178, the resolution initiating the election may also provide for the simultaneous adoption of the comprehensive plan upon approval of annexation by the electorate of the area to be annexed. The resolution initiating the election may also provide for the simultaneous creation of a community municipal corporation and election of community council members as provided for in RCW 35.14.010 through 35.14.060 upon approval of annexation by the electorate of the area to be annexed. In cities under the optional municipal code the resolution initiating the election may also provide for the simultaneous inclusion of the annexed area into a named existing community municipal corporation. The proposition for the creation of a community municipal corporation may be submitted as part of the annexation proposition or may be submitted as a separate proposition. The proposition for inclusion within a named existing community municipal corporation shall be submitted as part of the annexation proposition. [1973 1st ex.s. c 164 § 2; 1970 ex.s. c 52 § 6; 1967 c 73 § 7; 1965 ex.s. c 88 § 3; 1965 c 7 § 35.13.015. Prior: 1961 c 282 § 1.]

Community municipal corporations: Chapter 35.14 RCW.

35.13.020 Election method—Petition for election—Signers—Rate of assessment in annexed area—Comprehensive plan—Community municipal corporation—Filing and approval—Costs. A petition for an election to vote upon the annexation of a portion of a county to a contiguous city or town signed by qualified voters resident in the area equal in number to twenty percent of the votes cast at the last election may be filed in the office of the board of county commissioners: *Provided*, That any such petition shall first be filed with the legislative body of the city or town to which the annexation is proposed, and such legislative body shall, by resolution entered within sixty days from the date of presentation, notify the petitioners, either by mail or by publication in the same manner notice of hearing is required by RCW 35.13.040 to be published, of its approval or rejection of the proposed action. The petition may also provide for the simultaneous creation of a community municipal corporation and election of community council members as provided for in RCW 35.14.010 through 35.14.060. In approving the proposed action, the legislative body may require that there also be submitted to the electorate of the territory to be annexed, a proposition that all property within the area to be annexed shall, upon annexation be assessed and taxed at the same rate and on the same basis as the property of such annexing city or town is assessed and taxed to pay for all or any portion of the then outstanding indebtedness of the city or town to which said area is annexed, approved by the voters, contracted, or incurred prior to, or existing at, the date of annexation. Whenever the legislative body has prepared and filed a comprehensive plan for the area to be annexed as provided for in RCW 35.13.177 and 35.13.178, the legislative body in approving the proposed action, may require that the comprehensive plan be simultaneously adopted upon approval of annexation by the electorate of the area to be annexed. The approval of the legislative body shall be a condition precedent to the filing of such petition with the board of county commissioners as hereinafter provided. The costs of conducting such election shall be a charge against the city or town concerned. The proposition or questions provided for in this section may be submitted to the voters either separately or as a single proposition. [1973 1st ex.s. c 164 § 3; 1967 c 73 § 8; 1965 ex.s. c 88 § 4; 1965 c 7 § 35.13.020. Prior: 1961 c 282 § 7; prior: 1951 c 248 § 6; 1907 c 245 § 2, part; RRS § 8897, part.]

35.13.030 Election method—Petition for election—Content. A petition filed with the county commissioners to call an annexation election shall particularly describe the boundaries of the area proposed to be annexed, state the number of voters residing therein as nearly as may be, state the provisions, if any there be, relating to assumption of debt by the owners of property of the area proposed to be annexed, and/or the simultaneous adoption of a comprehensive plan for the area proposed to be annexed, and shall pray for the calling of an election to be held among the qualified voters therein upon the question of annexation. If the petition also provides for the creation of a

community municipal corporation and election of community council members, the petition shall also describe the boundaries of the proposed service area, state the number of voters residing therein as nearly as may be, and pray for the election of community council members by the qualified voters residing in the service area. [1967 c 73 § 9; 1965 ex.s. c 88 § 5; 1965 c 7 § 35.13.030. Prior: 1961 c 282 § 8; prior: 1907 c 245 § 2, part; RRS § 8897, part.]

35.13.040 Election method—Hearing—Notice. Upon the filing of approval by the review board of a twenty percent annexation petition under the election method to call an annexation election, the board of county commissioners at its next meeting shall fix a date for hearing thereon to be held not less than two weeks nor more than four weeks thereafter, of which hearing the petitioners must give notice by publication once each week at least two weeks prior thereto in some newspaper of general circulation in the area proposed to be annexed. Upon the day fixed, the board shall hear the petition, and if it complies with the requirements of law and has been approved by the review board, shall grant it. The hearing may be continued from time to time for an aggregate period not exceeding two weeks. [1973 1st ex.s. c 164 § 4; 1965 c 7 § 35.13.040. Prior: 1961 c 282 § 9; prior: 1907 c 245 § 2, part; RRS § 8897, part.]

35.13.050 Election method—Petition or resolution for election—Others covering same area barred from consideration, withdrawal. After the filing with the board of county commissioners of a petition or resolution pursuant to RCW 35.13.015 to call an annexation election, pending the hearing under the twenty percent annexation petition under the election method and pending the election to be called thereunder, the board of county commissioners shall not consider any other petition or resolution involving any portion of the territory embraced therein: *Provided*, That the petition or resolution may be withdrawn or a new petition or resolution embracing other or different boundaries substituted therefor by a majority of the signers thereof, or in the case of a resolution, by the legislative body of the city or town, and the same proceeding shall be taken as in the case of an original petition or resolution. [1973 1st ex.s. c 164 § 5; 1965 c 7 § 35.13.050. Prior: 1961 c 282 § 10; prior: 1907 c 245 § 2, part; RRS § 8897, part.]

35.13.060 Election method—Fixing date of election. Upon granting the petition under the twenty percent annexation petition under the election method, the board of county commissioners shall fix a date for the annexation election, which must be not less than thirty nor more than sixty days thereafter. [1973 1st ex.s. c 164 § 6; 1965 c 7 § 35.13.060. Prior: 1961 c 282 § 12; prior: 1907 c 245 § 3, part; RRS § 8898, part.]

Election method, date for annexation election if review board's determination favorable: RCW 35.13.174.

Times for holding elections: Chapter 29.13 RCW.

35.13.070 Election method—Conduct of election. An annexation election shall be held in accordance with the general election laws of the state, and only registered voters who have resided in the area proposed to be annexed for ninety days immediately preceding the election shall be allowed to vote therein. [1965 c 7 § 35.13.070. Prior: 1961 c 282 § 15; prior: 1907 c 245 § 4, part; RRS § 8899, part.]

Conduct of elections: RCW 29.13.040.

35.13.080 Election method—Notice of election. Notice of an annexation election shall particularly describe the boundaries of the area proposed to be annexed, describe the boundaries of the proposed service area if the simultaneous creation of a community municipal corporation is provided for, state the objects of the election as prayed in the petition or as stated in the resolution and require the voters to cast ballots which shall contain the words "For annexation" and "Against annexation" or words equivalent thereto, or contain the words "For annexation and adoption of comprehensive plan" and "Against annexation and adoption of comprehensive plan" or words equivalent thereto in case the simultaneous adoption of a comprehensive plan is proposed, and, if appropriate, the words "For creation of community municipal corporation" and "Against creation of community municipal corporation" or words equivalent thereto, or contain the words "For annexation and creation of community municipal corporation" and "Against annexation and creation of community municipal corporation" or words equivalent thereto in case the simultaneous creation of a community municipal corporation is proposed, and which in case the assumption of indebtedness is proposed, shall contain as a separate proposition, the words "For assumption of indebtedness" and "Against assumption of indebtedness" or words equivalent thereto and if only a portion of the indebtedness of the annexing city or town is to be assumed, an appropriate separate proposition for and against the assumption of such portion of the indebtedness shall be submitted to the voters. If the creation of a community municipal corporation and election of community council members is provided for, the notice shall also require the voters within the service area to cast ballots for candidates for positions on such council. The notice shall be posted for at least two weeks prior to the date of election in four public places within the area proposed to be annexed and published in accordance with the notice required by RCW 29.27.080 prior to the date of election in a newspaper of general circulation in the area proposed to be annexed. [1973 1st ex.s. c 164 § 7; 1967 c 73 § 10; 1965 ex.s. c 88 § 6; 1965 c 7 § 35.13.080. Prior: 1961 c 282 § 13; prior: 1907 c 245 § 3, part; RRS § 8898, part.]

35.13.090 Election method—Canvass—Vote required for annexation or annexation and comprehensive plan or for or against creation of community municipal corporation—Proposition for assumption of indebtedness—Certification. On the Monday next succeeding the annexation election, the county canvassing board shall proceed to canvass the returns thereof and shall

submit the statement of canvass to the board of county commissioners.

The proposition for or against annexation or for or against annexation and adoption of the comprehensive plan, or for or against creation of a community municipal corporation, or any combination thereof, as the case may be, shall be deemed approved if a majority of the votes cast on that proposition are cast in favor of annexation or in favor of annexation and adoption of the comprehensive plan, or for creation of the community municipal corporation, or any combination thereof, as the case may be. If a proposition for or against assumption of all or any portion of indebtedness was submitted to the electorate, it shall be deemed approved if a majority of at least three-fifths of the electors of the territory proposed to be annexed voting on such proposition vote in favor thereof, and the number of persons voting on such proposition constitutes not less than forty percent of the total number of votes cast in such territory at the last preceding general election. If either or both propositions were approved by the electors, the board shall enter a finding to that effect on its minutes, a certified copy of which shall be forthwith transmitted to and filed with the clerk of the city or town to which annexation is proposed, together with a certified abstract of the vote showing the whole number who voted at the election, the number of votes cast for annexation and the number cast against annexation or for annexation and adoption of the comprehensive plan and the number cast against annexation and adoption of the comprehensive plan or for creation of a community municipal corporation and the number cast against creation of a community municipal corporation, or any combination thereof, as the case may be, and if a proposition for assumption of all or of any portion of indebtedness was submitted to the electorate, the abstract shall include the number of votes cast for assumption of indebtedness and the number of votes cast against assumption of indebtedness, together with a statement of the total number of votes cast in such territory at the last preceding general election. If the proposition for creation of a community municipal corporation was submitted and approved, the abstract shall include the number of votes cast for the candidates for community council positions and certificates of election shall be issued to the successful candidates who shall assume office within ten days after the election. [1973 1st ex.s. c 164 § 8; 1967 c 73 § 11; 1965 ex.s. c 88 § 7; 1965 c 7 § 35.13.090. Prior: 1961 c 282 § 16; prior: 1907 c 245 § 4, part; RRS § 8899, part.]

35.13.100 Election method—Ordinance providing for annexation or annexation and adoption of comprehensive plan or annexation and creation of community municipal corporation—Assumption of indebtedness. Upon filing of the certified copy of the finding of the board of county commissioners, the clerk shall transmit it to the legislative body of the city or town at the next regular meeting or as soon thereafter as practicable. If a proposition relating to annexation or annexation and adoption of the comprehensive plan or creation of a community municipal corporation, or both, as the case

may be was submitted to the voters and such proposition was approved, the legislative body shall adopt an ordinance providing for the annexation or adopt ordinances providing for the annexation and adoption of the comprehensive plan, or adopt an ordinance providing for the annexation and creation of a community municipal corporation, as the case may be. If a proposition for annexation or annexation and adoption of the comprehensive plan or creation of a community municipal corporation, as the case may be, and a proposition for assumption of all or of any portion of indebtedness were both submitted, and were approved, the legislative body shall adopt an ordinance providing for the annexation or annexation and adoption of the comprehensive plan or annexation and creation of a community municipal corporation including the assumption of all or of any portion of indebtedness. If the propositions were submitted and only the annexation or annexation and adoption of the comprehensive plan or annexation and creation of a community municipal corporation proposition was approved, the legislative body may, if it deems it wise or expedient, adopt an ordinance providing for the annexation or adopt ordinances providing for the annexation and adoption of the comprehensive plan, or adopt ordinances providing for the annexation and creation of a community municipal corporation, as the case may be. [1973 1st ex.s. c 164 § 9; 1967 c 73 § 12; 1965 ex.s. c 88 § 8; 1965 c 7 § 35.13.100. Prior: 1961 c 282 § 17; 1957 c 239 § 2; prior: 1907 c 245 § 5, part; RRS § 8900, part.]

35.13.110 Election method—Effective date of annexation or annexation and comprehensive plan or annexation and creation of community municipal corporation, taxation of area annexed. Upon the date fixed in the ordinance of annexation, the area annexed shall become a part of the city or town. Upon the date fixed in the ordinances of annexation and adoption of the comprehensive plan, the area annexed shall become a part of the city or town and property in the annexed area shall be subject to and a part of the comprehensive plan, as prepared and filed as provided for in RCW 35.13.177 and 35.13.178. Upon the date fixed in the ordinances of annexation and creation of a community municipal corporation, the area annexed shall become a part of the city or town, the community municipal corporation shall be deemed organized, and property in the service area shall be deemed subject to the powers granted to such corporation as provided for in *this 1967 amendatory act. All property within the territory hereafter annexed shall, if the proposition approved by the people so provides after June 12, 1957, be assessed and taxed at the same rate and on the same basis as the property of such annexing city is assessed and taxed to pay for all or any portion of the then outstanding indebtedness of the city or town to which said area is annexed, approved by the voters, contracted, or incurred prior to, or existing at, the date of annexation. [1973 1st ex.s. c 164 § 10; 1967 c 73 § 13; 1965 ex.s. c 88 § 9; 1965 c 7 § 35.13.110. Prior: 1957 c 239 § 3; prior: 1907 c 245 § 5, part; RRS § 8900, part.]

***Reviser's note:** The language "this 1967 amendatory act" first appeared in the amendment to this section by section 13, chapter 73, Laws of 1967. For the codification of chapter 73, Laws of 1967, see note following RCW 35.14.010.

35.13.120 Election method is alternative. The method of annexation provided for in RCW 35.13.020 to 35.13.110 shall be an alternative method, not superseding any other. [1965 c 7 § 35.13.120. Prior: 1937 c 110 § 2; 1907 c 245 § 6; RRS § 8901.]

35.13.125 Petition method—Commencement of proceedings—Notice to legislative body—Meeting—Assumption of indebtedness—Comprehensive plan. Proceedings for the annexation of territory pursuant to RCW 35.13.130, 35.13.140, 35.13.150, 35.13.160 and 35.13.170 shall be commenced as provided in this section. Prior to the circulation of a petition for annexation, the initiating party or parties who, except as provided in RCW 28A.58.044, shall be either not less than ten percent of the residents of the area to be annexed or the owners of not less than ten percent in value, according to the assessed valuation for general taxation of the property for which annexation is petitioned, shall notify the legislative body of the city or town in writing of their intention to commence annexation proceedings. The legislative body shall set a date, not later than sixty days after the filing of the request, for a meeting with the initiating parties to determine whether the city or town will accept the proposed annexation, whether it shall require the simultaneous adoption of the comprehensive plan if such plan has been prepared and filed for the area to be annexed as provided for in RCW 35.13.177 and 35.13.178, and whether it shall require the assumption of all or of any portion of existing city or town indebtedness by the area to be annexed. If the legislative body requires the assumption [of] all or of any portion of indebtedness and/or the adoption of a comprehensive plan, it shall record this action in its minutes and the petition for annexation shall be so drawn as to clearly indicate this fact. There shall be no appeal from the decision of the legislative body. [1973 1st ex.s. c 164 § 11; 1971 c 69 § 1; 1965 ex.s. c 88 § 10; 1965 c 7 § 35.13.125. Prior: 1961 c 282 § 18.]

Severability—1971 c 69: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 c 69 § 5.] This applies to RCW 35.13.125, 35.13.130 and 28A.58.044.

35.13.130 Petition method—Petition—Signers—Content. A petition for annexation of an area contiguous to a city or town may be made in writing addressed to and filed with the legislative body of the municipality to which annexation is desired. Except where all the property sought to be annexed is property of a school district, and the school directors thereof file the petition for annexation as in RCW 28A.58.044 authorized, the petition must be signed by the owners of not less than seventy-five percent in value, according to the assessed valuation for general taxation of the property for which annexation is petitioned. The petition shall set forth a description of the property according to

government legal subdivisions or legal plats and shall be accompanied by a plat which outlines the boundaries of the property sought to be annexed. If the legislative body has required the assumption of all or of any portion of city or town indebtedness by the area annexed, and/or the adoption of a comprehensive plan for the area to be annexed, these facts, together with a quotation of the minute entry of such requirement or requirements shall be set forth in the petition. [1973 1st ex.s. c 164 § 12; 1971 c 69 § 2; 1965 ex.s. c 88 § 11; 1965 c 7 § 35.13.130. Prior: 1961 c 282 § 19; 1945 c 128 § 3; Rem. Supp. 1945 § 8908–12.]

Severability—1971 c 69: See note following RCW 35.13.125.

35.13.140 Petition method—Notice of hearing. Whenever a petition for annexation is filed with the city or town council, or commission in those cities having a commission form of government, which meets the requirements herein specified, of which fact satisfactory proof may be required by the council or commission, the council or commission may entertain the same, fix a date for a public hearing thereon and cause notice of the hearing to be published in one issue of a newspaper of general circulation in the city or town. The notice shall also be posted in three public places within the territory proposed for annexation, and shall specify the time and place of hearing and invite interested persons to appear and voice approval or disapproval of the annexation. The expense of publication and posting of the notice shall be borne by the signers of the petition. [1965 c 7 § 35.13.140. Prior: 1945 c 128 § 2; Rem. Supp. 1945 § 8908–11.] [SLC–RO–8.]

35.13.150 Petition method—Ordinance providing for annexation. Following the hearing, the council or commission shall determine by ordinance whether annexation shall be made. They may annex all or any portion of the proposed area but may not include in the annexation any property not described in the petition. Upon passage of the ordinance a certified copy shall be filed with the board of county commissioners of the county in which the annexed property is located. [1965 c 7 § 35.13.150. Prior: 1957 c 239 § 5; prior: 1945 c 128 § 4, part; Rem. Supp. 1945 § 8908–13, part.]

35.13.160 Petition method—Effective date of annexation or annexation and comprehensive plan—Assessment, taxation of territory annexed. Upon the date fixed in the ordinance of annexation the area annexed shall become part of the city or town. All property within the territory hereafter annexed shall, if the annexation petition so provided, be assessed and taxed at the same rate and on the same basis as the property of such annexing city or town is assessed and taxed to pay for all or of any portion of the then outstanding indebtedness of the city or town to which said area is annexed, approved by the voters, contracted, or incurred prior to, or existing at, the date of annexation. If the annexation petition so provided, all property in the annexed area shall be subject to and a part of the comprehensive plan as prepared and filed as provided for in RCW 35.13.177 and 35.13.178. [1973 1st ex.s. c 164 §

13; 1965 ex.s. c 88 § 12; 1965 c 7 § 35.13.160. Prior: 1961 c 282 § 20; 1957 c 239 § 6; prior: (i) 1945 c 128 § 4, part; Rem. Supp. 1945 § 8908-13, part. (ii) 1945 c 128 § 5; Rem. Supp. 1945 § 8908-14.]

35.13.170 Petition method is alternative. The method of annexation provided for in RCW 35.13.130 to 35.13.160 shall be an alternative method, not superseding any other. [1965 c 7 § 35.13.170. Prior: 1945 c 128 § 6; Rem. Supp. 1945 § 8908-15.]

35.13.171 Review board—Convening—Composition. Within thirty days after the filing of a city's or town's annexation resolution pursuant to RCW 35.13.015 with the board of county commissioners or within thirty days after filing with the county commissioners a petition calling for an election on annexation, as provided in RCW 35.13.020, or within thirty days after approval by the legislative body of a city or town of a petition of property owners calling for annexation, as provided in RCW 35.13.130, the mayor of the city or town concerned that is not subject to the jurisdiction of a boundary review board under chapter 36.93 RCW, shall convene a review board composed of the following persons:

(1) The mayor of the city or town initiating the annexation by resolution, or the mayor in the event of a twenty percent annexation petition pursuant to RCW 35.13.020, or an alternate designated by him;

(2) The chairman of the board of county commissioners of the county wherein the property to be annexed is situated, or an alternate designated by him;

(3) The director of the planning and community affairs agency or any agency successor to the community affairs duties of such agency, or an alternate designated by him;

Two additional members to be designated, one by the mayor of the annexing city, which member shall be a resident property owner of the city, and one by the chairman of the county legislative authority, which member shall be a resident of and a property owner or a resident or a property owner if there be no resident property owner in the area proposed to be annexed, shall be added to the original membership and the full board thereafter convened upon call of the mayor: *Provided further*, That three members of the board shall constitute a quorum. [1973 1st ex.s. c 164 § 14; 1965 c 7 § 35.13.171. Prior: 1961 c 282 § 2.]

Planning and community affairs agency to carry out provisions of RCW 35.13.171(3): RCW 43.63A.080(9).

35.13.172 When review procedure may be dispensed with (as amended by 1973 1st ex.s. c 164 § 15). Whenever a petition is filed as provided in RCW 35.13.020 or a resolution is adopted by the city or town council, as provided in RCW 35.13.015, and the area proposed for annexation is less than ten acres and less than two hundred thousand dollars in assessed valuation, such review procedures shall be dispensed with. [1973 1st ex.s. c 164 § 15; 1965 c 7 § 35.13.172. Prior: 1961 c 282 § 3.]

Reviser's note: RCW 35.13.172 was amended twice during the 1973 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same legislative session, see RCW 1.12.025.

35.13.172 When review procedure may be dispensed with (as amended by 1973 1st ex.s. c 195 § 14). Whenever a petition is filed by either of the methods provided in RCW 35.13.020 and 35.13.130, or a resolution is adopted by the city council, as provided in RCW 35.13.015, and the area proposed for annexation is less than ten acres and less than eight hundred thousand dollars in assessed valuation, the mayor of the city or town to which the area is proposed to be annexed and the chairman of the board of county commissioners and county superintendent of schools can agree by majority that a review proceeding, as provided herein, is not necessary for the protection of the interest of the various parties, in which case such review procedures shall be dispensed with. [1973 1st ex.s. c 195 § 14; 1965 c 7 § 35.13.172. Prior: 1961 c 282 § 3.]

Reviser's note: RCW 35.13.172 was amended twice during the 1973 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same legislative session, see RCW 1.12.025.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

35.13.173 Determination by review board—Factors considered—Filing of findings. The review board shall by majority action, within three months, determine whether the property proposed to be annexed is of such character that such annexation would be in the public interest and for the public welfare, and in the best interest of the city, county, and other political subdivisions affected. The governing officials of the city, county, and other political subdivisions of the state shall assist the review board insofar as their offices can, and all relevant information and records shall be furnished by such offices to the review board. In making their determination the review board shall be guided, but not limited, by their findings with respect to the following factors:

(1) The immediate and prospective populations of the area to be annexed;

(2) The assessed valuation of the area to be annexed, and its relationship to population;

(3) The history of and prospects for construction of improvements in the area to be annexed;

(4) The needs and possibilities for geographical expansion of the city;

(5) The present and anticipated need for governmental services in the area proposed to be annexed, including but not limited to water supply, sewage and garbage disposal, zoning, streets and alleys, curbs, sidewalks, police and fire protection, playgrounds, parks, and other municipal services, and transportation and drainage;

(6) The relative capabilities of the city, county, and other political subdivisions to provide governmental services when the need arises;

(7) The existence of special districts except school districts within the area proposed to be annexed, and the impact of annexation upon such districts;

(8) The elimination of isolated unincorporated areas existing without adequate economical governmental services;

(9) The immediate and potential revenues that would be derived by the city as a result of annexation, and their relation to the cost of providing service to the area.

Whether the review board determines for or against annexation, its reasons therefor, along with its findings

on the specified factors and other material considerations shall:

(1) In the case of a petition signed by registered voters calling for an election on annexation, be filed with the board of county commissioners;

(2) In the case of a resolution of a city or town initiating annexation proceedings pursuant to RCW 35.13.015, be filed with the board of county commissioners.

Such findings need not include specific data on every point listed, but shall indicate that all factors were considered.

A favorable determination by the review board is an essential condition precedent to the annexation of territory to a city or town under either the resolution method pursuant to RCW 35.13.015, or under the twenty percent annexation petition under the election method. [1973 1st ex.s. c 164 § 16; 1965 c 7 § 35.13.173. Prior: 1961 c 282 § 4.]

35.13.174 Date for annexation election if review board's determination favorable. Upon receipt by the board of county commissioners of a determination by a majority of the review board favoring annexation of the proposed area that has been initiated by resolution pursuant to RCW 35.13.015 by the city or town legislative body, the board of county commissioners shall fix a date on which an annexation election shall be held, which date will be not less than thirty days nor more than sixty days thereafter. [1973 1st ex.s. c 164 § 17; 1965 c 7 § 35.13.174. Prior: 1961 c 282 § 5.]

Petition method—Fixing date of annexation election: RCW 35.13.060.

Times for holding elections: Chapter 29.13 RCW.

35.13.175 Pending final disposition of petition no other petition or resolution for annexation or petition for incorporation shall be acted upon. After the filing of any petition or resolution for annexation with the board of county commissioners, or city or town council, and pending its final disposition as provided for in this chapter, no other petition or resolution for annexation or petition for incorporation which embraces any of the territory included therein shall be acted upon by the county auditor or the board of county commissioners, or by any city or town clerk, city or town council, or by any other public official or body that might otherwise be empowered to receive or act upon such a petition. [1973 1st ex.s. c 164 § 18; 1965 c 7 § 35.13.175. Prior: 1961 c 200 § 2.]

35.13.177 Comprehensive land use plan for area to be annexed—Contents—Purpose. The legislative body of any city or town acting through a planning commission created pursuant to chapter 35.63 RCW, or pursuant to its granted powers, may prepare a comprehensive land use plan to become effective upon the annexation of any area which might reasonably be expected to be annexed by the city or town at any future time. Such comprehensive plan, to the extent deemed reasonably necessary by the legislative body to be in the interest of health, safety, morals and the general welfare may provide, among other things, for:

(1) The regulation and restriction within the area to be annexed of the location and the use of buildings, structures and land for residence, trade, industrial and other purposes; the height, number of stories, size, construction and design of buildings and other structures; the size of yards, courts and other open spaces on the lot or tract; the density of population; the set-back of buildings along highways, parks or public water frontages; and the subdivision and development of land;

(2) The division of the area to be annexed into districts or zones of any size or shape, and within such districts or zones regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land;

(3) The appointment of a board of adjustment, to make, in appropriate cases and subject to appropriate conditions and safeguards established by ordinance, special exceptions in harmony with the general purposes and intent of the comprehensive plan; and

(4) The time interval following an annexation during which the ordinance or resolution adopting any such plan or regulations, or any part thereof must remain in effect before it may be amended, supplemented or modified by subsequent ordinance or resolution adopted by the annexing city or town.

All such regulations and restrictions shall be designed, among other things, to encourage the most appropriate use of land throughout the area to be annexed; to lessen traffic congestion and accidents; to secure safety from fire; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to promote a coordinated development of the unbuilt areas; to encourage the formation of neighborhood or community units; to secure an appropriate allotment of land area in new developments for all the requirements of community life; to conserve and restore natural beauty and other natural resources; to facilitate the adequate provision of transportation, water, sewerage and other public uses and requirements. [1965 ex.s. c 88 § 1.]

35.13.178 Comprehensive land use plan for area to be annexed—Hearings on proposed plan—Notice—Filing. The legislative body of the city or town shall hold two or more public hearings, to be held at least thirty days apart, upon the proposed comprehensive plan, giving notice of the time and place thereof by publication in a newspaper of general circulation in the annexing city or town and the area to be annexed. A copy of the ordinance or resolution adopting or embodying such proposed plan or any part thereof or any amendment thereto, duly certified as a true copy by the clerk of the annexing city or town, shall be filed with the county auditor. A like certified copy of any map or plat referred to or adopted by the ordinance or resolution shall likewise be filed with the county auditor. The auditor shall record the ordinance or resolution and keep on file the map or plat. [1965 ex.s. c 88 § 2.]

35.13.180 Annexation for municipal purposes. City and town councils of second and third class cities and towns may by a majority vote annex new territory outside the city or town limits, whether contiguous or non-contiguous for park, cemetery, or other municipal purposes. [1965 c 7 § 35.13.180. Prior: 1907 c 228 § 4; RRS § 9202.]

35.13.185 Annexation of federal areas by first class city. Any unincorporated area contiguous to a first class city may be annexed thereto by an ordinance accepting a gift, grant, lease or cession of jurisdiction from the government of the United States of the right to occupy or control it. [1965 c 7 § 35.13.185. Prior: 1957 c 239 § 7.]

35.13.190 Annexation of federal areas by second and third class cities and towns. Any unincorporated area contiguous to a second or third class city or town may be annexed thereto by an ordinance accepting a gift, grant, or lease from the government of the United States of the right to occupy, control, improve it or sublet it for commercial, manufacturing, or industrial purposes: *Provided*, That this shall not apply to any territory more than four miles from the corporate limits existing before such annexation. [1965 c 7 § 35.13.190. Prior: 1915 c 13 § 1, part; RRS § 8906, part.]

Validating—1915 c 13: "All ordinances heretofore passed by the legislative authority of any such incorporated city for the purpose of accepting any gift, grant or lease of or annexing any territory as hereinabove provided are hereby validated." [1915 c 13 § 3.]

35.13.200 Annexation of federal areas by second and third class cities and towns—Annexation ordinance—Provisions. In the ordinance annexing territory pursuant to a gift, grant, or lease from the government of the United States, a second or third class city or town may include such tide and shore lands as may be necessary or convenient for the use thereof, may include in the ordinance an acceptance of the terms and conditions attached to the gift, grant, or lease and may provide in the ordinance for the annexed territory to become a separate ward of the city or town or part or parts of adjacent wards. [1965 c 7 § 35.13.200. Prior: (i) 1915 c 13 § 1, part; RRS § 8906, part. (ii) 1915 c 13 § 2, part; RRS § 8907, part.]

35.13.210 Annexation of federal areas by second and third class cities and towns—Authority over annexed territory. A second or third class city or town may cause territory annexed pursuant to a gift, grant, or lease of the government of the United States to be surveyed, subdivided and platted into lots, blocks, or tracts and lay out, reserve for public use, and improve streets, roads, alleys, slips, and other public places. It may grant or sublet any lot, block, or tract therein for commercial, manufacturing, or industrial purposes and reserve, receive and collect rents therefrom. It may expend the rents received therefrom in making and maintaining public improvements therein, and if any surplus remains at the end of any fiscal year, may transfer it to the city's or town's current expense fund.

[1965 c 7 § 35.13.210. Prior: 1915 c 13 § 2, part; RRS § 8907, part.]

35.13.247 Annexation of water, sewer, and fire districts—Ownership of assets of fire protection district—When at least sixty percent of assessed valuation is annexed or incorporated in city or town. If a portion of a fire protection district including at least sixty percent of the assessed valuation of the real property of the district is annexed to or incorporated into a city or town, ownership of all of the assets of the district shall be vested in the city or town, upon payment in cash, properties or contracts for fire protection services to the district within one year, of a percentage of the value of said assets equal to the percentage of the value of the real property in entire district remaining outside the incorporated or annexed area. [1965 c 7 § 35.13.247. Prior: 1963 c 231 § 3.]

35.13.248 Annexation of water, sewer, and fire districts—Ownership of assets of fire protection district—When less than sixty percent. If a portion of a fire protection district including less than sixty percent of the assessed value of the real property of the district is annexed to or incorporated into a city or town, the ownership of all assets of the district shall remain in the district and the district shall pay to the city or town within one year or within such period of time as the district continues to collect taxes in such incorporated or annexed areas, in cash, properties or contracts for fire protection services, a percentage of the value of said assets equal to the percentage of the value of the real property in the entire district lying within the area so incorporated or annexed: *Provided*, That if less than five percent of the area of the district is affected, no payment shall be made to the city or town. The fire protection district shall provide fire protection to the incorporated or annexed area for such period as the district continues to collect taxes levied in such annexed or incorporated area.

For the purposes of this section, the word "assets" shall mean the total assets of the fire district, reduced by its liabilities, including bonded indebtedness, the same to be determined by usual and accepted accounting methods. The amount of said liability shall be determined by reference to the fire district's balance sheet, produced in the regular course of business, which is nearest in time to the certification of the annexation of fire district territory by the city or town. [1967 c 146 § 1; 1965 c 7 § 35.13.248. Prior: 1963 c 231 § 4.]

35.13.249 Annexation of water, sewer, and fire districts—Ownership of assets of fire protection district—Outstanding indebtedness not affected. When any portion of a fire protection district is annexed by or incorporated into a city or town, any outstanding indebtedness, bonded or otherwise, shall remain an obligation of the taxable property annexed or incorporated as if the annexation or incorporation had not occurred. [1965 c 7 § 35.13.249. Prior: 1963 c 231 § 5.]

35.13.260 Determining population of annexed territory—Certificate—As basis for allocation of state funds—Revised certificate. Whenever any territory is annexed to a city or town, a certificate as hereinafter provided shall be submitted in triplicate to the planning and community affairs agency within thirty days of the effective date of annexation specified in the relevant ordinance. After approval of the certificate, the agency shall retain the original copy in its files, and transmit the second copy to the secretary of state, and return the third copy to the city or town. Such certificates shall be in such form and contain such information as shall be prescribed by the agency. A legal description and a map showing specifically the boundaries of the annexed territory shall be attached to each of the three copies of the certificate. The certificate shall be signed by the mayor and attested by the city clerk. Upon request, the agency shall furnish certification forms to any city or town.

The resident population of the annexed territory shall be determined by, or under the direction of, the mayor of the city or town. Such population determination shall consist of an actual enumeration of the population which shall be made in accordance with practices and policies, and subject to the approval of, the agency. The population shall be determined as of the effective date of annexation as specified in the relevant ordinance.

Until an annexation certificate is filed and approved as provided herein, such annexed territory shall not be considered by the agency in determining the population of such city or town.

Upon approval of the annexation certificate, the agency shall forward to each state official or department responsible for making allocations or payments to cities or towns, a revised certificate reflecting the increase in population due to such annexation. Upon and after the date of the commencement of the next quarterly period, the population determination indicated in such revised certificate shall be used as the basis for the allocation and payment of state funds to such city or town.

For the purposes of this section, each quarterly period shall commence on the first day of the months of January, April, July, and October. Whenever a revised certificate is forwarded by the agency thirty days or less prior to the commencement of the next quarterly period, the population of the annexed territory shall not be considered until the commencement of the following quarterly period. [1969 ex.s. c 50 § 1; 1967 ex.s. c 42 § 2; 1965 c 7 § 35.13.260. Prior: 1961 c 51 § 1; 1957 c 175 § 14; prior: 1951 c 248 § 5, part.]

Effective date—1967 ex.s. c 42: The effective date of the 1967 amendment to this section is July 1, 1967, see note following RCW 3.30.010.

Savings—1967 ex.s. c 42: See note following RCW 3.30.010.

Allocations to cities and towns from motor vehicle fund: RCW 46.68.100, 46.68.110.

Census to be conducted in decennial periods: State Constitution Art. 2 § 3.

State planning and community affairs agency: Chapter 43.63A RCW.

35.13.270 Road district taxes collected in annexed territory—Disposition. Whenever any territory is annexed to a city which is part of a road district of the county and road district taxes have been levied but not collected on any property within the annexed territory, the same shall when collected by the county treasurer be paid to the city and by the city placed in the city street fund. [1965 c 7 § 35.13.270. Prior: 1957 c 175 § 15; prior: 1951 c 248 § 5, part.]

35.13.280 Cancellation, acquisition, of franchise or permit for operation of public service business in territory annexed. The annexation by any city of any territory pursuant to those provisions of chapter 35.10 RCW which relate to the annexation of a third class city or town to a first class city, or pursuant to the provisions of chapters 35.12 or 35.13 RCW shall cancel, as of the effective date of such annexation, any franchise or permit theretofore granted to any person, firm or corporation by the state of Washington, or by the governing body of such annexed territory, authorizing or otherwise permitting the operation of any public transportation, garbage collection and/or disposal or other similar public service business or facility within the limits of the annexed territory, but the holder of any such franchise or permit canceled pursuant to this section shall be forthwith granted by the annexing city a franchise to continue such business within the annexed territory for a term of not less than five years from the date of issuance thereof, and the annexing city, by franchise, permit or public operation, shall not extend similar or competing services to the annexed territory except upon a proper showing of the inability or refusal of such person, firm or corporation to adequately service said annexed territory at a reasonable price: *Provided*, That the provisions of this section shall not preclude the purchase by the annexing city of said franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm or corporation whose franchise or permit has been canceled by the terms of this section shall suffer any measurable damages as a result of any annexation pursuant to the provisions of the laws above-mentioned, such person, firm or corporation shall have a right of action against any city causing such damages. [1965 c 7 § 35.13.280. Prior: 1957 c 282 § 1.]

Chapter 35.13A WATER OR SEWER DISTRICTS— ASSUMPTION OF JURISDICTION

Sections

- 35.13A.010 Definitions.
- 35.13A.020 Assumption authorized—Disposition of properties and rights—Outstanding indebtedness—Management and control.
- 35.13A.030 Assumption of control if sixty percent or more of area or valuation within city.
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- 35.13A.050 Territory containing facilities within or without city—Duties of city or district—Rates and charges—Assumption of responsibility—Outstanding indebtedness—Properties and rights.
- 35.13A.060 District in more than one city—Assumption of responsibilities—Duties of cities.
- 35.13A.070 Contracts.
- 35.13A.080 Dissolution of water district or sewer district.
- 35.13A.090 Employment and rights of district employees.
- 35.13A.900 Severability—1971 ex.s. c 95.

35.13A.010 Definitions. Whenever used in this chapter, the following words shall have the following meanings:

(1) The word "district" shall mean a water district or sewer district as indicated by the context of the section in which used.

(2) The word "city" shall mean a city or town of any class and shall also include any code city as defined in chapter 35A.01 RCW.

(3) The words "included with" shall mean the inclusion of all or part of the territory of a district, as indicated by the context, within the corporate limits of a city either by incorporation of a city, annexation to a city, consolidation of cities or any combination thereof.

(4) The word "indebtedness" shall include general obligation, revenue, and special indebtedness and temporary, emergency, and interim loans. [1971 ex.s. c 95 § 1.]

35.13A.020 Assumption authorized—Disposition of properties and rights—Outstanding indebtedness—Management and control. Whenever all of the territory of a water district or sewer district is included within the corporate boundaries of a city, and the city legislative body has elected by resolution or ordinance to assume jurisdiction thereof, all real and personal property, franchises, rights, assets, taxes levied but not collected for the district for other than indebtedness, water and sewer lines, and all other facilities and equipment of the district shall become the property of such city subject to all financial, statutory, or contractual obligations of the district for the security or performance of which such property may have been pledged. Such city, in addition to its other powers, shall have the power to manage, control, maintain and operate such property, facilities and equipment and to fix and collect service and other charges from owners and occupants of properties so served by the city, subject, however, to any outstanding indebtedness, bonded or otherwise, of the district payable from taxes, assessments or revenues of any kind or nature and to any other contractual obligations of the district.

Such city may by resolution of its legislative body, assume the obligation of paying such district indebtedness and of levying and of collecting or causing to be collected such district taxes, assessments and utility rates and charges of any kind or nature to pay and secure the payment of such indebtedness, according to all of the terms, conditions and covenants incident to such indebtedness, and shall assume and perform all other outstanding contractual obligation of the district in accordance with all of its terms, conditions and covenants. No such assumption shall be deemed to impair

the obligation of any indebtedness or other contractual obligation entered into after August 9, 1971. During the period until the outstanding indebtedness of the district has been discharged, the territory of the district and the owners and occupants of property therein, shall continue to be liable for its and their proportionate share of such indebtedness, including any outstanding assessments levied within any local improvement district or utility local improvement district thereof. The city shall assume the obligation of causing the payment of such indebtedness, collecting such taxes, assessments and charges and observing and performing the other district contractual obligations. The legislative body of the city shall act as the officers of the district for the purpose of certifying the amount of any property tax to be levied and collected therein, and causing service and other charges and assessments to be collected from such property or owners or occupants thereof, enforcing such collection and performing all other acts necessary to insure performance of the district's contractual obligations in the same manner and by the same means as if the territory of the district had not been included within the boundaries of a city.

When a city assumes the obligation of paying the outstanding indebtedness, and if property taxes or assessments have been levied and service and other charges have accrued for such purpose but have not been collected by the district prior to such election, the same when collected shall belong and be paid to the city and be used by such city so far as necessary for payment of the indebtedness of the district existing and unpaid on the date such city elects to assume the indebtedness. Any funds received by the city which have been collected for the purpose of paying any bonded or other indebtedness of the district, shall be used for the purpose for which they were collected and for no other purpose. Any outstanding indebtedness shall be paid as provided in the bond covenants. All funds of the district on deposit with the county treasurer at the time of title transfer shall be used by the city solely for the benefit of the utility and shall not be transferred to or used for the benefit of the city's general fund. [1971 ex.s. c 95 § 2.]

35.13A.030 Assumption of control if sixty percent or more of area or valuation within city. Whenever a portion of a water district or sewer district equal to at least sixty percent of the area or sixty percent of the assessed valuation of the real property lying within such district, is included within the corporate boundaries of a city, the city may assume by ordinance the full and complete management and control of that portion of the entire district not included within another city, whereupon the provisions of RCW 35.13A.020 shall be operative; or the city may proceed directly under the provisions of RCW 35.13A.050. [1971 ex.s. c 95 § 3.]

35.13A.040 Assumption of control if less than sixty percent of area or valuation within city. Whenever the portion of a water or sewer district included within the corporate boundaries of a city is less than sixty percent of the area of the district and less than sixty percent of

the assessed valuation of the real property within the district, the city may elect to proceed under the provisions of RCW 35.13A.050. [1971 ex.s. c 95 § 4.]

35.13A.050 Territory containing facilities within or without city—Duties of city or district—Rates and charges—Assumption of responsibility—Outstanding indebtedness—Properties and rights. When electing under RCW 35.13A.030 or 35.13A.040 to proceed under this section, the city may assume, by ordinance, jurisdiction of the district's responsibilities, property, facilities and equipment within the corporate limits of the city: *Provided*, That if on the effective date of such an ordinance the territory of the district included within the city contains any facilities serving or designed to serve any portion of the district outside the corporate limits of the city or if the territory lying within the district and outside the city contains any facilities serving or designed to serve territory included within the city (which facilities are hereafter in this section called the "serving facilities"), the city or district shall for the economically useful life of any such serving facilities make available sufficient capacity therein to serve the sewage or water requirements of such territory, to the extent that such facilities were designed to serve such territory at a rate charged to the municipality being served which is reasonable to all parties.

In the event a city proceeds under this section, the district may elect upon a favorable vote of a majority of all voters within the district voting upon such propositions to require the city to assume responsibility for the operation and maintenance of the district's property, facilities and equipment throughout the entire district and to pay the city a charge for such operation and maintenance which is reasonable under all of the circumstances.

A city acquiring property, facilities and equipment under the provisions of this section shall acquire such property, facilities and equipment, and fix and collect service and other charges from owners and occupants of properties served by the city, subject, to any contractual obligations of the district which relate to the property, facilities, or equipment so acquired by the city or which are secured by taxes, assessments or revenues from the territory of the district included within the city. In such cases, the property included within the city and the owners and occupants thereof shall continue to be liable for payment of its and their proportionate share of any outstanding district indebtedness. The district and its officers shall continue to levy taxes and assessments on and to collect service and other charges from such property, or owners or occupants thereof, to enforce such collections, and to perform all other acts necessary to insure performance of the district's contractual obligations in the same manner and by the same means as if the territory of the district had not been included within the boundaries of a city. [1971 ex.s. c 95 § 5.]

35.13A.060 District in more than one city—Assumption of responsibilities—Duties of cities. Whenever more than one city, in whole or in part, is included

within a water district or sewer district, the city which has within its boundaries sixty percent or more of the area of the assessed valuation of the district (in this section referred to as the "principal city") may, with the approval of any other city containing part of such district, assume responsibility for operation and maintenance of the district's property, facilities and equipment within such other city and make and enforce such charges for operation, maintenance and retirement of indebtedness as may be reasonable under all the circumstances.

Any other city having less than sixty percent in area or assessed valuation of such district, within its boundaries may install facilities and create local improvement districts or otherwise finance the cost of installation of such facilities and if such facilities have been installed in accordance with reasonable standards fixed by the principal city, such other city may connect such facilities to the utility system of such district operated by the principal city upon providing for payment by the owners or occupants of properties served thereby, of such charges established by the principal city as may be reasonable under the circumstances. [1971 ex.s. c 95 § 6.]

35.13A.070 Contracts. Notwithstanding any provision of this chapter to the contrary, one or more cities and one or more water districts or sewer districts may, through their legislative authorities, authorize a contract with respect to the rights, powers, duties and obligation of such cities, or districts with regard to the use and ownership of property, the providing of services, the maintenance and operation of facilities, allocation of cost, financing and construction of new facilities, application and use of assets, disposition of liabilities and debts, the performance of contractual obligations and any other matters arising out of the inclusion, in whole or in part, of the district or districts within any city or cities. The contract may provide for the furnishing of services by any party thereto and the use of city or district facilities or real estate for such purpose, and may also provide for the time during which such district or districts may continue to exercise any rights, privileges, powers and functions provided by law for such district or districts as if the district or districts or portions thereof were not included within a city, including but not by way of limitation, the right to promulgate rules and regulations, to levy and collect special assessments, rates, charges, service charges and connection fees, and to adopt and carry out the provisions of a comprehensive plan, and amendments thereto, for a system of improvements and to issue general obligation bonds or revenue bonds in the manner provided by law. The contract may provide for the transfer to a city of district facilities, property, rights and powers as provided in RCW 35.13A.030 and 35.13A.050, whether or not sixty percent of the area or assessed valuation of real estate lying within the district or districts is included within such city. The contract may provide that any party thereto may authorize, issue and sell revenue bonds to provide funds for new water or sewer improvements or to refund any water revenue, sewer revenue or combined water and sewer revenue bonds

outstanding of any city, or district which is a party to such contract if such refunding is deemed necessary, providing such refunding will not increase interest costs. The contract may provide that any party thereto may authorize and issue, in the manner provided by law, general obligation or revenue bonds of like amounts, terms, conditions and covenants as the outstanding bonds of any other party to the contract, and such new bonds may be substituted or exchanged for such outstanding bonds: *Provided*, That no such exchange or substitution shall be effected in such a manner as to impair the obligation or security of any such outstanding bonds. [1971 ex.s. c 95 § 7.]

35.13A.080 Dissolution of water district or sewer district. In any of the cases provided for in RCW 35.13A.020, 35.13A.030, and 35.13A.050, and notwithstanding any other method of dissolution provided by law, dissolution proceedings may be initiated by either the city or the district, or both, when the legislative body of the city and the governing body of the district agree to, and petition for, dissolution of the district.

The petition for dissolution shall be signed by the chief administrative officer of the city and the district, upon authorization of the legislative body of the city and the governing body of the district, respectively and such petition shall be presented to the superior court of the county in which the city is situated.

If the petition is thus authorized by both the city and district, and title to the property, facilities and equipment of the district has passed to the city pursuant to action taken under this chapter, all indebtedness and local improvement district or utility local improvement district assessments of the district have been discharged or assumed by and transferred to the city, and the petition contains a statement of the distribution of assets and liabilities mutually agreed upon by the city and the district and a copy of the agreement between such city and the district is attached thereto, a hearing shall not be required and the court shall, if the interests of all interested parties have been protected, enter an order dissolving the district.

In any of the cases provided for in RCW 35.13A.020 and 35.13A.030, if the petition for an order of dissolution is signed on behalf of the city alone or the district alone, or there is no mutual agreement on the distribution of assets and liabilities, the superior court shall enter an order fixing a hearing date not less than sixty days from the day the petition is filed, and the clerk of the court of the county shall give notice of such hearing by publication in a newspaper of general circulation in the district once a week for three successive weeks and by posting in three public places in the district at least twenty-one days before the hearing. The notice shall set forth the filing of the petition, its purposes, and the date and place of hearing thereon.

After the hearing the court shall enter its order with respect to the dissolution of the district. If the court finds that such district should be dissolved and the functions performed by the city, the court shall provide for the transfer of assets and liabilities to the city. The court may provide for the dissolution of the district

upon such conditions as the court may deem appropriate. A certified copy of the court order dissolving the district shall be filed with the county auditor. If the court does not dissolve the district, it shall state the reasons for declining to do so. [1971 ex.s. c 95 § 8.]

35.13A.090 Employment and rights of district employees. Whenever a city acquires all of the facilities of a water district or sewer district, pursuant to this chapter, such a city shall offer to employ every full time employee of the district who is engaged in the operation of such a district's facilities on the date on which such city acquires the district facilities. When a city acquires any portion of the facilities of such a district, such a city shall offer to employ full time employees of the district as of the date of the acquisition of the facilities of the district who are not longer needed by the district.

Whenever a city employs a person who was employed immediately prior thereto by the district, arrangements shall be made:

(1) For the retention of service credits under the pension plan of the district pursuant to RCW 41.04.070 through 41.04.110.

(2) For the retention of all sick leave standing to the employee's credit in the plan of such district.

(3) For a vacation with pay during the first year of employment equivalent to that to which he would have been entitled if he had remained in the employment of the district. [1971 ex.s. c 95 § 9.]

35.13A.900 Severability—1971 ex.s. c 95. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1971 ex.s. c 95 § 12.]

Chapter 35.14

COMMUNITY MUNICIPAL CORPORATIONS

Sections	
35.14.010	When community municipal corporation may be organized—Service areas—Territory.
35.14.020	Community council—Membership—Election—Terms.
35.14.030	Community council—Employees—Office—Officers—Quorum—Meetings—Compensation and expenses.
35.14.040	Ordinances or resolutions of city applying to land, buildings or structures within corporation, effectiveness—Zoning ordinances, resolutions or land use controls to remain in effect upon annexation or consolidation—Comprehensive plan.
35.14.050	Powers and duties of community municipal corporation.
35.14.060	Original term of existence of community municipal corporation—Continuation of existence—Procedure.

35.14.010 When community municipal corporation may be organized—Service areas—Territory. Whenever cities are consolidated or cities of the third or fourth classes are annexed pursuant to the provisions of chapter 35.10 RCW, or unincorporated territory is annexed by a city pursuant to the provisions of chapter 35.13 RCW, community municipal corporations may be organized in the manner provided for in *this 1967 amendatory act for the following service areas:

(1) The entire territory within the boundaries of the least populous of two cities consolidated pursuant to chapter 35.10 RCW;

(2) The entire territory within the boundaries of any city of the third or fourth class which has become annexed to a city of the first class pursuant to chapter 35.10 RCW; and

(3) The territory comprised of all or a part of an unincorporated area annexed to a city pursuant to chapter 35.13 RCW, if (a) the service area is such as would be eligible for incorporation as a city or town or (b) the service area has a minimum population of not less than three hundred inhabitants and ten percent of the population of the annexing city or (c) the service area has a minimum population of not less than one thousand inhabitants.

No territory shall be included in the service area of more than one community municipal corporation. Whenever a new community municipal corporation is formed embracing all of the territory of an existing community municipal corporation, the prior existing community municipal corporation shall be deemed to be dissolved on the effective date of the new corporation. [1967 c 73 § 1.]

***Reviser's note:** "this 1967 amendatory act" [1967 c 73] is codified as RCW 35.14.010 through 35.14.060, and RCW 35.13.015, 35.13.020, 35.13.030, 35.13.080, 35.13.090, 35.13.100, 35.13.110, 35.10.210, 35.10.220, 35.10.230, 35.10.240, 35.10.260, 35.10.270, 35.10.280 and 35.10.290.

35.14.020 Community council—Membership—Election—Terms. A community municipal corporation shall be governed by a community council composed as follows:

(1) As to a service area comprising the territory within the boundaries of the least populous of two consolidated cities, the members of the city council or commission of the least populous of the two cities shall be the members of the original community council. If the voters within the service area have elected to continue the community municipal corporation in existence as provided for in RCW 35.14.060, the membership of any such subsequent council shall be the same in number as the original council and such subsequent members shall be elected to consecutively numbered positions at the continuation election from qualified electors residing within the service area.

(2) As to a service area comprising the territory within a city of the third or fourth class annexed to a city of the first class, the members of the city council or commission of the third or fourth class city shall be the members of the original community council. If the voters within the service area have elected to continue the community municipal corporation in existence as provided for in RCW 35.14.060, the membership of any such subsequent council shall be the same in number as the original council and such subsequent members shall be elected to consecutively numbered positions at the continuation election from qualified electors residing within the service area.

(3) As to a service area comprising all or part of an unincorporated area annexed to a city, the community

council shall consist of five members. Initial council members shall be elected concurrently with the annexation election to consecutively numbered positions from qualified electors residing within the service area. Declarations of candidacy and withdrawals shall be in the same manner as is provided for members of the city council or other legislative body of the city to which annexation is proposed. Subsequent council membership shall be the same in number as the initial council and such members shall be elected to consecutively numbered positions at the continuation election pursuant to RCW 35.14.060 from qualified electors residing within the service area.

(4) Terms of original council members shall be coexistent with the original term of existence of the community municipal corporation and until their successors are elected and qualified. Vacancies in any council shall be filled for the remainder of the unexpired term by a majority vote of the remaining members. [1967 c 73 § 2.]

35.14.030 Community council—Employees—Office—Officers—Quorum—Meetings—Compensation and expenses. Each community council shall be staffed by a deputy to the city clerk of the city with which the service area is consolidated or annexed and shall be provided with such other clerical and technical assistance and a properly equipped office as may be necessary to carry out its functions.

Each community council shall elect a chairman and vice chairman from its membership. A majority of the council shall constitute a quorum. Each action of the community municipal corporation shall be by resolution approved by vote of the majority of all the members of the community council. Meetings shall be held at such times and places as provided in the rules of the community council. Members of the community council shall receive no compensation.

The necessary expenses of the community council shall be budgeted and paid by the city. [1967 c 73 § 3.]

35.14.040 Ordinances or resolutions of city applying to land, buildings or structures within corporation, effectiveness—Zoning ordinances, resolutions or land use controls to remain in effect upon annexation or consolidation—Comprehensive plan. The adoption, approval, enactment, amendment, granting or authorization by the city council or commission of any ordinance or resolution applying to land, buildings or structures within any community council corporation shall become effective within such community municipal corporation either on approval by the community council, or by failure of the community council to disapprove within sixty days of final enactment, with respect to the following:

- (1) Comprehensive plan;
- (2) Zoning ordinance;
- (3) Conditional use permit, special exception or variance;
- (4) Subdivision ordinance;
- (5) Subdivision plat;
- (6) Planned unit development.

Disapproval by the community council shall not affect the application of any ordinance or resolution affecting areas outside the community municipal corporation.

Upon annexation or consolidation, pending the effective enactment or amendment of a zoning or land use control ordinance, without disapproval of the community municipal corporation, affecting land, buildings, or structures within a community municipal corporation, the zoning ordinance, resolution or land use controls applicable to the annexed or consolidated area, prior to the annexation or consolidation, shall remain in effect within the community municipal corporation and be enforced by the city to which the area is annexed or consolidated.

Whenever the comprehensive plan of the city, insofar as it affects the area of the community municipal corporation has been submitted as part of an annexation proposition and approved by the voters of the area proposed for annexation pursuant to *chapter 88, Laws of 1965 extraordinary session, such action shall have the same force and effect as approval by the community council of the comprehensive plan, zoning ordinance and subdivision ordinance. [1967 c 73 § 4.]

***Reviser's note:** "chapter 88, Laws of 1965 extraordinary session" is codified as RCW 35.13.015, 35.13.020, 35.13.030, 35.13.080, 35.13.090, 35.13.100, 35.13.110, 35.13.125, 35.13.130, 35.13.160, 35.13.177 and 35.13.178.

35.14.050 Powers and duties of community municipal corporation. In addition to powers and duties relating to approval of zoning regulations and restrictions as set forth in RCW 35.14.040, a community municipal corporation acting through its community council may:

(1) Make recommendations concerning any proposed comprehensive plan or other proposal which directly or indirectly affects the use of property or land within the service area;

(2) Provide a forum for consideration of the conservation, improvement or development of property or land within the service area; and

(3) Advise, consult, and cooperate with the legislative authority of the city on any local matters directly or indirectly affecting the service area. [1967 c 73 § 5.]

35.14.060 Original term of existence of community municipal corporation—Continuation of existence—Procedure. The original terms of existence of any community municipal corporation shall be for at least four years and until the first Monday in January next following a regular municipal election held in the city.

Any such community municipal corporation may be continued thereafter for additional periods of four years' duration with the approval of the voters at an election held and conducted in the manner provided for in this section.

Authorization for a community municipal corporation to continue its term of existence for each additional period of four years may be initiated pursuant to a resolution or a petition in the following manner:

(1) A resolution praying for such continuation may be adopted by the community council and shall be filed

not less than seven months prior to the end of the term of existence of such corporation with the city council or other legislative body of the city in which the service area is located.

(2) A petition for continuation shall be signed by at least ten percent of the registered voters residing within the service area and shall be filed not less than six months prior to the end of the term of existence of such corporation with the city council or other legislative body of the city in which the service area is located.

At the same election at which a proposition is submitted to the voters of the service area for the continuation of the community municipal corporation for an additional period of four years, the community council members of such municipal corporation shall be elected. The positions on such council shall be the same in number as the original or initial council and shall be numbered consecutively and elected at large. Declarations of candidacy and withdrawals shall be in the same manner as is provided for members of the city council or other legislative body of the city.

Upon receipt of a petition, the city clerk shall examine the signatures thereon and certify to the sufficiency thereof. No person may withdraw his name from a petition after it has been filed.

Upon receipt of a valid resolution or upon duly certifying a petition for continuation of a community municipal corporation, the city clerk with whom the resolution or petition was filed shall cause a proposition on continuation of the term of existence of the community municipal corporation to be placed on the ballot at the next city general election. No person shall be eligible to vote on such proposition at such election unless he is a qualified voter and resident of the service area.

The ballots shall contain the words "For continuation of community municipal corporation" and "Against continuation of community municipal corporation" or words equivalent thereto, and shall also contain the names of the candidates to be voted for to fill the positions on the community council. The names of all candidates to be voted upon shall be printed on the ballot alphabetically in groups under the numbered position on the council for which they are candidates.

If the results of the election as certified by the county canvassing board reveal that a majority of the votes cast are for continuation, the municipal corporation shall continue in existence for an additional period of four years, and certificates of election shall be issued to the successful candidates who shall assume office at the same time as members of the city council or other legislative body of the city. [1967 c 73 § 6.]

Chapter 35.16 REDUCTION OF CITY LIMITS

Sections

35.16.010	Petition for election.
35.16.020	Notice of election.
35.16.030	Canvassing the returns—Abstract of vote.
35.16.040	Effective date of reduction.
35.16.050	Recording of ordinance and plat on effective date of reduction.
35.16.060	Effect of exclusion as to liability for indebtedness.

Elections: Title 29 RCW.

35.16.010 Petition for election. Upon the filing of a petition praying for an election to submit the question of excluding an area described by metes and bounds or by reference to a recorded plat or government survey from the boundaries of a city or town signed by qualified voters thereof equal in number to not less than one-fifth of the number of votes cast at the last municipal election, the city or town council shall cause to be submitted the question to the voters by a special election held for that purpose. Such special election shall not be held within ninety days next preceding any general election. The petition shall set out and describe the territory to be excluded from the corporation, together with the boundaries of the said corporation as it will exist after such change is made. [1965 c 7 § 35.16.010. Prior: (i) 1895 c 93 § 1, part; RRS § 8902, part. (ii) 1895 c 93 § 4, part; RRS § 8905, part.]

Times for holding elections: Chapter 29.13 RCW.

35.16.020 Notice of election. Notice of a special corporate limit reduction election shall be published for at least four weeks prior to the election in a newspaper printed and published in the city or town. The notice shall distinctly state the proposition to be submitted, shall designate specifically the area proposed to be excluded and the boundaries of the city or town as they would be after the proposed exclusion of territory therefrom and shall require the voters to cast ballots which contain the words "For reduction of corporate limits" and "Against reduction of corporate limits" or words equivalent thereto. This notice shall be in addition to the notice required by chapter 29.27 RCW. [1965 c 7 § 35.16.020. Prior: 1895 c 92 § 1, part; RRS § 8902, part.]

35.16.030 Canvassing the returns—Abstract of vote. On the Monday next succeeding a special corporate limit reduction election, the canvassing authority shall proceed to canvass the returns thereof and if three-fifths of the votes cast favor the reduction of the corporate limits, the council by an order entered on its minutes shall cause the clerk to make and transmit to the secretary of state a certified abstract of the vote. The abstract shall show the whole number of electors voting, the number of votes cast for reduction and the number of votes cast against reduction. [1965 c 7 § 35.16.030. Prior: 1895 c 93 § 1, part; RRS § 8902, part.]

Canvassing returns, generally: Chapter 29.62 RCW.
Conduct of election—Canvass: RCW 29.13.040.

35.16.040 Effective date of reduction. Immediately after the filing of the abstract of votes with the secretary of state, the city or town council shall adopt an ordinance defining and fixing the corporate limits after excluding the area as determined by the election. The ordinance shall also describe the excluded territory by metes and bounds or by reference to a recorded plat or government survey and declare it no longer a part of the city or town. [1965 c 7 § 35.16.040. Prior: 1895 c 93 § 2; RRS § 8903.]

35.16.050 Recording of ordinance and plat on effective date of reduction. Immediately upon the ordinance defining the reduced city or town limits going into effect, a certified copy thereof together with a map showing the corporate limits as altered shall be filed and recorded in the office of the county auditor of the county in which the city or town is situated, and thereupon the boundaries shall be as set forth therein. [1965 c 7 § 35.16.050. Prior: 1895 c 93 § 3; RRS § 8904.]

35.16.060 Effect of exclusion as to liability for indebtedness. The exclusion of an area from the boundaries of a city or town shall not exempt any real property therein from taxation for the purpose of paying any indebtedness of the city or town existing at the time of its exclusion, and the interest thereon. [1965 c 7 § 35.16.060. Prior: 1895 c 93 § 4, part; RRS § 8905, part.]

Chapter 35.17

COMMISSION FORM OF GOVERNMENT

Sections	
35.17.010	Definition of commission form.
35.17.020	Elections—Terms of commissioners—Vacancies.
35.17.030	Laws applicable.
35.17.035	Third class cities, parking meter revenue for revenue bonds.
35.17.040	Offices.
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35.17.300	Legislative—Initiative—Conduct of election.
35.17.310	Legislative—Initiative—Notice of election.
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35.17.370	Organization on commission form—Eligibility—Census.
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- 35.17.410 Organization—Effect on ordinances—Boundaries—Property.
 35.17.420 Organization—Revision of appropriations.
 35.17.430 Abandonment of commission form.
 35.17.440 Abandonment—Method.
 35.17.450 Abandonment—Conduct of election—Canvass.
 35.17.460 Abandonment—Effect.

Elections: Title 29 RCW.

Population determination: Chapter 43.62 RCW.

35.17.010 Definition of commission form. The commission form of city government means a city government in which the legislative powers and duties are exercised by a commission of three, consisting of a mayor, a commissioner of finance and accounting, and a commissioner of streets and public improvements, and in which the executive and administrative powers and duties are distributed among the three departments as follows:

(1) Department of public safety of which the mayor shall be the superintendent;

(2) Department of finance and accounting of which the commissioner of finance and accounting shall be the superintendent;

(3) Department of streets and public improvements of which the commissioner of streets and public improvement shall be the superintendent. [1965 c 7 § 35.17.010. Prior: (i) 1911 c 116 § 11, part; RRS § 9100, part. (ii) 1943 c 25 § 3, part; 1911 c 116 § 12, part; Rem. Supp. 1943 § 9101, part.]

35.17.020 Elections—Terms of commissioners—Vacancies. All regular elections in cities organized under the statutory commission form of government shall be held quadrennially and, shall be held on the Tuesday following the first Monday in November in the odd-numbered years, except as provided in RCW 29.13.020 and 29.13.030. The commissioners shall be nominated and elected at large. Their terms shall be for four years and until their successors are elected and qualified. If a vacancy occurs in the commission the remaining members shall appoint a person to fill it for the unexpired term. [1965 c 7 § 35.17.020. Prior: 1963 c 200 § 12; 1959 c 86 § 2; 1955 c 55 § 9; prior: (i) 1911 c 116 § 5; RRS § 9094. (ii) 1943 c 25 § 1, part; 1911 c 116 § 3, part; Rem. Supp. 1943 § 9092, part.]

Reviser's note: RCW 29.13.030 was repealed by 1965 c 123 § 9(12); later enactment, see RCW 29.13.020.

35.17.030 Laws applicable. Cities organized under the commission form have all the powers of cities of the second class and shall be governed by the statutes applicable to cities of that class to the extent to which they are appropriate and not in conflict with provisions specifically applicable to cities organized under the commission form. [1965 c 7 § 35.17.030. Prior: (i) 1911 c 116 § 11, part; RRS § 9100, part. (ii) 1911 c 116 § 4, part; RRS § 9093, part.]

Second class cities: Chapter 35.23 RCW.

35.17.035 Third class cities, parking meter revenue for revenue bonds. See RCW 35.24.305.

35.17.040 Offices. The commission shall have and maintain an office at the city hall, or such other place as the city may provide. [1965 c 7 § 35.17.040. Prior: 1955 c 309 § 3; prior: 1943 c 25 § 4, part; 1911 c 116 § 14, part; Rem. Supp. 1943 § 9103, part.]

35.17.050 Meetings. Regular meetings of the commission shall be held on the second Monday after the election of the commissioners and thereafter at least once each week on a day to be fixed by ordinance. Special meetings may be called by the mayor or two commissioners. All meetings of the commission shall be open to the public. [1965 c 7 § 35.17.050. Prior: 1911 c 116 § 15, part; RRS § 9104, part.]

35.17.060 President. The mayor shall be president of the commission. He shall preside at its meetings when present and shall oversee all departments and recommend to the commission, action on all matters requiring attention in any department. [1965 c 7 § 35.17.060. Prior: 1911 c 116 § 15, part; RRS § 9104, part.]

35.17.070 Vice president. The commissioner of finance and accounting shall be vice president of the commission. In the absence or inability of the mayor, he shall perform the duties of president. [1965 c 7 § 35.17.070. Prior: 1911 c 116 § 15, part; RRS § 9104, part.]

35.17.080 Employees of commission. The commission shall appoint by a majority vote a city clerk and such other officers and employees as the commission may by ordinance provide. Any officer or employee appointed by the commission may be discharged at any time by vote of a majority of the members of the commission. Any commissioner may perform any duties pertaining to his department but without additional compensation therefor. [1965 c 7 § 35.17.080. Prior: 1943 c 25 § 3, part; 1911 c 116 § 12, part; Rem. Supp. 1943 § 9101, part.]

35.17.090 Distribution of powers—Assignment of duties. The commission by ordinance shall determine what powers and duties are to be performed in each department, shall prescribe the powers and duties of the various officers and employees and make such rules and regulations for the efficient and economical conduct of the business of the city as it may deem necessary and proper. The commission may assign particular officers and employees to one or more departments and may require an officer or employee to perform duties in two or more departments. [1965 c 7 § 35.17.090. Prior: 1911 c 116 § 11, part; RRS § 9100, part.]

35.17.100 Bonds of commissioners and employees. Every member of the city commission, before qualifying, shall give a good and sufficient bond to the city in a sum equivalent to five times the amount of his annual salary, conditioned for the faithful performance of the duties of his office. The bonds must be approved by a judge of the superior court for the county in which the

city is located and filed with the clerk thereof. The commission, by resolution, may require any of its appointees to give bond to be fixed and approved by the commission and filed with the mayor. [1965 c 7 § 35-17.100. Prior: 1911 c 116 § 6; RRS § 9095.]

35.17.105 Clerk may take acknowledgments. The clerk or deputy clerk of any city having a commission form of government shall, without charge, take acknowledgments and administer oaths required by law on all claims and demands against the city. [1965 c 7 § 35.17.105.]

35.17.108 Salaries of mayor and commissioners. The annual salaries of the mayor and the commissioners of any city operating under a commission form of government shall be as fixed by charter or ordinance of said city. The power and authority conferred by this section shall be construed as in addition and supplemental to powers or authority conferred by any other law, and nothing contained herein shall be construed as limiting any other powers or authority of any such city. [1967 c 100 § 1.]

35.17.120 Officers and employees—Salaries and wages. All appointive officers and employees shall receive such compensation as the commission shall fix by ordinance, payable monthly or at such shorter periods as the commission may determine. [1965 c 7 § 35.17-120. Prior: 1943 c 25 § 4, part; 1911 c 116 § 14, part; Rem. Supp. 1943 § 9103, part.]

35.17.130 Officers and employees—Creation—Removal—Changes in compensation. The commission shall have power from time to time to create, fill and discontinue offices and employments other than those herein prescribed, according to their judgment of the needs of the city; and may, by majority vote of all the members, remove any such officer or employees, except as otherwise provided for in this chapter; and may by resolution, or otherwise, prescribe, limit or change the compensation of such officers or employees. [1965 c 7 § 35.17.130. Prior: 1911 c 116 § 13; RRS § 9102.]

35.17.150 Officers and employees—Passes, free services prohibited, exceptions—Penalty. No officer or employee, elected or appointed, shall receive from any enterprise operating under a public franchise any frank, free ticket, or free service or receive any service upon terms more favorable than are granted to the public generally: *Provided*, That the provisions of this section shall not apply to free transportation furnished to policemen and firemen in uniform nor to free service to city officials provided for in the franchise itself.

Any violation of the provisions of this section shall be a misdemeanor. [1965 c 7 § 35.17.150. Prior: 1961 c 268 § 11; prior: 1911 c 116 § 17, part; RRS § 9106, part.]

35.17.160 Officers and employees—Political activity forbidden. Any appointive officer or employee of the city who in any manner exerts his influence to induce

other officers or employees of the city to favor any particular candidate for any city office or who contributes anything in any way to any person for election purposes shall be discharged by the commission. [1965 c 7 § 35-17.160. Prior: 1961 c 268 § 12; prior: 1911 c 116 § 17, part; RRS § 9106, part.]

Code of ethics for public officers and employees: Chapters 42.22, 42-23 RCW.

35.17.170 Financial statements—Monthly—Annual. The commission shall each month print in pamphlet form a detailed itemized statement of all receipts and expenses of the city and a summary of its proceedings during the preceding month and furnish copies thereof to the state library, the city library, the newspapers of the city, and to persons who apply therefor at the office of the city clerk. At the end of each year the commission shall cause a complete examination of all the books and accounts of the city to be made by competent accountants and shall publish the result of such examination to be made in the manner above provided for publication of statements of monthly expenditures. [1965 c 7 § 35.17.170. Prior: 1911 c 116 § 18; RRS § 9107.]

35.17.180 Legislative power—How exercised. Each member of the commission shall have the right to vote on all questions coming before the commission. Two members of the commission shall constitute a quorum and the affirmative vote of at least two members shall be necessary to adopt any motion, resolution, ordinance, or course of action.

Every measure shall be reduced to writing and read before the vote is taken and upon every vote the yeas and nays shall be called and recorded. [1965 c 7 § 35-17.180. Prior: 1911 c 116 § 10, part; RRS § 9099, part.]

35.17.190 Legislative ordinances and resolutions. Every resolution and ordinance adopted by the commission shall be signed by the mayor or by two members of the commission and filed and recorded within five days of its passage. The mayor shall have no veto power. [1965 c 7 § 35.17.190. Prior: 1911 c 116 § 10, part; RRS § 9099, part.]

35.17.200 Legislative—Appropriations of money. No money shall be appropriated except by ordinance and every such ordinance complete in the form in which it is finally passed shall remain on file with the city clerk for public inspection at least one week before final passage. [1965 c 7 § 35.17.200. Prior: 1911 c 116 § 16, part; RRS § 9105, part.]

35.17.210 Legislative—Street improvements. Every ordinance or resolution ordering any street improvement or sewer complete in the form in which it is finally passed shall remain on file with the city clerk for public inspection at least one week before final passage. [1965 c 7 § 35.17.210. Prior: 1911 c 116 § 16, part; RRS § 9105, part.]

35.17.220 Legislative—Franchises—Referendum. No franchise or right to occupy or use the streets, highways, bridges or other public places shall be granted, renewed, or extended except by ordinance and every such ordinance complete in the form in which it is finally passed shall remain on file with the city clerk for at least one week before final passage and if the franchise or grant is for interurban or street railways, gas or water works, electric light or power plants, heating plants, telegraph or telephone systems or other public service utilities, the ordinance must be submitted to a vote of the people at a general or special election and approved by a majority of those voting thereon. [1965 c 7 § 35.17.220. Prior: 1911 c 116 § 16, part; RRS § 9105, part.]

Times for holding elections: Chapter 29.13 RCW.

35.17.230 Legislative—Ordinances—Time of going into effect. Ordinances shall not go into effect before thirty days from the time of final passage and are subject to referendum during the interim except:

- (1) Ordinances initiated by petition;
- (2) Ordinances necessary for immediate preservation of public peace, health, and safety which contain a statement of urgency and are passed by unanimous vote of all the commissioners;
- (3) Ordinances providing for local improvement districts. [1965 c 7 § 35.17.230. Prior: (i) 1911 c 116 § 22, part; RRS § 9111, part. (ii) 1911 c 116 § 21, part; RRS § 9110, part.]

35.17.240 Legislative—Referendum—Filing suspends ordinance. Upon the filing of a referendum petition praying therefor, the commission shall reconsider an ordinance subject to referendum and upon reconsideration shall defeat it in its entirety or shall submit it to a vote of the people. The operation of an ordinance so protested against shall be suspended until the referendum petition is finally found insufficient or until the ordinance protested against has received a majority of the votes cast thereon at the election. [1965 c 7 § 35.17.240. Prior: 1911 c 116 § 22, part; RRS § 9111, part.]

35.17.250 Legislative—Referendum—Petitions and conduct of elections. All provisions applicable to the character, form, and number of signatures required for an initiative petition, to the examination and certification thereof, and to the submission to the vote of the people of the ordinance proposed thereby, shall apply to a referendum petition and to the ordinance sought to be defeated thereby. [1965 c 7 § 35.17.250. Prior: 1911 c 116 § 22, part; RRS § 9111, part.]

35.17.260 Legislative—Ordinances by initiative petition. Ordinances may be initiated by petition of electors of the city filed with the commission. If the petition accompanying the proposed ordinance is signed by the registered voters in the city equal in number to twenty-five percent of the votes cast for all candidates for mayor at the last preceding city election, and if it

contains a request that, unless passed by the commission, the ordinance be submitted to a vote of the people, the commission shall either:

- (1) Pass the proposed ordinance without alteration within twenty days after the city clerk's certificate that the number of signatures on the petition are sufficient; or
- (2) Immediately after the clerk's certificate of sufficiency is attached to the petition, cause to be called a special election to be held not less than thirty nor more than sixty days thereafter, for submission of the proposed ordinance without alteration, to a vote of the people unless a general election will occur within ninety days, in which event submission must be made thereat. [1965 c 7 § 35.17.260. Prior: 1911 c 116 § 21, part; RRS § 9110, part.]

35.17.270 Legislative—Initiative petition—Requirements. Every signer to a petition submitting a proposed ordinance to the commission shall add to his signature his place of residence giving street and number. The signatures need not all be appended to one paper, but one of the signers on each paper must attach thereto an affidavit stating the number of signatures thereon, that each signature thereon is a genuine signature of the person whose name it purports to be and that the statements therein made are true as he believes. [1965 c 7 § 35.17.270. Prior: (i) 1911 c 116 § 21, part; RRS § 9110, part. (ii) 1911 c 116 § 20, part; RRS § 9109, part. (iii) 1911 c 116 § 24; RRS § 9113.]

35.17.280 Legislative—Initiative petition—Checking by clerk. Within ten days from the filing of a petition submitting a proposed ordinance the city clerk shall ascertain and append to the petition his certificate stating whether or not it is signed by a sufficient number of registered voters, using the registration records and returns of the preceding municipal election for his sources of information, and the commission shall allow him extra help for that purpose, if necessary. If the signatures are found by the clerk to be insufficient the petition may be amended in that respect within ten days from the date of the certificate. Within ten days after submission of the amended petition the clerk shall make an examination thereof and append his certificate thereto in the same manner as before. If the second certificate shall also show the number of signatures to be insufficient, the petition shall be returned to the person filing it. [1965 c 7 § 35.17.280. Prior: (i) 1911 c 116 § 20, part; RRS § 9109, part. (ii) 1911 c 116 § 21, part; RRS § 9110, part.]

35.17.290 Legislative—Initiative petition—Appeal to court. If the clerk finds the petition insufficient or if the commission refuses either to pass an initiative ordinance or order an election thereon, any taxpayer may commence an action in the superior court against the city and procure a decree ordering an election to be held in the city for the purpose of voting upon the proposed ordinance if the court finds the petition to be sufficient. [1965 c 7 § 35.17.290. Prior: (i) 1911 c 116 §

20, part; RRS § 9109, part. (ii) 1911 c 116 § 21, part; RRS § 9110, part.]

35.17.300 Legislative—Initiative—Conduct of election. Publication of notice, the election, the canvass of the returns and declaration of the results, shall be conducted in all respects as are other city elections. Any number of proposed ordinances may be voted on at the same election, but there shall not be more than one special election for that purpose during any one six-months period. [1965 c 7 § 35.17.300. Prior: (i) 1911 c 116 § 20, part; RRS § 9109, part. (ii) 1911 c 116 § 21, part; RRS § 9110, part.]

*Canvassing returns, generally: Chapter 29.62 RCW.
Conduct of elections—Canvass: RCW 29.13.040.*

35.17.310 Legislative—Initiative—Notice of election. The city clerk shall cause any ordinance or proposition required to be submitted to the voters at an election to be published once in each of the daily newspapers in the city not less than five nor more than twenty days before the election, or if no daily newspaper is published in the city, publication shall be made in each of the weekly newspapers published therein. This publication shall be in addition to the notice required in chapter 29.27 RCW. [1965 c 7 § 35.17.310. Prior: 1911 c 116 § 21, part; RRS § 9110, part.]

35.17.320 Legislative—Initiative—Ballots. The ballots used for voting upon a proposed ordinance shall be similar to those used at a general municipal election in that city and shall contain the words "for the ordinance" (stating the nature of the proposed ordinance) and "against the ordinance" (stating the nature of the proposed ordinance). [1965 c 7 § 35.17.320. Prior: 1911 c 116 § 21, part; RRS § 9110, part.]

35.17.330 Legislative—Initiative—Effective date—Record. If the number of votes cast thereon favor the proposed ordinance, it shall become effective immediately and shall be made a part of the record of ordinances of the city. [1965 c 7 § 35.17.330. Prior: 1911 c 116 § 21, part; RRS § 9110, part.]

35.17.340 Legislative—Initiative—Repeal or amendment. Upon the adoption of an ordinance initiated by petition, the city clerk shall write on the margin of the record thereof "ordinance by petition No. _____," or "ordinance by vote of the people," and it cannot be repealed or amended except by a vote of the people. [1965 c 7 § 35.17.340. Prior: 1911 c 116 § 21, part; RRS § 9110, part.]

35.17.350 Legislative—Initiative—Repeal or amendment—Method. The commission may by means of an ordinance submit a proposition for the repeal or amendment of an ordinance, initiated by petition, by submitting it to a vote of the people at any general election and if a majority of the votes cast upon the proposition favor it, the ordinance shall be repealed or amended accordingly.

A proposition of repeal or amendment must be published before the election thereon as is an ordinance initiated by petition when submitted to election. [1965 c 7 § 35.17.350. Prior: 1911 c 116 § 21, part; RRS § 9110, part.]

35.17.360 Legislative—Initiative—Repeal or amendment—Record. Upon the adoption of a proposition to repeal or amend an ordinance initiated by petition, the city clerk shall write upon the margin of the record of the ordinance "repealed (or amended) by ordinance No. _____," or "repealed (or amended) by vote of the people." [1965 c 7 § 35.17.360. Prior: 1911 c 116 § 21, part; RRS § 9110, part.]

35.17.370 Organization on commission form—Eligibility—Census. Any city having a population of two thousand and less than thirty thousand may organize as a city under the commission form of government. The requisite population shall be determined by the last preceding state or federal census or the council may cause a census to be taken by one or more suitable persons, in which the full name of each person in the city shall be plainly written, the names alphabetically arranged and regularly numbered in a complete series, verified before an officer authorized to administer oaths and filed with the city clerk. [1965 c 7 § 35.17.370. Prior: 1927 c 210 § 1; 1911 c 116 § 1; RRS § 9090.]

Census to be conducted in decennial periods: State Constitution Art. 2 § 3.

Determination of population: Chapter 43.62 RCW.

35.17.380 Organization—Petition. Upon petition of electors in any city equal in number to twenty-five percent of the votes cast for all candidates for mayor at the last preceding city election therein, the mayor by proclamation shall cause to be submitted the question of organizing the city under the commission form of government at a special election at a time specified therein and within sixty days after the filing of the petition. If the plan is not adopted at the special election called, it shall not be resubmitted to the voters of the city for adoption within two years thereafter. [1965 c 7 § 35.17.380. Prior: 1911 c 116 § 2, part; RRS § 9091, part.]

35.17.390 Organization—Ballots. The proposition on the ballot shall be: "Shall the proposition to organize the city of (name of city) under the commission form of government be adopted?" followed by the words: "For organization as a city under commission form" and "against organization as a city under commission form." The election shall be conducted, the vote canvassed, and the result declared in the same manner as provided by law in respect to other city elections. If a majority of the votes cast are in favor thereof the city shall proceed to elect a mayor and two commissioners. [1965 c 7 § 35.17.390. Prior: 1911 c 116 § 2, part; RRS § 9091, part.]

*Canvassing returns, generally: Chapter 29.62 RCW.
Conduct of elections—Canvass: RCW 29.13.040.
Notice of election: RCW 29.27.080.*

35.17.400 Organization—Election of new officers—Term. The first election of commissioners shall be held within sixty days after the adoption of the proposition to organize under the commission form, and the commission first elected shall commence to serve as soon as they have been elected and have qualified and shall continue to serve until their successors have been elected and qualified. [1965 c 7 § 35.17.400. Prior: 1963 c 200 § 13; 1955 c 55 § 10; prior: 1943 c 25 § 1, part; 1911 c 116 § 3, part; Rem. Supp. 1943 § 9092, part.]

35.17.410 Organization—Effect on ordinances—Boundaries—Property. All bylaws, ordinances and resolutions in force when a city organizes under the commission form shall remain in force until amended or repealed.

The boundaries of a city reorganized under the commission form shall not be changed thereby.

All rights and property vested in the city before reorganization under the commission form shall vest in the city as reorganized and no right or liability either in favor of or against it, existing at the time and no suit or prosecution shall be affected by the change. [1965 c 7 § 35.17.410. Prior: 1911 c 116 § 4, part; RRS § 9093, part.]

35.17.420 Organization—Revision of appropriations. If, at the beginning of the term of office of the first commission elected in a city organized under the commission form, the appropriations for the expenditures of the city for the current fiscal year have been made, the commission, by ordinance, may revise them. [1965 c 7 § 35.17.420. Prior: 1911 c 116 § 19; RRS § 9108.]

35.17.430 Abandonment of commission form. Any city which has operated under the commission form for more than six years may again reorganize as a non-commission city without changing its classification unless it desires to do so. [1965 ex.s. c 47 § 3; 1965 c 7 § 35.17.430. Prior: 1911 c 116 § 23, part; RRS § 9112, part.]

35.17.440 Abandonment—Method. Upon the filing of a petition praying therefor, signed by not less than twenty-five percent of the registered voters resident in the city, a special election shall be called at which the following proposition only shall be submitted: "Shall the city of (name of city) abandon its organization as a city under the commission form and become a city under the general laws governing cities of like population?" [1965 c 7 § 35.17.440. Prior: 1911 c 116 § 23, part; RRS § 9112, part.]

35.17.450 Abandonment—Conduct of election—Canvass. The sufficiency of the petition for the abandonment of the commission form of city government shall be determined, the election ordered and conducted, the returns canvassed and the results declared as required by the provisions applicable to the proceedings for the enactment of an ordinance by initiative petition

to the extent to which they are appropriate. [1965 c 7 § 35.17.450. Prior: 1911 c 116 § 23, part; RRS § 9112, part.]

35.17.460 Abandonment—Effect. If a majority of the votes cast upon the proposition of abandoning the commission form of city government favor the proposition, the city shall be reorganized under general laws immediately upon the first election of city officers, which shall be held on the date of the next general city election of cities of its class. The change in form of government shall not affect the property, rights, or liabilities of the city. [1965 c 7 § 35.17.460. Prior: 1911 c 116 § 23, part; RRS § 9112, part.]

Chapter 35.18 COUNCIL-MANAGER PLAN

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Elections: Title 29 RCW.

35.18.010 The council-manager plan. Under the council-manager plan of city government, the councilmen shall be the only elective officials. The council shall appoint an officer whose title shall be "city manager" who shall be the chief executive officer and head of the administrative branch of city or town government. The city manager shall be responsible to the council for the proper administration of all affairs of the city or town. [1965 c 7 § 35.18.010. Prior: 1955 c 337 § 2; prior: (i) 1943 c 271 § 8, part; Rem. Supp. 1943 § 9198-17, part. (ii) 1943 c 271 § 12, part; Rem. Supp. 1943 § 9198-21,

part. (iii) 1949 c 84 § 2, part; 1943 c 271 § 17, part; Rem. Supp. 1949 § 9198-26, part.]

35.18.020 Number of councilmen—Terms—Vacancies. The number of councilmen shall be in proportion to the population of the city or town indicated in its petition for incorporation and thereafter shall be in proportion to its population as last determined by the state census board as follows:

(1) A city or town having not more than two thousand inhabitants, five councilmen;

(2) A city having more than two thousand, seven councilmen.

All councilmen shall be elected at large or from such wards or districts as may be established by ordinance, and shall serve for a term of four years and until their successors are elected and qualified: *Provided, however,* That at the first election, the following shall apply:

(a) At the first election, one councilman shall be nominated and elected from each ward or such other existing district of said city as may have been established for the election of members of the legislative body of the city and the remaining councilmen shall be elected at large; but if there are no such wards or districts in the city, or at an initial election for the incorporation of a community, the councilmen shall be elected at large.

(b) In cities electing five councilmen, the candidates having the three highest number of votes shall be elected for a four year term and the other two for a two year term and until their successors are elected and qualified.

(c) In cities electing seven councilmen, the candidates having the four highest number of votes shall be elected for a four year term and the other three for a two year term and until their successors are elected and qualified.

(d) In determining the candidates receiving the highest number of votes, only the candidate receiving the highest number of votes in each ward, as well as the councilman-at-large or councilmen-at-large, are to be considered. When a municipality has qualified for an increase in the number of councilmen from five to seven by virtue of the next succeeding state census board population determination after the majority of the voters thereof have approved operation under the council-manager plan, at the first election when two additional councilmen are to be elected, one of the two additional councilmen receiving the highest number of votes shall be elected for a four year term and the other additional councilman shall be elected for a two year term.

If a vacancy in the council occurs, the remaining members shall appoint a person to fill such office only until the next regular general municipal election at which a person shall be elected to serve for the remainder of the unexpired term.

In the event such population determination as provided in this section requires an increase in the number of councilmen, the city or town council shall fill the additional councilmanic positions by appointment not later than thirty days following the release of said population determination, and the appointee shall hold office only until the next regular city or town election at

which a person shall be elected to serve for the remainder of the unexpired term: *Provided,* That should said population determination result in a decrease in the number of councilmen, said decrease shall not take effect until the next regular city or town election. [1965 c 7 § 35.18.020. Prior: 1959 c 76 § 1; 1955 c 337 § 3; prior: (i) 1943 c 271 § 6; Rem. Supp. 1943 § 9198-15. (ii) 1943 c 271 § 4, part; Rem. Supp. 1943 § 9198-13, part.]

Times for holding elections: Chapter 29.13 RCW.

35.18.030 Laws applicable to council-manager cities—Civil service. A city or town organized under the council-manager plan shall have all the powers which cities of its class have and shall be governed by the statutes applicable to such cities to the extent to which they are appropriate and not in conflict with the provisions specifically applicable to cities organized under the council-manager plan.

Any city adopting a council-manager form of government may adopt any system of civil service which would be available to it under any other form of city government. Any state law relative to civil service in cities of the class of a city under the council-manager type of government shall be applicable thereto. [1965 c 7 § 35.18.030. Prior: (i) 1949 c 84 § 4; Rem. Supp. 1949 § 9198-33. (ii) 1943 c 271 § 10, part; Rem. Supp. 1943 § 9198-19, part. (iii) 1943 c 271 § 21; Rem. Supp. 1943 § 9198-30.]

35.18.035 Third class cities, parking meter revenue for revenue bonds. See RCW 35.24.305.

35.18.040 City manager—Qualifications. The city manager need not be a resident. He shall be chosen by the council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office. No person elected to membership on the council shall be eligible for appointment as city manager until one year has elapsed following the expiration of the term for which he was elected. [1965 c 7 § 35.18.040. Prior: 1955 c 337 § 4; prior: (i) 1949 c 84 § 2, part; 1943 c 271 § 17, part; Rem. Supp. 1949 § 9198-26, part. (ii) 1943 c 271 § 12, part; Rem. Supp. 1943 § 9198-21, part.]

35.18.050 City manager—Bond and oath. Before entering upon the duties of his office the city manager shall take the official oath for the support of the government and the faithful performance of his duties and shall execute and file with the clerk of the council a bond in favor of the city or town in such sum as may be fixed by the council. [1965 c 7 § 35.18.050. Prior: 1955 c 337 § 5; prior: 1943 c 271 § 12, part; Rem. Supp. 1943 § 9198-21, part.]

35.18.060 City manager—Authority. The powers and duties of the city manager shall be:

(1) To have general supervision over the administrative affairs of the municipality;

(2) To appoint and remove at any time all department heads, officers, and employees of the city or town,

except members of the council, and subject to the provisions of any applicable law, rule, or regulation relating to civil service: *Provided*, That the council may provide for the appointment by the mayor, subject to confirmation by the council, of the city planning commission, and other advisory citizens' committees, commissions and boards advisory to the city council: *Provided further*, That the city manager shall appoint the police judge to a term of four years, subject to confirmation by the council. The police judge may be removed only on conviction of malfeasance or misconduct in office, or because of physical or mental disability rendering him incapable of performing the duties of his office. The council may cause an audit to be made of any department or office of the city or town government and may select the persons to make it, without the advice or consent of the city manager;

(3) To attend all meetings of the council at which his attendance may be required by that body;

(4) To see that all laws and ordinances are faithfully executed, subject to the authority which the council may grant the mayor to maintain law and order in times of emergency;

(5) To recommend for adoption by the council such measures as he may deem necessary or expedient;

(6) To prepare and submit to the council such reports as may be required by that body or as he may deem it advisable to submit;

(7) To keep the council fully advised of the financial condition of the city or town and its future needs;

(8) To prepare and submit to the council a tentative budget for the fiscal year;

(9) To perform such other duties as the council may determine by ordinance or resolution. [1965 ex.s. c 116 § 1; 1965 c 7 § 35.18.060. Prior: 1955 c 337 § 6; prior: (i) 1949 c 84 § 2, part; 1943 c 271 § 17, part; Rem. Supp. 1949 § 9198-26, part. (ii) 1949 c 84 § 1; 1943 c 271 § 15; Rem. Supp. 1949 § 9198-24. (iii) 1949 c 84 § 3, part; 1943 c 271 § 18, part; Rem. Supp. 1949 § 9198-27, part.]

35.18.070 City manager—May serve two or more cities. Whether the city manager shall devote his full time to the affairs of one city or town shall be determined by the council. A city manager may serve two or more cities or towns in that capacity at the same time. [1965 c 7 § 35.18.070. Prior: 1943 c 271 § 13; Rem. Supp. 1943 § 9198-22.]

35.18.080 City manager—Creation of departments. On recommendation of the city manager, the council may create such departments, offices and employments as may be found necessary and may determine the powers and duties of each department or office. [1965 c 7 § 35.18.080. Prior: 1943 c 271 § 16; Rem. Supp. 1943 § 9198-25.]

35.18.090 City manager—Department heads—Authority. The city manager may authorize the head of a department or office responsible to him to appoint and remove subordinates in such department or office. Any officer or employee who may be appointed by the

city manager, or by the head of a department or office, except one who holds his position subject to civil service, may be removed by the manager or other such appointing officer at any time. Subject to the provisions of RCW 35.18.060, the decision of the manager or other appointing officer, shall be final and there shall be no appeal therefrom to any other office, body, or court whatsoever. [1965 c 7 § 35.18.090. Prior: 1955 c 337 § 7; prior: (i) 1949 c 84 § 2, part; 1943 c 271 § 17, part; Rem. Supp. 1949 § 9198-26, part. (ii) 1949 c 84 § 3, part; 1943 c 271 § 18, part; Rem. Supp. 1949 § 9198-27, part.]

35.18.100 City manager—Appointment of subordinates—Qualifications—Terms. Appointments made by or under the authority of the city manager shall be on the basis of executive and administrative ability and of the training and experience of the appointees in the work which they are to perform. Residence within the city or town shall not be a requirement. All such appointments shall be without definite term. [1965 c 7 § 35.18.100. Prior: 1955 c 337 § 8; prior: 1949 c 84 § 2, part; 1943 c 271 § 17, part; Rem. Supp. 1949 § 9198-26, part.]

35.18.110 City manager—Interference by council members. Neither the council, nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office by the city manager or any of his subordinates. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the manager and neither the council nor any committee or member thereof shall give orders to any subordinate of the city manager, either publicly or privately: *Provided, however*, That nothing herein shall be construed to prohibit the council, while in open session, from fully and freely discussing with the city manager anything pertaining to appointments and removals of city officers and employees and city affairs. [1965 c 7 § 35.18.110. Prior: 1955 c 337 § 14; prior: 1943 c 271 § 19, part; Rem. Supp. 1943 § 9198-28, part.]

35.18.120 City manager—Removal—Resolution and notice. The city manager shall be appointed for an indefinite term and may be removed by a majority vote of the council.

At least thirty days before the effective date of his removal, the city manager must be furnished with a formal statement in the form of a resolution passed by a majority vote of the city council stating the council's intention to remove him and the reasons therefor. Upon passage of the resolution stating the council's intention to remove the manager, the council by a similar vote may suspend him from duty, but his pay shall continue until his removal becomes effective. [1965 c 7 § 35.18.120. Prior: 1955 c 337 § 17; prior: 1943 c 271 § 14, part; Rem. Supp. 1943 § 9198-23, part.]

35.18.130 City manager—Removal—Reply and hearing. The city manager may, within thirty days from the date of service upon him of a copy thereof, reply in

writing to the resolution stating the council's intention to remove him. In the event no reply is timely filed, the resolution shall upon the thirty-first day from the date of such service, constitute the final resolution removing the manager, and his services shall terminate upon that day. If a reply shall be timely filed with its clerk, the council shall fix a time for a public hearing upon the question of the manager's removal and a final resolution removing the manager shall not be adopted until a public hearing has been had. The action of the council in removing the manager shall be final. [1965 c 7 § 35.18.130. Prior: 1955 c 337 § 18; prior: 1943 c 271 § 14, part; Rem. Supp. 1943 § 9198-23, part.]

35.18.140 City manager—Substitute. The council may designate a qualified administrative officer of the city or town to perform the duties of manager:

(1) Upon the adoption of the council-manager plan, pending the selection and appointment of a manager; or

(2) Upon the termination of the services of a manager, pending the selection and appointment of a new manager; or

(3) During the absence, disability, or suspension of the manager. [1965 c 7 § 35.18.140. Prior: 1955 c 337 § 19; prior: 1943 c 271 § 14, part; Rem. Supp. 1943 § 9198-23, part.]

35.18.150 Council—Eligibility. Only a qualified elector of the city or town may be a member of the council and upon ceasing to be such, or upon being convicted of a crime involving moral turpitude, or of violating the provisions of RCW 35.18.110, he shall immediately forfeit his office. [1965 c 7 § 35.18.150. Prior: 1955 c 337 § 15; prior: (i) 1943 c 271 § 19, part; Rem. Supp. 1943 § 9198-28, part. (ii) 1943 c 271 § 9, part; Rem. Supp. 1943 § 9198-18, part.]

35.18.160 Council—Authority. The council shall have all of the powers which inhere in the city or town not reserved to the people or vested in the city manager, including but not restricted to the authority to adopt ordinances and resolutions. [1965 c 7 § 35.18.160. Prior: (i) 1943 c 271 § 9, part; Rem. Supp. 1943 § 9198-18, part. (ii) 1943 c 271 § 10, part; Rem. Supp. 1943 § 9198-19, part.]

35.18.170 Council meetings. The council shall meet at the times and places fixed by ordinance but must hold at least one regular meeting each month. The clerk shall call special meetings of the council upon request of the mayor or any two members. At all meetings of the city council, a majority of the councilmen shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. Requests for special meetings shall state the subject to be considered and no other subject shall be considered at a special meeting.

All meetings of the council and of committees thereof shall be open to the public and the rules of the council

shall provide that citizens of the city or town shall have a reasonable opportunity to be heard at any meetings in regard to any matter being considered thereat. [1965 c 7 § 35.18.170. Prior: 1955 c 337 § 20; prior: 1943 c 271 § 7; Rem. Supp. 1943 § 9198-16.]

35.18.180 Council—Ordinances—Recording. No ordinance, resolution, or order, including those granting a franchise or valuable privilege, shall have any validity or effect unless passed by the affirmative vote of at least a majority of the members of the city or town council. Every ordinance or resolution adopted shall be signed by the mayor or two members, filed with the clerk within two days and by him recorded. [1965 c 7 § 35.18.180. Prior: 1959 c 76 § 3; 1943 c 271 § 11; Rem. Supp. 1943 § 9198-20.]

35.18.190 Mayor—Election—Vacancy. Biennially at the first meeting of the new council the members thereof shall choose a chairman from among their number who shall have the title of mayor. In addition to the powers conferred upon him as mayor, he shall continue to have all the rights, privileges and immunities of a member of the council. If a vacancy occurs in the office of mayor, the members of the council at their next regular meeting shall select a mayor from among their number for the unexpired term. [1969 c 101 § 1; 1965 c 7 § 35.18.190. Prior: 1955 c 337 § 9; prior: 1943 c 271 § 8, part; Rem. Supp. 1943 § 9198-17, part.]

35.18.200 Mayor—Duties. The mayor shall preside at meetings of the council, and be recognized as the head of the city or town for all ceremonial purposes and by the governor for purposes of military law.

He shall have no regular administrative duties, but in time of public danger or emergency, if so authorized by the council, shall take command of the police, maintain law, and enforce order. [1965 c 7 § 35.18.200. Prior: 1955 c 337 § 10; prior: 1943 c 271 § 8, part; Rem. Supp. 1943 § 9198-17, part.]

35.18.210 Mayor pro tempore. In case of the mayor's absence, a mayor pro tempore selected by the members of the council from among their number shall act as mayor during the continuance of the absence. [1969 c 101 § 2; 1965 c 7 § 35.18.210. Prior: 1955 c 337 § 11; prior: 1943 c 271 § 8, part; Rem. Supp. 1943 § 9198-17, part.]

35.18.220 Salaries. Each member of the council shall receive such compensation as may be provided by law to cities of the class to which it belongs. The city manager and other officers or assistants shall receive such salary or compensation as the council shall fix by ordinance and shall be payable at such times as the council may determine. [1965 c 7 § 35.18.220. Prior: (i) 1943 c 271 § 9, part; Rem. Supp. 1943 § 9198-18, part. (ii) 1943 c 271 § 20; Rem. Supp. 1943 § 9198-29.]

35.18.230 Organization on council-manager plan—Eligibility. Any city or town having a population of less than thirty thousand may be organized as a council-

manager city or town under this chapter. [1965 c 7 § 35.18.230. Prior: 1959 c 76 § 2; 1943 c 271 § 1; Rem. Supp. 1943 § 9198-10.]

35.18.240 Organization—Petition. Petitions to reorganize a city or town on the council-manager plan must be signed by registered voters resident therein equal in number to at least twenty percent of the votes cast for all candidates for mayor at the last preceding municipal election. In addition to the signature and residence addresses of the petitioners thereon, a petition must contain an affidavit stating the number of signers thereon at the time the affidavit is made.

Petitions containing the required number of signatures shall be accepted by the city or town clerk as prima facie valid until their invalidity has been proved.

A variation on such petitions between the signatures on the petition and that on the voter's permanent registration caused by the substitution of initials instead of the first or middle names or both shall not invalidate the signature on the petition if the surname and handwriting are the same. Signatures, including the original, of any voter who has signed such petitions two or more times shall be stricken. [1965 c 7 § 35.18.240. Prior: 1955 c 337 § 22; prior: (i) 1943 c 271 § 2, part; Rem. Supp. 1943 § 9198-11, part. (ii) 1943 c 271 § 5; Rem. Supp. 1943 § 9198-14.]

35.18.250 Organization—Election procedure. Upon the filing of a petition for the adoption of the council-manager plan of government, or upon resolution of the council to that effect, the mayor, only after the petition has been found to be valid, by proclamation issued within ten days after the filing of the petition or the resolution with the clerk, shall cause the question to be submitted at a special election to be held at a time specified in the proclamation, which shall be as soon as possible after the sufficiency of the petition has been determined or after the said resolution of the council has been enacted, but in no event shall said special election be held during the ninety day period immediately preceding any regular municipal election therein. All acts necessary to hold this election, including legal notice, jurisdiction and canvassing of returns, shall be conducted in accordance with existing law. [1965 c 7 § 35.18.250. Prior: 1959 c 76 § 4; 1955 c 337 § 23; prior: 1943 c 271 § 2, part; Rem. Supp. 1943 § 9198-11, part.]

Canvassing returns, generally: Chapter 29.62 RCW.

Conduct of elections—Canvass: RCW 29.13.040.

Notice of election: RCW 29.27.080.

Times for holding elections: Chapter 29.13 RCW.

35.18.260 Organization—Ballots. At the election for organization on the council-manager plan, the proposition on the ballots shall be: "Shall the city (or town) of ----- adopt the council-manager plan of municipal government?" followed by the words:

"For organization as a council-manager city or town -----"

"Against organization as a council-manager city or town -----"

The election shall be conducted, the vote canvassed and the results declared in the same manner as provided by law in respect to other municipal elections. [1965 c 7 § 35.18.260. Prior: 1943 c 271 § 3; Rem. Supp. 1943 § 9198-12.]

35.18.270 Organization—Election of council, procedure. If the majority of the votes cast at a special election for organization on the council-manager plan favor the plan, the city or town at its next regular election shall elect the council required under the council-manager plan in number according to the population of the municipality: *Provided*, That if the date of the next municipal general election is more than one year from the date of the election approving the council-manager plan, a special election shall be held to elect the councilmen; the newly elected councilmen shall assume office immediately following the canvass of votes as certified and shall remain in office until their successors are elected and qualified. Councilmen shall take office at the time provided by general law. Declarations of candidacy for city or town elective positions under the council-manager plan for cities and towns shall be filed with the city or town clerk as the case may be not more than forty-five nor less than thirty days prior to said special election to elect the members of the city council. Any candidate may file a written declaration of withdrawal at any time within five days after the last day for filing a declaration of candidacy. All names of candidates to be voted upon shall be printed upon the ballot alphabetically in group under the designation of the title of the offices for which they are candidates. There shall be no rotation of names. [1965 c 7 § 35.18.270. Prior: 1959 c 76 § 5; 1955 c 337 § 12; prior: (i) 1943 c 271 § 8, part; Rem. Supp. 1943 § 9198-17, part. (ii) 1943 c 271 § 4, part; Rem. Supp. 1943 § 9198-13, part.]

Arrangement of names on ballot: RCW 29.21.090.

35.18.280 Organization—Holding over by incumbent officials and employees. Councilmen shall take office at the times provided by RCW 35.18.270 as now or hereafter amended. The other city officials and employees who are incumbent at the time the council-manager plan takes effect shall hold office until their successors have been selected in accordance with the provisions of this chapter. [1965 c 7 § 35.18.280. Prior: 1943 c 271 § 8, part; Rem. Supp. 1943 § 9198-17, part.]

35.18.285 Organization—First council may revise budget. If, at the beginning of the term of office of the first council elected in a city organized under the council-manager plan, the appropriations for the expenditures of the city for the current fiscal year have been made, the council, by ordinance, may revise them but may not exceed the total appropriations for expenditures already specified in the budget for the year. [1965 c 7 § 35.18.285. Prior: 1955 c 337 § 24.]

35.18.290 Abandonment of council-manager plan. Any city or town which has operated under the council-manager plan for more than six years may abandon

such organization and accept the provisions of the general laws then applicable to municipalities upon the petition of not less than twenty percent of the registered voters therein, without changing its classification unless it desires to do so. [1965 ex.s. c 47 § 4; 1965 c 7 § 35.18.290. Prior: 1943 c 271 § 22, part; Rem. Supp. 1943 § 9198-31, part.]

35.18.300 Abandonment—Method. The sufficiency of the petition for abandonment of the council-manager form of government shall be determined, the election ordered and conducted, and the results declared generally as provided for the procedure for reorganizing under the council-manager plan so far as those provisions are applicable. [1965 c 7 § 35.18.300. Prior: 1943 c 271 § 23, part; Rem. Supp. 1943 § 9198-32, part.]

Organization on council-manager plan: RCW 35.18.240-35.18.285.

35.18.310 Abandonment—Special election necessary. The proposition to abandon the council-manager plan must be voted on at a special election called for that purpose at which the only proposition to be voted on shall be: "Shall the city (or town) of ----- abandon its organization under the council-manager plan and become a city (or town) under the general law governing cities (or towns) of ----- class?" [1965 c 7 § 35.18.310. Prior: 1943 c 271 § 22 part; Rem. Supp. 1943 § 9198-31, part.]

35.18.320 Abandonment—Effect. If a majority of votes cast at the special election favor the abandonment of the council-manager form of government, the officers elected at the next succeeding biennial election shall be those then prescribed for cities or towns of like class. Upon the qualification of such officers, the municipality shall again become organized under the general laws of the state, but such change shall not affect in any manner or degree the property, rights, or liabilities of the corporation but shall merely extend to such change in its form of government. [1965 c 7 § 35.18.320. Prior: 1943 c 271 § 23, part; Rem. Supp. 1943 § 9198-32, part.]

**Chapter 35.20
MUNICIPAL COURTS—CITIES OVER FIVE
HUNDRED THOUSAND**

Sections

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Elections: Title 29 RCW.

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Rights of accused: State Constitution Art. 1 § 22 (Amendment 10).

Rules for courts of limited jurisdiction: Vol. 0 RCW.

35.20.010 Municipal court established. There is hereby created and established in each incorporated city of this state having a population of more than five hundred thousand inhabitants, as shown by the federal or state census, which ever is the later, a municipal court, which shall be styled "The Municipal Court of ----- (name of city)," hereinafter designated and referred to as the municipal court, which court shall have jurisdiction and shall exercise all the powers by this chapter declared to be vested in such municipal court, together with such powers and jurisdiction as is generally conferred in this state either by common law or statute. [1965 c 7 § 35.20.010. Prior: 1955 c 290 § 1.]

35.20.020 Sessions—Judges may act as magistrates—Night court. The municipal court shall be always open except on nonjudicial days. It shall hold regular and special sessions at such times as may be prescribed by the judges thereof. The judges shall have the power to act as magistrates in accordance with the provisions of chapter 10.16 RCW. The legislative body of the city may by ordinance authorize a department of the municipal court to act as a night court, and shall appropriate the necessary funds therefor. [1965 c 7 § 35.20.020. Prior: 1955 c 290 § 2.]

35.20.030 Jurisdiction—Review—Costs. The municipal court shall have exclusive original jurisdiction to try violations of all city ordinances and all other actions brought to enforce or recover license penalties or forfeitures declared or given by any such ordinances. It is empowered to forfeit cash bail or bail bonds and issue execution thereon, to hear and determine all causes, civil or criminal, arising under such ordinances, and to pronounce judgment in accordance therewith: *Provided*, That for a violation of the criminal provisions of an ordinance no greater punishment shall be imposed than a fine of five hundred dollars or imprisonment in the city jail not to exceed six months, or both

such fine and imprisonment. All civil and criminal proceedings in municipal court, and judgments rendered therein, shall be subject to review in the superior court by writ of review or on appeal. Costs in civil and criminal cases may be taxed as provided in justice of the peace courts. [1965 c 7 § 35.20.030. Prior: 1955 c 290 § 3.]

35.20.040 Appeals to superior court—Procedure. Appeals in actions brought under RCW 35.20.030 shall be taken to the superior court in and for the county wherein the municipal court is situated by oral notice in open court at the time judgment is rendered, or by serving a copy of a written notice of appeal upon the attorney for the opposing party and filing the original thereof, together with acknowledgment or affidavit of such service, with the clerk of the municipal court within ten days after the judgment shall have been pronounced. After notice appellant shall diligently prosecute the appeal, and within ten days of the notice of appeal shall file with the clerk of the municipal court an appeal bond or cash in such amount as may be fixed by the court conditioned as provided in RCW 35.20.060. Within a period of thirty days from the date of entry of the judgment by the judge, the clerk of the municipal court shall file with the clerk of the superior court a transcript duly certified by the judge hearing the case, which shall contain a copy of all written pleadings and docket entries of the municipal court, and shall also deliver to said court any exhibits introduced in evidence in the trial in the municipal court, which exhibits may be offered in evidence if a trial is had in the superior court; otherwise to be returned to the custody of the municipal court. No charge shall be made for the transcript. The appellant shall note the case for trial in the superior court not later than ten days from the expiration date for the clerk to file the transcript with the clerk of the superior court. [1965 c 7 § 35.20.040. Prior: 1955 c 290 § 4.]

35.20.050 Criminal appeals—Commitment to city jail—Recognizance bond. In criminal actions wherein the appellant has been committed to the city jail, he shall remain committed until he shall recognize or give bond to the city in such reasonable sum and with such sureties as provided in RCW 35.20.040. [1965 c 7 § 35.20.050. Prior: 1955 c 290 § 5.]

35.20.060 Dismissal of appeal. Failure to proceed with the appeal within the time and in the manner herein provided shall render the appeal ineffectual for any purpose. Upon dismissal of the appeal for failure of appellant to proceed diligently in the manner herein prescribed or for any other cause, the judgment of the municipal court shall be enforced by the municipal court. If, at the time of such dismissal, a cash deposit or appeal bond has been furnished and shall be in the custody of the clerk of the superior court, the cash deposit or bond shall be returned to the municipal court, together with the order of dismissal and such original files and exhibits as may have been forwarded by the municipal court. The municipal court is empowered to

forfeit the cash bail or bond and to issue execution thereon for the breach of any condition thereof. [1965 c 7 § 35.20.060. Prior: 1955 c 290 § 6.]

35.20.070 Trial in superior court—Costs—Further appeal. In the superior court the trial shall be de novo, subject, however, to the right of the city to file an amended complaint therein in criminal cases. If the defendant be convicted in the superior court, he shall be sentenced anew by the superior court judge to pay a fine of not to exceed five hundred dollars or to imprisonment in the city jail for not to exceed six months, or both such fine and imprisonment. Neither the appellant nor the respondent shall be required to pay in advance any fee for filing or prosecuting the appeal in a criminal case, but if the appellant is convicted he may be required, as a part of the sentence, to pay the costs of prosecution which shall be taxed in the amount and manner of costs in criminal prosecutions in the superior court, in addition to the costs taxed in the municipal court. If the appellant be acquitted, he shall have judgment against the city for his costs to be fixed and taxed in the same manner. From judgment of the superior court appeal shall lie to the supreme court or the court of appeals as in other superior court actions. [1971 c 81 § 88; 1965 c 7 § 35.20.070. Prior: 1955 c 290 § 7.]

35.20.080 Transfer of causes upon effective date of chapter. All cases, proceedings and matters now pending before justices of the peace who immediately prior to the effective date of this chapter were acting as municipal judges in first class cities of over five hundred thousand population, shall upon the effective date hereof (June 8, 1955) be transferred to the municipal court, together with all files, records and proceedings relating to such cases, and shall be disposed of therein in due course of law. This chapter shall not affect any appeal from any police justice or municipal judge, commenced and pending prior to its effective date, but such appeal shall be conducted and concluded as if this chapter had not been enacted, except that if remanded from the superior court the municipal court shall have authority and power to forfeit bail or bond or impose sentence thereon. [1965 c 7 § 35.20.080. Prior: 1955 c 290 § 8.]

35.20.090 Trial by jury—Juror's fees. In all civil cases and criminal cases where jurisdiction is concurrent with justices of the peace as provided in RCW 35.20.250, within the jurisdiction of the municipal court, the plaintiff or defendant may demand a jury, which shall consist of six citizens of the state who shall be impaneled and sworn as in cases before justices of the peace, or the trial may be by a judge of the municipal court. Each juror shall receive five dollars for each day in attendance upon the municipal court, and in addition thereto shall receive mileage as provided by law. Trial by jury shall be allowed in criminal cases involving violations of city ordinances commencing January 1, 1972 unless such incorporated city affected by this chapter has made provision therefor prior to January 1, 1972. [1969 ex.s. c 147 § 8; 1965 c 7 § 35.20.090. Prior: 1955 c 290 § 9.]

Rights of accused: State Constitution Art. 1 § 22 (Amendment 10).

35.20.100 Departments of court—Change of venue—Presiding judge—Costs of election. There shall be three departments of the municipal court, which shall be designated as Department Nos. 1, 2 and 3: *Provided*, That when the administration of justice and the accomplishment of the work of the court make additional departments necessary, the legislative body of the city may create additional departments as they are needed. The departments shall be established in such places as may be provided by the legislative body of the city, and each department shall be presided over by a municipal judge. The judges shall select, by majority vote, one of their number to act as presiding judge of the municipal court for a term of one year, and he shall be responsible for administration of the court and assignment of calendars to all departments. A change of venue from one department of the municipal court to another department shall be allowed in accordance with the provisions of RCW 3.66.090, 3.20.100 and 3.20.110 in all civil and criminal proceedings. The city shall assume the costs of the elections of the municipal judges in accordance with the provisions of RCW 29.13.045. [1972 ex.s. c 32 § 1; 1969 ex.s. c 147 § 1; 1967 c 241 § 2; 1965 c 7 § 35.20.100. Prior: 1955 c 290 § 10.]

Application—1967 c 241: For application of 1967 amendment to this section, see note following RCW 3.66.090.

Severability—1967 c 241: See RCW 3.74.932.

35.20.105 Court administrator. There shall be a court administrator of the municipal court appointed by the judges of the municipal court, subject to confirmation by a majority of the legislative body of the city, and removable by the judges of the municipal court subject to like confirmation. Before entering upon the duties of his office the court administrator shall take and subscribe an oath the same as required for officers of the city, and shall execute a penal bond in such sum and with such sureties as the legislative body of the city may direct and subject to their approval, conditioned for the faithful performance of his duties, and that he will pay over to the treasurer of said city all moneys belonging to the city which shall come into his hands as such court administrator. The court administrator shall be paid such compensation as the legislative body of the city may deem reasonable. The court administrator shall act under the supervision and control of the presiding judge of the municipal court and shall supervise the functions of the chief clerk and director of the traffic violations bureau or similar agency of the city, and perform such other duties as may be assigned to him by the presiding judge of the municipal court. [1969 ex.s. c 147 § 2.]

35.20.110 Seal of court—Extent of process. The municipal court shall have a seal which shall be the vignette of George Washington, with the words "Seal of The Municipal Court of _____ (name of city), State of Washington," surrounding the vignette. All process from such court shall issue under the seal

thereof and shall run throughout the state. [1965 c 7 § 35.20.110. Prior: 1955 c 290 § 11.]

35.20.120 Expenses of court. All blanks, books, papers, stationery and furniture necessary for the transaction of business and the keeping of records of the court shall be furnished at the expense of the city, except those expenses incidental to the operation of the court in matters brought before the court because of concurrent jurisdiction with justices of the peace, which expense shall be borne by the county and paid out of the county treasury. All other expenses on account of such court which may be authorized by the city council or the county commissioners and which are not specifically mentioned in this chapter, shall be paid respectively out of the city treasury and county treasury. [1965 c 7 § 35.20.120. Prior: 1955 c 290 § 12.]

35.20.131 Director of traffic violations. There shall be a director of the traffic violations bureau or such similar agency of the city as may be created by ordinance of said city. Said director shall be appointed by the judges of the municipal court subject to such civil service laws and rules as may be provided in such city. Said director shall act under the supervision of the court administrator of the municipal court and shall be responsible for the supervision of the traffic violations bureau or similar agency of the city. Upon *this 1969 amendatory act becoming effective those employees connected with the traffic violations bureau under civil service status shall be continued in such employment and such classification. Before entering upon the duties of his office said director shall take and subscribe an oath the same as required for officers of the city and shall execute a penal bond in such sum and with such sureties as the legislative body of the city may direct and subject to their approval, conditioned for the faithful performance of his duties, and that he will faithfully account to and pay over to the treasurer of said city all moneys belonging to the city which shall come into his hands as such director. Said director shall be paid such compensation as the legislative body of the city may deem reasonable. [1969 ex.s. c 147 § 3.]

***Reviser's note:** "this 1969 amendatory act" [1969 ex.s. c 147] became effective August 11, 1969.

35.20.140 Monthly meeting of judges—Rules and regulations of court. It shall be the duty of the judges to meet together at least once each month, except during the months of July and August, at such hour and place as they may designate, and at such other times as they may desire, for the consideration of such matters pertaining to the administration of justice in said court as may be brought before them. At these meetings they shall receive and investigate, or cause to be investigated, all complaints presented to them pertaining to the court and the employees thereof, and shall take such action as they may deem necessary or proper with respect thereto. They shall have power and it shall be their duty to adopt, or cause to be adopted, rules and regulations for the proper administration of justice in said court. [1965 c 7 § 35.20.140. Prior: 1955 c 290 § 14.]

35.20.150 Election of judges—Vacancies. The municipal judges shall be elected on the first Tuesday after the first Monday in November, 1958, and on the first Tuesday after the first Monday of November every fourth year thereafter by the electorate of the city in which the court is located. The auditor of the county concerned shall designate by number each position to be filled in the municipal court, and each candidate at the time of the filing of his declaration of candidacy shall designate by number so assigned the position for which he is a candidate, and the name of such candidate shall appear on the ballot only for such position. The name of the person who receives the greatest number of votes and of the person who receives the next greatest number of votes at the primary for a single nonpartisan position shall appear on the general election ballot under the designation therefor: *Provided*, That if any candidate in the primary receives a majority of all of the votes cast for the position, only the name of the person receiving the highest vote shall be printed on the general election ballot under the designation for that position, followed by a space for the writing in of any other name by a voter. Elections for municipal judge shall be nonpartisan. They shall hold office for a term of four years and until their successors are elected and qualified. The term of office shall start on the second Monday in January following such election. Any vacancy in the municipal court due to a death, disability or resignation of a municipal court judge shall be filled by the mayor, to serve out the unexpired term. Such appointment shall be subject to confirmation by the legislative body of the city. [1965 c 7 § 35.20.150. Prior: 1961 c 213 § 1; 1955 c 290 § 15.]

Times for holding elections: Chapter 29.13 RCW.

35.20.160 Judges' salaries. The total of the salaries of each municipal judge under this chapter shall be fixed by the legislative body of the city at not less than nine thousand dollars per annum, to be paid in monthly or semimonthly installments as for other officials of the city, and such total salaries shall not be more than the salaries paid the superior court judges in the county in which the court is located. [1965 c 147 § 3; 1965 c 7 § 35.20.160. Prior: 1955 c 290 § 16.]

Cities over 500,000, judges' salaries: RCW 3.58.010.

35.20.170 Qualifications of judges—Practice of law prohibited. No person shall be eligible to the office of judge of the municipal court unless he shall have been admitted to practice law before the courts of record of this state and is an elector of the city in which he files for office. No judge of said court during his term of office shall engage either directly or indirectly in the practice of law. [1965 c 7 § 35.20.170. Prior: 1955 c 290 § 17.]

35.20.180 Judges' oath of office, official bonds. Every judge of such municipal court, before he enters upon the duties of his office, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or

affirm) that I will support the Constitution of the United States and the Constitution of the State of Washington, and that I will faithfully discharge the duties of the office of judge of the municipal court of the city of ----- (naming such city) according to the best of my ability; and I do further certify that I do not advocate, nor am I a member of an organization that advocates, the overthrow of the government of the United States by force or violence." The oath shall be filed in the office of the county auditor. He shall also give such bonds to the state and city for the faithful performance of his duties as may be by law or ordinance directed. [1965 c 7 § 35.20.180. Prior: 1955 c 290 § 18.]

35.20.190 Additional judge. Whenever the number of departments of the municipal court is increased, the mayor of such city shall appoint a qualified person as provided in RCW 35.20.170 to act as municipal judge until the next general election. He shall be paid salaries in accordance with the provisions of this chapter and provided with the necessary court, office space and personnel as authorized herein. [1967 c 241 § 4; 1965 c 7 § 35.20.190. Prior: 1955 c 290 § 19.]

Application—1967 c 241: See note following RCW 3.66.090.

Severability—1967 c 241: See RCW 3.74.932.

35.20.200 Judges pro tempore. The mayor shall, from attorneys residing in the city and qualified to hold the position of judge of the municipal court as provided in RCW 35.20.170, appoint judges pro tempore who shall act in the absence of the regular judges of the court or in addition to the regular judges when the administration of justice and the accomplishment of the work of the court make it necessary. The judges of the municipal court shall promulgate rules establishing general standards for the use of judges pro tempore. A copy of said rules shall be filed with the legislative authority of the city at the time of budget consideration. Such appointments shall be made from a list of attorneys in accordance herewith furnished by the judges of the municipal court, which list shall contain not less than five names in addition to the number of judges pro tempore requested. Appointment of judges pro tempore shall be for the term of office of the regular judges unless sooner removed in the same manner as they were appointed. While acting as judge of the court judges pro tempore shall have all of the powers of the regular judges. Before entering upon his duties, each judge pro tempore shall take, subscribe and file an oath as is taken by a municipal judge. Judges pro tempore shall not practice before the municipal court during their term of office as judge pro tempore. Such municipal judges pro tempore shall receive such compensation as shall be fixed by ordinance by the legislative body of the city and such compensation shall be paid by the city. [1972 ex.s. c 32 § 2; 1965 c 7 § 35.20.200. Prior: 1955 c 290 § 20.]

35.20.210 Clerks of court. There shall be a chief clerk of the municipal court appointed by the judges of the municipal court subject to such civil service laws

and rules as may be provided in such city. Upon *this 1969 amendatory act becoming effective those employees connected with the court under civil service status shall be continued in such employment and such classification. Before he enters upon the duties of his office the chief clerk shall take and subscribe an oath the same as required for officers of the city, and shall execute a penal bond in such sum and with such sureties as the legislative body of the city may direct and subject to their approval, conditioned that he will faithfully account to and pay over to the treasurer of said city all moneys coming into his hands as such clerk, and that he will faithfully perform the duties of his office to the best of his knowledge and ability. Upon the recommendation of the judges of the municipal court, the legislative body of the city may provide for the appointment of such assistant clerks of the municipal court as said legislative body deems necessary, with such compensation as said legislative body may deem reasonable and such assistant clerks shall be subject to such civil service as may be provided in such city: *Provided*, That the judges of the municipal court shall appoint such clerks as the board of county commissioners may determine to handle cases involving violations of state law, wherein the court has concurrent jurisdiction with justices of the peace and the superior court. All clerks of the court shall have power to administer oaths, swear and acknowledge signatures of those persons filing complaints with the court, take testimony in any action, suit or proceeding in the court relating to the city or county for which they are appointed, and may certify any records and documents of the court pertaining thereto. They shall give bond for the faithful performance of their duties as required by law. [1969 ex.s. c 147 § 4; 1965 c 7 § 35.20.210. Prior: 1955 c 290 § 21.]

*Reviser's note: "this 1969 amendatory act" [1969 ex.s. c 147] became effective August 11, 1969.

35.20.220 Powers and duties of chief clerk. The chief clerk, under the supervision and direction of the court administrator of the municipal court, shall have the custody and care of the books, papers and records of said court; he shall be present by himself or deputy during the session of said court, and shall have the power to swear all witnesses and jurors, and administer oaths and affidavits, and take acknowledgments. He shall keep the records of said court, and shall issue all process under his hand and the seal of said court, and shall do and perform all things and have the same powers pertaining to his office as the clerks of the superior courts have in their office. He shall receive all fines, penalties and fees of every kind, and keep a full, accurate and detailed account of the same; and shall on each day pay into the city treasury all moneys received for said city during the day previous, with a detailed account of the same, and taking the treasurer's receipt therefor. [1969 ex.s. c 147 § 5; 1965 c 7 § 35.20.220. Prior: 1955 c 290 § 22.]

35.20.230 Director of probation services—Probation officers—Bailiffs. The judges of the municipal court shall appoint a director of probation services who

shall under the supervision of the presiding judge of the municipal court supervise the probation officers of the municipal court. The judges of the municipal court shall also appoint a bailiff for the court, together with such number of probation officers and additional bailiffs as may be authorized by the legislative body of the city. Said director of probation services, probation officers, and bailiff or bailiffs shall be paid by the city treasurer in such amount as is deemed reasonable by the legislative body of the city: *Provided*, That such additional probation officers and bailiffs of the court as may be authorized by the county commissioners shall be paid from the county treasury. [1969 ex.s. c 147 § 6; 1965 c 7 § 35.20.230. Prior: 1955 c 290 § 23.]

35.20.240 First judges—Transfer of equipment. Upon the effective date of this chapter (June 8, 1955), any justice of the peace who was the duly appointed and acting police justice of the city shall become a judge of the municipal court upon his filing his oath of office and bond as required by this chapter, and shall serve as a judge of said municipal court until the regularly elected judges of the court shall qualify following their election in 1958, or thereafter as provided in RCW 35.20.150. Such judge shall be paid salaries in accordance with this chapter while so serving. Such salaries from the city and county shall be in lieu of those now (June 8, 1955) being paid to the justice of the peace acting as police justice of the city court: *Provided*, That upon the justices of the peace qualifying as municipal judges under this chapter, the number of justices of the peace for such city shall be reduced accordingly as provided in RCW 35.20.190. Should any justice of the peace acting as police judge fail to qualify as a judge of the municipal court, the mayor of such city shall designate one of the other justices of the peace of that city to act as municipal judge until the next general election in November, 1958, and the qualifying of the regularly elected judge. All furniture and equipment belonging to the city and county in which the court is situated, now under the care and custody of the justice of the peace and municipal judge, shall be transferred to the municipal court for use in the operation and maintenance of such court. [1965 c 7 § 35.20.240. Prior: 1955 c 290 § 24.]

35.20.250 Concurrent jurisdiction with superior court and justices of the peace. The municipal court shall have concurrent jurisdiction with the superior court and justices of the peace in all civil and criminal matters as now provided by law for justices of the peace, and a judge thereof may sit in preliminary hearings as magistrate. Fines and forfeitures before the court under the provisions of this section shall be paid to the county treasurer as provided for justices of the peace and commitments shall be to the county jail. Appeals from judgment or order of the court in such cases shall be governed by the law pertaining to appeals from judgments or orders of justices of the peace. [1969 ex.s. c 147 § 7; 1965 c 7 § 35.20.250. Prior: 1955 c 290 § 25.]

35.20.255 Deferral or suspension of sentences. Judges of the municipal court, in their discretion, shall have the power in all criminal proceedings within their jurisdiction including violations of city ordinances, to defer imposition of any sentence, suspend all or part of any sentence, fix the terms of any such deferral or suspension, and provide for such probation and parole as in their opinion is reasonable and necessary under the circumstances of the case. [1969 ex.s. c 147 § 9.]

35.20.260 Subpoenas—Witness fees. The court shall have authority to subpoena witnesses as now authorized in superior courts throughout the state. Such witnesses shall be paid according to law with mileage as authorized for witnesses to such cases. [1965 c 7 § 35.20.260. Prior: 1955 c 290 § 26.]

35.20.900 Construction of prior law. The provisions of RCW 35.22.420, 35.22.430, 35.22.440, 35.22.450, 35.22.460, 35.22.480, 35.22.490, 35.22.510, 35.22.520, 35.22.530, 35.22.540, 35.22.550 and 35.22.560, in so far as inconsistent with the provisions of this chapter shall apply only to cities of the first class having a population of less than five hundred thousand inhabitants. [1965 c 7 § 35.20.900. Prior: 1955 c 290 § 27.]

35.20.910 Construction of other laws. All acts or parts of acts not specifically repealed or modified by RCW 35.20.900, which are inconsistent or conflicting with the provisions of this chapter, are hereby repealed or modified accordingly. No provision of this chapter shall be construed as repealing or anywise limiting or affecting the jurisdiction of justices of the peace under the general laws of this state. [1965 c 7 § 35.20.910. Prior: 1955 c 290 § 28.]

35.20.920 Severability—1969 ex.s. c 147. If any provision of this 1969 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1969 ex.s. c 147 § 11.]

Reviser's note: "this 1969 amendatory act" [1969 ex.s. c 147] consists of RCW 35.20.105, 35.20.131, 35.20.255, 35.20.920, the 1969 amendments to RCW 35.20.090, 35.20.100, 35.20.210, 35.20.220, 35.20.230 and 35.20.250, and the repeal of 35.20.130.

Chapter 35.21

MISCELLANEOUS PROVISIONS AFFECTING ALL CITIES AND TOWNS

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- 35.21.760 Legal interns—Employment authorized.
- 35.21.765 Fire protection, ambulance or other emergency services provided by municipal corporation within county—Financial and other assistance by county authorized.
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Reviser's note: For comprehensive list of statutes not codified in Title 35 RCW relating to cities and towns, see table following Title 35 RCW digest.

Abandoned junk motor vehicles: RCW 46.52.145 through 46.52.160.

Accident claims against: RCW 35.31.010–35.31.030.

Actions against public corporations: RCW 4.08.120.

Actions against state: Chapter 4.92 RCW.

Actions by in corporate name: RCW 4.08.110.

Cemeteries, public acquisition and maintenance: Chapter 68.12 RCW.

Civil defense: Chapter 38.52 RCW.

Diking and drainage districts: Chapters 85.05, 86.09 RCW.

Eminent domain by cities: Chapter 8.12 RCW.

Existence of city or town, pleading of: RCW 4.36.100.

Fire protection districts: Title 52 RCW.

First class cities, generally: Chapter 35.22 RCW.

Flood control maintenance, state participation in: Chapter 86.26 RCW.

Hospitals, joint operation with counties: RCW 36.62.030, 36.62.110.

Intergovernmental disposition of property: Chapter 39.33 RCW.

Irrigation districts: Chapter 87.03 RCW.

Jails, joint operation with counties: RCW 36.63.150, 36.63.160.

Joint governmental activities: Chapter 36.64 RCW.

Judgment against public corporations, enforcement: RCW 6.04.140, 6.04.150.

Leasing of space with or without option to purchase: Chapter 35.42 RCW.

Legal holidays: RCW 1.16.050.

Legal publications: Chapter 65.16 RCW.

Liquor revolving fund, distribution from: RCW 66.08.190, 66.08.210.

Liquor, sales of subject to local option: Chapter 66.40 RCW.

Local governmental organizations, actions affecting boundaries, etc., review by boundary review board: Chapter 36.93 RCW.

Meetings, minutes of governmental bodies, open to public inspection: Chapter 42.30 RCW.

Municipal utilities: Chapter 35.92 RCW.

Municipal water and sewer facilities act: Chapter 35.91 RCW.

Name, change of: Chapter 35.62 RCW.

Ordinances, evidence, admissible as, when: RCW 5.44.080.

Ordinances, pleading of: RCW 4.36.110.

Peddlers' and hawkers' licenses: Chapter 36.71 RCW, RCW 73.04.050, 73.04.060.

Police officers in cities of first class, residence qualifications dispensed with: RCW 35.22.610.

Port districts: Title 53 RCW.

Public records, destruction of: Chapter 40.14 RCW.

Public utility districts: Title 54 RCW.

Residence qualifications of appointive officials and employees—Residency not grounds for discharge: RCW 52.36.065.

Second class cities, generally: Chapter 35.23 RCW.

Sewer districts: Title 56 RCW.

Soil and water conservation districts: Chapter 89.08 RCW.

Third class cities, generally: Chapter 35.24 RCW.

Towns, generally: Chapter 35.27 RCW.

Townships, organized townships, generally: Title 45 RCW.

Transfer if real property or contract for use for park and recreational purposes: RCW 39.33.060.

Tuberculosis, treatment, care, hospitalization, financing: Title 70 RCW.

Unclaimed property in hands of city or town: Chapter 63.36 RCW.

Unclaimed property in hands of city police: Chapter 63.32 RCW.

Water districts: Title 57 RCW.

Weeds, duty to destroy, extermination areas: RCW 17.04.160, 17.08.130.

35.21.010 General corporate powers—Municipal corporations of the fourth class, restrictions as to area. Municipal corporations now or hereafter organized are bodies politic and corporate under the name of the city of _____, or the town of _____, as the case may be, and as such may sue and be sued, contract or be contracted with, acquire, hold, possess and dispose of property, subject to the restrictions contained in other chapters of this title, having a common seal, and change or alter the same at pleasure, and exercise such other powers, and have such other privileges as are conferred by this title: *Provided*, That not more than two square miles in area shall be included within the corporate limits of a municipal corporation of the fourth class having a population of fifteen hundred or less, or located in class AA counties, and not more than three square miles in area shall be included within the corporate limits of a municipal corporation of the fourth class having a population of more than fifteen hundred in counties other than class AA, nor shall more than twenty acres of unplatted land belonging to any one person be taken within the corporate limits of municipal corporations of the fourth class without the

consent of the owner of such unplatted land: *Provided further*, That the original incorporation of municipal corporations of the fourth class shall be limited to an area of not more than one square mile and a population as prescribed in RCW 35.01.040. [1965 c 138 § 1; 1965 c 7 § 35.21.010. Prior: 1963 c 119 § 1; 1890 p 141 § 15, part; RRS § 8935.]

Validation of certain incorporations and annexations—Municipal corporations of the fourth class—1961 ex.s. c 16: Any incorporation of a municipal corporation of the fourth class and any annexation of territory to a municipal corporation of the fourth class prior to March 31, 1961, which is otherwise valid except for compliance with the limitation to the area of one square mile as prescribed by section 15, page 141, Laws of 1889-90, is hereby validated and declared to be a valid incorporation or annexation in all respects. [1961 ex.s. c 16 § 1.]

35.21.020 Auditoriums, art museums, swimming pools, etc.—Power to acquire. Any city or town in this state acting through its council or other legislative body, and any separately organized park district acting through its board of park commissioners or other governing officers, shall have power to acquire by donation, purchase or condemnation, and to construct and maintain public auditoriums, art museums, swimming pools, and athletic and recreational fields, including golf courses, buildings and facilities within or without its parks, and to use or let the same for such public and private purposes for such compensation and rental and upon such conditions as its council or other legislative body or board of park commissioners shall from time to time prescribe. [1965 c 7 § 35.21.020. Prior: 1947 c 28 § 1; 1937 c 98 § 1; Rem. Supp. 1947 § 8981-4.]

Acquisition of property for parks, recreational, viewpoint, greenbelt, conservation, historic, scenic or view purposes: RCW 36.34.340.

35.21.030 Auxiliary water systems for protection from fire. Any city or town shall have power to provide for the protection of such city or town, or any part thereof, from fire, and to establish, construct and maintain an auxiliary water system, or systems, or extensions thereof, or additions thereto, and the structures and works necessary therefor or forming a part thereof, including the acquisition or damaging of lands, rights-of-way, rights, property, water rights, and the necessary sources of supply of water for such purposes, within or without the corporate limits of such city or town, and to manage, regulate and control the same. [1965 c 7 § 35.21.030. Prior: 1911 c 98 § 5; RRS § 9356.]

35.21.070 Cumulative reserve fund—Authority to create. Any city or town is hereby authorized to establish by ordinance a cumulative reserve fund in general terms for several different municipal purposes as well as for a very specific municipal purpose, including that of buying any specified supplies, material or equipment, or the construction, alteration or repair of any public building or work, or the making of any public improvement. The ordinance shall designate the fund as "cumulative reserve fund for ----- (naming purpose or purposes for which fund is to be accumulated and expended)." The moneys in said fund may be allowed to accumulate from year to year until the legislative authority of the city or town shall determine to

expend the moneys in the fund for the purpose or purposes specified: *Provided*, That any moneys in said fund shall never be expended for any other purpose or purposes than those specified, without an approving vote by a majority of the electors of the city or town at a general or special election voting on a proposal submitted to the electors to allow other specified uses to be made of said fund. [1965 c 7 § 35.21.070. Prior: 1953 c 38 § 1; 1941 c 60 § 1; Rem. Supp. 1941 § 9213-5.]

Elections: Title 29 RCW.

35.21.080 Cumulative reserve fund—Annual levy for—Application of budget law. An item for said cumulative reserve fund may be included in the city or town's annual budget or estimate of amounts required to meet public expense for the ensuing year and a tax levy made within the limits and as authorized by law for said item; and said item and levy may be repeated from year to year until, in the judgment of the legislative body of the city or town, the amount required for the specified purpose or purposes has been raised or accumulated. Any moneys in said fund at the end of the fiscal year shall not lapse nor shall the same be a surplus available or which may be used for any other purpose or purposes than those specified, except as herein provided. [1965 c 7 § 35.21.080. Prior: 1953 c 38 § 2; 1941 c 60 § 2; Rem. Supp. 1941 § 9213-6.]

35.21.085 Payrolls fund—Claims fund. The legislative authority of any city or town is authorized to create the following special funds:

(1) Payrolls—into which moneys may be placed from time to time as directed by the legislative authority from any funds available and upon which warrants may be drawn and cashed for the purpose of paying any moneys due city employees for salaries and wages. The accounts of the city or town shall be so kept that they shall show the department or departments and amounts to which the payment is properly chargeable.

(2) Claims—into which may be paid moneys from time to time from any funds which are available and upon which warrants may be issued and paid in payment of claims against the city or town for any purpose. The accounts of the city or town shall be so kept that they shall show the department or departments and the respective amounts for which the warrant is issued and paid. [1965 c 7 § 35.21.085. Prior: 1953 c 27 § 1.]

35.21.086 Payrolls fund—Transfers from insolvent funds. Transfers from an insolvent fund to the payrolls fund or claims fund shall be by warrant. [1965 c 7 § 35.21.086. Prior: 1953 c 27 § 2.]

35.21.088 Equipment rental fund. Any city or town may create, by ordinance, an "equipment rental fund," hereinafter referred to as "the fund," in any department of the city or town to be used as a revolving fund to be expended for salaries, wages, and operations required for the repair, replacement, purchase, and operation of equipment, and for the purchase of equipment, materials, and supplies to be used in the administration and operation of the fund.

The legislative authority of a city or town may transfer any equipment, materials or supplies of any office or department to the equipment rental fund either without charge, or may grant a credit to such office or department equivalent to the value of the equipment, materials or supplies transferred. An office or department receiving such a credit may use it any time thereafter for renting or purchasing equipment, materials, supplies or services from the equipment rental fund.

Money may be placed in the fund from time to time by the legislative authority of the city or town. Cities and towns may purchase and sell equipment, materials and supplies by use of such fund, subject to any laws governing the purchase and sale of property. Such equipment, materials and supplies may be rented for the use of various offices and departments of any city or town or may be rented by any such city or town to governmental agencies. The proceeds received by any city or town from the sale or rental of such property shall be placed in the fund, and the purchase price of any such property or rental payments made by a city or town shall be made from moneys available in the fund. The ordinance creating the fund shall designate the official or body that is to administer the fund and the terms and charges for the rental for the use of any such property which has not been purchased for its own use out of its own funds and may from time to time amend such ordinance.

There shall be paid monthly into the fund out of the moneys available to the department using any equipment, materials, and/or supplies, which have not been purchased by that department for its own use and out of its own funds, reasonable rental charges fixed by the legislative authority of the city or town, and moneys in the fund shall be retained there from year to year so long as the legislative authority of the city or town desires to do so.

Every city having a population of more than eight thousand, according to the last official census, shall establish such an equipment rental fund in its street department or any other department of city government. Such fund shall acquire the equipment necessary to serve the needs of the city street department. Such fund may, in addition, be created to service any other departments of city government or other governmental agencies as authorized hereinabove. [1965 c 7 § 35.21.088. Prior: 1963 c 115 § 7; 1953 c 67 § 1.]

Census to be conducted in decennial periods: State Constitution Art. 2 § 3.

Determination of population: Chapter 43.62 RCW.

35.21.090 Dikes, levees, embankments—Authority to construct. Any city or town shall have power to provide for the protection of such city or town, or any part thereof, from overflow, and to establish, construct and maintain dikes, levees, embankments, or other structures and works, or to open, deepen, straighten or otherwise enlarge natural watercourses, waterways and other channels, including the acquisition or damaging of lands, rights-of-way, rights and property therefor, within or without the corporate limits of such city or town, and to manage, regulate and control the same.

[1965 c 7 § 35.21.090. Prior: 1911 c 98 § 4; 1907 c 241 § 68; RRS § 9355.]

Eminent domain: Chapter 8.12 RCW.

35.21.100 Donations—Authority to accept and use. Every city and town by ordinance may accept any money or property donated, devised, or bequeathed to it and carry out the terms of the donation, devise, or bequest, if within the powers granted by law. If no terms or conditions are attached to the donation, devise, or bequest, the city or town may expend or use it for any municipal purpose. [1965 c 7 § 35.21.100. Prior: 1941 c 80 § 1; Rem. Supp. 1941 § 9213–8.]

35.21.110 Ferries—Authority to acquire and maintain. Any incorporated city or town within the state is authorized to construct, or condemn and purchase, or purchase, and to maintain a ferry across any unfordable stream adjoining and within one mile of its limits, together with all necessary grounds, roads, approaches and landings necessary or appertaining thereto located within one mile of the limits of such city or town, with full jurisdiction and authority to manage, regulate and control the same beyond the limits of the corporation and to operate the same free or for toll. [1965 c 7 § 35.21.110. Prior: 1895 c 130 § 1; RRS § 5476.]

35.21.120 Garbage—Collection and disposal system. Every city and town may by ordinance provide for the establishment of a system of garbage collection and disposal for the entire city or town or for portions thereof, and award contracts for garbage collection and disposal or provide for it under the direction of officials and employees of the city or town. [1965 c 7 § 35.21.120. Prior: 1943 c 270 § 1, part; Rem. Supp. 1943 § 9504–1, part.]

35.21.130 Garbage—Ordinance. A garbage ordinance may:

(1) Require property owners and occupants of premises to use the garbage collection and disposal system and to dispose of their garbage as provided in the ordinance; and

(2) Fix charges for garbage collection and disposal and the manner and time of payment therefor including therein a provision that upon failure to pay the charges, the amount thereof shall become a lien against the property for which the garbage collection service is rendered. The ordinance may also provide penalties for its violation. [1965 c 7 § 35.21.130. Prior: 1943 c 270 § 1, part; Rem. Supp. 1943 § 9504–1, part.]

35.21.140 Garbage—Notice of lien—Foreclosure. A notice of the city's or town's lien for garbage collection and disposal service specifying the charges, the period covered by the charges and giving the legal description of the premises sought to be charged, shall be filed with the county auditor within the time required and shall be foreclosed in the manner and within the time prescribed for liens for labor and material. [1965 c 7 § 35.21.140. Prior: 1943 c 270 § 1, part; Rem. Supp. 1943 § 9504–1, part.]

35.21.150 Garbage—Lien—Priority. The garbage collection and disposal service lien shall be prior to all liens and encumbrances filed subsequent to the filing of the notice of it with the county auditor, except the lien of general taxes and local improvement assessments whether levied prior or subsequent thereto. [1965 c 7 § 35.21.150. Prior: 1943 c 270 § 1, part; Rem. Supp. 1943 § 9504-1, part.]

35.21.151 Garbage—Second, third class cities, towns—Purchases relating to. See RCW 35.23.353.

35.21.160 Jurisdiction over adjacent waters. The powers and jurisdiction of all incorporated cities and towns of the state having their boundaries or any part thereof adjacent to or fronting on any bay or bays, lake or lakes, sound or sounds, river or rivers, or other navigable waters are hereby extended into and over such waters and over any tidelands intervening between any such boundary and any such waters to the middle of such bays, sounds, lakes, rivers, or other waters in every manner and for every purpose that such powers and jurisdiction could be exercised if the waters were within the city or town limits. In calculating the area of any town for the purpose of determining compliance with the limitation on the area of a town prescribed by RCW 35.21.010, the area over which jurisdiction is conferred by this section shall not be included. [1969 c 124 § 1; 1965 c 7 § 35.21.160. Prior: 1961 c 277 § 4; 1909 c 111 § 1; RRS § 8892.]

35.21.170 Liquor law violations—Annual report of. In every city and town having a police court, the judge thereof shall send to the state liquor board an annual written report in respect of prosecutions for liquor law violations brought under Title 66 RCW showing in each case the name of the accused, the nature of the charges, the date of trial, the disposition of the case and the name of the judge presiding. [1965 c 7 § 35.21.170. Prior: 1933 ex.s. c 62 § 81, part; RRS § 7306-81, part.]

Justices of the peace and constables: Title 3 RCW; Rules of court: Vol. 0 RCW.

35.21.175 Offices to be open certain days and hours. All city and town offices shall be kept open for the transaction of business during such days and hours as the municipal legislative authority shall by ordinance prescribe. [1965 c 7 § 35.21.175. Prior: 1955 ex.s. c 9 § 4; prior: 1951 c 100 § 2.]

35.21.180 Ordinances—Adoption of codes by reference. Ordinances passed by cities or towns must be posted or published in a newspaper as required by their respective charters or the general laws: *Provided*, That ordinances may by reference adopt Washington state statutes and codes, including fire codes and ordinances relating to the construction of buildings, the installation of plumbing, the installation of electric wiring, health and sanitation, the slaughtering, processing and selling of meats and meat products for human consumption, the production, pasteurizing and sale of milk and milk products, or other subjects, may adopt by reference,

any printed code or compilation, or portions thereof, together with amendments thereof or additions thereto, on the subject of the ordinance; and where publications of ordinances in a newspaper is required, such Washington state statutes or codes or other codes or compilations so adopted need not be published therein: *Provided, however*, That not less than three copies of such statute, code or compilation and amendments and additions thereto adopted by reference shall be filed for use and examination by the public, in the office of the city or town clerk of said city, or town prior to adoption thereof. Any city or town ordinance heretofore adopting any state law or any such codes or compilations by reference are hereby ratified and validated. [1965 c 7 § 35.21.180. Prior: 1963 c 184 § 1; 1943 c 213 § 1; 1935 c 32 § 1; Rem. Supp. 1943 § 9199-1.]

35.21.190 Parkways, park drives and boulevards. Any city or town council upon request of the board of park commissioners, shall have authority to designate such streets as they may see fit as parkways, park drives, and boulevards, and to transfer all care, maintenance and improvement of the surface thereof to the board of park commissioners, or to such authority of such city or town as may have the care and management of the parks, parkways, boulevards and park drives of the city.

Any city or town may acquire, either by gift, purchase or the right of eminent domain, the right to limit the class, character and extent of traffic that may be carried on such parkways, park drives and boulevards, and to prescribe that the improvement of the surface thereof shall be made wholly in accordance with plans of such board of park commissioners, but that the setting over of all such streets for such purposes shall not in any wise limit the right and authority of the city council to construct underneath the surface thereof any and all public utilities nor to deprive the council of the right to levy assessments for special benefits. In the construction of any such utilities, any damages done to the surface of such parkways, park drives or boulevards shall not be borne by any park funds of such city or town. [1965 c 7 § 35.21.190. Prior: 1911 c 98 § 57; RRS § 9410.]

35.21.200 Residence qualifications of appointive officials and employees. Any city or town may by ordinance of its legislative authority determine whether there shall be any residential qualifications for any or all of its appointive officials or for preference in employment of its employees, but residence of an employee outside the limits of such city or town shall not be grounds for discharge of any regularly appointed civil service employee otherwise qualified: *Provided*, That this section shall not authorize a city or town to change any residential qualifications prescribed in any city charter for any appointive official or employee: *Provided, further*, That all employees appointed prior to the enactment of any ordinance establishing such residence qualifications as provided herein or who shall have been appointed or employed by such cities or towns having

waived such residential requirements shall not be discharged by reason of such appointive officials or employees having established their residence outside the limits of such city or town: *Provided, further*, That this section shall not authorize a city or town to change the residential requirements with respect to employees of private public utilities acquired by public utility districts or by the city or town. [1965 c 7 § 35.21.200. Prior: 1951 c 162 § 1; 1941 c 25 § 1; Rem. Supp. 1941 § 9213-3.]

35.21.205 Liability insurance for officials and employees. Each city or town may purchase liability insurance with such limits as it may deem reasonable for the purpose of protecting its officials and employees against liability for personal or bodily injuries and property damage arising from their acts or omissions while performing or in good faith purporting to perform their official duties. [1973 c 125 § 2.]

35.21.210 Sewerage, drainage and water supply. Any city or town shall have power to provide for the sewerage, drainage and water supply thereof, and to establish, construct and maintain a system or systems of sewers and drains and a system or systems of water supply, within or without the corporate limits of such city or town, and to control, regulate and manage the same. [1965 c 7 § 35.21.210. Prior: 1911 c 98 § 3; RRS § 9354.]

35.21.220 Sidewalks—Regulation of use of. Cities of several classes in this state shall be empowered to regulate the use of sidewalks within their limits, and may in their discretion and under such terms and conditions as they may determine permit a use of the same by abutting owners, provided such use does not in their judgment unduly and unreasonably impair passage thereon, to and fro, by the public. Such permission shall not be considered as establishing a prescriptive right, and the right may be revoked at any time by the authorities of such cities. [1965 c 7 § 35.21.220. Prior: 1927 c 261 § 1; RRS § 9213-1.]

35.21.230 Streets over tidelands declared public highways. All streets in any incorporated city in this state, extending from high tide into the navigable waters of the state, are hereby declared public highways. [1965 c 7 § 35.21.230. Prior: 1890 p 733 § 1; RRS § 9293.]

Public highways: Title 47 RCW.

35.21.240 Streets over tidelands—Control of. All streets declared public highways under the provisions of RCW 35.21.230 shall be under the control of the corporate authorities of the respective cities. [1965 c 7 § 35.21.240. Prior: 1890 p 733 § 2; RRS § 9294.]

35.21.250 Streets and alleys over first class tidelands—Control of. All streets and alleys, which have been heretofore or may hereafter be established upon, or across tide and shore lands of the first class shall be under the supervision and control of the cities within whose corporate limits such tide and shore lands are situated, to the same extent as are all other streets and

alleys of such cities. [1965 c 7 § 35.21.250. Prior: 1901 c 149 § 1; RRS § 9295.]

35.21.260 Streets—Annual report to director of highways. The governing authority of each city and town on or before February 1st of each year shall submit such records and reports regarding street operations therein to the director of highways on forms furnished by him as are necessary to enable him to compile an annual report thereon. [1965 c 7 § 35.21.260. Prior: 1943 c 82 § 12; 1937 c 187 § 64; Rem. Supp. 1943 § 6450-64.]

35.21.270 Streets—Records of funds received and used for construction, repair, maintenance. The city engineer or the city clerk of each city or town shall maintain records of the receipt and expenditure of all moneys used for construction, repair or maintenance of streets and arterial highways.

To assist in maintaining uniformity in such records, the division of municipal corporations, with the advice and assistance of the highway commission, shall prescribe forms and types of records to be so maintained. [1965 c 7 § 35.21.270. Prior: 1949 c 164 § 5; Rem. Supp. 1949 § 9300-5.]

35.21.280 Tax on admissions—Exception as to schools. Every city and town may levy and fix a tax of not more than one cent on twenty cents or fraction thereof to be paid by the person who pays an admission charge to any place: *Provided*, No city or town shall impose such tax on persons paying an admission to any activity of any elementary or secondary school. This includes a tax on persons who are admitted free of charge or at reduced rates to any place for which other persons pay a charge or a regular higher charge for the same privileges or accommodations. The city or town may require anyone who receives payment for an admission charge to collect and remit the tax to the city or town.

The term "admission charge" includes:

- (1) A charge made for season tickets or subscriptions;
- (2) A cover charge, or a charge made for use of seats and tables reserved or otherwise, and other similar accommodations;
- (3) A charge made for food and refreshment in any place where free entertainment, recreation or amusement is provided;
- (4) A charge made for rental or use of equipment or facilities for purposes of recreation or amusement; if the rental of the equipment or facilities is necessary to the enjoyment of a privilege for which a general admission is charged, the combined charges shall be considered as the admission charge;
- (5) Automobile parking charges if the amount of the charge is determined according to the number of passengers in the automobile. [1965 c 7 § 35.21.280. Prior: 1957 c 126 § 1; 1951 c 35 § 1; 1943 c 80 § 1; Rem. Supp. 1943 § 8370-44a.]

35.21.290 Utility services—Lien for. Cities and towns owning their own waterworks, or electric light or power plants shall have a lien against the premises to

which water, electric light, or power services were furnished for four months charges therefor due or to become due, but not for any charges more than four months past due: *Provided*, That the owner of the premises or the owner of a delinquent mortgage thereon may give written notice to the superintendent or other head of such works or plant to cut off service to such premises accompanied by payment or tender of payment of the then delinquent and unpaid charges for such service against the premises together with the cut-off charge, whereupon the city or town shall have no lien against the premises for charges for such service thereafter furnished, nor shall the owner of the premises or the owner of a delinquent mortgage thereon be held for the payment thereof. [1965 c 7 § 35.21.290. Prior: 1933 c 135 § 1; 1909 c 161 § 1; RRS § 9471.]

35.21.300 Utility services—Enforcement of lien. The lien for charges for service by a city waterworks, or electric light or power plant may be enforced only by cutting off the service until the delinquent and unpaid charges are paid. In the event of a disputed account and tender by the owner of the premises of the amount he claims to be due before the service is cut off, the right to refuse service to any premises shall not accrue until suit has been entered by the city and judgment entered in the case. [1965 c 7 § 35.21.300. Prior: 1909 c 161 § 2; RRS § 9472.]

35.21.310 Removal of overhanging or obstructing vegetation—Removal, destroying debris. Any city or town may by general ordinance require the owner of any property therein to remove or destroy all trees, plants, shrubs or vegetation, or parts thereof, which overhang any sidewalk or street or which are growing thereon in such manner as to obstruct or impair the free and full use of the sidewalk or street by the public; and may further so require the owner of any property therein to remove or destroy all grass, weeds, shrubs, bushes, trees or vegetation growing or which has grown and died, and to remove or destroy all debris, upon property owned or occupied by them and which are a fire hazard or a menace to public health, safety or welfare. The ordinance shall require the proceedings therefor to be initiated by a resolution of the governing body of the city or town, adopted after not less than five days' notice to the owner, which shall describe the property involved and the hazardous condition, and require the owner to make such removal or destruction after notice given as required by said ordinance. The ordinance may provide that if such removal or destruction is not made by the owner after notice given as required by the ordinance in any of the above cases, that the city or town will cause the removal or destruction thereof and may also provide that the cost to the city or

town shall become a charge against the owner of the property and a lien against the property. Notice of the lien herein authorized shall as nearly as practicable be in substantially the same form, filed with the same officer within the same time and manner, and enforced and foreclosed as is provided by law for liens for labor and materials.

The provisions of this section are supplemental and additional to any other powers granted or held by any city or town on the same or a similar subject. [1969 c 20 § 1; 1965 c 7 § 35.21.310. Prior: 1949 c 113 § 1; Rem. Supp. 1949 § 9213–10.]

Weeds, duty of city or town, extermination areas: RCW 17.04.160, 17.08.130.

35.21.320 Warrants—Interest rate—Payment. All city and town warrants shall draw interest from and after their presentation to the treasurer, but no compound interest shall be paid on any warrant directly or indirectly. The city or town treasurer shall pay all warrants in the order of their number and date of issue whenever there are sufficient funds in the treasury applicable to the payment. If five hundred dollars (or any sum less than five hundred dollars as may be prescribed by ordinance) is accumulated in any fund having warrants outstanding against it, the city or town treasurer shall publish a call for warrants to that amount in the next issue of a newspaper published in the city or town (or posted in three conspicuous places in the municipality if no newspaper is published therein) describing the warrants so called by number and specifying the fund upon which they were drawn: *Provided*, That no call need be made until the amount accumulated is equal to the amount due on the warrant longest outstanding: *Provided further*, That no more than two calls shall be made in any one month.

Any city or town treasurer who knowingly fails to call for or pay any warrant in accordance with the provisions of this section shall be fined not less than twenty-five dollars nor more than five hundred dollars and conviction thereof shall be sufficient cause for removal from office. [1965 c 7 § 35.21.320. Prior: (i) 1893 c 48 § 1, part; RRS § 4116, part. (ii) 1895 c 152 § 2, part; RRS § 4119, part. (iii) 1895 c 152 § 1, part; RRS § 4118, part.]

35.21.330 Workhouses, jails, stockades, etc., authorized. Cities and towns may acquire, build, operate and maintain jails, workhouses, workshops, stockades and other places of detention and confinement at any place within the territorial limits of the county in which the city or town is situated, as may be selected by the legislative authority of the municipality. [1965 c 7 § 35.21.330. Prior: 1917 c 103 § 1; RRS § 10204.]

35.21.340 Cemeteries and funeral facilities. See chapter 68.12 RCW.

35.21.350 Civil service in police and fire departments. See Title 41 RCW.

35.21.360 Eminent domain by cities and towns. See chapter 8.12 RCW.

35.21.370 Joint county and city hospitals. See chapter 36.62 RCW.

35.21.380 Joint county and city buildings. See chapter 36.64 RCW.

35.21.381 Jails, joint operation with counties. See RCW 36.63.150, 36.63.160.

35.21.382 City and county jail act of 1974. See chapter 36.63A RCW.

35.21.385 Class AA and A counties may contract with cities concerning buildings and related improvements. See RCW 36.64.070.

35.21.390 Public employment, civil service and pensions. See Title 41 RCW.

35.21.400 City may acquire property for parks, recreational, viewpoint, greenbelt, conservation, historic, scenic, or view purposes. See RCW 36.34.340.

35.21.420 Utilities—City may support county in which generating plant located. Any city owning and operating a public utility and having facilities for the generation of electricity located in a county other than that in which the city is located, may provide for the public peace, health, safety and welfare of such county as concerns the facilities and the personnel employed in connection therewith, by contributing to the support of the county government of any such county and enter into contracts with any such county therefor. [1965 c 7 § 35.21.420. Prior: 1951 c 104 § 1.]

35.21.422 Utilities—Cities in class A county west of Cascades may support cities, towns, counties and taxing districts in which facilities located. Any city, located within a class A county west of the Cascades, owning and operating a public utility and having facilities for the distribution of electricity located outside its city limits, may provide for the support of cities, towns, counties and taxing districts in which such facilities are located, and enter into contracts with such county therefor. Such contribution shall be based upon the amount of retail sales of electricity, other than to governmental agencies, made by such city in the areas of such cities, towns, counties or taxing districts in which such facilities are located, and shall be divided among them on the same basis as taxes on real and personal property therein are divided. [1967 ex.s. c 52 § 1.]

35.21.425 City constructing generating facility in other county—Reimbursement of county or school district. Whenever after March 17, 1955, any city shall construct hydroelectric generating facilities or acquire land for the purpose of constructing the same in a county other than the county in which such city is located, and by reason of such construction or acquisition shall (1) cause loss of revenue and/or place a financial burden in providing for the public peace, health, safety, welfare, and added road maintenance in such county, in addition to road construction or relocation as set forth in RCW 90.28.010 and/or (2) shall cause any loss of revenues and/or increase the financial burden of any school district affected by the construction because of an increase in the number of pupils by reason of the construction or the operation of said generating facilities, the city shall enter into an agreement with said county and/or the particular school district or districts affected for the payment of moneys to recompense such losses or to provide for such increased financial burden, upon such terms and conditions as may be mutually agreeable to the city and the county and/or school district or districts. [1965 c 7 § 35.21.425. Prior: 1955 c 252 § 1.]

35.21.426 City constructing generating facility in other county—Notice of loss—Negotiations—Arbitration. Whenever a county or school district affected by the project sustains such financial loss or is affected by an increased financial burden as above set forth or it appears that such a financial loss or burden will occur beginning not later than within the next three months, such county or school district shall immediately notify the city in writing setting forth the particular losses or increased burden and the city shall immediately enter into negotiations to effect a contract. In the event the city and the county or school district are unable to agree upon terms and conditions for such contract, then in that event, within sixty days after such notification, the matter shall be submitted to a board of three arbitrators, one of whom shall be appointed by the city council of the city concerned; one by the board of county commissioners for the county concerned or by the school board for the school district concerned, and one by the two arbitrators so appointed. In the event such arbitrators are unable to agree on a third arbitrator within ten days after their appointment then the third arbitrator shall be selected by the state auditor. The board of arbitrators shall determine the loss of revenue and/or the cost of the increased financial burden placed upon the county or school district and its findings shall be binding upon such city and county or school district and the parties shall enter into a contract for reimbursement by the city in accordance with such findings, with the payment under such findings to be retroactive to the date when the city was first notified in writing. [1965 c 7 § 35.21.426. Prior: 1955 c 252 § 2.]

35.21.427 City constructing generating facility in other county—Additional findings—Renegotiation. The findings provided for in RCW 35.21.426 may also provide for varying payments based on formulas to be

stated in the findings, and for varying payments for different stated periods. The findings shall also state a future time at which the agreement shall be renegotiated or, in event of failure to agree on such renegotiation, be arbitrated as provided in RCW 35.21.426. [1965 c 7 § 35.21.427. Prior: 1955 c 252 § 3.]

35.21.430 Utilities—City may pay taxing districts involved after acquisition of private power facilities. On and after January 1, 1951, whenever a city or town shall acquire electric generation, transmission and/or distribution properties which at the time of acquisition were in private ownership, the legislative body thereof may each year order payments made to all taxing districts within which any part of the acquired properties are located, in amounts not greater than the taxes, exclusive of excess levies voted by the people and/or levies made for the payment of bonded indebtedness pursuant to the provisions of Article VII, section 2 of the Constitution of this state, as now or hereafter amended, and/or by statutory provision, imposed on such properties in the last tax year in which said properties were in private ownership. [1973 1st ex.s. c 195 § 15; 1965 c 7 § 35.21.430. Prior: 1951 c 217 § 1.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

35.21.440 Utilities—Additional payments to school districts having bonded indebtedness. In the event any portion of such property shall be situated in any school district which, at the time of acquisition, has an outstanding bonded indebtedness, the city or town may in addition to the payments authorized in RCW 35.21.430, make annual payments to such school district which shall be applied to the retirement of the principal and interest of such bonds. Such payments shall be computed in the proportion which the assessed valuation of utility property so acquired shall bear to the total assessed valuation of the district at the time of the acquisition. [1965 c 7 § 35.21.440. Prior: 1951 c 217 § 2.]

35.21.450 Utilities—Payment of taxes. Annual payments shall be ordered by an ordinance or ordinances of the legislative body. The ordinance shall further order a designated officer to notify in writing the county assessor of each county in which any portion of such property is located, of the city's intention to make such payments. The county assessor shall thereupon enter upon the tax rolls of the county the amount to which any taxing district of the county is entitled under the provisions of RCW 35.21.430 to 35.21.450, inclusive; and upon delivery of the tax rolls to the county treasurer as provided by law, the amount of the tax as hereinbefore authorized and determined shall become due and payable by the city or town the same as real property taxes. [1965 c 7 § 35.21.450. Prior: 1951 c 217 § 3.]

35.21.500 Compilation, codification, revision of city or town ordinances—Scope of codification. "Codification" means the editing, rearrangement and/or grouping of ordinances under appropriate titles, parts,

chapters and sections and includes but is not limited to the following:

(1) Editing ordinances to the extent deemed necessary or desirable, for the purpose of modernizing and clarifying the language of such ordinances, but without changing the meaning of any such ordinance.

(2) Substituting for the term "this ordinance," where necessary the term "section," "part," "code," "chapter," "title," or reference to specific section or chapter numbers, as the case may require.

(3) Correcting manifest errors in reference to other ordinances, laws and statutes, and manifest spelling, clerical or typographical errors, additions, or omissions.

(4) Dividing long sections into two or more sections and rearranging the order of sections to insure a logical arrangement of subject matter.

(5) Changing the wording of section captions, if any, and providing captions to new chapters and sections.

(6) Striking provisions manifestly obsolete and eliminating conflicts and inconsistencies so as to give effect to the legislative intent. [1965 c 7 § 35.21.500. Prior: 1957 c 97 § 1.]

35.21.510 Compilation, codification, revision of city or town ordinances—Authorized. Any city or town may prepare or cause to be prepared a codification of its ordinances. [1965 c 7 § 35.21.510. Prior: 1957 c 97 § 2.]

35.21.520 Compilation, codification, revision of city or town ordinances—Adoption as official code of city. Any city or town having heretofore prepared or caused to be prepared, or now preparing or causing to be prepared, or that hereafter prepares or causes to be prepared, a codification of its ordinances may adopt such codification by enacting an ordinance adopting such codification as the official code of the city, provided the procedure and requirements of RCW 35.21.500 through 35.21.570 are complied with. [1965 c 7 § 35.21.520. Prior: 1957 c 97 § 3.]

35.21.530 Compilation, codification, revision of city or town ordinances—Filing—Notice of hearing. When a city or town codifies its ordinances, it shall file a typewritten or printed copy of such codification in the office of the city or town clerk. After the first reading of the title of the adopting ordinance and of the title of the code to be adopted thereby, the legislative body of the city or town shall schedule a public hearing thereon. Notice of the hearing shall be published once not more than fifteen nor less than ten days prior to the hearing in the official newspaper of the city published in such city or town, indicating that its ordinances have been compiled, or codified and that a copy of such compilation or codification is on file in the city or town clerk's office for inspection. If there is no official newspaper, then the notice shall be published in some other newspaper published in the city or town, and if there is no newspaper published in the city or town, then it shall be published or posted in at least three public places in such city or town as the city or town legislative body

may direct. The notice shall state the time and place of the hearing. [1965 c 7 § 35.21.530. Prior: 1957 c 97 § 4.]

35.21.540 Compilation, codification, revision of city or town ordinances—Legislative body may amend, adopt, or reject adopting ordinance—When official code. After the hearing, the legislative body may amend, adopt, or reject the adopting ordinance in the same manner in which it is empowered to act in the case of other ordinances. Upon the enactment of such adopting ordinance, the codification shall be the official code of ordinances of the city or town. [1965 c 7 § 35.21.540. Prior: 1957 c 97 § 5.]

35.21.550 Compilation, codification, revision of city or town ordinances—Copies as proof of ordinances. Copies of such codes in published form shall be received without further proof as the ordinances of permanent and general effect of the city or town in all courts and administrative tribunals of this state. [1965 c 7 § 35.21.550. Prior: 1957 c 97 § 6.]

Ordinances, pleading of: RCW 4.36.110.

Ordinances, recording as evidence of passage: RCW 5.44.080.

35.21.560 Compilation, codification, revision of city or town ordinances—Adoption of new material. New material shall be adopted by the city or town legislative body as separate ordinances prior to the inclusion thereof in such codification: *Provided*, That any ordinance amending the codification shall set forth in full the section or sections, or subsection or subsections of the codification being amended, as the case may be, and this shall constitute a sufficient compliance with any statutory or charter requirement that no ordinance or any section thereof shall be revised or amended unless the new ordinance sets forth the revised ordinance or amended section in full. [1965 c 7 § 35.21.560. Prior: 1961 c 70 § 1; 1957 c 97 § 7.]

35.21.570 Compilation, codification, revision of city or town ordinances—Codification satisfies single subject, title, and amendment requirements of statute or charter. When a city or town shall make a codification of its ordinances in accordance with RCW 35.21.500 through 35.21.570 that shall constitute a sufficient compliance with any statutory or charter requirements that no ordinance shall contain more than one subject which shall be clearly expressed in its title and that no ordinance or any section thereof shall be revised or amended unless the new ordinance sets forth the revised ordinance or amended section in full. [1965 c 7 § 35.21.570. Prior: 1957 c 97 § 8.]

35.21.590 Executory conditional sales contracts for purchase of property—Limit on indebtedness—Election, when. See RCW 39.30.010.

35.21.600 Powers of cities having ten thousand or more population—Power to frame charter—"Population" defined. Any city of ten thousand or more population shall have all power to conduct its affairs consistent with and subject to state law,

including the power to frame a charter for its own government in accordance with RCW 35.22.030 through 35.22.200, as now or hereafter amended. "Population" means the number of residents as shown by the figures released for the most recent official state, federal, or county census, or population determination made under the direction of the state census board. Once any city has ten thousand or more population, any subsequent decrease in population below ten thousand shall not affect any powers theretofore acquired under this section. [1965 ex.s. c 47 § 6; 1965 c 7 § 35.21.600. Prior: 1963 c 222 § 1.]

35.21.610 Cities having ten thousand or more population may frame charter without changing classification—Alternative procedure to become city of first class for cities having twenty thousand or more population. Notwithstanding any other provision of chapters 35.01 and 35.06 RCW, any city having a population of ten thousand inhabitants, or more, may elect to frame a charter for its own government in the same manner as is provided for in RCW 35.22.030 through 35.22.200, as now or hereafter amended, without changing its classification unless it desires to do so by taking the action provided therefor in chapter 35.06 RCW: *Provided*, That if a city has a population of twenty thousand inhabitants, or more, and desires to become a city of the first class, it may do so in accordance with chapter 35.22 RCW without following the procedure prescribed by chapter 35.06 RCW to effect a change in its classification. [1965 ex.s. c 47 § 1.]

Cities of ten thousand or more may frame charters: State Constitution Art. 11 § 10 (Amendment 40), RCW 35.22.030.

35.21.620 Powers of cities adopting charters. Any city adopting a charter under Article XI, section 10 of the Constitution of the state of Washington, as amended by amendment 40, shall have all of the powers which are conferred upon incorporated cities and towns by Title 35 RCW, or other laws of the state, and all such powers as are usually exercised by municipal corporations of like character and degree. [1965 ex.s. c 47 § 2.]

Legislative powers of charter city: RCW 35.22.200.

35.21.630 Youth agencies—Establishment authorized. Any city, town, or county may establish a youth agency to investigate, advise and act on, within the powers of that municipality, problems relating to the youth of that community, including employment, educational, economic and recreational opportunities, juvenile delinquency and dependency, and other youth problems and activities as that municipality may determine. Any city, town, or county may contract with any other city, town, or county to jointly establish such a youth agency. [1965 ex.s. c 84 § 5.]

35.21.640 Conferences to study regional and governmental problems, counties and cities may establish. See RCW 36.64.080.

35.21.650 Prepayment of taxes or assessments authorized. All moneys, assessments and taxes belonging to or collected for the use of any city or town, including any amounts representing estimates for future assessments and taxes, may be deposited by any taxpayer prior to the due date thereof with the treasurer or other legal depository for the benefit of the funds to which they belong to be credited against any future tax or assessment that may be levied or become due from the taxpayer: *Provided*, That the taxpayer may with the concurrence of the treasurer designate a particular fund of such city or town against which such prepayment of tax or assessment is made. [1967 ex.s. c 66 § 1.]

35.21.660 Demonstration Cities and Metropolitan Development Act—Agreements with federal government—Scope of authority. Notwithstanding any other provision of law, all cities shall have the power and authority to enter into agreements with the United States or any department or agency thereof, to carry out the purposes of the Demonstration Cities and Metropolitan Development Act of 1966 (PL 89-754; 80 Stat. 1255), and to plan, organize and administer programs provided for in such contracts. This power and authority shall include, but not be limited to, the power and authority to create public corporations, commissions and authorities to perform duties arising under and administer programs provided for in such contracts and to limit the liability of said public corporations, commissions, and authorities, in order to prevent recourse to such cities, their assets, or their credit. [1971 ex.s. c 177 § 5; 1970 ex.s. c 77 § 1.]

Federal grants and programs: RCW 35.21.725-35.21.755.

35.21.670 Demonstration Cities and Metropolitan Development Act—Powers and limitations of public corporations, commissions or authorities created. Any public corporation, commission or authority created as provided in RCW 35.21.660, may be empowered to own and sell real and personal property; to contract with individuals, associations and corporations, and the state and the United States; to sue and be sued; to loan and borrow funds; to do anything a natural person may do; and to perform all manner and type of community services and activities in furtherance of an agreement by a city or by the public corporation, commission or authority with the United States to carry out the purposes of the Demonstration Cities and Metropolitan Development Act of 1966: *Provided*, That

(1) All liabilities incurred by such public corporation, commission or authority shall be satisfied exclusively from the assets and credit of such public corporation, commission or authority; and no creditor or other person shall have any recourse to the assets, credit or services of the municipal corporation creating the same on account of any debts, obligations or liabilities of such public corporation, commission or authority;

(2) Such public corporation, commission or authority shall have no power of eminent domain nor any power to levy taxes or special assessments;

(3) The name, the organization, the purposes and scope of activities, the powers and duties of the officers,

and the disposition of property upon dissolution of such public corporation, commission or authority shall be set forth in its charter of incorporation or organization, or in a general ordinance of the city or both. [1971 ex.s. c 177 § 7.]

35.21.680 Participation in Economic Opportunity Act programs. The legislative body of any city or town, is hereby authorized and empowered in its discretion by resolution or ordinance passed by a majority of the legislative body, to take whatever action it deems necessary to enable the city or town to participate in the programs set forth in the Economic Opportunity Act of 1964 (Public Law 88-452; 78 Stat. 508), as amended. Such participation may be engaged in as a sole city or town operation or in conjunction or cooperation with the state, any other city or town, county, or municipal corporation, or any private corporation qualified under said Economic Opportunity Act. [1971 ex.s. c 177 § 3.]

35.21.700 Tourist promotion. Any city or town in this state acting through its council or other legislative body shall have power to expend moneys and conduct promotion of resources and facilities in the city or town, or general area, by advertising, publicizing, or otherwise distributing information for the purpose of attracting visitors and encouraging tourist expansion. [1971 ex.s. c 61 § 2.]

35.21.710 License fees or taxes on certain business activities to be at a single uniform rate. Any city which imposes a license fee or tax upon business activities consisting of the making of retail sales of tangible personal property which are measured by gross receipts or gross income from such sales, shall impose such tax at a single uniform rate upon all such business activities. This section shall not apply to any business activities subject to the tax imposed by chapter 82.16 RCW. [1972 ex.s. c 134 § 6.]

License fees or taxes on financial institutions: Chapter 82.14A RCW.

35.21.720 City contracts to obtain sheriff's office law enforcement services. See RCW 41.14.250-41.14.280.

35.21.725 Federal grants and programs—Legislative recognition. The legislature hereby recognizes that an increasing number of federal grants or programs are available to the cities, towns, and counties of this state and that such programs provide our cities, towns, and counties with the opportunity and ability to render substantially improved services to their residents. [1974 1st ex.s. c 37 § 1.]

35.21.730 Federal grants and programs—Powers of cities, towns and counties—Administration. In order to improve the administration of authorized federal grants or programs, including revenue sharing, improve governmental efficiency, services, and the general living conditions in the urban areas of the state, any city, town, or county utilizing federal or private funds may by lawfully adopted ordinance or resolution:

(1) Transfer to any public corporation, commission, or authority, with or without consideration, any funds, real or personal property, property interests, or services, all of which are received from the federal government or from private sources;

(2) Organize and participate in joint operations or cooperative organizations funded by the federal government when acting solely as coordinators or agents of the federal government;

(3) Continue federally-assisted programs, projects, and activities after expiration of contractual term or after expending allocated federal funds as deemed appropriate to fulfill contracts made in connection with such agreements or as may be proper to permit an orderly readjustment by participating corporations, associations, or individuals: *Provided, however,* That nothing herein shall be construed in a manner contrary to the provisions of Article VIII, section 7, of the Washington state Constitution;

(4) Create public corporations, commissions, and authorities to administer and execute federal grants or programs; to receive and administer private funds, goods, or services for any lawful public purpose; and to limit the liability of such public corporations, commissions, and authorities to the assets and properties of such public corporation, commission, or authority in order to prevent recourse to such cities, towns, or counties or their assets or credit. [1974 1st ex.s. c 37 § 2.]

35.21.735 Federal grants and programs—Declaration of public purpose—Power and authority to enter into agreements—Receive and expend funds. The legislature hereby declares that carrying out the purposes of federal grants or programs is both a public purpose and an appropriate function for such a public corporation. The provisions of RCW 35.21.725 through 35.21.755 and RCW 35.21.660 and 35.21.670 and the enabling authority herein conferred to implement these provisions shall be construed to accomplish the purposes of RCW 35.21.725 through 35.21.755.

All cities, towns and counties shall have the power and authority to enter into agreements with the United States or any agency or department thereof, or any agency of the state government or its political subdivisions, and pursuant to such agreements may receive and expend federal or private funds for any lawful public purpose. [1974 1st ex.s. c 37 § 3.]

35.21.740 Federal grants and programs—Exercise of powers, authorities or rights—Territorial jurisdiction. Powers, authorities, or rights expressly or impliedly granted to any city, town, or county or their agents under any provision of RCW 35.21.725 through 35.21.755 shall not be operable or applicable, or have any effect beyond the limits of the incorporated area of any city or town implementing RCW 35.21.725 through 35.21.755, unless so provided by contract between the city and another city or county. [1974 1st ex.s. c 37 § 4.]

35.21.745 Federal grants and programs—Public corporations, commissions or authorities—Provision for, control over—Powers. Any city, town, or county which shall create a public corporation, commission, or authority pursuant to RCW 35.21.730 or 35.21.660, shall provide for its organization and operations and shall control and oversee its operation and funds in order to correct any deficiency and to assure that the purposes of each program undertaken are reasonably accomplished.

Any public corporation, commission, or authority created as provided in RCW 35.21.730 may be empowered to own and sell real and personal property; to contract with individuals, associations, and corporations, and the state and the United States; to sue and be sued; to loan and borrow funds; transfer, with or without consideration, any funds, real or personal property, property interests, or services received from the federal government, private sources or, if otherwise legal, from a city or county; to do anything a natural person may do; and to perform all manner and type of community services utilizing federal or private funds: *Provided,* That such public corporation, commission, or authority shall have no power of eminent domain nor any power to levy taxes or special assessments. [1974 1st ex.s. c 37 § 5.]

35.21.750 Federal grants and programs—Public corporations, commissions or authorities—Insolvency or dissolution. In the event of the insolvency or dissolution of a public corporation, commission, or authority, the superior court of the county in which the public corporation, commission, or authority is or was operating shall have jurisdiction and authority to appoint trustees or receivers of corporate property and assets and supervise such trusteeship or receivership: *Provided,* That all liabilities incurred by such public corporation, commission, or authority shall be satisfied exclusively from the assets and properties of such public corporation, commission, or authority and no creditor or other person shall have any right of action against the city, town, or county creating such corporation, commission or authority on account of any debts, obligations, or liabilities of such public corporation, commission, or authority. [1974 1st ex.s. c 37 § 6.]

35.21.755 Federal grants and programs—Public corporations, commissions or authorities—Exemption or immunity from taxation—In lieu excise tax. A public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660 shall receive the same immunity or exemption from taxation as that of the city, town, or county creating the same: *Provided,* That, except for any property listed on, or which is within a district listed on any federal or state register of historical sites, any such public corporation, commission, or authority shall pay to the county treasurer an annual excise tax equal to the amounts which would be paid upon real property and personal property devoted to the purposes of such public corporation, commission, or authority were it in private ownership, and such real

property and personal property is acquired and/or operated under RCW 35.21.725 through 35.21.755, and the proceeds of such excise tax shall be allocated by the county treasurer to the various taxing authorities in which such property is situated, in the same manner as though the property were in private ownership. [1974 1st ex.s. c 37 § 7.]

35.21.760 Legal interns—Employment authorized. Notwithstanding any other provision of law, the city attorney, corporation counsel, or other chief legal officer of any city or town may employ legal interns as otherwise authorized by statute or court rule. [1974 1st ex.s. c 7 § 1.]

35.21.765 Fire protection, ambulance or other emergency services provided by municipal corporation within county—Financial and other assistance by county authorized. See RCW 36.32.470.

35.21.770 Members of legislative bodies authorized to serve as volunteer firemen. Notwithstanding any other provision of law, the legislative body of any city or town, by resolution adopted by unanimous vote, may authorize any of its members to serve as volunteer firemen and to receive the same compensation, insurance and other benefits as are applicable to other volunteer firemen employed by the city or town. [1974 1st ex.s. c 60 § 1.]

**Chapter 35.22
FIRST CLASS CITIES**

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Unclaimed property in hands of city police: Chapter 63.32 RCW.

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Vital statistics, primary registration district: RCW 70.58.010.

35.22.010 Laws governing. Cities of the first class shall be organized and governed according to the law providing for the government of cities having a population of twenty thousand or more inhabitants in accordance with Article 11, section 10 of the state Constitution. [1965 c 7 § 35.22.010. Prior: 1890 p 143 § 23; RRS § 8947.]

First class city, defined: RCW 35.01.010.

35.22.020 Mode of exercising powers, functions and duties. The form of the organization and the manner and mode in which cities of the first class shall exercise the powers, functions and duties conferred upon them

by law, with respect to their own government, shall be as provided in the charters thereof. [1965 c 7 § 35.22-.020. Prior: 1911 c 17 § 1; RRS § 8948.]

35.22.030 Cities having ten thousand or more population may frame charter for own government. Any city with a population of ten thousand or more inhabitants may frame a charter for its own government. [1965 ex.s. c 47 § 5; 1965 c 7 § 35.22.030. Prior: 1890 p 215 § 1; RRS § 8951.]

Cities of ten thousand or more may frame charters without change in classification: RCW 35.21.600–35.21.620.

Cities of ten thousand or more permitted to frame charters: State Constitution Art. 11 § 10 (Amendment 40).

35.22.050 Election of freeholders to frame charter. Whenever the population of a city is ten thousand or more, the legislative authority thereof shall provide by ordinance for an election to be held therein for the purpose of electing fifteen freeholders for the purpose of framing a charter for the city. The members of the board of freeholders must be qualified electors and must have been residents of the city for a period of at least two years prior to their election. [1965 ex.s. c 47 § 7; 1965 c 7 § 35.22.050. Prior: 1890 p 216 § 3, part; RRS § 8953, part.]

35.22.055 Election of freeholders in cities of three hundred thousand or more population—Designation of positions—Rotation of names on ballots. Notwithstanding any other provision of law, whenever the population of a city is three hundred thousand persons or more, not less than ten days before the time for filing declarations of candidacy for election of freeholders under Article XI, section 10 (Amendment 40), of the state Constitution, the city clerk shall designate the positions to be filled by consecutive number, commencing with one. The positions to be designated shall be dealt with as separate offices for all election purposes, and each candidate shall file for one, but only one, of the positions so designated.

In the printing of ballots, the positions of the names of candidates for each numbered position shall be changed as many times as there are candidates for the numbered positions, following insofar as applicable the procedure provided for in RCW 29.30.040 for the rotation of names on primary ballots, the intention being that ballots at the polls will reflect as closely as practicable the rotation procedure as provided for therein. [1974 1st ex.s. c 1 § 1.]

Severability—1974 1st ex.s. c 1: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 1st ex.s. c 1 § 3.]

35.22.060 Submission of charter—Publication. The board of freeholders shall convene within ten days after their election and frame a charter for the city and within thirty days thereafter, they, or a majority of them, shall submit the charter to the legislative authority of the city, which, within five days thereafter, shall cause it

to be published in the daily newspaper of largest general circulation published in the city, or if no daily newspaper is published therein, then it shall be published in the newspaper having the largest general circulation within the city at least once each week for four weeks next preceding the day of submitting the same to the electors for their approval. [1965 ex.s. c 47 § 8; 1965 c 7 § 35.22.060. Prior: 1890 p 216 § 3, part; RRS § 8953, part.]

Submission of proposed charter, publication: State Constitution Art. 11 § 10 (Amendment 40).

35.22.070 Election on adoption of charter—Notice. Within five days after the filing with the city clerk of affidavits of publication, which affidavits shall be filed immediately after the last publication, the legislative authority of the city shall initiate the proceedings for the submission of the proposed charter to the qualified voters of the city for their adoption or rejection at either a general or special election. At this election the first officers to serve under the provisions of the proposed charter shall also be elected. In electing from wards, the division into wards as specified in the proposed charter shall govern; in all other respects the then existing laws relating to such election shall govern. The notice shall specify the objects for which the election is held, and shall be given as required by law. [1965 ex.s. c 47 § 9; 1965 c 7 § 35.22.070. Prior: (i) 1890 p 216 § 3, part; RRS § 8953, part. (ii) 1890 p 223 § 6, part; RRS § 8977, part.]

Election on adoption of charter, notice: State Constitution Art. 11 § 10 (Amendment 40).

35.22.080 Conduct of elections. The election of the members of the board of freeholders and that upon the proposition of adopting or rejecting the proposed charter and the officers to be elected thereunder, the returns of both elections, the canvassing thereof and the declaration of the result shall be governed by the laws regulating and controlling elections in the city. [1965 c 7 § 35.22.080. Prior: (i) 1890 p 216 § 3, part; RRS § 8953, part. (ii) 1890 p 223 § 6, part; RRS § 8977, part. (iii) 1890 p 217 § 4, part; RRS § 8954, part.]

Canvassing returns, generally: Chapter 29.62 RCW.

Conduct of elections—Canvass: RCW 29.13.040.

Notice of election: RCW 29.27.080.

35.22.090 Form of ballot. The form of ballot in the election for the adoption or rejection of the proposed charter shall be: "For the proposed charter," "Against the proposed charter." In submitting the proposed charter or amendments thereto, any alternate article or proposition may be presented for the choice of the voters and may be voted on separately without prejudice to others. In submitting such amendment, article or proposition, the form of the ballot shall be: "For article No. _____ of the charter," "Against article No. _____ of the charter." [1965 c 7 § 35.22.090. Prior: 1890 p 216 § 3, part; RRS § 8953, part.]

35.22.100 Certificates of election to officers. If a majority of the votes cast at the election upon the adoption of the proposed charter favor it, certificates of election shall be issued to each officer elected at that election. Within ten days after the issuance of the certificates of election, the newly elected officers shall qualify as provided in the charter, and on the tenth day thereafter at twelve o'clock noon of that day, the officers so elected and qualified shall enter upon the duties of the offices to which they were elected and at such time the charter shall be authenticated, recorded, attested and go into effect. When so authenticated, recorded and attested, the charter shall become the organic law of the city and supersede any existing charter and amendments thereto and all special laws inconsistent therewith. [1965 c 7 § 35.22.100. Prior: (i) 1890 p 223 § 6, part; RRS § 8977, part. (ii) 1890 p 217 § 4, part; RRS § 8954, part.]

35.22.110 Authentication of charter. The authentication of the charter shall be by certificate of the mayor in substance as follows:

"I _____, mayor of the city of _____ do hereby certify that in accordance with the provisions of the Constitution and statutes of the State of Washington, the city of _____ caused fifteen freeholders to be elected on the _____ day of _____ 19__ to prepare a charter for the city; that due notice of that election was given in the manner provided by law and that the following persons were declared elected to prepare and propose a charter for the city, to wit: _____

That thereafter on the _____ day of _____ 19__ the board of freeholders returned a proposed charter for the city of _____ signed by the following members thereof: _____

That thereafter the proposed charter was published in (Indicate name of newspaper in which published) for at least once each week for four weeks next preceding the day of submitting the same to the electors for their approval. (Indicate dates of publication)

That thereafter on the _____ day of _____ 19__, at an election duly called and held, the proposed charter was submitted to the qualified electors thereof, and the returns canvassed resulting as follows: For the proposed charter, _____ votes; against the proposed charter, _____ votes; majority for the proposed charter, _____ votes; whereupon the charter was declared adopted by a majority of the qualified electors voting at the election.

I further certify that the foregoing is a full, true and complete copy of the proposed charter so voted upon and adopted as aforesaid.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the corporate seal of said city at my office this _____ day of _____ 19__

Attest:

 Mayor of the city of _____
 Clerk of the city of _____ (Corporate Seal)."

Immediately after authentication, the authenticated charter shall be recorded by the city clerk in a book

provided for that purpose known as the charter book of the city of _____ and when so recorded shall be attested by the clerk and mayor under the corporate seal of the city. All amendments shall be in like manner recorded and attested.

All courts shall take judicial notice of a charter and all amendments thereto when recorded and attested as required in this section. [1965 ex.s. c 47 § 10; 1965 c 7 § 35.22.110. Prior: 1890 p 217 § 4, part; RRS § 8954, part.]

Authentication of charter: RCW 35.03.050.

35.22.120 Petition for submission of charter amendment. On petition of a number (equal to fifteen percent of the total number of votes cast at the last preceding general state election) of qualified voters of any municipality having adopted a charter under the laws of this state, asking the adoption of a specified charter amendment, providing for any matter within the realm of local affairs, or municipal business, the said amendment shall be submitted to the voters at the next regular municipal election, occurring thirty days or more after said petition is filed, and if approved by a majority of the local electors of the municipality voting upon it, such amendment shall become a part of the charter organic law governing such municipality. [1965 c 7 § 35.22.120. Prior: 1949 c 233 § 1; 1903 c 186 § 1; Rem. Supp. 1949 § 8963.]

Times for holding elections: Chapter 29.13 RCW.

35.22.130 Requisites of petition—Effect of favorable vote. A petition containing the demand for the submission of the proposed charter amendment or for an election to be held for the purpose of electing a board of freeholders for the purpose of preparing a new charter for the city as provided in RCW 35.22.140 shall be filed with the city clerk and each signer shall write his place of residence after his signature. This and RCW 35.22.120 do not deprive city councils of the right to submit proposed charter amendments but affords a concurrent and additional method of submission. [1967 c 123 § 2; 1965 c 7 § 35.22.130. Prior: (i) 1903 c 186 § 2; RRS § 8964. (ii) 1903 c 186 § 3; RRS § 8965.]

35.22.140 New or revised charter—Petition—Freeholders. On the petition of a number of registered voters of a city equal to twenty-five percent of the total votes cast at the last preceding city election, the city council of a charter city shall, or without such petition may, cause an election to be held for the purpose of electing a board of fifteen freeholders for the purpose of preparing a new charter for the city by altering, revising, adding to or repealing the existing charter including all amendments thereto. The members of the board of freeholders must be qualified electors and must have been residents in the city for a period of at least two years prior to their election. At such election the proposition of whether or not a board of freeholders shall be created at all shall be separately stated on the ballots and unless a majority of the votes cast upon that proposition favor it, no further steps shall be taken in the

proceedings. [1965 ex.s. c 47 § 11; 1965 c 7 § 35.22.140. Prior: 1945 c 55 1, part; 1925 ex.s. c 137 § 1, part; 1895 c 27 § 1, part; Rem. Supp. 1945 § 8955, part.]

Amendment of charter: State Constitution Art. 11 § 10 (Amendment 40).

35.22.150 Submission of new charter. Within ten days after the results of the election have been determined, if a majority of the votes cast favor the proceeding, the members of the board of freeholders elected thereat shall convene and prepare a new charter by altering, revising, adding to, or repealing the existing charter including all amendments thereto and within one year thereafter file it with the city clerk. [1974 1st ex.s. c 1 § 2; 1965 c 7 § 35.22.150. Prior: 1945 c 55 § 1, part; 1925 ex.s. c 137 § 1, part; 1895 c 27 § 1, part; Rem. Supp. 1945 § 8955, part.]

Severability—1974 1st ex.s. c 1: See note following RCW 35.22.055.

35.22.160 Election on adoption of new charter. Upon the filing of the proposed new, altered, changed or revised charter with the city clerk, it shall be submitted to the qualified voters of the city at an election to be called therefor pursuant to the provisions of law applicable to the holding of elections in such city. [1965 c 7 § 35.22.160. Prior: 1925 ex.s. c 137 § 2, part; 1895 c 27 § 2, part; RRS § 8956, part.]

Times for holding elections: Chapter 29.13 RCW.

35.22.170 Publication of proposed new charter. The proposed new, altered or revised charter shall be published in the daily newspaper of largest general circulation published in the city, or if no daily newspaper is published therein, then it shall be published in the newspaper having the largest general circulation within the city at least once each week for four weeks next preceding the day of submitting the same to the electors for their approval. [1965 ex.s. c 47 § 12; 1965 c 7 § 35.22.170. Prior: 1925 ex.s. c 137 § 3; 1895 c 27 § 3; RRS § 8957.]

Publication of amendments to charter: State Constitution Art. 11 § 10 (Amendment 40).

35.22.180 Conduct of elections. The election of the board of freeholders and that upon the proposition of adopting the proposed new, altered or revised charter, may be general or special elections and except as herein provided, said elections, the returns, the canvassing thereof and the declaration of the result shall be governed by the laws regulating and controlling elections in the city. In both cases the notice specifying the object of the election must be given at least ten days before the day of election. [1965 c 7 § 35.22.180. Prior: (i) 1895 c 27 § 4; RRS § 8958. (ii) 1895 c 27 § 5; RRS § 8959.]

Election on amendment to charter: State Constitution Art. 11 § 10 (Amendment 40).

35.22.190 Effect of favorable vote. If a majority of the voters voting upon the adoption of the proposed new, altered or revised charter favor it, it shall become

the charter of the city and the organic law thereof, superseding any existing charter. All bodies or offices abolished or dispensed with by the new, altered or revised charter, together with the emoluments thereof shall immediately cease to exist, and any new offices created shall be filled by appointment of the mayor until the next general election subject to such approval by the city council as may be required by the new, altered or revised charter. [1965 c 7 § 35.22.190. Prior: (i) 1925 ex.s. c 137 § 2, part; 1895 c 27 § 2, part; RRS § 8956, part. (ii) 1895 c 27 § 6; RRS § 8962.]

Times for holding elections: Chapter 29.13 RCW.

35.22.200 Legislative powers of charter city—Where vested—Direct legislation. The legislative powers of a charter city shall be vested in a mayor and a city council, to consist of such number of members and to have such powers as may be provided for in its charter. The charter may provide for direct legislation by the people through the initiative and referendum upon any matter within the scope of the powers, functions, or duties of the city. The mayor and council and such other elective officers as may be provided for in such charter shall be elected at such times and in such manner as provided in Title 29 RCW, and for such terms and shall perform such duties and receive such compensation as may be prescribed in the charter. [1965 ex.s. c 47 § 13; 1965 c 7 § 35.22.200. Prior: (i) 1890 p 223 § 6, part; RRS § 8977, part. (ii) 1927 c 52 § 1; 1911 c 17 § 2; RRS § 8949.]

Powers of cities adopting charters: RCW 35.21.600, 35.21.620.

35.22.205 Compensation and hours of mayor and elected officials. The compensation and the time to be devoted to the performance of the duties of the mayor and elected officials of all cities of the first class shall be as fixed by ordinance of said city irrespective of any city charter provisions. [1965 c 7 § 35.22.205. Prior: 1957 c 113 § 1; 1955 c 354 § 1.]

Labor regulations, hours of labor: Chapter 49.28 RCW.

35.22.210 Separate designation of councilmen in certain first class cities. Any city of the first class having a population less than one hundred thousand by the last federal census and having a charter providing that each of its councilmen shall be the commissioner of an administrative department of such city, may by ordinance provide for the separate designation of such councilmen as officers, in accordance with such administrative departments, and for their filing for and election to office under such separate designations. [1965 c 7 § 35.22.210. Prior: 1925 ex.s. c 61 § 1; RRS § 8948-1.]

35.22.220 Repeal of separate designation. Whenever any such city shall have passed such an ordinance providing for such separate designations and for filing for and election to office in accordance therewith, such city shall have no power to repeal the same except by ordinance passed by the council of such city and submitted to the voters thereof at a general or special election and ratified by a majority of the voters voting thereon. [1965

c 7 § 35.22.220. Prior: 1925 ex.s. c 61 § 2; RRS § 8948-2.]

Times for holding elections: Chapter 29.13 RCW.

35.22.280 Specific powers enumerated. Any city of the first class shall have power:

(1) To provide for general and special elections, for questions to be voted upon, and for the election of officers;

(2) To provide for levying and collecting taxes on real and personal property for its corporate uses and purposes, and to provide for the payment of the debts and expenses of the corporation;

(3) To control the finances and property of the corporation, and to acquire, by purchase or otherwise, such lands and other property as may be necessary for any part of the corporate uses provided for by its charter, and to dispose of any such property as the interests of the corporation may, from time to time, require;

(4) To borrow money for corporate purposes on the credit of the corporation, and to issue negotiable bonds therefor, on such conditions and in such manner as shall be prescribed in its charter; but no city shall, in any manner or for any purpose, become indebted to an amount in the aggregate to exceed the limitation of indebtedness prescribed by chapter 39.36 RCW as now or hereafter amended;

(5) To issue bonds in place of or to supply means to meet maturing bonds or other indebtedness, or for the consolidation or funding of the same;

(6) To purchase or appropriate private property within or without its corporate limits, for its corporate uses, upon making just compensation to the owners thereof, and to institute and maintain such proceedings as may be authorized by the general laws of the state for the appropriation of private property for public use;

(7) To lay out, establish, open, alter, widen, extend, grade, pave, plank, establish grades, or otherwise improve streets, alleys, avenues, sidewalks, wharves, parks, and other public grounds, and to regulate and control the use thereof, and to vacate the same, and to authorize or prohibit the use of electricity at, in, or upon any of said streets, or for other purposes, and to prescribe the terms and conditions upon which the same may be so used, and to regulate the use thereof;

(8) To change the grade of any street, highway, or alley within its corporate limits, and to provide for the payment of damages to any abutting owner or owners who shall have built or made other improvements upon such street, highway, or alley at any point opposite to the point where such change shall be made with reference to the grade of such street, highway, or alley as the same existed prior to such change;

(9) To authorize or prohibit the locating and constructing of any railroad or street railroad in any street, alley, or public place in such city, and to prescribe the terms and conditions upon which any such railroad or street railroad shall be located or constructed; to provide for the alteration, change of grade, or removal thereof; to regulate the moving and operation of railroad and street railroad trains, cars, and locomotives within the corporate limits of said city; and to provide

by ordinance for the protection of all persons and property against injury in the use of such railroads or street railroads;

(10) To provide for making local improvements, and to levy and collect special assessments on property benefited thereby, and for paying for the same or any portion thereof;

(11) To acquire, by purchase or otherwise, lands for public parks within or without the limits of such city, and to improve the same. When the language of any instrument by which any property is so acquired limits the use of said property to park purposes and contains a reservation of interest in favor of the grantor or any other person, and where it is found that the property so acquired is not needed for park purposes and that an exchange thereof for other property to be dedicated for park purposes is in the public interest, the city may, with the consent of the grantor or such other person, his heirs, successors, or assigns, exchange such property for other property to be dedicated for park purposes, and may make, execute, and deliver proper conveyances to effect the exchange. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that no consent by such persons is attainable. Title to property so conveyed by the city shall vest in the grantee free and clear of any trust in favor of the public arising out of any prior dedication for park purposes, but the right of the public shall be transferred and preserved with like force and effect to the property received by the city in such exchange;

(12) To construct and keep in repair bridges, viaducts, and tunnels, and to regulate the use thereof;

(13) To determine what work shall be done or improvements made at the expense, in whole or in part, of the owners of the adjoining contiguous, or proximate property, or others specially benefited thereby; and to provide for the manner of making and collecting assessments therefor;

(14) To provide for erecting, purchasing, or otherwise acquiring waterworks, within or without the corporate limits of said city, to supply said city and its inhabitants with water, or authorize the construction of same by others when deemed for the best interests of such city and its inhabitants, and to regulate and control the use and price of the water so supplied;

(15) To provide for lighting the streets and all public places, and for furnishing the inhabitants thereof with gas or other lights, and to erect, or otherwise acquire, and to maintain the same, or to authorize the erection and maintenance of such works as may be necessary and convenient therefor, and to regulate and control the use thereof;

(16) To establish and regulate markets, and to provide for the weighing, measuring, and inspection of all articles of food and drink offered for sale thereat, or at any other place within its limits, by proper penalties, and to enforce the keeping of proper legal weights and

measures by all vendors in such city, and to provide for the inspection thereof;

(17) To erect and establish hospitals and pesthouses, and to control and regulate the same;

(18) To erect and establish work houses and jails, and to control and regulate the same, and to provide for the working of prisoners confined therein;

(19) To provide for establishing and maintaining reform schools for juvenile offenders;

(20) To provide for the establishment and maintenance of public libraries, and to appropriate, annually, such percent of all moneys collected for fines, penalties, and licenses as shall be prescribed by its charter, for the support of a city library, which shall, under such regulations as shall be prescribed by ordinance, be open for use by the public;

(21) To regulate the burial of the dead, and to establish and regulate cemeteries within or without the corporate limits, and to acquire land therefor by purchase or otherwise; to cause cemeteries to be removed beyond the limits of the corporation, and to prohibit their establishment within two miles of the boundaries thereof;

(22) To direct the location and construction of all buildings in which any trade or occupation offensive to the senses or deleterious to public health or safety shall be carried on, and to regulate the management thereof; and to prohibit the erection or maintenance of such buildings or structures, or the carrying on of such trade or occupation within the limits of such corporation, or within the distance of two miles beyond the boundaries thereof;

(23) To provide for the prevention and extinguishment of fires and to regulate or prohibit the transportation, keeping, or storage of all combustible or explosive materials within its corporate limits, and to regulate and restrain the use of fireworks;

(24) To establish fire limits and to make all such regulations for the erection and maintenance of buildings or other structures within its corporate limits as the safety of persons or property may require, and to cause all such buildings and places as may from any cause be in a dangerous state to be put in safe condition;

(25) To regulate the manner in which stone, brick, and other buildings, party walls, and partition fences shall be constructed and maintained;

(26) To deepen, widen, dock, cover, wall, alter, or change the channels of waterways and courses, and to provide for the construction and maintenance of all such works as may be required for the accommodation of commerce, including canals, slips, public landing places, wharves, docks, and levees, and to control and regulate the use thereof;

(27) To control, regulate, or prohibit the anchorage, moorage, and landing of all watercrafts and their cargoes within the jurisdiction of the corporation;

(28) To fix the rates of wharfage and dockage, and to provide for the collection thereof, and to provide for the imposition and collection of such harbor fees as may be consistent with the laws of the United States;

(29) To license, regulate, control, or restrain wharf boats, tugs, and other boats used about the harbor or within such jurisdiction;

(30) To require the owners of public halls or other buildings to provide suitable means of exit; to provide for the prevention and abatement of nuisances, for the cleaning and purification of watercourses and canals, for the drainage and filling up of ponds on private property within its limits, when the same shall be offensive to the senses or dangerous to health; to regulate and control, and to prevent and punish, the defilement or pollution of all streams running through or into its corporate limits, and for the distance of five miles beyond its corporate limits, and on any stream or lake from which the water supply of said city is taken, for a distance of five miles beyond its source of supply; to provide for the cleaning of areas, vaults, and other places within its corporate limits which may be so kept as to become offensive to the senses or dangerous to health, and to make all such quarantine or other regulations as may be necessary for the preservation of the public health, and to remove all persons afflicted with any infectious or contagious disease to some suitable place to be provided for that purpose;

(31) To declare what shall be a nuisance, and to abate the same, and to impose fines upon parties who may create, continue, or suffer nuisances to exist;

(32) To regulate the selling or giving away of intoxicating, malt, vinous, mixed, or fermented liquors as authorized by the general laws of the state: *Provided*, That no license shall be granted to any person or persons who shall not first comply with the general laws of the state in force at the time the same is granted;

(33) To grant licenses for any lawful purpose, and to fix by ordinance the amount to be paid therefor, and to provide for revoking the same: *Provided*, That no license shall be granted to continue for longer than one year from the date thereof;

(34) To regulate the carrying on within its corporate limits of all occupations which are of such a nature as to affect the public health or the good order of said city, or to disturb the public peace, and which are not prohibited by law, and to provide for the punishment of all persons violating such regulations, and of all persons who knowingly permit the same to be violated in any building or upon any premises owned or controlled by them;

(35) To restrain and provide for the punishment of vagrants, mendicants, prostitutes, and other disorderly persons;

(36) To provide for the punishment of all disorderly conduct, and of all practices dangerous to public health or safety, and to make all regulations necessary for the preservation of public morality, health, peace, and good order within its limits, and to provide for the arrest, trial, and punishment of all persons charged with violating any of the ordinances of said city. The punishment shall not exceed a fine of five hundred dollars or imprisonment in the city jail for six months, or both such fine and imprisonment;

(37) To project or extend its streets over and across any tidelands within its corporate limits, and along or across the harbor areas of such city, in such manner as will best promote the interests of commerce;

(38) To provide in their respective charters for a method to propose and adopt amendments thereto. [1971 ex.s. c 16 § 1; 1965 ex.s. c 116 § 2; 1965 c 7 § 35.22.280. Prior: 1890 p 218 § 5; RRS § 8966.]

35.22.282 City and town license fees and taxes on financial institutions. See chapter 82.14A RCW.

35.22.283 City license fees or taxes on certain business activities to be at a single uniform rate. See RCW 35.21.710.

35.22.290 Additional powers—Auditoriums, art museums. Every city of the first class may lease, purchase, or construct, and maintain public auditoriums and art museums and may use and let them for such public and private purposes for such compensation and rental and upon such conditions as shall be prescribed by ordinance; it may issue negotiable bonds for the purchase and construction thereof on such conditions and in such manner as shall be prescribed by its charter and by general law for the borrowing of money for corporate purposes. [1965 c 7 § 35.22.290. Prior: 1925 ex.s. c 81 § 1; 1923 c 179 § 1; RRS § 8981–2.]

35.22.300 Leasing of land for auditoriums, etc. If a city of the first class has acquired title to land for public auditoriums or art museums, it may let it or any part thereof, together with the structures and improvements constructed or to be constructed thereon for such term as may be deemed proper and may raise the needed funds for financing the project, in whole or in part, by transferring or pledging the use and income thereof in such manner as the corporate authorities deem proper.

Any lessee under any such lease may mortgage the leasehold interest and may issue bonds to be secured by the mortgage and may pledge the rent and income of the property to accrue during the term of the lease or any part thereof for the due financing of the project: *Provided*, That the corporate authorities may specify in any such lease such provisions and restrictions relating thereto as they shall deem proper. [1965 c 7 § 35.22.300. Prior: 1925 c 12 § 1; RRS § 8981–3.]

35.22.302 Conveyance or lease of space above real property or structures or improvements. The legislative authority of every city of the first and second class owning real property, not limited by dedication or trust to a particular public use, may convey or lease for public or private use any estate, right or interest in the areas above the surface of the ground of such real property or structures or improvements thereon: *Provided*, That the estate, right or interest so created and conveyed and the use authorized in connection therewith will not in the judgment of said legislative authority be needed for or be inconsistent with the public purposes for which such property was acquired, is being used, or to which it is to be devoted: *Provided further*, That the legislative authority may impose conditions and restrictions on the use to be made of the estate, right or interest conveyed or leased, in the same manner

and to the same extent as may be done by any vendor or lessor of real estate.

No conveyance or lease authorized by this section shall permit, authorize or suffer the lessee or grantee to encumber that portion of the real estate devoted to or needed for public purposes. [1967 ex.s. c 99 § 1.]

35.22.305 Department for administration, etc., of property incident to civic center—Creation authorized—Supervision—Authority. The legislative authority of any city of the first class of more than four hundred thousand population shall have, notwithstanding any charter or statutory provision to the contrary, authority by ordinance to create a separate department of municipal government for the administration, management and control of any multiple use city property, including improvements thereon, devoted to educational, cultural, recreational, entertainment, athletic, convention and such other uses as shall be declared by ordinance to be incident to a civic center. The supervision of said department shall be by a manager, board or commission to be appointed in the manner, receive such compensation and perform such duties as may be prescribed by ordinance which may include authority to enter into leases, concessions and other agreements on behalf of the city, appoint and remove employees subject to applicable civil service provisions, advertise events and publicize and otherwise promote the use of such civic center facilities, and operate, manage and control municipal off-street parking and public transportation facilities heretofore or hereafter erected primarily to serve such civic center. All expenditures, purchases and improvements made or performed by or under the direction of said department shall be subject to applicable charter provisions and statutes. [1965 c 132 § 1.]

35.22.310 Cesspools, filling of—Removal of debris, etc. Every city of the first class is empowered to provide for the filling and closing of cesspools and for the removing of garbage, debris, grass, weeds, and brush on property in the city. [1965 c 7 § 35.22.310. Prior: 1907 c 89 § 1; RRS § 8972.]

35.22.320 Collection of cost of filling cesspools, etc. Every city of the first class by general ordinance may prescribe the mode and manner of assessing, levying and collecting assessments upon property for filling and closing cesspools thereon and removing garbage, debris, grass, weeds, and brush and provide that the charges therefor shall be a lien on the property upon which such work is done and collected in such manner as is prescribed in the ordinance. [1965 c 7 § 35.22.320. Prior: 1907 c 89 § 2; RRS § 8973.]

35.22.330 Radio communication. Every city of the first class maintaining a harbor department may install, maintain, and operate in connection therewith wireless telegraph stations for the handling of official and commercial messages and for communicating with wireless land and shore stations under such regulations as the corporate authorities may prescribe and in accordance

with the statutes and regulations of the federal government. [1965 c 7 § 35.22.330. Prior: 1923 c 92 § 1; RRS § 8981-1.]

35.22.340 Streets—Railroad franchises in, along, over and across. Every city of the first class may by ordinance authorize the location, construction, and operation of railroads in, along, over, and across any highway, street, alley, or public place in the city for such term of years and upon such conditions as the city council may by ordinance prescribe notwithstanding any provisions of the city charter limiting the length of terms of franchises or requiring franchises to contain a provision granting the city the right to appropriate by purchase the property of any corporation receiving a franchise, license, privilege, or authority: *Provided*, That this does not apply to street railroads nor to railroads operated in connection with street railroads in and along the streets of such city. [1965 c 7 § 35.22.340. Prior: 1907 c 41 § 1; RRS § 8971.]

35.22.350 Utilities—Collective bargaining with employees. Every city of the first class which owns and operates a waterworks system, a light and power system, a street railway or other public utility, shall have power, through its proper officers, to deal with and to enter into contracts for periods not exceeding one year with its employees engaged in the construction, maintenance, or operation thereof through the accredited representatives of the employees including any labor organization or organizations authorized to act for them concerning wages, hours and conditions of labor in such employment, and every city having not less than one hundred forty thousand nor more than one hundred and seventy thousand population is empowered and authorized to immediately place in effect any adjustment or change in such wages, hours and conditions of labor of such employees as may be required to conform to the provisions of any such contract, irrespective of the provisions of any annual budget or act relating thereto: *Provided*, That not more than one such contract not in conformity with any annual budget shall be made during any budget year, nor shall any such adjustment or change be made which would result in an excess of expenditures over revenues of such public utility. [1965 c 7 § 35.22.350. Prior: 1955 c 145 § 1; 1951 c 21 § 1; 1935 c 37 § 1; RRS § 8966-5.]

Labor regulations: Title 49 RCW.

35.22.360 Utilities—Wage adjustments. Notwithstanding any annual budget or statute relating thereto, any city of the first class owning and operating a public utility, or the city's public utility department, may make an adjustment or change of the rate of daily wages of employees of any such public utility if such adjustment or change is accompanied by or is approximately coincidental with a shortening of the work week of the employees and if the adjustment or change will not result in any increase in pay per week, or excess of expenditures of the public utility over its revenues. [1965 c 7 § 35.22.360. Prior: 1937 c 16 § 1; RRS § 9000-22a.]

35.22.362 Nuclear thermal power facilities—Joint development with public utility districts and electrical companies. See Chapter 54.44 RCW.

35.22.365 Public transportation systems in first class cities—Financing. See Chapter 35.95 RCW.

35.22.370 Wards—Division of city. Notwithstanding that the charter of a city of the first class may forbid the city council from redividing the city into wards except at stated periods, if the city has failed to redivide the city into wards during any such period, the city council by ordinance may do so at any time thereafter: *Provided*, That there shall not be more than one redivision into wards during any one period specified in the charter. [1965 c 7 § 35.22.370. Prior: 1903 c 141 § 1; RRS § 8970.]

35.22.380 Water system—Improvement or extension. If any plan, system, or proposed extension adopted by a city of the first class for furnishing a city water supply is thereafter deemed insufficient or inadequate for any reason, the city council may determine the fact by resolution and thereupon by ordinance submit to the voters a new plan or system or a proposed change in the adopted plan, system, or extension clearly specified in general terms in the ordinance, and stated upon the ballot in general terms sufficiently clear for common understanding. [1965 c 7 § 35.22.380. Prior: 1895 c 13 § 1; RRS § 8974.]

35.22.390 Water system—Submission of plan to voters—Notice. Such new plan or system of water supply in lieu of, or proposed changes in, a plan, system, or extension previously adopted shall be submitted at a general or special election for ratification or rejection. Notice thereof shall be given by publication at least thirty days before the election in the paper doing the city printing. [1965 c 7 § 35.22.390. Prior: 1895 c 13 § 2, part; RRS § 8975, part.]

Notice of elections: RCW 29.27.080.

Times for holding elections: Chapter 29.13 RCW.

35.22.400 Water system—Funds available for new plan. If three-fifths of the votes cast upon the proposition of adopting a new plan or system of water supply in lieu of, or proposed changes in, a plan, system, or extension previously adopted, favor it, the fund devoted to the original plan, system, or extension may be used for the new plan, system, or extension adopted in lieu of or the changed plan, system, or extension as the case may be. [1965 c 7 § 35.22.400. Prior: (i) 1895 c 13 § 3; RRS § 8976. (ii) 1895 c 13 § 2, part; RRS § 8975, part.]

35.22.410 Wharves—City may let wharves or privileges thereon. Every city of the first class may let the whole or any part of a wharf, or the privileges thereon owned by the city, for periods not to exceed one year in such manner, and upon such terms, as may be prescribed by a general ordinance. [1965 c 7 § 35.22.410. Prior: 1911 c 67 § 1; RRS § 8967.]

35.22.420 Designation of police judge—Additional judge—Traffic cases segregated. The mayor of each city of the first class shall, within ten days after the justices of the peace are elected at the quadrennial election appoint either one of the justices of the peace elected thereat or any practicing attorney as police justice or police judge, who shall be designated as municipal judge of the city and whose term as municipal judge shall be four years: *Provided*, That in cities where the term of office of mayor is less than four years, the term of the municipal judge shall begin and end at the same time as that of the mayor. The appointee shall, before entering upon the duties of his office as municipal judge, give such bond or additional bond for the faithful performance of his duties as the legislative authority of the city may by ordinance direct.

Any city of the first class may by ordinance provide for one additional municipal judge appointive in like manner as above provided, and who, upon appointment and qualification, shall enjoy all the powers and perform all the duties imposed upon police judges by law, and who shall, before entering upon the duties of municipal judge, give such bond for the faithful performance of his duties as municipal judge as the legislative authority of the city may by ordinance direct. Any municipal judge shall be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering him incapable of performing the duties of his office.

Such additional municipal judge may appoint a clerk who shall be paid such salary out of the funds of the city as may be provided by ordinance. A suitable place for holding court by such additional municipal judge shall be provided and maintained by the city. The salary of such additional municipal judge shall be fixed by ordinance and paid wholly by the city in equal monthly installments in addition to his salary as justice of the peace, if he is a justice of the peace.

This section is intended to authorize cities of the first class to expedite the handling of traffic offense cases under the laws thereof, and the mayor, in making appointments of municipal judges shall designate which of the judges shall be primarily responsible for the handling of city traffic cases, the trial of which in such cities shall, so far as practicable, be segregated from other municipal court trials. [1965 ex.s. c 116 § 3; 1965 c 7 § 35.22.420. Prior: 1941 c 85 § 1; 1899 c 85 § 2; Rem. Supp. 1941 § 8992.]

35.22.430 Salary of police judge. The salary of a police judge to be paid in addition to the salary paid to justices of the peace in cities of the first class, shall be fixed by the city council by ordinance and such additional salary shall be paid wholly out of the funds of the city, in equal monthly installments. The city shall provide a suitable place for holding court by such police judge and pay all the expenses of maintaining it. [1965 c 7 § 35.22.430. Prior: 1899 c 85 § 7; RRS § 8997.]

35.22.440 Clerk for police judge. The police judge of such city shall have power at any time to appoint a clerk to assist him in clerical work incidental to the

performance of his duties, who shall be paid such salary out of the funds of the city as the city council may by ordinance determine. [1965 c 7 § 35.22.440. Prior: 1903 c 30 § 2; 1899 c 85 § 6; RRS § 8996.]

35.22.460 Jurisdiction of police judge. The police judge in cities of the first class, in addition to powers he may have as justice of the peace, shall have exclusive jurisdiction over all offenses defined by any ordinance of the city, and all other actions brought to enforce or recover any license, penalty, or forfeiture declared or given by any such ordinance, and full power to forfeit bail bonds and issue execution thereon and full power to forfeit cash bail, and full power and authority to hear and determine all causes, civil or criminal, arising under such ordinance, and pronounce judgment in accordance therewith and full power to issue all warrants and process necessary to effectuate the ordinances of the city. Such police judge shall have jurisdiction to impose a fine or imprisonment, or both such fine and imprisonment, in all cases where such penalty shall be prescribed by ordinance. In the trial of actions brought for violating any city ordinance, no jury shall be allowed. [1965 ex.s. c 116 § 4; 1965 c 7 § 35.22.460. Prior: 1923 c 182 § 2, part; 1903 c 30 § 1, part; 1899 c 85 § 3, part; RRS § 8993, part.]

35.22.480 Precedence of cases. Such police judge, if he is a justice of the peace, shall in the conduct of the business of the court give preference to cases arising under ordinances of the city; then to prosecutions for violation of the criminal laws of the state of Washington within the city; then to civil causes coming before him upon change of venue from another justice of the peace in the city. No change of venue shall be allowed from such police judge in actions brought for violations of city ordinances. [1965 ex.s. c 116 § 5; 1965 c 7 § 35.22.480. Prior: 1899 c 85 § 9; RRS § 8999.]

35.22.485 Change of venue. A change of venue from the municipal court to either another municipal judge of the same city or to a judge pro tempore appointed in the manner prescribed by RCW 35.22.520, as now or hereafter amended, shall be allowed in accordance with the provisions of RCW 3.20.100 and 3.20.110, as now or hereafter amended, in all civil and criminal proceedings. [1967 c 241 § 5.]

Application—1967 c 241: See note following RCW 3.66.090.

Severability—1967 c 241: See RCW 3.74.932.

35.22.490 Criminal process. All criminal process issued by such police judge shall be in the name of the state of Washington and run throughout the state, be directed to the chief of police, marshal or other police officer of any city or to any sheriff or constable in the state and shall be served by him. [1965 c 7 § 35.22.490. Prior: 1899 c 85 § 4; RRS § 8994.]

Commencement of actions: Chapter 4.28 RCW.

35.22.500 Prosecutions in name of city. All prosecutions for the violation of any city ordinance shall be conducted in the name of the city, and may be upon

the complaint of any person. [1965 c 7 § 35.22.500. Prior: 1899 c 85 § 5; RRS § 8995.]

35.22.510 Costs and fees. In all civil and criminal cases arising from the violations of city ordinances tried by such police judge he shall charge up as costs in each case the same fees as are charged by justices of the peace for like services in every action, and all fees so charged and collected by, and all fines and forfeitures paid to, such police judge shall belong to and be paid over by him weekly, to the city. [1965 c 7 § 35.22.510. Prior: 1899 c 85 § 8; RRS § 8998.]

35.22.520 Police judge pro tempore. In case of the temporary absence or inability of the police judge to act, the mayor shall appoint, from among the practicing attorneys qualified electors of the city, a police judge pro tempore, who, before entering upon the duties as such, shall take and subscribe an oath as other judicial officers and while so acting he shall have all the powers of the police judge: *Provided*, That such appointment shall not continue for a longer period than the absence or disability of the police judge. Such police judge pro tempore to receive such compensation as shall be fixed by ordinance of the legislative body of the city, to be paid by the city. [1965 c 7 § 35.22.520. Prior: 1953 c 60 § 1; 1899 c 85 § 1; RRS § 9000.]

Justices of the peace pro tempore: RCW 3.34.130.

35.22.530 Appeal from police court—Procedure. All civil or criminal proceedings before such police judge and judgment rendered by him shall be subject to review in the superior court of the proper county by writ of review or appeal.

The appeal shall be to the superior court of the county in which the police court is located and shall be taken by orally giving notice thereof in open court at the time the judgment is rendered or by serving a copy of a written notice thereof upon the corporation counsel or city attorney and filing the original thereof with acknowledgment or affidavit of service with the police judge within ten days after the judgment was pronounced. After notice of appeal is given as herein required, appellant shall diligently prosecute his appeal and, within thirty days from the date of entry of judgment, shall file with the clerk of the superior court a transcript duly certified by the police judge, furnished by such police judge without charge, and containing a copy of all written pleadings and docket entries of the police court. Within ten days after the transcript is filed, appellant shall note the case for trial. The case shall be set for trial at the earliest open date thereafter and the clerk of the court shall, in writing, notify the corporation counsel or city attorney of the date thereof. [1965 c 7 § 35.22.530. Prior: (i) 1923 c 182 § 2, part; 1903 c 30 § 1, part; 1899 c 85 § 3, part; RRS § 8993. (ii) 1937 c 79 § 1; RRS § 8993-1.]

Rules for courts of limited jurisdiction: Vol. 0 RCW.

35.22.540 Dismissal of appeal—Effect. If appellant fails to proceed with the appeal within the time and manner herein provided, the superior court shall upon

the motion of the city dismiss the appeal if the transcript has been there filed, otherwise the police judge shall do so. Upon dismissal of the appeal for failure of appellant to proceed diligently with the appeal and as herein required, or for any other cause, the judgment of the police court shall be enforced by the police judge. If, at the time of such dismissal, cash deposit or appeal bond as hereinafter required has been furnished and is in custody of the superior court, the same shall be returned to the police judge. The police judge shall have power to forfeit the cash bail or bail bond and issue execution thereon for breach of any condition under which it is furnished. [1965 c 7 § 35.22.540. Prior: 1937 c 79 § 2; RRS § 8993-2.]

35.22.550 Bond on appeal—Transcript, etc. Appellant shall be committed to the city jail until he shall recognize or give bond to the state, in such reasonable sum with such sureties as said police judge may require; that he will diligently prosecute the appeal and within thirty days after the entry of the judgment in the police court file with the clerk of the superior court a transcript duly certified by the police judge containing a copy of all the records and proceedings in the police court; that he will within ten days after the same is filed in the superior court note the case for trial, will appear at the court appealed to and comply with any sentence of the superior court, and will, if the appeal is dismissed for any reason, comply with the sentence of the police judge. Whenever the transcript of the appeal is filed in the superior court, and any cash bail or bail bond has been filed with the police judge, he shall transfer the same to the superior court in which the appeal is pending, there to be held pending disposition of the appeal; and shall also deliver to said court any exhibits introduced in evidence in the trial before the police judge, which exhibits may be offered in evidence if a trial is had in the superior court, otherwise to be returned to custody of the police judge. [1965 c 7 § 35.22.550. Prior: 1937 c 79 § 3; RRS § 8993-3.]

35.22.560 Trial in superior court—Costs—Further appeal. In the superior court the trial shall be de novo, subject, however, to the right of the city to file an amended complaint therein. If the defendant be convicted in the superior court he shall be sentenced anew by the superior court judge with a fine of not to exceed three hundred dollars or imprisonment in the city jail not to exceed ninety days, or by both such fine and imprisonment. Neither the city nor the appellant shall be required to pay in advance any fee for filing or prosecuting the appeal, but if the appellant is convicted he may be required, as a part of the sentence to pay the costs of prosecution, to be taxed in the amount and manner of costs in criminal prosecutions in the superior court. If the appellant be acquitted he shall have judgment against the city for his costs to be fixed and taxed in the same manner. Appeal shall lie to the supreme court or the court of appeals as in other criminal cases in the superior court. [1971 c 81 § 89; 1965 c 7 § 35.22-560. Prior: 1937 c 79 § 4; RRS § 8993-4.]

35.22.570 Omnibus grant of powers to first class cities. Any city adopting a charter under the provisions of this chapter shall have all the powers which are conferred upon incorporated cities and towns by this title or other laws of the state, and all such powers as are usually exercised by municipal corporations of like character and degree. [1965 c 7 § 35.22.570. Prior: 1890 p 224 § 7; RRS § 8981.]

35.22.580 Diversion of local improvement moneys prohibited—Refund of excess. Whenever any city of the first class shall levy and collect moneys by sale of bonds or otherwise for any local improvement by special assessment therefor, the same shall be carried in a special fund to be used for said purpose, and no part thereof shall be transferred or diverted to any other fund or use: *Provided*, That any funds remaining after the payment of the whole cost and expense of such improvement, in excess of the total sum required to defray all the expenditures by the city on account thereof, shall be refunded on demand to the amount of such overpayment: *Provided further*, That this section shall not be deemed to require the refunding of any balance in any local improvement fund after the payment of all outstanding obligations issued against such fund, where such balance accrues from any saving in interest or from penalties collected upon delinquent assessments, but any such balance may be turned into the general fund or otherwise disposed of, as the legislative authority of such city may direct by ordinance. The provisions of this section relating to the refund of excess local improvement district funds shall not apply to any district whose obligations are guaranteed by the local improvement guaranty fund. [1965 c 7 § 35.22.580. Prior: 1917 c 58 § 1; 1915 c 17 § 1; RRS § 8983. Formerly RCW 35.45.100.]

35.22.590 Bonds voted by people—Transfer of excess to redemption fund. Whenever the issuance or sale of bonds or other obligations of any city of the first class has been authorized by vote of the people, as provided by any existing charter or laws, for any special improvement or purpose, the proceeds of the sale of such bonds including premiums if any shall be carried in a special fund to be devoted to the purpose for which such bonds were authorized, and no portion of such bonds shall be transferred or diverted to any other fund or purpose: *Provided*, That nothing herein shall be held to prevent the transfer to the interest and redemption fund of any balance remaining in the treasury after the completion of such improvement or purpose so authorized: *Provided further*, That nothing herein shall prevent the city council from disposing of such bonds, or any portion thereof, in such amounts and at such times as it shall direct, but no such bonds shall be sold for less than par. [1965 c 7 § 35.22.590. Prior: 1915 c 17 § 2; RRS § 8984. Formerly RCW 35.45.110.]

Elections: Title 29 RCW.

35.22.600 Liability for violations of RCW 35.22.580 or 35.22.590. Any ordinance, resolution, order or other action of any city council, board or officer, and every

city warrant or other instrument in writing made in violation of any of the provisions of RCW 35.22.580 or 35.22.590 shall be void, and every officer, agent or employee of any such city, or member of the city council, or other board thereof, and every private person or corporation who knowingly commits any violation thereof or knowingly aids in such violation, shall be liable to the city concerned for all moneys so transferred, diverted or paid out, which liability shall also attach to and be enforceable against the official bond (if any) of any such officer, agent, employee, member of city council or board. [1965 c 7 § 35.22.600. Prior: 1915 c 17 § 3; RRS § 8985. Formerly RCW 35.45.120.]

35.22.610 Police officers—Appointment without regard to residence authorized. Notwithstanding the provisions of RCW 35.21.200, as now or hereafter amended, all cities of the first class shall have the right and authority to appoint and employ a person as a regular or special police officer of said city regardless of his place of residence or domicile at the date of his appointment.

This provision shall supersede any provision of any city charter to the contrary. [1967 ex.s. c 37 § 1.]

Residence requirements for appointive city officials and employees: RCW 35.21.200.

35.22.900 Liberal construction. The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this chapter, but the same shall be liberally construed for the purpose of carrying out the objects for which this chapter is intended. [1965 c 7 § 35.22.900. Prior: 1890 p 224 § 8.]

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35.23.010 Rights, powers and privileges—Exchange of park purpose property. Every city of the second class shall be entitled "City of -----" (naming it), and by such name shall have perpetual succession; may sue and be sued in all courts and in all proceedings; shall have and use a common seal which it may alter at pleasure; may acquire, hold, lease, use and enjoy property of every kind and control and dispose of it for the common benefit; and, upon making a finding that any property acquired for park purposes is not useful for such purposes and that an exchange thereof for other property to be dedicated for park purposes is in the public interest, may, with the consent of the dedicator or donor, his heirs, successors or assigns, exchange such property for other property to be dedicated for park purposes and make, execute and deliver proper conveyances to effect the exchange. In any case where owing to death or lapse of time there is neither donor, heir, successor, nor assigns to give consent to the exchange, then this consent may be executed by the grantee. Title to property so conveyed by the city shall vest in the grantee free and clear of any trust in favor of the public arising out of any prior dedication for park purposes. [1965 c 7 § 35.23.010. Prior: 1953 c 190 § 1; 1907 c 241 § 1; RRS § 9006.]

35.23.020 Elective officers. The elective officers of a city of the second class shall consist of a mayor, twelve councilmen, a city clerk, a city treasurer, and a police judge: *Provided*, That in any such city operating under a commission form of government the police judge shall be appointed by the mayor. [1965 c 7 § 35.23.020. Prior: 1949 c 83 § 1; 1907 c 241 § 2; RRS § 9007.]

35.23.030 Eligibility to hold elective office. No person shall be eligible to hold any elective office in any city of the second class unless he is a registered voter therein and has resided therein for at least one year next preceding the date of his election. [1965 c 7 § 35.23.030. Prior: 1907 c 241 § 9; RRS § 9014.]

35.23.040 Elections—Terms of office. A general municipal election shall be held biennially in second class cities not operating under the commission form of government and shall be held on the Tuesday following the first Monday in November of each odd-numbered year, except as provided in RCW 29.13.020 and 29.13.030.

The term of office of mayor, city clerk, city treasurer and councilmen in such cities shall be four years, and until their successors are elected and qualified, but not more than six councilmen shall be elected in any one year to fill a full term. The term of office of police judge shall be two years and until his successor is elected and qualified. [1965 c 7 § 35.23.040. Prior: 1963 c 200 § 14; 1959 c 86 § 3; prior: (i) 1951 c 71 § 1; 1909 c 120 § 4; 1907 c 241 § 3; RRS § 9008. (ii) 1951 c 71 § 1; 1907 c 241 § 4; RRS § 9009.]

Reviser's note: RCW 29.13.030 was repealed by 1965 c 123 § 9(12); later enactment, see RCW 29.13.020.

35.23.050 Conduct of elections. All municipal elections held under the provisions of this chapter shall be conducted according to the general election laws of this state, as far as practicable: *Provided*, That any qualified voter of such city, duly registered for the general county or state election next preceding any municipal election, general or special, shall be qualified to vote at such municipal election. No person shall be qualified to vote at such election unless he is a qualified elector of the county and has resided in such city for at least thirty days next preceding such election. [1965 c 7 § 35.23.050. Prior: 1907 c 241 § 5; 1890 p 145 § 27; RRS § 9010.]

Canvassing returns, generally: Chapter 29.62 RCW.

Conduct of elections—Canvass: RCW 29.13.040.

Notice of election: RCW 29.27.080.

35.23.070 Contested elections. The city council as constituted at the time of election, or as it may be constituted between that date and the first Monday of January following, shall hear and determine any and all contested elections of any and all city offices. The city council shall have power by general ordinance to prescribe rules and regulations for the hearing of contested elections of city officers, but proceedings before the city council in cases of contested elections shall conform as near as may be to the provisions of the general election laws, relating to contested elections. [1965 c 7 § 35.23.070. Prior: 1951 c 71 § 2; 1907 c 241 § 7; RRS § 9012.]

Election contests: Chapter 29.65 RCW.

35.23.080 Mayor—General duties. The mayor shall be the chief executive officer of the city. He shall:

- (1) Have general supervision over the several departments of the city government and over all its interests;
- (2) Preside over the city council when present;
- (3) Once in three months, submit a general statement of the condition of the various departments and recommend to the city council such measures as he may deem expedient for the public health or improvement of the city, its finances or government;

(4) Countersign all warrants and licenses, deeds, leases and contracts requiring signature issued under and by authority of the city.

If there is a vacancy in the office of mayor or he is absent from the city, or is unable from any cause to discharge the duties of his office, the president of the council shall act as mayor, exercise all his powers and be subject to all his duties. [1965 c 7 § 35.23.080. Prior: (i) 1907 c 241 § 16, part; RRS § 9021, part. (ii) 1907 c 241 § 17, part; RRS § 9022, part.]

35.23.090 City clerk—Duties. The city clerk shall:

(1) Keep the corporate seal and all papers and documents belonging to the city and file them in his office under appropriate heads;

(2) Attend the sittings of the city council, and keep a journal of its proceedings and records of its resolutions and ordinances;

(3) Sign all warrants and licenses issued pursuant to the orders and ordinances of the city council and affix the corporate seal to the licenses;

(4) Sign all deeds, leases, contracts, bonds and other documents when authorized by the council;

(5) Keep an accurate account in a suitable book under the appropriate heads of all expenditures, of all orders drawn upon the city treasurer and of all warrants issued in pursuance thereof;

(6) Keep an account in an appropriate book of all licenses issued, with the names of the persons to whom issued, the date of issue, the time for which they were granted and the sums paid therefor;

(7) Perform such other duties as he may be required to perform by statute or by ordinance. [1965 c 7 § 35.23.090. Prior: 1955 c 355 § 2; prior: 1939 c 105 § 2, part; 1907 c 241 § 20, part; RRS § 9025, part.]

35.23.100 Clerk may take acknowledgments. The clerk or deputy clerk of any second class city shall, without charge, take acknowledgments and administer oaths required by law on all claims and demands against the city. [1965 c 7 § 35.23.100. Prior: 1941 c 88 § 1, part; Rem. Supp. 1941 § 9025-1, part.]

35.23.110 City treasurer—Duties. The city treasurer shall:

(1) Receive and safely keep all money belonging to the city from whatever source derived;

(2) Place it to the credit of the different funds to which it belongs in a book kept for that purpose;

(3) Disburse the funds of the city by direction of the council as authorized by law;

(4) Report monthly to the city council the condition of the treasury. [1965 c 7 § 35.23.110. Prior: 1907 c 241 § 19; RRS § 9024.]

35.23.120 Appointive officers. The appointive officers of a city of the second class shall be a chief of police, city attorney, health officer, and street commissioner; the council may also create by ordinance the offices of superintendent of irrigation, city engineer, harbor master, pound keeper, city jailer, chief of the fire department, and any other offices necessary to discharge

the functions of the city and for whose election or appointment no other provision is made. If a paid fire department is established therein a chief engineer and one or more assistant engineers may be appointed. If a free library and reading room is established therein five library trustees shall be appointed. The council by ordinance shall prescribe the duties of the officers and fix their compensation subject to the provisions of any statutes pertaining thereto. [1965 c 7 § 35.23.120. Prior: 1949 c 83 § 2; Rem. Supp. 1949 § 9007A.]

35.23.130 Chief of police and police force. The police force of a second class city shall consist of a chief of police and such number of policemen as shall from time to time be fixed and determined by the city council.

The mayor with the consent of the council, shall appoint the policemen and all subordinate officers of the city and may, for cause, remove them with the consent of the council, as in this chapter provided. [1965 c 7 § 35.23.130. Prior: (i) 1907 c 241 § 24; RRS § 9029. (ii) 1907 c 241 § 25; RRS § 9030.]

35.23.132 Police officers—Hot pursuit. Police officers of cities of the second class may pursue and arrest violators of city ordinances beyond the city limits. [1965 c 7 § 35.23.132. Prior: 1963 c 191 § 2.]

35.23.140 City attorney—Duties. The city attorney shall be the legal advisor of the city council and of all the officers of the city in relation to matters pertaining to their respective offices. He shall represent the city in all litigation in all courts in which the city is a party or directly interested and shall prosecute all violations of city ordinances and shall act generally as attorney for the city and the several departments of the city government, and he shall perform such other duties as the city council may direct. [1965 c 7 § 35.23.140. Prior: 1955 c 355 § 3; prior: 1939 c 105 § 5, part; 1907 c 241 § 26, part; RRS § 9031, part.]

Employment of legal interns: RCW 35.21.760.

35.23.150 Health officer. The city council shall create the office of city health officer, prescribe his duties and qualifications and fix his compensation. [1965 c 7 § 35.23.150. Prior: 1907 c 241 § 64; RRS § 9067.]

35.23.160 Street commissioner. The street commissioner under the direction of the mayor and city council shall have control of the streets and public places of the city and shall perform such duties as the city council may prescribe. [1965 c 7 § 35.23.160. Prior: 1907 c 241 § 23; RRS § 9028.]

35.23.170 Park commissioners. City councils of cities of the second, third and fourth class may provide by ordinance, for a board of park commissioners, not to exceed seven in number, to be appointed by the mayor, with the consent of the city council, from citizens of recognized fitness for such position. No person shall be ineligible as a commissioner by reason of sex and no commissioner shall receive any compensation. The first commissioners shall determine by lot whose term of

office shall expire each year, and a new commissioner shall be appointed annually to serve for a term of years corresponding in number to the number of commissioners in order that one term shall expire each year. Such board of park commissioners shall have only such powers and authority with respect to the management, supervision, and control of parks and recreational facilities and programs as are granted to it by the legislative body of cities of the second, third, and fourth class. [1973 c 76 § 1; 1965 c 7 § 35.23.170. Prior: 1953 c 86 § 1; 1925 ex.s. c 121 § 1; 1907 c 228 § 2; RRS § 9200.]

35.23.180 Appointment of officers—Confirmation. The mayor shall appoint all the appointive officers of the city subject to confirmation by the city council. If the council refuses to confirm any nomination of the mayor, he shall nominate another person for that office within ten days thereafter, and may continue to so nominate until his nominee is confirmed. If the mayor fails to make another nomination for the same office within ten days after the rejection of a nominee, the city council shall elect a suitable person to fill the office during the term. The affirmative vote of not less than seven councilmen is necessary to confirm any nomination made by the mayor. [1965 c 7 § 35.23.180. Prior: 1907 c 241 § 8, part; 1890 p 145 § 25; RRS § 9013, part.]

35.23.190 Oath and bond of officers. Before entering upon his duties and within ten days after receiving notice of his election or appointment every officer of the city shall qualify by taking the oath of office and by filing such bond duly approved as may be required of him. If no notice of election or appointment was received, the officer must qualify on or before the date fixed for the assumption by him of the duties of the office to which he was elected or appointed. The city council shall fix the amount of all official bonds and may designate what officers shall be required to give bonds in addition to those required to do so by statute.

The clerk, treasurer, city attorney, chief of police, police judge and street commissioner shall each execute an official bond in such penal sum as the city council by ordinance may determine, conditioned for the faithful performance of their duties, including in the same bond the duties of all offices of which he is the ex officio incumbent.

All official bonds shall be approved by the city council and when so approved shall be filed with the city clerk except the city clerk's which shall be filed with the mayor. No city officer shall be eligible as a surety upon any bond running to the city as obligee.

The city council may require a new or additional bond of any officer whenever it deems it expedient. [1965 c 7 § 35.23.190. Prior: (i) 1907 c 241 § 10, part; 1890 p 145 § 29; RRS § 9015, part. (ii) 1907 c 241 § 11; 1890 p 145 § 29; RRS § 9016.]

35.23.200 Deputies. The chief of police, the city attorney and the city clerk may each, with the approval of the city council, appoint such deputies as may be necessary by a written designation filed with the clerk. The

compensation of each deputy shall be fixed by the city council. The deputies under the direction of their principal shall perform such duties as the council may prescribe. The principals shall be responsible for their respective deputies and may revoke their appointments at pleasure. [1965 c 7 § 35.23.200. Prior: 1953 c 19 § 1; 1907 c 241 § 18; RRS § 9023.]

35.23.210 Removal of appointive officers. Subject to applicable civil service laws any appointive officer, except police judges who are appointed may be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering him incapable of performing the duties of his office, may be removed:

(1) By the mayor for any cause by him deemed sufficient by and with the concurrence of the vote of at least six members of the city council: *Provided*, That the chief of police may be removed by the mayor without the concurrence of the city council; or

(2) By the affirmative vote of nine councilmen upon their own initiative. [1965 ex.s. c 116 § 6; 1965 c 7 § 35.23.210. Prior: 1907 c 241 § 62; 1890 p 146 § 30; RRS § 9065.]

35.23.220 Salaries of officers. The city council shall fix the salary of all officials (except library trustees who shall serve without compensation and any other officer where provision is made by this title that such officer shall serve without compensation).

No officer shall be allowed any extra or additional compensation, either directly or indirectly, for the rendition of services that the city council have authority to require of him by virtue of his office.

The salaries of all city officers shall be paid monthly. [1969 ex.s. c 270 § 7; 1965 c 7 § 35.23.220. Prior: 1961 c 89 § 1; 1955 c 355 § 4; 1951 c 85 § 1; prior: (i) 1939 c 105 § 1; 1907 c 241 § 12; 1890 p 146 §§ 32, 33; RRS § 9017. (ii) 1939 c 105 § 2, part; 1907 c 241 § 20, part; RRS § 9025, part. (iii) 1939 c 105 § 3; 1907 c 241 § 21; RRS § 9026. (iv) 1939 c 105 § 4; 1907 c 241 § 22; RRS § 9027. (v) 1939 c 105 § 5, part; 1907 c 241 § 26, part; RRS § 9031, part.]

35.23.230 Restrictions on official conduct. In addition to any other restrictions upon his official conduct imposed by law, no officer of a city of the second class shall:

(1) Accept from any railroad or street railway corporation, operating in whole or in part within the city, any pass or free transportation or transportation upon any terms save such as are open to the public generally: *Provided*, That this provision shall not apply to police officers while on duty;

(2) Accept or receive, directly or indirectly, any commodity or thing of value from any public service corporation owning or enjoying a franchise granted by the city, free of charge or upon any terms save such as are open to the public generally.

The violation of any of the provisions of this section by any officer shall work a forfeiture of his office and

warrant his removal therefrom by impeachment or other proper procedure and subject to forfeiture and recovery by judgment against him of all sums of money paid him as salary during the term in which the violation was committed up to the time of the recovery of judgment against him therefor. A civil action for the salary so forfeited may be commenced at any time in the name of the city in any court of competent jurisdiction. [1965 c 7 § 35.23.230. Prior: 1961 c 268 § 7; 1907 c 241 § 13; 1890 p 156 § 44; RRS § 9018.]

Code of ethics for officers and employees: Chapters 42.22, 42.23 RCW.

35.23.240 Vacancies. If anyone either elected or appointed to office fails for ten days to qualify as required by law or fails to enter upon his duties at the time fixed by law or the orders of the city council, his office shall become vacant; or if such officer absents himself from the city without the consent of the city council for three consecutive weeks or openly neglects or refuses to discharge his duties, the council may declare his office vacant: *Provided*, That this penalty for absence from the city shall not apply to such officers as serve without compensation.

If a vacancy occurs by reason of death, resignation, or otherwise in the office of mayor or councilman, the city council shall fill the vacancy until the next general municipal election.

If a vacancy occurs by reason of death, resignation, or otherwise in any other office it shall be filled by appointment of the mayor and confirmed by the council in the same manner as other appointments are made. [1965 c 7 § 35.23.240. Prior: (i) 1907 c 241 § 10, part; 1890 p 145 § 29; RRS § 9015. (ii) 1907 c 241 § 8, part; 1890 p 145 § 25; RRS § 9013, part. (iii) 1907 c 241 § 63; RRS § 9066. (iv) 1907 c 228 § 5, part; RRS § 9203.]

35.23.250 City council—How constituted. The mayor and twelve councilmen shall constitute the city council and at their first meeting after taking office the city council shall elect one of their own body to serve as president of the council. The mayor shall preside at all meetings at which he is present. In the absence of the mayor, the president of the council shall preside. In the absence of both the mayor and the president of the council, the council may elect a president pro tempore from its own body or any other elector of the city may be elected president pro tempore. The president pro tempore shall have all the powers of the president of the council during the session of the council at which the president pro tempore is presiding except that if he is not a member of the council he shall have no vote. [1965 c 7 § 35.23.250. Prior: (i) 1907 c 241 § 17, part; RRS § 9022, part. (ii) 1907 c 247 § 27; RRS § 9032. (iii) 1907 c 241 § 28, part; 1890 p 148 § 37; RRS § 9033, part.]

35.23.260 City council—Meetings. The city council of a city of the second class shall hold regular meetings at least once every three weeks but not oftener than once per week, the time and place to be prescribed by ordinance. Special meetings may be called by the

mayor at any time and he shall call one upon the written request of four councilmen. Written notice of the time and place of special meetings stating the purpose thereof must be given to each member by handing it to him personally, or by leaving it at his last and usual place of abode or by leaving it at his place of business during business hours. The sittings of the council shall be open to the public except where the interests of the city require secrecy. No ordinance of any kind nor any resolution or order for the payment of money shall be passed at any time other than at a regular meeting of the council. [1965 c 7 § 35.23.260. Prior: (i) 1907 c 241 § 28, part; 1890 p 148 § 37; RRS § 9033, part. (ii) 1907 c 241 § 16, part; RRS § 9021, part. (iii) 1907 c 241 § 72, part; RRS § 9075, part.]

35.23.270 City council—Quorum—Rules—Journal, etc. A majority of the councilmen shall constitute a quorum for the transaction of business. A less number may compel the attendance of absent members and may adjourn from time to time. The council shall determine its rules of proceedings. The council may punish their members for disorderly conduct and upon written charges entered upon the journal therefor, may, after trial, expel a member by two-thirds vote of all the members elected. All orders of the city council shall be entered upon the journal of its proceedings, which journal shall be signed by the officer who presided at the meeting. The journal shall be kept by the clerk under the council's direction. [1965 c 7 § 35.23.270. Prior: (i) 1907 c 241 § 28, part; 1890 p 148 § 37; RRS § 9033, part. (ii) 1907 c 241 § 59; 1890 p 159 § 49; RRS § 9062.]

35.23.280 City council—Presiding officer—Voting rights. The mayor shall have a vote only in the case of a tie in the votes of the councilmen. The president of the council while presiding or the president pro tempore, if a councilman, shall have the right to vote upon all questions coming before the council.

A majority of all the members elected shall be necessary to pass any ordinance appropriating for any purpose the sum of five hundred dollars or upwards or any ordinance imposing any assessment, tax, or license or in any wise increasing or diminishing the city revenue. [1965 c 7 § 35.23.280. Prior: (i) 1907 c 241 § 28, part; 1890 p 148 § 37; RRS § 9033, part. (ii) 1907 c 241 § 61; 1890 p 159 § 51; RRS § 9064.]

35.23.290 City council—Entry of ayes and noes on journal. At any time, at the request of any two members the ayes and noes on any question may be taken and entered upon the journal and they must be so taken and entered upon the passage of all ordinances appropriating money, imposing taxes, abolishing licenses, increasing or lessening the amount to be paid for licenses. [1965 c 7 § 35.23.290. Prior: (i) 1907 c 241 § 28, part; 1890 p 148 § 37; RRS § 9033, part. (ii) 1907 c 241 § 60; 1890 p 159 § 50; RRS § 9063.]

35.23.300 Ordinances—Style—Veto power of mayor. The style of the city ordinances shall be as follows: "Be it ordained by the mayor and city council of

the city of -----." They shall be passed by the city council and signed by the mayor, if he approves them; if he does not approve them, he shall return them to the city clerk's office with his objections in writing within eight days after their submission to him, and at the first meeting of the city council thereafter, the objection shall be entered on their journal and they shall then reconsider the ordinance whereupon unless at least two-thirds of the councilmen elected vote for its passage, it shall not become law. If the mayor does not return an ordinance within eight days of its submission to him, it shall become law without his signature. [1965 c 7 § 35.23.300. Prior: (i) 1907 c 241 § 16, part; RRS § 9021, part. (ii) 1907 c 241 § 57, part; 1890 p 158 § 47; RRS § 9060, part. (iii) 1907 c 241 § 58, part; 1890 p 158 § 48; RRS § 9061, part.]

35.23.310 Ordinances—Publication—Copy as evidence. Before any ordinance shall take effect, it shall be published in one issue of the official newspaper of the city. A certified copy of any ordinance certified to by the clerk, or a printed copy of any ordinance or compilation printed by authority of the city council and attested by the clerk shall be competent evidence in any court. [1965 c 7 § 35.23.310. Prior: (i) 1907 c 241 § 57, part; 1890 p 158 § 47; RRS § 9060, part. (ii) 1907 c 241 § 58, part; 1890 p 158 § 48; RRS § 9061, part.]

Ordinances, pleading of: RCW 4.36.110.

Ordinances, recording as evidence of passage: RCW 5.44.080.

35.23.320 Ordinances—Penalty for breach—Inhabitant not disqualified as judge, juror, etc. The interest which an inhabitant of a city of the second class may have in a penalty for the breach of a bylaw or ordinance of such city shall not disqualify such inhabitant to act as judge, juror, or witness in any prosecution to recover the penalty. [1965 c 7 § 35.23.320. Prior: 1890 p 178 § 103; RRS § 9086.]

35.23.330 Limitation on allowance of claims, warrants, etc. No claim shall be allowed against the city by the city council, nor shall the city council order any warrants to be drawn except at a general meeting of the council. The council shall never allow, make valid, or recognize any demand against the city which was not a valid claim against it when the obligation was created, nor authorize to be paid any demand which without such action would be invalid or which is then barred by the statute of limitations, or for which the city was never liable, and any such action shall be void. [1965 c 7 § 35.23.330. Prior: (i) 1907 c 241 § 35; RRS § 9042. (ii) 1907 c 241 § 72, part; RRS § 9075, part.]

35.23.352 Contracts, purchases, advertising—Call for bids—Exceptions. Any city or town of the second, third or fourth class may construct any public work or improvement by contract or day labor without calling for bids therefor whenever the estimated cost of such work or improvement, including cost of materials, supplies and equipment will not exceed the sum of five thousand dollars. Whenever the cost of such public work or improvement, including materials, supplies and

equipment, will exceed five thousand dollars, the same shall be done by contract. All such contracts shall be let at public bidding upon posting notice calling for sealed bids upon the work. Such notice thereof shall be posted in a public place in the city or town and by publication in the official newspaper once each week for two consecutive weeks before the date fixed for opening the bids. The notice shall generally state the nature of the work to be done that plans and specifications therefor shall then be on file in the city hall for public inspections, and require that bids be sealed and filed with the council or commission within the time specified therein. Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit. If there is no official newspaper the notice shall be published in a newspaper published or of general circulation in the city or town. The city council or commission of the city or town shall let the contract to the lowest responsible bidder or shall have power by resolution to reject any or all bids and to make further calls for bids in the same manner as the original call, or if in its judgment the improvement or work, including the purchase of supplies, material and equipment, can be done by the city at less cost than the lowest bid submitted it may do so without making a further call for bids or awarding any contract therefor and in such case all such bid proposal deposits shall be returned to the bidder; but if the contract is let then all bid proposal deposits shall be returned to the bidders except that of the successful bidder which shall be retained until a contract is entered into and a bond to perform the work furnished, with surety satisfactory to the council or commission, in the full amount of the contract price. If the bidder fails to enter into the contract in accordance with his bid and furnish such bond within ten days from the date at which he is notified that he is the successful bidder, the check or postal money order and the amount thereof shall be forfeited to the council or commission or the council or commission shall recover the amount of the surety bond. If no bid is received on the first call the city council or commission may readvertise and make a second call, or may enter into a contract without any further call or may purchase the supplies, material or equipment and perform such work or improvement by day labor.

Any purchase of supplies, material, equipment or services other than professional services, except for public work or improvement, where the cost thereof exceeds two thousand dollars shall be made upon call for bids in the same method and under the same conditions as required herein on a call for bids for public work or improvement.

Bids shall be called annually and at a time and in the manner prescribed by ordinance for the publication in a newspaper published or of general circulation in the city or town of all notices or newspaper publications required by law. The contract shall be awarded to the lowest responsible bidder. [1974 1st ex.s. c 74 § 2; 1965 c 114 § 1; 1965 c 7 § 35.23.352. Prior: 1957 c 121 § 1;

1951 c 211 § 1; prior: (i) 1907 c 241 § 52; RRS § 9055. (ii) 1915 c 184 § 31; RRS § 9145. (iii) 1947 c 151 § 1; 1890 p 209 § 166; Rem. Supp. 1947 § 9185.]

Competitive bidding violations by municipal officer, penalties: RCW 39.30.020.

35.23.353 Contracts, purchases, advertising—Purchases relating to garbage collection and disposal. Any purchase by a municipality of the second, third or fourth class of supplies, material, equipment or services for garbage collection and disposal, except for public work or improvement, where the cost thereof exceeds two thousand dollars shall be made upon call for bids in accordance with the procedure prescribed for any public work or improvement in the first paragraph of RCW 35.23.352 as now or hereafter amended. Notwithstanding any provision of law to the contrary, any municipality of the second, third or fourth class may call for bids for garbage collection and disposal for a period of five years or less but in no case for more than five years. The contract shall be awarded to the lowest responsible bidder. Nothing in this section is intended to repeal, amend or change RCW 35.13.280 as now or hereafter amended. [1965 c 7 § 35.23.353. Prior: 1963 c 130 § 1.]

35.23.370 Eight-hour day on public work. In all public work done by or for a city of the second class, either by day work or by contract, eight hours shall constitute a day's work; and no employee of the city on city works, or of any contractor or subcontractor doing work for the city shall be required to work longer than eight hours in any one calendar day. This section shall be enforced by the city council in an appropriate ordinance. [1965 c 7 § 35.23.370. Prior: 1907 c 241 § 37; RRS § 9044.]

Labor regulations, hours of labor: Chapter 49.28 RCW.

35.23.380 Exclusive franchises prohibited. No exclusive franchise or privilege shall be granted for the use of any street, alley, highway, or public place or any part thereof. [1965 c 7 § 35.23.380. Prior: 1907 c 241 § 32; RRS § 9039.]

35.23.390 Requisites to granting of franchises—Rates—Bond. No franchise or privilege shall be created or granted by the city council otherwise than by ordinance nor shall it be passed on the day of the introduction nor for thirty days thereafter and then only upon the affirmative vote of two-thirds of the councilmen elected. The city council may fix the rates and tolls to be charged within the city by any public service corporation enjoying a franchise granted by the city subject to review by any court of competent jurisdiction as to the reasonableness thereof. The city council may require a bond in a reasonable amount from any person or corporation obtaining a franchise from the city conditioned for the faithful performance of the conditions and terms of the franchise and providing a recovery on the bond in case of failure to perform the terms and conditions of the franchise. [1965 c 7 § 35.23.390. Prior: (i) 1907 c 241 § 31, part; RRS § 9038, part. (ii) 1907 c

228 § 1, part; RRS § 9199, part. (iii) 1907 c 241 § 67, part; RRS § 9070, part.]

35.23.400 Franchise ordinances—Publication before passage. No ordinance granting a franchise or privilege and no ordinance amending a prior ordinance granting a franchise or privilege shall be passed until it has been published in at least one issue of the official newspaper of the city: *Provided*, That ordinances or amendments thereto granting a franchise to lay spur railroad tracks connecting manufacturing plants, warehouses, or other private property with a main line of railroad need not be published before they are passed by the council. No ordinance required to be published before passage shall be amended after publication by an amendment which imposes terms, conditions, or privileges less favorable to the city than those in the proposed ordinance as published, but amendments favorable to the city may be made at any time before passage.

All publications of ordinances granting a franchise or ordinance amending ordinances granting a franchise, both before and after passage shall be made at the expense of the applicant or proposed grantee. [1965 c 7 § 35.23.400. Prior: 1907 c 241 § 31, part; RRS § 9038, part.]

35.23.410 Leasing of street ends on waterfront. The city council may lease for business purposes portions of the ends of streets terminating in the waterfront or navigable waters of the city with the written consent of all the property owners whose properties abut upon the portion proposed to be leased. The lease may be made for any period not exceeding fifteen years but must provide that at intervals of every five years during the term, the rental to be paid by the lessee shall be readjusted between him and the city by mutual agreement, or if they cannot agree by a board of arbitration, one to be chosen by the city, one by the lessee and the third by the other two, their decision to be final. The vote of two-thirds of all the councilmen elected is necessary to authorize such a lease. [1965 c 7 § 35.23.410. Prior: 1907 c 241 § 67, part; RRS § 9070, part.]

35.23.420 Notice of lease to be published before execution. No lease of a portion of the end of a street terminating in the waterfront or navigable waters of the city shall be made until a notice describing the portion of the street proposed to be leased, to whom and for what purpose leased and the proposed rental to be paid has been published by the city clerk in the official newspaper at least fifteen days prior to the execution of the lease. [1965 c 7 § 35.23.420. Prior: 1907 c 241 § 67, part; RRS § 9070, part.]

35.23.430 Railroads in streets to be assessed for street improvement. If an improvement is made upon a street occupied by a street railway or any railroad enjoying a franchise on the street, the city council shall assess against the railroad its just proportion of making the improvement which shall be not less than the expense of improving the space between the rails of the

railroad and for a distance of one foot on each side. The assessment against the railroad shall be made on the rolls of the improvement district the same as against other property in the district and shall be a lien on that portion of the railroad within the district from the time of the equalization of the roll. The lien may be foreclosed by a civil action in superior court and the same period of redemption from any sale on foreclosure shall be allowed as is allowed in cases of sale of real estate upon execution. [1965 c 7 § 35.23.430. Prior: 1907 c 241 § 65; RRS § 9068.]

35.23.440 Specific powers enumerated. The city council of each second class city shall have power and authority:

(1) Ordinances: To make and pass all ordinances, orders and resolutions not repugnant to the Constitution of the United States or the state of Washington, or the provisions of this title, necessary for the municipal government and management of the affairs of the city, for the execution of the powers vested in said body corporate, and for the carrying into effect of the provisions of this title.

(2) License of shows: To fix and collect a license tax, for the purposes of revenue and regulation, on theatres, melodeons, balls, concerts, dances, theatrical, circus or other performances, and all performances where an admission fee is charged, or which may be held in any house or place where wines or liquors are sold to the participants; also all shows, billiard tables, pool tables, bowling alleys, exhibitions, or amusements.

(3) Hotels, etc., licenses: To fix and collect a license tax for the purposes of revenue and regulation on and to regulate all taverns, hotels, restaurants, banks, brokers, manufactories, livery stables, express companies and persons engaged in transmitting letters or packages, railroad, stage and steamboat companies or owners, whose principal place of business is in such city, or who have an agency therein.

(4) Auctioneers' licenses: To license and regulate auctioneers for the purposes of revenue and regulation.

(5) Peddlers', etc., licenses: To license, for the purposes of revenue and regulation, tax, prohibit, suppress and regulate all raffles, hawkers, peddlers, pawnbrokers, refreshment or coffee stands, booths or sheds; and to regulate as authorized by state law all tippling houses, dram shops, saloons, bars and barrooms.

(6) Dance houses: To prohibit or suppress, or to license and regulate all dance houses, fandango houses, or any exhibition or show of any animal or animals.

(7) License vehicles: To license for the purposes of revenue and regulation, and to tax hackney coaches, cabs, omnibuses, drays, market wagons, and all other vehicles used for hire, and to regulate their stands, and to fix the rates to be charged for the transportation of persons, baggage and property.

(8) Hotel runners: To license or suppress runners for steamboats, taverns, or hotels.

(9) License generally: To fix and collect a license tax for the purposes of revenue and regulation, upon all

occupations and trades, and all and every kind of business authorized by law not heretofore specified: *Provided*, That on any business, trade, or calling not provided by law to be licensed for state and county purposes, the amount of license shall be fixed at the discretion of the city council, as they may deem the interests and good order of the city may require.

(10) Riots: To prevent and restrain any riot or riotous assemblages, disturbance of the peace or disorderly conduct in any place, house or street in the city.

(11) Nuisances: To declare what shall be deemed nuisances; to prevent, remove and abate nuisances at the expense of the parties creating, causing or committing or maintaining the same, and to levy a special assessment on the land or premises whereon the nuisance is situated to defray the cost or to reimburse the city for the cost of abating the same.

(12) Stock pound: To establish, maintain and regulate a common pound for estrays, and to appoint a poundkeeper, who shall be paid out of the fines and fees imposed and collected of the owners of any animals impounded, and from no other source; to prevent and regulate the running at large of any and all domestic animals within the city limits or any parts thereof, and to regulate or prevent the keeping of such animals within any part of the city.

(13) Control of certain trades: To control and regulate slaughterhouses, washhouses, laundries, tanneries, forges and offensive trades, and to provide for their exclusion or removal from the city limits, or from any part thereof.

(14) Street cleaning: To provide, by regulation, for the prevention and summary removal of all filth and garbage in streets, sloughs, alleys, back yards or public grounds of such city, or elsewhere therein.

(15) City jail: To establish, alter and repair city prisons and to provide for the regulation of the same, and for the safekeeping of persons committed thereto; to provide for the care, feeding and clothing of the city prisoners; to provide for the formation of a chain gang for persons convicted of crimes or misdemeanors, and their proper employment and compulsory working for the benefit of the city; and also to provide for the arrest and compulsory working of vagrants: *Provided*, That no prisoner shall be required to perform any labor until he has been duly convicted of some offense punishable by imprisonment and duly sentenced thereto.

(16) Gambling, etc.: To prohibit and suppress all gaming and all gambling or disorderly houses, and houses of ill fame, and all immoral and indecent amusements, exhibitions and shows.

(17) Markets: To establish and regulate markets and market places.

(18) Speed of railroad cars: To fix and regulate the speed at which any railroad cars, streetcars, automobiles or other vehicles may run within the city limits, or any portion thereof.

(19) City commons: To provide for and regulate the commons of the city.

(20) Fast driving: To regulate or prohibit fast driving or riding in any portion of the city.

(21) **Combustibles:** To regulate or prohibit the loading or storage of gunpowder and combustible or explosive materials in the city, or transporting the same through its streets or over its waters.

(22) **Property:** To have, purchase, hold, use and enjoy property of every name or kind whatsoever, and to sell, lease, transfer, mortgage, convey, control or improve the same; to build, erect or construct houses, buildings or structures of any kind needful for the use or purposes of such city.

(23) **Fire department:** To establish, continue, regulate and maintain a fire department for such city, to change or reorganize the same, and to disband any company or companies of the said department; also, to discontinue and disband said fire department, and to create, organize, establish and maintain a paid fire department for such city.

(24) **Water supply:** To adopt, enter into and carry out means for securing a supply of water for the use of such city or its inhabitants, or for irrigation purposes therein.

(25) **Overflow of water:** To prevent the overflow of the city or to secure its drainage, and to assess the cost thereof to the property benefited.

(26) **House numbers:** To provide for the numbering of houses.

(27) **Health board:** To establish a board of health; to prevent the introduction and spread of disease; to establish a city infirmary and to provide for the indigent sick; and to provide and enforce regulations for the protection of health, cleanliness, peace and good order of the city; to establish and maintain hospitals within or without the city limits; to control and regulate interments and to prohibit them within the city limits.

(28) **Harbors and wharves:** To build, alter, improve, keep in repair and control the waterfront; to erect, regulate and repair wharves, and to fix the rate of wharfage and transit of wharf, and levy dues upon vessels and commodities; and to provide for the regulation of berths, landing, stationing and removing steamboats, sail vessels, rafts, barges and all other watercraft; to fix the rate of speed at which steamboats and other steam watercraft may run along the waterfront of the city; to build bridges so as not to interfere with navigation; to provide for the removal of obstructions to the navigation of any channel or watercourses or channels.

(29) **License of steamers:** To license steamers, boats and vessels used in any watercourse in the city, and to fix and collect a license tax thereon.

(30) **Ferry licenses:** To license ferries and toll bridges under the law regulating the granting of such license.

(31) **Penalty for violation of ordinances:** To determine and impose fines for forfeitures and penalties that shall be incurred for the breach or violation of any city ordinance, notwithstanding that the act constituting a violation of any such ordinance may also be punishable under the state laws, and also for a violation of the provisions of this chapter, when no penalty is affixed thereto or provided by law, and to appropriate all such fines, penalties and forfeitures for the benefit of the city; but no penalty to be enforced shall exceed for any offense the amount of five hundred dollars or six months' imprisonment, or both; and every violation of

any lawful order, regulation or ordinance of the city council of such city is hereby declared a misdemeanor or public offense, and all prosecutions for the same may be in the name of the state of Washington.

(32) **Police department:** To create and establish a city police; to prescribe their duties and their compensation and to provide for the regulation and government of the same.

(33) **Elections:** To provide for conducting elections and establishing election precincts when necessary, to be as near as may be in conformity with the state law.

(34) **Examine official accounts:** To examine, either in open session or by committee, the accounts or doings of all officers or other persons having the care, management or disposition of moneys, property or business of the city.

(35) **Contracts:** To make all appropriations, contracts or agreements for the use or benefit of the city and in the city's name.

(36) **Streets and sidewalks:** To provide by ordinance for the opening, laying out, altering, extending, repairing, grading, paving, planking, graveling, macadamizing, or otherwise improving of public streets, avenues and other public ways, or any portion of any thereof; and for the construction, regulation and repair of sidewalks and other street improvements, all at the expense of the property to be benefited thereby, without any recourse, in any event, upon the city for any portion of the expense of such work, or any delinquency of the property holders or owners, and to provide for the forced sale thereof for such purposes; to establish a uniform grade for streets, avenues, sidewalks and squares, and to enforce the observance thereof.

(37) **Waterways:** To clear, cleanse, alter, straighten, widen, fill up or close any waterway, drain or sewer, or any watercourse in such city when not declared by law to be navigable, and to assess the expense thereof, in whole or in part, to the property specially benefited.

(38) **Sewerage:** To adopt, provide for, establish and maintain a general system of sewerage, draining, or both, and the regulation thereof; to provide funds by local assessments on the property benefited for the purpose aforesaid and to determine the manner, terms and place of connection with main or central lines of pipes, sewers or drains established, and compel compliance with and conformity to such general system of sewerage or drainage, or both, and the regulations of said council thereto relating, by the infliction of suitable penalties and forfeitures against persons and property, or either, for nonconformity to, or failure to comply with the provisions of such system and regulations or either.

(39) **Buildings and parks:** To provide for all public buildings, public parks or squares, necessary or proper for the use of the city.

(40) **Franchises:** To permit the use of the streets for railroad or other public service purposes.

(41) **Payment of judgments:** To order paid any final judgment against such city, but none of its lands or property of any kind or nature, taxes, revenue, franchise or rights, or interest, shall be attached, levied upon or sold in or under any process whatsoever.

(42) Weighing of fuel: To regulate the sale of coal and wood in such city, and may appoint a measurer of wood and weigher of coal for the city, and define his duties, and may prescribe his term of office, and the fees he shall receive for his services: *Provided*, That such fees shall in all cases be paid by the parties requiring such service.

(43) Hospitals, etc.: To erect and establish hospitals and pesthouses and to control and regulate the same.

(44) Waterworks: To provide for the erection, purchase or otherwise acquiring of waterworks within or without the corporate limits of the city to supply such city and its inhabitants with water, and to regulate and control the use and price of the water so supplied.

(45) City lights: To provide for lighting the streets and all public places of the city and for furnishing the inhabitants of the city with gas, electric or other light, and for the ownership, purchase or acquisition, construction, or maintenance of such works as may be necessary or convenient therefor: *Provided*, That no purchase of any such water plant or light plant shall be made without first submitting the question of such purchase to the electors of the city.

(46) Parks: To acquire by purchase or otherwise land for public parks, within or without the limits of the city, and to improve the same.

(47) Bridges: To construct and keep in repair bridges, and to regulate the use thereof.

(48) Power of eminent domain: In the name of and for the use and benefit of the city, to exercise the right of eminent domain, and to condemn lands and property for the purposes of streets, alleys, parks, public grounds, waterworks or for any other municipal purpose and to acquire by purchase or otherwise such lands and property as may be deemed necessary for any of the corporate uses provided for by this title, as the interests of the city may from time to time require.

(49) To provide for the assessment of taxes: To provide for the assessment, levying and collecting of taxes on real and personal property for the corporate uses and purposes of the city and to provide for the payment of the debts and expenses of the corporation.

(50) Local improvements: To provide for making local improvements, and to levy and collect special assessments on the property benefited thereby and for paying the same or any portion thereof; to determine what work shall be done or improvements made, at the expense, in whole or in part, of the adjoining, contiguous, or proximate property, and to provide for the manner of making and collecting assessments therefor.

(51) Cemeteries: To regulate the burial of the dead and to establish and regulate cemeteries, within or without the corporate limits, and to acquire lands therefor by purchase or otherwise.

(52) Fire limits: To establish fire limits with proper regulations and to make all needful regulations for the erection and maintenance of buildings or other structures within the corporate limits as safety of persons or property may require, and to cause all such buildings and places as may from any cause be in a dangerous state to be put in a safe condition; to regulate the manner in which stone, brick and other buildings, party

walls and partition fences shall be constructed and maintained.

(53) Safety and sanitary measures: To require the owners of public halls, theaters, hotels and other buildings to provide suitable means of exit and proper fire escapes; to provide for the cleaning and purification of watercourses and canals and for the draining and filling up of ponds on private property within its limits when the same shall be offensive to the senses or dangerous to the health, and to charge the expense thereof to the property specially benefited, and to regulate and control and provide for the prevention and punishment of the defilement or pollution of all streams running in or through its corporate limits and a distance of five miles beyond its corporate limits, and of any stream or lake from which the water supply of the city is or may be taken and for a distance of five miles beyond its source of supply, and to make all quarantine and other regulations as may be necessary for the preservation of the public health and to remove all persons afflicted with any contagious disease to some suitable place to be provided for that purpose.

(54) To regulate liquor traffic: To regulate the selling or giving away of intoxicating, spirituous, malt, vinous, mixed or fermented liquors as authorized by the general laws of the state.

(55) To establish streets on tidelands: To project or extend or establish streets over and across any tidelands within the limits of such city.

(56) To provide for the general welfare. [1965 ex.s. c 116 § 7; 1965 c 7 § 35.23.440. Prior: 1907 c 241 § 29; 1890 p 148 § 38; RRS § 9034.]

35.23.442 City and town license fees and taxes on financial institutions. See chapter 82.14A RCW.

35.23.443 City license fees or taxes on certain business activities to be at a single uniform rate. See RCW 35.21.710.

35.23.450 Additional powers—Eminent domain. The right of eminent domain is hereby extended to any such city for the condemnation of lands and other property, either within or without its corporate limits, for any and all corporate purposes and every such city shall have the right to appropriate real estate or other property, either within or without its corporate limits, for any and all municipal purposes in the same manner and under the same procedure as now is or may hereafter be provided by law in cases of other corporations authorized by the laws of the state of Washington to exercise the right of eminent domain. This section shall be construed as a concurrent and cumulative power conferred on such cities, and shall not be construed as in any wise repealing or affecting any other law conferring the power of eminent domain and the right to appropriate property on any such city, and in particular, this section shall not be construed as in any wise repealing or affecting the powers conferred on any such city by chapter 8.12 RCW. [1965 c 7 § 35.23.450. Prior: 1907 c 241 § 69; RRS § 9072.]

35.23.455 Additional powers—Construction and operation of boat harbors, marinas, docks, etc. The legislative body of any second, third or fourth class municipality which contains, or abuts upon, any bay, lake, sound, river or other navigable waters, may construct, operate and maintain any boat harbor, marina, dock or other public improvement, for the purposes of commerce, recreation or navigation. [1965 c 154 § 1.]

35.23.457 Conveyance or lease of space above real property or structures or improvements. See RCW 35.22.302.

35.23.460 Employees' group insurance—False arrest insurance. Any city of the second or third class or town may contract with an insurance company authorized to do business in this state to provide group insurance for its employees including group false arrest insurance for its law enforcement personnel, and pursuant thereto may use a portion of its revenues to pay an employer's portion of the premium for such insurance, and may make deductions from the payrolls of employees for the amount of the employees' contribution and may apply the amount deducted in payment of the employees' portion of the premium. [1965 c 7 § 35.23.460. Prior: 1963 c 127 § 1; 1947 c 162 § 1; RRS § 9592-160.]

35.23.470 Publicity fund. Every city of the second class having less than eighteen thousand inhabitants may create a publicity fund to be used exclusively for exploiting and advertising the general advantages and opportunities of the city and its vicinity. After providing by ordinance for a publicity fund the city council may use therefor an annual amount not exceeding sixty-two and one-half cents per thousand dollars of assessed valuation of the taxable property in the city. [1973 1st ex.s. c 195 § 16; 1965 c 7 § 35.23.470. Prior: 1913 c 57 § 1; RRS § 9035.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

35.23.480 Publicity board. The publicity board administering the publicity fund shall consist of three members nominated by a recognized commercial organization in the city, then appointed by the mayor and confirmed by at least a two-thirds vote of the city council. The commercial organization must be incorporated, must be representative and public, devoted exclusively to the work usually devolving upon such organizations and have not less than two hundred bona fide dues-paying members; if more than one organization in the city meets the qualifications, the oldest one shall be designated to make the nominations.

Members of the publicity board must be resident property owners and voters in the city and after their appointment and confirmation must qualify by taking the oath of office and filing a bond with the city in the sum of one thousand dollars conditioned upon the faithful performance of their duties. They shall be appointed in December and their terms shall be for one year commencing on the second Monday in January after their appointment and until their successors are

appointed and qualified. Any member of the board may be removed by the mayor at the request of the organization which nominated the members after a majority vote of the entire membership of the organization favoring the removal, taken at a regular meeting.

Members of the publicity board shall serve without remuneration. [1965 c 7 § 35.23.480. Prior: 1913 c 57 § 2, part; RRS § 9036, part.]

35.23.490 Limitations on use of publicity fund. All expenditures shall be made under direction of the board of publicity. No part of the publicity fund shall ever be paid to any newspaper, magazine, or periodical published within the city or county in which the city is situated, for advertising, or write-ups or for any other service or purpose and no part of the fund shall be expended for the purpose of making exhibits at any fair, exposition or the like. [1965 c 7 § 35.23.490. Prior: 1913 c 57 § 2, part; RRS § 9036, part.]

35.23.500 Taxation—Property tax levy. Every city of the second class may levy and collect annually, a property tax:

- (1) For the payment of outstanding warrants,
- (2) For the payment of interest on and the creation of sinking funds for the payment of outstanding bonded indebtedness and
- (3) For the payment of current expenses. [1965 c 7 § 35.23.500. Prior: 1907 c 241 § 70; 1890 p 162 § 57; RRS § 9073.]

Limitation on levies: State Constitution Art. 7 § 2 (Amendment 59), RCW 84.52.050.

35.23.510 Taxation—Park fund levy. City and town councils in cities of the second and third class and towns are authorized to levy a tax in such an amount as the city or town council or commission shall determine and fix for the purpose of acquiring, maintaining and improving any park or parks: *Provided*, That the amount of such levy shall be made within the limits and as authorized by law. The proceeds of such levy shall be paid into a special fund to be known as the park fund which shall be disbursed as provided for by ordinance. [1965 c 7 § 35.23.510. Prior: 1941 c 49 § 1; 1927 c 273 § 1; 1907 c 228 § 3; Rem. Supp. 1941 § 9201.]

35.23.530 Wards—Division of city into. At any time not within three months previous to an annual election the city council of a second class city may divide the city into wards, not exceeding six in all, or change the boundaries of existing wards. No change in the boundaries of wards shall affect the term of any councilman, but he shall serve out his term in the ward of his residence at the time of his election: *Provided*, That if this results in one ward being represented by more councilmen than the number to which it is entitled those having the shortest unexpired terms shall be assigned by the council to wards where there is a vacancy.

The representation of each ward in the city council shall be in proportion to the population as nearly as is practicable.

No person shall be eligible to the office of councilman unless he resides in the ward for which he is elected on the date of his election and removal of his residence from the ward for which he was elected renders his office vacant. [1965 c 7 § 35.23.530. Prior: 1907 c 241 § 14; 1890 p 147 § 35; RRS § 9019.]

35.23.540 Water system—Water improvement fund—Tax levy. Every city of the second class may create a special water improvement fund to be used exclusively for the construction, acquisition, extension, or improvement of the city's waterworks and water system. The city council after causing a general plan of the proposed construction, acquisition, extension, or improvement together with the estimated cost thereof to be filed in the office of the city clerk and published in the city's official newspaper, shall submit the proposition of levying a special water improvement tax upon all of the taxable property within the city for the purpose of raising the special water improvement fund to be used exclusively for the proposed improvement. The proposition submitted must distinctly state the amount of the levy and may contemplate the levying of the special tax for one year or for a succession of years not exceeding ten in all. [1965 c 7 § 35.23.540. Prior: 1907 c 241 § 71, part; RRS § 9074, part.]

35.23.550 Water system—Bonds or warrants. If a majority of the votes cast at the special election favor the proposition the council may proceed to levy the special tax during the year or series of years for which it was authorized, create the special water improvement fund and issue special water improvement fund warrants or bonds against the fund, the proceeds of which shall be used exclusively for the improving, extension, repair or renewal of the city's water system.

The special water improvement fund warrants or bonds shall not be a general obligation against the city and their payment shall be limited to the special water improvement taxes and the holders thereof shall have recourse only against the funds raised by such taxes.

The special water fund tax must be levied each year as authorized to take care of the warrants and bonds outstanding against the special water improvement fund. [1965 c 7 § 35.23.550. Prior: 1907 c 241 § 71, part; RRS § 9074, part.]

Limitations on indebtedness: State Constitution Art. 8 § 6 (Amendment 27), Art. 7 § 2 (Amendment 59); Chapter 39.36 RCW, RCW 84.52.050.

Municipal utilities: Chapter 35.92 RCW.

Municipal water and sewer facilities act: Chapter 35.91 RCW.

35.23.560 Waterworks—Construction by city or by district assessments. All cities and towns within the state, other than cities of the first class, which are empowered to construct waterworks for irrigation and domestic purposes, may do so either by the entire city or by assessment districts as the mayor and council may determine. [1965 c 7 § 35.23.560. Prior: 1901 c 117 § 1; RRS § 9526.]

35.23.570 Waterworks—Plans—Special taxes. Before letting any contract for the construction of any waterworks for irrigation and domestic purposes, the mayor and council shall by ordinance or resolution adopt the plans therefor and shall fix and establish the assessment district, if the same is to be constructed at the expense of the district, and such cities and towns are authorized to charge the expense of such waterworks for irrigation and domestic purposes to all the property included within such district which is contiguous or proximate to any streets in which any main pipe or lateral pipe of such waterworks for irrigation and domestic purposes, is to be placed, and to levy special taxes upon such property to pay therefor, which assessment and tax shall be levied in accordance with the last general assessment of the property within said district for city purposes. [1965 c 7 § 35.23.570. Prior: 1901 c 117 § 2; RRS § 9527.]

35.23.580 Waterworks—Procedure—Bonds. For the purpose of providing for, constructing and maintaining such waterworks for irrigation and domestic purposes and issuing bonds to pay therefor, such cities and towns may proceed in all ways in accordance with, and apply all the provisions of, law relating to local improvement assessments. [1965 c 7 § 35.23.580. Prior: 1901 c 117 § 3; RRS § 9528.]

35.23.590 Police court—Establishment. A police court is established in cities of the second class and those cities operating under the commission form of government, which court shall always be open for business except upon nonjudicial days, and upon such days may transact such business only as may be provided for by law. [1965 c 7 § 35.23.590. Prior: 1913 c 103 § 1; RRS § 9076.]

Justices of the peace and constables: Title 3 RCW.

Rules for courts of limited jurisdiction: Vol. 0 RCW.

35.23.600 Jurisdiction of police judge. The police judge in such cities shall have exclusive jurisdiction over all offenses defined by any ordinance of the city, and all other actions brought to enforce or recover any license penalty or forfeiture declared or given by any such ordinance, and full power to forfeit bail bonds and issue execution thereon, and full power to forfeit cash bail, and full power and authority to hear and determine all causes, civil or criminal, arising under such ordinances, and pronounce judgment in accordance therewith: *Provided*, That for the violation of a criminal ordinance, no greater punishment shall be imposed than the fine or imprisonment, or both such fine and imprisonment, prescribed by ordinance. In the trial of actions brought for the violation of any city ordinance, no jury shall be allowed. All civil or criminal proceedings before such police judge and judgments rendered by him, shall be subject to review in the superior court of the proper county by writ of review or appeal in the same manner as is provided in RCW 35.22.530 through 35.22.560. [1965 ex.s. c 116 § 8; 1965 c 7 § 35.23.600. Prior: 1913 c 103 § 2; RRS § 9077.]

35.23.610 Process. All criminal process issued by such police judge shall be in the name of the state of Washington, and run throughout the state, be directed to the chief of police, marshal, or other police officer of any city, or to any sheriff or constable in the state, and shall be served by him. [1965 c 7 § 35.23.610. Prior: 1913 c 103 § 3; RRS § 9078.]

Commencement of actions: Chapter 4.28 RCW.

Rules for courts of limited jurisdiction: Vol. 0 RCW.

35.23.620 Prosecutions. All prosecutions for the violation of any city ordinance shall be conducted in the name of the city, and may be upon the complaint of any person. [1967 c 241 § 7; 1965 c 7 § 35.23.620. Prior: 1913 c 103 § 4; RRS § 9079.]

Application—1967 c 241: See note following RCW 3.66.090.

Severability—1967 c 241: See RCW 3.74.932.

35.23.625 Change of venue. A change of venue from the police judge to a judge pro tempore appointed in the manner prescribed by RCW 35.23.650, as now or hereafter amended, shall be allowed in accordance with the provisions of RCW 3.20.100 and 3.20.110, as now or hereafter amended, in all civil and criminal proceedings. [1967 c 241 § 6.]

Application—1967 c 241: See note following RCW 3.66.090.

Severability—1967 c 241: See RCW 3.74.932.

35.23.630 Costs. In all civil and criminal actions arising from the violation of city ordinances tried by such police judge, he shall charge up as costs in each case the same fees as are charged by justices of the peace for like services in every action. All fees so charged and collected by, and all fines and forfeits paid to such police judge shall belong to, and be paid over by him weekly to the city treasurer, who shall issue his receipt therefor. [1965 c 7 § 35.23.630. Prior: 1913 c 103 § 5; RRS § 9080.]

35.23.640 Supplies—Reports. The governing body of the city shall furnish for use of the police court, all necessary dockets, books of record, blanks and blank forms which are deemed necessary to the proper administration of said court. The police judge shall, the last Saturday of each month, make a full report of all cases tried in his court for that month in which the city may be interested and file the same with the city clerk. [1965 c 7 § 35.23.640. Prior: 1913 c 103 § 6; RRS § 9081.]

35.23.650 Police judge pro tempore. In the event of the police judge's inability to act, or during any temporary absence, or if he should be disqualified, the mayor shall appoint from among the practicing attorneys, a police judge pro tempore, who, before entering upon the duties of such office, shall take and subscribe an oath as other judicial officers, and while so acting, he shall have all the power of the police judge: *Provided*, That such appointment shall not continue for a longer period than the absence or inability of the police judge.

Such police judge pro tempore shall receive such compensation for such services as shall be fixed by ordinance of the legislative body of the city, to be paid by the city. [1969 c 35 § 1; 1965 c 7 § 35.23.650. Prior: 1953 c 60 § 6; 1913 c 103 § 7; RRS § 9082.]

Justices of the peace pro tempore: RCW 3.34.130.

35.23.660 Qualifications of police judge—Election. No person shall be eligible to hold the office of police judge who is not a practicing attorney under the laws of this state. In all cities of the second class, except such as have a commission form of government, a police judge shall be elected annually at the general municipal election and shall hold his office until his successor is elected and qualified. [1965 c 7 § 35.23.660. Prior: 1913 c 103 § 8; RRS § 9083.]

Justices of the peace, eligibility and qualifications: RCW 3.34.060.

Times for holding elections: Chapter 29.13 RCW.

35.23.670 Seal—Transcripts as evidence—Efficacy of process. The court shall have a seal, to be provided by the city and certified transcripts of the police judge's docket and the seal of his court shall be evidence in any court of the state of the contents of the docket; and all warrants and other processes issued out of said court, and all acts done by said police judge under its seal, shall have the same force and validity in any part of this state as though issued or done by any court of record of this state. [1965 c 7 § 35.23.670. Prior: 1890 p 176 § 99; RRS § 9084.]

35.23.680 Cities of ten thousand or more may frame charter without changing classification. See RCW 35.21.600–35.21.620, chapter 35.22 RCW.

Chapter 35.24 THIRD CLASS CITIES

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Code of ethics for public officers and employees: Chapters 42.22, 42.23 RCW.

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Employees, group insurance: RCW 35.23.460.

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Limitations on indebtedness: State Constitution Art. 7 § 2 (Amendment 59), Art. 8 § 6 (Amendment 27), Chapter 39.36 RCW, RCW 84.52.050.

Local improvements, authorized: Chapter 35.43 RCW.

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Municipal utilities: Chapter 35.92 RCW.

Municipal water and sewer facilities act: Chapter 35.91 RCW.

Officers, salaries of, not to be changed during term: State Constitution Art. 11 § 8 (Amendment 57).

Officers, vacancies not to be extended: State Constitution Art. 11 § 8 (Amendment 57).

Organization under general laws required: State Constitution Art. 11 § 10 (Amendment 40).

Park commissioners: RCW 35.23.170.

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Police regulations, enforcement of: State Constitution Art. 11 § 11.

Public funds, use of, by official a felony: State Constitution Art. 11 § 14.

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Service of summons on, personal service: RCW 4.28.080.

Sidewalks, construction, initial: Chapter 35.70 RCW.

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Taxation, park fund levy: RCW 35.23.510.

Taxes, property: State Constitution Art. 7, Art. 11 § 12, Title 84 RCW.

Unclaimed property in hands of city or town: Chapter 63.36 RCW.

Unclaimed property in hands of city police: Chapter 63.32 RCW.

35.24.010 Rights, powers and privileges. Every city of the third class shall be entitled "City of _____" (naming it), and by such name shall have perpetual succession; may sue and be sued in all courts and in all proceedings; shall have and use a common seal alterable at pleasure of the city authorities; may purchase, lease, receive, hold, and enjoy real and personal property and may control and dispose of it for the common benefit; and with the consent of the dedicator or donor, his heirs, successors, or assigns, may exchange any property acquired for park purposes for other property or may lease, sell, or otherwise dispose of such property, and may make, execute, and deliver proper conveyances to effect the transaction: *Provided*, That in any case where owing to death or lapse of time there is neither donor, heir, successor, nor assigns to give consent, then such consent shall be deemed waived. Title to property so conveyed by the city shall vest in the grantee free and clear of any trust in favor of the public arising out of any prior dedication for park purposes. [1965 c 7 § 35.24.010. Prior: 1957 c 56 § 1; 1933 c 83 § 1; 1915 c 184 § 1; 1890 p 176 § 104; RRS § 9114.]

35.24.020 City officers enumerated—Compensation—Appointment and removal. The government of a third class city shall be vested in a mayor, a city council of seven members, a city attorney, a clerk, a treasurer, all elective; and a chief of police, police judge, city engineer, street superintendent, health officer and such other appointive officers as may be provided for by statute or ordinance: *Provided*, That the council may enact an ordinance providing for the appointment of the city clerk, city attorney, and treasurer by the mayor, which appointment shall be subject to confirmation by

a majority vote of the city council. Such ordinance shall be enacted and become effective not later than thirty days prior to the first day allowed for filing declarations of candidacy for such offices when such offices are subject to an approaching city primary election. Elective incumbent city clerks, city attorneys, and city treasurers shall serve for the remainder of their unexpired term notwithstanding any appointment made pursuant to RCW 35.24.020 and 35.24.050. If a free public library and reading room is established, five library trustees shall be appointed. The city council by ordinance shall prescribe the duties and fix the compensation of all officers: *Provided*, That the provisions of any such ordinance shall not be inconsistent with any statute: *Provided further*, That where the city council finds that the appointment of a full time city engineer is unnecessary, it may in lieu of such appointment, by resolution provide for the performance of necessary engineering services on either a part time, temporary or periodic basis by a qualified engineering firm, pursuant to any reasonable contract.

The mayor shall appoint and at his pleasure may remove all appointive officers except as otherwise provided herein: *Provided*, That police judges shall be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering him incapable of performing the duties of his office. Every appointment or removal must be in writing signed by the mayor and filed with the city clerk. [1969 c 116 § 1; 1965 ex.s. c 116 § 9; 1965 c 7 § 35.24.020. Prior: 1961 c 81 § 1; 1955 c 365 § 2; 1955 c 55 § 5; prior: (i) 1915 c 184 § 2; 1891 c 156 § 4; 1890 p 179 § 105; RRS § 9115. (ii) 1929 c 182 § 1, part; 1927 c 159 § 1; 1915 c 184 § 3, part; 1893 c 57 § 1; 1891 c 156 § 1; 1890 p 179 § 106; RRS § 9116, part. (iii) 1915 c 184 § 28; 1890 p 196 § 137; RRS § 9142.]

35.24.030 Eligibility to hold elective office. No person shall be eligible to hold an elective office in a city of the third class unless he be a citizen of and a legal resident therein. [1965 c 7 § 35.24.030. Prior: 1915 c 184 § 9; 1890 p 181 § 111; RRS § 9122.]

35.24.050 Elections—Terms of office. General municipal elections in third class cities not operating under the commission form of government shall be held biennially, and, shall be held on the Tuesday following the first Monday in November in the odd-numbered years, except as provided in RCW 29.13.020 and 29.13.030. The term of office of the mayor, city attorney, clerk, and treasurer shall be four years and until their successors are elected and qualified: *Provided*, That if the offices of city attorney, clerk, and treasurer are made appointive, the city attorney, clerk, and treasurer shall not be appointed for a definite term: *Provided further*, That the term of the elected treasurer shall not commence in the same biennium in which the term of the mayor commences, nor in which the terms of the city attorney and clerk commence if they are elected.

A councilman-at-large shall be elected biennially for a two-year term and until their successors are elected and qualified; of the other six councilmen, three shall

be elected biennially as the terms of their predecessors expire for terms of four years and until their successors are elected and qualified. [1969 c 116 § 2; 1965 c 7 § 35.24.050. Prior: 1963 c 200 § 15; 1959 c 86 § 4; 1955 c 365 § 3; 1955 c 55 § 6; prior: (i) 1929 c 182 § 1, part; 1927 c 159 § 1; 1915 c 184 § 3, part; 1893 c 57 § 1; 1891 c 156 § 1; 1890 p 179 § 106; RRS § 9116, part. (ii) 1941 c 108 § 1; 1939 c 87 § 1; Rem. Supp. 1941 § 9116-1.]

Reviser's note: RCW 29.13.030 was repealed by 1965 c 123 § 9(12); later enactment, see RCW 29.13.020.

35.24.060 Conduct of elections. All elections shall be held in accordance with the general election laws of the state insofar as the same are applicable and no person shall be entitled to vote at any election unless he shall be a qualified elector of the county and shall have resided in such city for at least thirty days next preceding such election. [1965 c 7 § 35.24.060. Prior: 1915 c 184 § 8; 1890 p 180 § 110; RRS § 9121.]

Canvassing returns, generally: Chapter 29.62 RCW.
Conduct of elections—Canvass: RCW 29.13.040.
Notice of election: RCW 29.27.080.

35.24.070 Contested elections. The city council shall judge of the qualifications of its members and determine contested elections of all the city officers. [1965 c 7 § 35.24.070. Prior: 1915 c 184 § 13, part; 1890 p 182 § 115; RRS § 9126.]

Election contests: Chapter 29.65 RCW.

35.24.080 Oath and bond of officers. In a city of the third class, the treasurer, city attorney, clerk, police judge, chief of police, and such other officers as the council may require shall each, before entering upon the duties of his office, take an oath of office and execute and file with the clerk an official bond in such penal sum as the council shall determine, conditioned for the faithful performance of his duties and otherwise conditioned as may be provided by ordinance. [1965 c 7 § 35.24.080. Prior: 1915 c 184 § 5; 1893 c 70 § 1; 1890 p 179 § 107; RRS § 9118.]

35.24.090 Compensation of officers—Expenses. The mayor and the members of the city council may be reimbursed for actual expenses incurred in the discharge of their official duties, upon presentation of a claim therefor, after allowance and approval thereof, by resolution of the city council; and each city councilman may be paid for attending council meetings an amount which shall be fixed by ordinance and may be revised from time to time by ordinance, but any increase or reduction in the compensation attaching to an office shall not be applicable to the term then being served by the incumbent.

The city attorney, clerk and treasurer, if elective, shall severally receive at stated times a compensation to be fixed by ordinance by the city council.

The mayor and other officers shall receive such compensation as may be fixed by the city council at the time the estimates are made as provided by law. [1973 1st ex.s. c 87 § 1; 1969 ex.s. c 270 § 8; 1965 c 105 § 1; 1965 c 7 § 35.24.090. Prior: 1961 c 89 § 7; 1941 c 115 §

1; 1915 c 184 § 7; 1893 c 70 § 2; 1890 p 180 § 109; Rem. Supp. 1941 § 9120.]

35.24.100 Vacancies. In cities of the third class if a member of the city council absents himself for three consecutive regular meetings thereof, unless by permission of the council, his office may be declared vacant by the council.

Vacancies in the city council or in the office of mayor shall be filled by majority vote of the council. Vacancies in offices other than that of mayor or city councilman shall be filled by appointment of the mayor.

If a vacancy occurs in an elective office the appointee shall hold office only until the next regular election at which a person shall be elected to serve for the remainder of the unexpired term.

If there is a temporary vacancy in an appointive office due to illness, absence from the city or other temporary inability to act, the mayor may appoint a temporary appointee to exercise the duties of the office until the temporary disability of the incumbent is removed. [1965 c 7 § 35.24.100. Prior: (i) 1919 c 113 § 1; 1915 c 184 § 6; 1890 p 180 § 108; RRS § 9119. (ii) 1907 c 228 § 5, part; RRS § 9203, part.]

35.24.110 City attorney—Duties. The city attorney shall advise the city authorities and officers in all legal matters pertaining to the business of the city and shall approve all ordinances as to form. He shall represent the city in all actions brought by or against the city or against city officials in their official capacity. He shall perform such other duties as the city council by ordinance may direct. [1965 c 7 § 35.24.110. Prior: 1915 c 184 § 26; 1893 c 70 § 11; 1890 p 192 § 132; RRS § 9140.]

Employment of legal interns: RCW 35.21.760.

35.24.120 City clerk—Duties—Deputies. The city clerk shall keep a full and true record of every act and proceeding of the city council and keep such books, accounts and make such reports as may be required by the division of municipal corporations in the office of the state auditor. The city clerk shall record all ordinances, annexing thereto his certificate giving the number and title of the ordinance, stating that the ordinance was published and posted according to law and that the record is a true and correct copy thereof. The record copy with the clerk's certificate shall be prima facie evidence of the contents of the ordinance and of its passage and publication and shall be admissible as such evidence in any court or proceeding.

The city clerk shall be custodian of the seal of the city and shall have authority to acknowledge the execution of all instruments by the city which require acknowledgment.

The city clerk may appoint a deputy for whose acts he and his bondsmen shall be responsible, and he and his deputy shall have authority to take all necessary affidavits to claims against the city and certify them without charge.

The city clerk shall perform such other duties as may be required by statute or ordinance. [1965 c 7 § 35.24.120. Prior: 1915 c 184 § 25; RRS § 9139.]

35.24.130 City treasurer—Duties. The city treasurer shall receive and safely keep all money which comes into his hands as treasurer, for all of which he shall execute triplicate receipts, one to be filed with the city clerk. He shall receive all money due the city and disburse it on warrants issued by the clerk countersigned by the mayor, and not otherwise. He shall make monthly settlements with the city clerk at which time he shall deliver to the clerk the duplicate receipts for all money received and all canceled warrants as evidence of money paid. [1965 c 7 § 35.24.130. Prior: 1915 c 184 § 24; 1893 c 70 § 8; 1890 p 192 § 132; RRS § 9138.]

35.24.140 Duty of officers collecting moneys. Every officer collecting or receiving any money belonging to or for the use of the city shall settle with the clerk and immediately pay it into the treasury on the order of the clerk to be credited to the fund to which it belongs. [1965 c 7 § 35.24.140. Prior: 1915 c 184 § 30; 1890 p 197 § 139; RRS § 9144.]

35.24.142 Combination of offices of treasurer with clerk—Authorized. The city council of any city of the third class is authorized to provide by ordinance that the office of treasurer shall be combined with that of clerk, or that the office of clerk shall be combined with that of treasurer: *Provided*, That such ordinance shall not be voted upon until the next regular meeting after its introduction. [1969 c 116 § 3.]

35.24.144 Combination of offices of treasurer with clerk—Powers of clerk. In the event that the office of treasurer is combined with the office of clerk so as to become the office of clerk-treasurer, the clerk shall exercise all the powers vested in and perform all the duties required to be performed by the treasurer, and in cases where the law requires the treasurer to sign or execute any papers or documents, it shall not be necessary for the clerk to sign as treasurer, but shall be sufficient if he signs as clerk. [1969 c 116 § 4.]

35.24.146 Combination of offices of treasurer with clerk—Powers of treasurer. In the event that the office of clerk is combined with the office of treasurer so as to become the office of treasurer-clerk, the treasurer shall exercise all the powers vested in and perform all the duties required to be performed by the clerk. [1969 c 116 § 5.]

35.24.148 Combination of offices of treasurer with clerk—Ordinance—Termination of combined offices. The ordinance provided for combining said offices shall provide the date when the combination shall become effective, which date shall not be less than three months from the date when the ordinance becomes effective; and on and after said date the office of treasurer or clerk, as the case may be, shall be abolished. Any city which as herein provided, combined the office of

treasurer with that of clerk or the office of clerk with that of treasurer may terminate such combination by ordinance, fixing the time when the combination shall cease and thereafter the duties of the offices shall be performed by separate officials: *Provided*, That if the office of treasurer was combined with that of clerk, or an elective office of clerk was combined with the office of treasurer, the mayor shall appoint a treasurer and clerk who shall serve until the next regular municipal general election when a treasurer and clerk shall be elected for the term as provided by law unless such city has enacted an ordinance in accordance with RCW 35.24.020. [1969 c 116 § 6.]

35.24.150 Park commissioners. See RCW 35.23.170.

35.24.160 Chief of police and police department. The department of police in a city of the third class shall be under the direction and control of the chief of police subject to the direction of the mayor. The chief of police shall prosecute before the police justice all violations of city ordinances which come to his knowledge. He shall have charge of the city prisons and prisoners and of any chain gang which may be established by the city council. He may pursue and arrest violators of city ordinances beyond the city limits.

His lawful orders shall be promptly executed by deputies, police officers and watchmen. Every citizen shall lend him aid, when required, for the arrest of offenders and maintenance of public order. With the concurrence of the mayor, he may appoint additional policemen to serve for one day only under his orders in the preservation of public order.

He shall have the same authority as that conferred upon sheriffs for the suppression of any riot, public tumult, disturbance of the peace, or resistance against the laws or the public authorities in the lawful exercise of their functions and shall be entitled to the same protection.

He shall perform such other services as may be required by statute or ordinances of the city.

He shall execute and return all process issued and directed to him by lawful authority and for his services shall receive the same fees as are paid to constables. [1965 c 7 § 35.24.160. Prior: 1915 c 184 § 27; 1893 c 70 § 12; 1890 p 195 § 136; RRS § 9141.]

Commencement of actions: Chapter 4.28 RCW.

Unclaimed property in hands of city or town: Chapter 63.36 RCW.

Unclaimed property in hands of city police: Chapter 63.32 RCW.

35.24.180 City council—Oath—Meetings. The city council and mayor shall meet on the first Tuesday in January next succeeding the date of each general municipal election, and shall take the oath of office, and shall hold regular meetings at least once during each month but not to exceed one regular meeting in each week, at such times as may be fixed by ordinance.

Special meetings may be called by the mayor by written notice delivered to each member of the council at least three hours before the time specified for the proposed meeting. No ordinances shall be passed or

contract let or entered into, or bill for the payment of money allowed at any special meeting.

All meetings of the city council shall be held within the corporate limits of the city at such place as may be designated by ordinance. All meetings of the city council must be public. [1965 c 7 § 35.24.180. Prior: 1915 c 184 § 10, part; 1893 c 70 § 3; 1890 p 181 § 113; RRS § 9123, part.]

35.24.190 City council—Mayor pro tempore. The members of the city council at their first meeting after each general municipal election and thereafter whenever a vacancy occurs, shall elect from among their number a mayor pro tempore, who shall hold office at the pleasure of the council and in case of the absence of the mayor, perform the duties of mayor except that he shall not have the power to appoint or remove any officer or to veto any ordinance. If a vacancy occurs in the office of mayor, the city council at their next regular meeting shall elect from among their number a mayor, who shall serve until a mayor is elected and certified at the next municipal election.

The mayor and the mayor pro tempore shall have power to administer oaths and affirmations, take affidavits and certify them. The mayor or the mayor pro tempore when acting as mayor, shall sign all conveyances made by the city and all instruments which require the seal of the city. [1969 c 101 § 3; 1965 c 7 § 35.24.190. Prior: (i) 1915 c 184 § 10, part; 1893 c 70 § 3; 1890 p 181 § 113; RRS § 9123, part. (ii) 1915 c 184 § 23; RRS § 9137.]

35.24.200 City council—Quorum—Rules—Journal. At all meetings of the city council, a majority of the councilmen shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.

All meetings of the council shall be presided over by the mayor, or, in his absence, by the mayor pro tempore. The mayor shall have a vote only in the case of a tie in the votes of the councilmen. If the clerk is absent from a council meeting the mayor or mayor pro tempore shall appoint one of the members of the council as clerk pro tempore. The appointment of a councilman as mayor pro tempore or clerk pro tempore shall not in any way abridge his right to vote upon all questions coming before the council.

The city council may establish rules for the conduct of their proceedings and punish any member or other person for disorderly behavior at any meeting.

The clerk shall keep a correct journal of all proceedings and at the desire of any member the ayes and noes shall be taken on any question and entered in the journal. [1965 c 107 § 1; 1965 c 7 § 35.24.200. Prior: (i) 1915 c 184 § 13, part; 1890 p 182 § 115; RRS § 9126, part. (ii) 1915 c 184 § 11, part; 1891 c 156 § 2; 1890 p 182 § 114; RRS § 9124, part.]

35.24.210 Ordinances—Style—Requisites—Veto. The enacting clause of all ordinances in a third class city shall be as follows: "The city council of the city of _____ do ordain as follows:"

No ordinance shall contain more than one subject and that must be clearly expressed in its title.

No ordinance or any section thereof shall be revised or amended unless the new ordinance sets forth the revised ordinance or the amended section at full length.

No ordinance and no resolution or order shall have any validity or effect unless passed by the votes of at least four councilmen.

No ordinance shall take effect until five days after the date of its publication unless otherwise provided in this title.

Every ordinance which passes the council in order to become valid must be presented to the mayor; if he approves it, he shall sign it, but if not, he shall return it with his written objections to the council and the council shall cause his objections to be entered at large upon the journal and proceed to a reconsideration thereof. If upon reconsideration five members of the council voting upon a call of yeas and nays favor its passage, the ordinance shall become valid notwithstanding the mayor's veto. If the mayor fails for ten days to either approve or veto an ordinance, it shall become valid without his approval.

Every ordinance shall be signed by the mayor and attested by the clerk. [1965 c 7 § 35.24.210. Prior: (i) 1915 c 184 § 11, part; 1891 c 156 § 2; 1890 p 182 § 114; RRS § 9124, part. (ii) 1915 c 184 § 12, part; 1893 c 70 § 4; 1890 p 182 § 116; RRS § 9125, part. (iii) 1915 c 184 § 18, part; 1890 p 186 § 118; RRS § 9132, part.]

Codification of city or town ordinances: RCW 35.21.500–35.21.570.

35.24.220 Ordinances—Publication. Every ordinance of a city of the third class shall be published at least once in a newspaper published in the city, such publication to be made in the city's official newspaper if there is one. If there is no official newspaper or other newspaper published in the city then publication shall be made by printing and posting the ordinance in at least three public places in the city in such manner as the city council may direct. [1965 c 7 § 35.24.220. Prior: (i) 1915 c 184 § 18, part; 1890 p 186 § 118; RRS § 9132, part. (ii) 1915 c 184 § 12, part; 1893 c 70 § 4; 1890 p 182 § 116; RRS § 9125, part.]

35.24.230 Ordinances—Prosecution for violations. The violation of any ordinance of a city of the third class shall be a misdemeanor and may be prosecuted as a criminal action in the name of the people of the state of Washington or may be redressed by a civil action, at the option of the authorities.

Any person sentenced to imprisonment for the violation of an ordinance may be imprisoned in the city jail or in the county jail of the county in which the city is situated if the council by ordinance shall so prescribe; in which case the expense of such imprisonment shall be a charge in favor of the county and against the city. [1965 c 7 § 35.24.230. Prior: 1915 c 184 § 20; 1890 p 187 § 122; RRS § 9134.]

35.24.250 Ordinances granting franchises—Requisites. No ordinance or resolution granting any franchise for any purpose shall be passed by the city council on the day of its introduction, nor for five days thereafter, nor at any other than a regular meeting nor without first being submitted to the city attorney.

No franchise or valuable privilege shall be granted unless by the vote of at least five members of the city council.

The city council may require a bond in a reasonable amount for any person or corporation obtaining a franchise from the city conditioned for the faithful performance of the conditions and terms of the franchise and providing a recovery on the bond in case of failure to perform the terms and conditions of franchise. [1965 c 7 § 35.24.250. Prior: (i) 1915 c 184 § 12, part; 1893 c 70 § 4; 1890 p 182 § 116; RRS § 9125, part. (ii) 1907 c 228 § 1, part; RRS § 9199, part.]

35.24.260 Audit and allowance of demands against city. All demands against the city shall be presented to and audited by the city council in accordance with such regulations as it may by ordinance prescribe; and upon the allowance of a demand, the clerk shall draw a warrant upon the treasurer for it, which warrant shall be countersigned by the mayor and shall specify for what purpose it is drawn and out of which fund it is to be paid. [1965 c 7 § 35.24.260. Prior: 1915 c 184 § 19; 1890 p 186 § 119; RRS § 9133.]

35.24.272 Contracts, purchases, advertising—Call for bids—Exceptions. See RCW 35.23.352.

35.24.273 Purchases relating to garbage collection and disposal. See RCW 35.23.353.

35.24.274 Contracts with cemetery districts and fire protection districts for public facilities and services—Joint purchasing. Third or fourth class cities and towns may contract, for terms not to exceed five years each term, to provide or have provided public facilities or services with any cemetery district or fire protection district, each of which is separately authorized to operate or provide under terms mutually agreed upon by the governing bodies of such public agencies. The governing body of a third or fourth class city may join with the governing body of any of the other public agencies in buying supplies, equipment, and services collectively, by establishing and maintaining a joint purchasing agency or otherwise, as may be necessary under the circumstances. [1965 c 7 § 35.24.274. Prior: 1963 c 72 § 2.]

Cemetery districts, cooperation with public or private agencies as to public cemetery facilities or services: RCW 68.16.112, 68.16.113.

Townships—Joint acquisition, operation and maintenance of public cemeteries: RCW 45.12.021.

35.24.275 Contracts with cemetery districts and fire protection districts for public facilities and services—"Public agency" defined. As used in RCW 35.24.274, "public agency" means third or fourth class

cities and towns, cemetery districts and fire protection districts. [1965 c 7 § 35.24.275. Prior: 1963 c 72 § 1.]

35.24.290 Specific powers enumerated. The city council of each third class city shall have power:

(1) To pass ordinances not in conflict with the Constitution and laws of this state or of the United States;

(2) To prevent and regulate the running at large of any or all domestic animals within the city limits or any part thereof and to cause the impounding and sale of any such animals;

(3) To establish, build and repair bridges, to establish, lay out, alter, keep open, open, widen, vacate, improve and repair streets, sidewalks, alleys, squares and other public highways and places within the city, and to drain, sprinkle and light the same; to remove all obstructions therefrom; to establish and reestablish the grades thereof; to grade, plank, pave, macadamize, gravel and curb the same, in whole or in part; to construct gutters, culverts, sidewalks and crosswalks therein or upon any part thereof; to cultivate and maintain parking strips therein, and generally to manage and control all such highways and places; to provide by local assessment for the leveling up and surfacing and oiling or otherwise treating for the laying of dust, all streets within the city limits;

(4) To establish, construct and maintain drains and sewers, and shall have power to compel all property owners on streets and alleys or within two hundred feet thereof along which sewers shall have been constructed to make proper connections therewith and to use the same for proper purposes, and in case the owners of the property on such streets and alleys or within two hundred feet thereof fail to make such connections within the time fixed by such council, it may cause such connections to be made and assess against the property served thereby the costs and expenses thereof;

(5) To provide fire engines and all other necessary or proper apparatus for the prevention and extinguishment of fires;

(6) To impose and collect an annual license on every dog within the limits of the city, to prohibit dogs running at large and to provide for the killing of all dogs not duly licensed found at large;

(7) To license, for the purposes of regulation and revenue, all and every kind of business authorized by law, and transacted and carried on in such city, and all shows, exhibitions and lawful games carried on therein and within one mile of the corporate limits thereof, to fix the rate of license tax upon the same, and to provide for the collection of the same by suit or otherwise;

(8) To improve rivers and streams flowing through such city, or adjoining the same; to widen, straighten and deepen the channel thereof, and remove obstructions therefrom; to improve the water-front of the city, and to construct and maintain embankments and other works to protect such city from overflow; to prevent the filling of the water of any bay, except such filling over tide or shorelands as may be provided for by order of the city council; to purify and prevent the pollution of streams of water, lakes or other sources of supply, and for this purpose shall have jurisdiction over all streams,

lakes or other sources of supply, both within and without the city limits. Such city shall have power to provide by ordinance and to enforce such punishment or penalty as the city council may deem proper for the offense of polluting or in any manner obstructing or interfering with the water supply of such city or source thereof;

(9) To erect and maintain buildings for municipal purposes;

(10) To permit, under such restrictions as it may deem proper, and to grant franchises for, the laying of railroad tracks, and the running of cars propelled by electric, steam or other power thereon, and the laying of gas and water pipes and steam mains and conduits for underground wires, and to permit the construction of tunnels or subways in the public streets, and to construct and maintain and to permit the construction and maintenance of telegraph, telephone and electric lines therein;

(11) In its discretion to divide the city by ordinance, into a convenient number of wards, not exceeding six, to fix the boundaries thereof, and to change the same from time to time: *Provided*, That no change in the boundaries of any ward shall be made within sixty days next before the date of a general municipal election, nor within twenty months after the wards have been established or altered. Whenever such city is so divided into wards, the city council shall designate by ordinance the number of councilmen to be elected from each ward, apportioning the same in proportion to the population of the wards. Thereafter the councilmen so designated shall be elected by the qualified electors resident in such ward, or by general vote of the whole city as may be designated in such ordinance. When additional territory is added to the city it may by act of the council, be annexed to contiguous wards without affecting the right to redistrict at the expiration of twenty months after last previous division. The removal of a councilman from the ward for which he was elected shall create a vacancy in such office;

(12) To impose fines, penalties and forfeitures for any and all violations of ordinances, and for any breach or violation of any ordinance to fix the penalty by fine or imprisonment, or both, but no such fine shall exceed five hundred dollars nor the term of such imprisonment exceed the term of six months;

(13) To cause all persons imprisoned for violation of any ordinance to labor on the streets, or other public property or works within the city;

(14) To establish fire limits, with proper regulations;

(15) To establish and maintain a free public library;

(16) To establish and regulate public markets and market places;

(17) To punish the keepers and inmates and lessors of houses of ill fame, gamblers and keepers of gambling tables, patrons thereof or those found loitering about such houses and places;

(18) To make all such ordinances, bylaws, rules, regulations and resolutions, not inconsistent with the Constitution and laws of the state of Washington, as may be deemed expedient to maintain the peace, good government and welfare of the corporation and its trade,

commerce and manufactures, and to do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter, and to enact and enforce within the limits of such city all other local, police, sanitary and other regulations as do not conflict with general laws;

(19) To license steamers, boats and vessels used in any bay or other watercourse in the city and to fix and collect such license; to provide for the regulation of berths, landings, and stations, and for the removing of steamboats, sail boats, sail vessels, rafts, barges and other watercraft; to provide for the removal of obstructions to navigation and of structures dangerous to navigation or to other property, in or adjoining the waterfront, except in municipalities in counties in which there is a city of the first class. [1965 ex.s. c 116 § 10; 1965 c 7 § 35.24.290. Prior: 1915 c 184 § 14; 1893 c 70 § 3; 1891 c 56 § 3; 1890 p 183 § 17; RRS § 9127.]

35.24.292 City and town license fees and taxes on financial institutions. See chapter 82.14A RCW.

35.24.293 City license fees or taxes on certain business activities to be at a single uniform rate. See RCW 35.21.710.

35.24.300 Additional powers—Acquisition, control, and disposition of property. The city council of such city shall have power to purchase, lease, or otherwise acquire real estate and personal property necessary or proper for municipal purposes and to control, lease, sublease, convey or otherwise dispose of the same; to acquire and plat land for cemeteries and parks and provide for the regulation thereof, including but not limited to the right to lease any waterfront and other lands adjacent thereto owned by it for manufacturing, commercial or other business purposes; including but not limited to the right to lease for wharf, dock and other purposes of navigation and commerce such portions of its streets which bound upon or terminate in its waterfront or the navigable waters of such city, subject, however, to the written consent of the lessees of a majority of the square feet frontage of the harbor area abutting on any street proposed to be so leased. No lease of streets or waterfront shall be for longer than ten years and the rental therefor shall be fixed by the city council. Every such lease shall contain a clause that at intervals of every five years during the term thereof the rental to be paid by the lessee shall be readjusted between the lessee and the city by mutual agreement, or in default of such mutual agreement that the rental shall be fixed by arbitrators to be appointed one by the city council, one by the lessee and the third by the two thus appointed. No such lease shall be made until the city council has first caused notice thereof to be published in the official newspaper of such city at least fifteen days and in one issue thereof each week prior to the making of such lease, which notice shall describe the portion of the street proposed to be leased, to whom, for what purpose, and the rental to be charged therefor. The city may improve part of such waterfront

or street extensions by building inclines, wharves, gridirons and other accommodations for shipping, commerce and navigation and may charge and collect for service and use thereof reasonable rates and tolls. [1965 c 7 § 35.24.300. Prior: 1963 c 155 § 1; 1915 c 184 § 15; RRS § 9128.]

35.24.305 Additional powers—Parking meter revenue for revenue bonds. All cities of the third class, regardless of their form of government, and all municipal corporations of the fourth class (towns), are hereby authorized to use parking meter revenue as a base for obtaining revenue bonds for use in improvement of streets, roads, alleys, and such other related public works. [1965 c 7 § 35.24.305. Prior: 1957 c 166 § 1.]

35.24.306 Additional powers—Ambulances and first aid equipment. In incorporated cities of the third class where commercial ambulance service is not readily available, the city shall have the power:

(1) To authorize the operation of municipally-owned ambulances which may serve the city and may serve for emergencies surrounding rural areas;

(2) To authorize the operation of other municipally-owned first aid equipment which may serve the city and surrounding rural areas;

(3) To contract with the county or with another municipality for emergency use of city-owned ambulances or other first aid equipment: *Provided*, That the county or other municipality shall contribute at least the cost of maintenance and operation of the equipment attributable to its use thereof; and

(4) To provide that such ambulance service may be used to transport persons in need of emergency hospital care to hospitals beyond the city limits.

The council may, in its discretion, make a charge for the service authorized by this section: *Provided*, That such ambulance service shall not enter into competition or competitive bidding where private ambulance service is available. [1965 c 7 § 35.24.306. Prior: 1963 c 131 § 1.]

35.24.307 Additional powers—Construction and operation of boat harbors, marinas, docks, etc. See RCW 35.23.455.

35.24.310 Eminent domain. Whenever it shall become necessary for the city to take or damage private property for the purpose of establishing, laying out, extending and widening streets and other public highways and places within the city, or for the purpose of securing rights-of-way for drains, sewers and aqueducts, and for the purpose of widening, straightening or diverting the channels of streams and the improvement of waterfronts, or any other public purpose, and the city council cannot agree with the owner thereof as to the price to be paid, the city council may proceed to acquire, take or damage the same in the manner provided by chapter 8.12 RCW or by chapter 8.20 RCW. [1965 c 7 § 35.24.310. Prior: 1915 c 184 § 22; RRS § 9136.]

35.24.320 Employees' group insurance—False arrest insurance. See RCW 35.23.460.

35.24.330 Nuisances. Every act or thing done or being within the limits of a third class city which is declared by law or by ordinance to be a nuisance shall be a nuisance and shall be so considered in all actions and proceedings. All remedies given by law for the prevention and abatement of nuisances shall apply thereto. [1965 c 7 § 35.24.330. Prior: 1915 c 184 § 21; 1890 p 187 § 123; RRS § 9135.]

Public nuisances: Chapter 9.66 RCW.

35.24.340 Taxation—Levy for current expense fund. Every city of the third class shall maintain a current expense fund. For each year it shall levy a tax upon the property in the city for the payment of current expenses in an amount equal to the estimate by the city council of the current expenses for the ensuing year less the amount of revenues from all other sources payable into the current expense fund. [1965 c 7 § 35.24.340. Prior: 1915 c 186 § 3; RRS § 9153.]

35.24.350 Taxation—Allocation for special improvement or purpose. If by unanimous vote the city council so decides, every city of the third class may use fifty cents per thousand dollars of assessed value of its regular levy for the purpose of creating a fund for any special improvement or purpose authorized by law. The resolution creating the fund must specifically designate its purpose, and the fund so created shall not be used for any purpose other than that designated in the resolution creating it except by unanimous vote of the city council. [1973 1st ex.s. c 195 § 17; 1965 c 7 § 35.24.350. Prior: 1919 c 167 § 2; RRS § 9131.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

35.24.360 Taxation—Park fund levy. See RCW 35.23.510.

35.24.370 Taxation—Street poll tax. A third class city may impose upon and collect from every inhabitant of the city over the age of eighteen years an annual street poll tax not exceeding two dollars and no other road poll tax shall be collected within the limits of the city. [1973 1st ex.s. c 154 § 51; 1971 ex.s. c 292 § 61; 1965 c 7 § 35.24.370. Prior: 1905 c 75 § 1, part; 1890 p 201 § 154; RRS § 9210, part.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

35.24.380 Taxation—Sinking funds—Investment. Every city of the third class may provide by ordinance and levy taxes for sinking funds for the payment of indebtedness and for the investment thereof in county, city, and school district warrants and in securities of its own municipal utilities and local improvement districts and those of other municipal corporations, all subject to the approval of the division of municipal

corporations in the office of the state auditor. [1965 c 7 § 35.24.380. Prior: 1915 c 184 § 33; RRS § 9147.]

35.24.390 Reserve funds—Investment in city's own bonds. The city treasurer of any third class city, by and with the consent of the city's finance committee, may invest any portion of the money which has accumulated in its various reserve funds in the city's own general obligation bonds or in the city's own utility revenue bonds. The interest received shall be credited to the funds which supplied the money for the investment. [1965 c 7 § 35.24.390. Prior: 1941 c 145 § 1; RRS § 9138-1.]

35.24.400 Local improvement guaranty fund—Investment in city's own guaranteed bonds. The city treasurer of any third class city, by and with the consent of the city's finance committee, may invest any portion of its local improvement guaranty fund in the city's own guaranteed local improvement bonds in an amount not to exceed ten percent of the total issue of bonds in any one local improvement district: *Provided*, That no such investment shall be made in an amount which will affect the ability of the local improvement guaranty fund to meet its obligations as they accrue, and that if all the bonds have the same maturity, the bonds having the highest numbers shall be purchased.

The interest received shall be credited to the local improvement guaranty fund. [1965 c 7 § 35.24.400. Prior: 1941 c 145 § 2; RRS § 9138-2.]

Local improvements—Bonds and warrants: Chapter 35.45 RCW.

Local improvements—Nonguaranteed bonds: Chapter 35.48 RCW.

35.24.410 Utilities—City may contract for service or construct own facilities. The city council of every city of the third class may contract for supplying the city with water, light, power, and heat for municipal purposes; and within or without the city may acquire, construct, repair, and manage pumps, aqueducts, reservoirs, plants, or other works necessary or proper for irrigation purposes or for supplying water, light, power, or heat or any byproduct thereof for the use of the city and any person within the city and dispose of any excess of its supply to any person without the city. [1965 c 7 § 35.24.410. Prior: 1917 c 124 § 1, part; 1915 c 184 § 16, part; RRS § 9129, part.]

35.24.420 Utilities—Method of acquisition. To pay the original cost of water, light, power, or heat systems, every city of the third class may issue:

(1) General bonds to be retired by general tax levies against all the property within the city limits then existing or as they may thereafter be extended; or

(2) Utility bonds under the general authority given to all cities for the acquisition or construction of public utilities.

Extensions to plants may be made either

(1) By general bond issue,

(2) By general tax levies, or

(3) By creating local improvement districts in accordance with statutes governing their establishment. [1965

c 7 § 35.24.420. Prior: 1917 c 124 § 1, part; 1915 c 184 § 16, part; RRS § 9129, part.]

35.24.430 Utilities—Maintenance and operation—Rates. No taxes shall be imposed for maintenance and operating charges of city owned water, light, power, or heating works or systems.

Rates shall be fixed by ordinance for supplying water, light, power, or heat for commercial, domestic, or irrigation purposes sufficient to pay for all operating and maintenance charges. If the rates in force produce a greater amount than is necessary to meet operating and maintenance charges, the rates may be reduced or the excess income may be transferred to the city's current expense fund.

Complete separate accounts for municipal utilities must be kept under the system and on forms prescribed by the division of municipal corporations in the office of the state auditor.

The term "maintenance and operating charges," as used in this section includes all necessary repairs, replacement, interest on any debts incurred in acquiring, constructing, repairing and operating plants and departments and all depreciation charges. This term shall also include an annual charge equal to four percent on the cost of the plant or system, as determined by the division of municipal corporations in the office of the state auditor to be paid into the current expense fund, except that where utility bonds have been or may hereafter be issued and are unpaid no payment shall be required into the current expense fund until such bonds are paid. [1965 c 7 § 35.24.430. Prior: 1917 c 124 § 1, part; 1915 c 184 § 16, part; RRS § 9129, part.]

35.24.440 Procedure to attack consolidation or annexation of territory. Proceedings attacking the validity of the consolidation of a city of the third class or the annexation of territory to a city of the third class shall be by quo warranto only, instituted by the prosecuting attorney of the county in which the city is located or by a person interested in the proceedings whose interest must clearly be shown. The quo warranto proceedings must be commenced within one year after the consolidation or annexation proceedings complained of and no error, irregularity, or defect of any kind shall be the basis for invalidating a consolidation or annexation after one year. [1965 c 7 § 35.24.440. Prior: 1923 c 153 § 1; RRS § 8913-1.]

Validating—1923 c 153: "All proceedings for the consolidation of cities of the third class and for the annexation of any unincorporated territory described in any abstract filed with the secretary of state in any such annexation proceeding to a city of the third class heretofore had, or attempted to be had, and over which such consolidated cities or annexed territory such city has exercised jurisdiction for a period of one year after the filing of such abstract with the secretary of state, are hereby ratified and validated as of the date of filing such abstract, irrespective of the fact that such consolidated cities, or any part thereof, are separated by a body of navigable water or that such annexed territory, or any part thereof, is separated from such city by a body of navigable water, and irrespective of any failure to file a petition for such consolidation or annexation, or to give proper notice of election or of any other defect occurring in such consolidation or annexation proceedings, and all territory so sought to be annexed is hereby declared to be a part of such annexing city as of the date of

filing such abstract, and such cities so consolidated are hereby declared to be one municipal corporation as of the date of filing such abstract. All proceedings since the date of the filing of such abstract heretofore had or attempted to be had by any such city within or including such annexed territory, or any part thereof, in the creation of local improvement districts and the making of local improvements, the levying of special assessments and the issuance of bonds therein and also in the levy of taxes, making of contracts, incurring of indebtedness and the issuance of bonds therefor are hereby ratified, validated and confirmed. *Provided*, That nothing in this act contained shall affect the rights of any parties in any proceedings now pending in any court of record in this state and the rights of such parties therein shall be determined and adjudicated as the same existed prior to the passage of this act." [1923 c 153 § 2.] This applies to RCW 35.24.440.

35.24.450 Police judge—Appointment—Bond—Compensation—Term—Removal. At the time he makes his other appointments, the mayor of any city of the third class shall appoint a police judge who shall be the regular elected justice of the peace or an attorney duly admitted to practice law in this state: *Provided*, That in cities of the third class having a population under five thousand the legislative authority of the city may provide that the mayor may appoint any person, without regard to whether he is a justice of the peace or attorney, to the office of police judge. The police judge shall, before entering upon the duties of his office, give such bond or additional bond to the city for the faithful performance of his duties as the legislative authority of the city may by ordinance direct, and shall receive such salary as the council shall by ordinance direct. The term of the police judge shall be for a period of four years from and after the date of his appointment and he shall be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering him incapable of performing the duties of his office. [1965 ex.s. c 116 § 11; 1965 c 94 § 1; 1965 c 7 § 35.24.450. Prior: 1919 c 113 § 2, part; 1915 c 184 § 29, part; 1890 p 196 § 138; RRS § 9143, part.]

35.24.460 Police judge—Jurisdiction. The police judge so appointed shall have exclusive jurisdiction over all offenses defined by any ordinance of the city, and all other actions brought to enforce or recover any license, penalty or forfeiture declared or given by any such ordinance, and full power to forfeit bail bonds and issue execution thereon and full power to forfeit cash bail, and full power and authority to hear and determine all causes, civil or criminal, arising under such ordinance, and pronounce judgment in accordance therewith: *Provided*, That for the violation of a criminal ordinance no greater punishment shall be imposed than the fine or imprisonment or both such fine and imprisonment prescribed by ordinance. In the trial of actions brought for the violation of any city ordinance, no jury shall be allowed. [1965 ex.s. c 116 § 12; 1965 c 94 § 2; 1965 c 7 § 35.24.460. Prior: 1919 c 113 § 2, part; 1915 c 184 § 29, part; 1890 p 196 § 138; RRS § 9143, part.]

35.24.465 Police judge—Change of venue. A change of venue from the police judge to a judge pro tempore appointed in the manner prescribed in RCW

35.24.480, as now or hereafter amended, shall be allowed in accordance with the provisions of RCW 3.20.100 and 3.20.110, as now or hereafter amended, in all civil and criminal proceedings. [1967 c 241 § 8.]

Application—1967 c 241: See note following RCW 3.66.090.

Severability—1967 c 241: See RCW 3.74.932.

35.24.470 Police judge—Review of decisions—

Procedure. All civil or criminal proceedings before such police judge and judgments rendered by him shall be subject to review in the superior court of the proper county by writ of review or appeal in the same manner as is provided in RCW 35.22.530 through 35.22.560. In actions brought before such police judge to enforce or recover any license, penalty or forfeiture declared or given by any ordinance, and in all other civil actions, the manner of commencing the same, the manner of obtaining service upon the defendants, the procedure during the pendency of the action and for the enforcement of the judgment obtained, if any, shall be as provided in the case of civil actions before justices of the peace. [1965 ex.s. c 116 § 13; 1965 c 7 § 35.24.470. Prior: 1919 c 113 § 2, part; 1915 c 184 § 29, part; 1890 p 196 § 138; RRS § 9143, part.]

35.24.480 Police judge pro tempore. In the event of the police judge's inability to act, or during any temporary absence, or if he should be disqualified, the mayor shall appoint a police judge pro tempore, who, before entering upon the duties of such office, shall take and subscribe an oath as other judicial officers, and while so acting, he shall have all the power of the police judge: *Provided*, That such appointment shall not continue for a longer period than the absence or inability of the police judge. Such police judge pro tempore shall receive such compensation for such services as shall be fixed by ordinance of the legislative body of the city, to be paid by the city. [1965 c 108 § 1.]

35.24.490 Cities of ten thousand or more may frame charter without changing classification. See RCW 35.21.600–35.21.620, chapter 35.22 RCW.

Chapter 35.27 TOWNS

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Accident claims against: RCW 35.31.040, 35.31.050.

Actions against public corporations: RCW 4.08.120.

Actions against state: Chapter 4.92 RCW.

Actions by in corporate name: RCW 4.08.110.

Advancement in classification: RCW 35.06.010.

Classification as: RCW 35.01.040.

Code of ethics for public officers and employees: Chapters 42.22, 42-23 RCW.

Corporate stock or bonds not to be owned by: State Constitution Art. 8 § 7.

Credit not to be loaned, exception: State Constitution Art. 8 § 7.

Elections: Title 29 RCW.

Fire protection districts, contracts with to provide or receive services authorized: RCW 35.24.274.

Garbage collection and disposal bids for purchase of supplies or services required, duration of contracts: RCW 35.23.353.

Group false arrest insurance: RCW 35.23.460.

Incorporation and annexation restrictions as to area: RCW 35.21.010.

Inhabitants at time of organization: RCW 35.01.040.

Insurance, group for employees: RCW 35.23.460.

Joint purchasing of supplies, equipment, and services with other public agencies authorized: RCW 35.24.274.

Judgment against public corporations, enforcement: RCW 6.04.140, 6.04.150.

Justices of the peace and constables: Title 3 RCW.

Limitation upon actions by public corporations: RCW 4.16.160.

Limitations on indebtedness: State Constitution Art. 7 § 2 (Amendment 59), Art. 8 § 6 (Amendment 27), Chapter 39.36 RCW, RCW 84.52.050.

Metropolitan park districts, withdrawal from: RCW 35.61.010, 35.61-320-35.61.340.

Municipal utilities: Chapter 35.92 RCW.

Municipal water and sewer facilities act: Chapter 35.91 RCW.

Organization under general laws required: State Constitution Art. 11 § 10 (Amendment 40).

Park commissioners: RCW 35.23.170.

Parking meter revenue, basis for revenue bonds: RCW 35.24.305.

Plats, regulation of surveys and plats: RCW 58.10.040.

Plats, resurvey and correction of: RCW 58.10.030.

Purchasing, joint purchasing of supplies, equipment, and services with other public agencies authorized: RCW 35.24.274.

Revenue bonds, parking meter revenue as basis for: RCW 35.24.305.

School districts, intermediate school districts, agreements with other governmental entities for transportation of students, the public or other noncommon school purposes—Limitations: RCW 28A.24.180.

Service of summons on, personal service: RCW 4.28.080.

Sidewalks, construction, initial: Chapter 35.70 RCW.

Taxes, power of municipalities: State Constitution Art. 11 § 12.

Unclaimed property in hands of city or town: Chapter 63.36 RCW.

Unclaimed property in hands of city police: Chapter 63.32 RCW.

35.27.010 Rights, powers and privileges. Every municipal corporation of the fourth class shall be entitled the "Town of _____" (naming it), and by such name shall have perpetual succession, may sue, and be sued in all courts and places, and in all proceedings whatever; shall have and use a common seal, alterable at the pleasure of the town authorities, and may purchase, lease, receive, hold, and enjoy real and personal property and control and dispose of the same for the common benefit. [1965 c 7 § 35.27.010. Prior: 1890 p 198 § 142; RRS § 9163.]

35.27.030 Uncertain boundaries—Petition—Request for examination. Whenever a petition is presented to the council of any incorporated town in this state, signed by not less than five electors of such town, setting forth that in the belief of the petitioners, the boundaries of said town are indefinite and uncertain and that on account of such indefiniteness and uncertainty the legality of the taxes levied within such town are in danger of being affected, and setting forth the particular causes or reasons of such alleged indefiniteness or uncertainty, it shall be the duty of the town council to cause the petition to be filed and recorded by the clerk, and to cause a copy of the same to be made and certified by the clerk and the corporate seal of such town to be attached to said certificate, and the mayor of such town shall forthwith present said certified copy of the petition to the board of county commissioners of the county wherein said town is situated, with a written request to be signed by him as such mayor that the said board of county commissioners proceed to examine the boundaries of such town or city, and make the same

definite and certain. [1965 c 7 § 35.27.030. Prior: 1899 c 79 § 1; RRS § 9195.]

35.27.040 Duty of county commissioners. The board of county commissioners upon receipt of the certified copy of said petition, and the request aforesaid, shall cause the same to be filed in the office of the county auditor and forthwith proceed to examine the boundaries of the town and make the same definite and certain. For this purpose they may employ a competent surveyor, and shall commence at some recognized and undisputed point on the boundary line of the town, if such there be, and if there is no such recognized and undisputed point, they shall establish a starting point from the best data at their command and from such starting point they shall run a boundary line by courses and distances around such town, in one tract or body. [1965 c 7 § 35.27.040. Prior: 1899 c 79 § 2; RRS § 9196.]

35.27.050 Report of survey. The board of county commissioners, without unnecessary delay, shall make and file a report of their doings in the premises in the office of the county auditor, who shall transmit a certified copy thereof under the seal of the county, to the clerk of the town, and the clerk shall record the same in the records of the town, and keep the copy on file in his office. The report shall contain the description of the boundary of the town, as fixed by the board, written in plain words and figures and the boundaries so made and fixed shall be the boundaries of the town, and all the territory included within the boundary lines so established shall be included in the town, and be a part thereof. [1965 c 7 § 35.27.050. Prior: 1899 c 79 § 3; RRS § 9197.]

35.27.060 Expense of proceedings. The expense of such proceedings shall be paid by the town at whose request the same is incurred. The county commissioners shall each receive as compensation, an amount not exceeding the amount allowed by law for their usual services as commissioners, and, any surveyor or other assistants employed by them, a reasonable compensation to be fixed and certified by said commissioners. [1965 c 7 § 35.27.060. Prior: 1899 c 79 § 4; RRS § 9198.]

35.27.070 Town officers enumerated. The government of a town shall be vested in a mayor and a council consisting of five members and a treasurer, all elective; the mayor shall appoint a clerk, a marshal, and a police justice; and may appoint a town attorney, pound master, street superintendent, a civil engineer, and such police and other subordinate officers as may be provided for by ordinance. All appointive officers shall hold office at the pleasure of the mayor and shall not be subject to confirmation by the town council, except that a police judge shall be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering him incapable of performing the duties of his office. [1965 ex.s. c 116 § 14; 1965 c 7 § 35.27.070. Prior: 1961 c 89 § 3; prior: (i) 1903 c 113 § 4; 1890 p 198 § 143; RRS § 9164. (ii) 1941

c 108 § 2; 1939 c 87 § 2; Rem. Supp. 1941 § 9165-1a. (iii) 1943 c 183 § 1, part; 1941 c 91 § 1, part; 1911 c 33 § 1, part; 1903 c 113 § 5, part; 1890 p 198 § 144, part; Rem. Supp. 1943 § 9165.]

35.27.080 Eligibility to hold elective office. No person shall be eligible to or hold an elective office in a town unless he is a resident and elector therein. [1965 c 7 § 35.27.080. Prior: 1890 p 200 § 149; RRS § 9170.]

35.27.090 Elections—Terms of office. All general municipal elections in towns shall be held biennially, irrespective of the form of government, on the Tuesday following the first Monday in November in the odd-numbered years, except as provided in RCW 29.13.020 and 29.13.030. The term of office of the mayor and treasurer shall be four years and until their successors are elected and qualified: *Provided*, That the term of the treasurer shall not commence in the same biennium in which the term of the mayor commences. Councilmen shall be elected for four year terms and until their successors are elected and qualified; three at one election and two at the next succeeding biennial election. [1965 c 7 § 35.27.090. Prior: 1963 c 200 § 16; 1961 c 89 § 4; prior: 1955 c 55 § 7; 1943 c 183 § 1, part; 1941 c 91 § 1, part; 1911 c 33 § 1, part; 1903 c 113 § 5, part; 1890 p 198 § 144, part; Rem. Supp. 1943 § 9165, part.]

Reviser's note: RCW 29.13.030 was repealed by 1965 c 123 § 9(12); later enactment, see RCW 29.13.020.

Nomination by caucus in towns: RCW 29.24.110.

35.27.100 Conduct of elections. All elections in towns shall be held in accordance with the general election laws of the state, so far as the same may be applicable; and no person shall be entitled to vote at such election, unless he is a qualified elector of the county, and has resided in the town for at least thirty days next preceding the election. [1965 c 7 § 35.27.100. Prior: 1890 p 200 § 148; RRS § 9169.]

Canvassing returns, generally: Chapter 29.62 RCW.

Conduct of elections—Canvass: RCW 29.13.040.

35.27.110 Contested elections. The council shall judge of the qualifications of its members, and determine contested elections of all town officers. [1965 c 7 § 35.27.110. Prior: 1890 p 201 § 152, part; RRS § 9173, part.]

Election contests: Chapter 29.65 RCW.

35.27.120 Oath and bond of officers. Every officer of a town before entering upon the duties of his office shall take and file with the town clerk his oath of office. The clerk, treasurer, and marshal before entering upon their respective duties shall also each execute a bond approved by the council in such penal sum as the council by ordinance may determine, conditioned for the faithful performance of his duties including in the same bond the duties of all offices of which he is made ex officio incumbent.

All bonds, when approved, shall be filed with the town clerk, except the bonds of the clerk which shall be

filed with the mayor. [1965 c 7 § 35.27.120. Prior: 1890 p 199 § 145; RRS § 9166.]

35.27.130 Compensation of officers—Expenses. The mayor and members of the town council may be reimbursed for actual expenses incurred in the discharge of their official duties upon presentation of a claim therefor and its allowance and approval by resolution of the town council. The mayor and members of the council may also receive such salary as the council may fix by ordinance.

The treasurer and treasurer-clerk shall severally receive at stated times a compensation to be fixed by ordinance.

The compensation of all other officers shall be fixed from time to time by the council. [1973 1st ex.s. c 87 § 2; 1969 ex.s. c 270 § 9; 1965 c 105 § 2; 1965 c 7 § 35.27.130. Prior: 1961 c 89 § 5; prior: (i) 1941 c 115 § 2; 1890 p 200 § 147; Rem. Supp. 1941 § 9168. (ii) 1921 c 24 § 1, part; 1890 p 209 § 168, part; RRS § 9187, part. (iii) 1890 p 214 § 173; RRS § 9191. (iv) 1943 c 183 § 1, part; 1941 c 91 § 1, part; 1911 c 33 § 1, part; 1903 c 113 § 5, part; 1890 p 198 § 144, part; RRS § 9165, part.]

35.27.140 Vacancies. If a member of the council is absent from the town for three consecutive meetings unless by permission of the council his office shall be declared vacant by the council. A vacancy in the office of mayor and vacancies in the council shall be filled by a majority vote of the council. A vacancy in any other office shall be filled by appointment by the mayor. An appointee filling the vacancy in an elective office shall hold office only until the next general election at which time a person shall be elected to serve for the remainder of the unexpired term except that the person appointed to fill a vacancy in the office of mayor shall serve for the unexpired term. [1965 c 7 § 35.27.140. Prior: (i) 1903 c 113 § 6; 1890 p 199 § 146; RRS § 9167. (ii) 1907 c 228 § 5, part; RRS § 9203, part.]

35.27.160 Mayor—Duties—Powers. The mayor shall preside over all meetings of the council at which he is present. In his absence, a mayor pro tempore may be chosen. The mayor and in his absence a mayor pro tempore to be chosen by the council shall sign all warrants drawn on the treasurer and shall sign all written contracts entered into by the town. The mayor and mayor pro tempore may administer oaths and affirmations, and take affidavits and certify them. The mayor or mayor pro tempore shall sign all conveyances made by the town and all instruments which require the seal of the town.

The authority of the mayor pro tempore shall continue only during the day on which he is chosen.

The mayor is authorized to acknowledge the execution of all instruments executed by the town which require acknowledgment. [1965 c 7 § 35.27.160. Prior: 1890 p 209 § 167; RRS § 9186.]

35.27.170 Town treasurer—Duties. The town treasurer shall receive and safely keep all money which comes into his hands as treasurer, for all of which he

shall give duplicate receipts, one of which shall be filed with the clerk. He shall pay out the money on warrants signed by the mayor and countersigned by the clerk and not otherwise. He shall make monthly settlements with the clerk. [1965 c 7 § 35.27.170. Prior: 1961 c 89 § 6; prior: 1921 c 24 § 1, part; 1890 p 209 § 168, part; RRS § 9187, part.]

35.27.180 Treasurer and clerk may be combined. The council of every town may provide by ordinance that the office of treasurer be combined with that of clerk or that the office of clerk be combined with that of treasurer. This ordinance shall not be voted upon until the next regular meeting after its introduction and shall require the vote of at least two-thirds of the council. The ordinance shall provide the date when the consolidation shall take place which date shall be not less than three months from the date the ordinance goes into effect. [1965 c 7 § 35.27.180. Prior: (i) 1945 c 58 § 1; Rem. Supp. 1945 § 9177-1. (ii) 1945 c 58 § 4, part; Rem. Supp. 1945 § 9177-4, part.]

35.27.190 Effect of consolidation of offices. Upon the consolidation of the office of treasurer with that of clerk, the office of treasurer shall be abolished and the clerk shall exercise all the powers and perform all the duties required by statute or ordinance to be performed by the treasurer; in the execution of any papers his designation as clerk shall be sufficient.

Upon the consolidation of the office of clerk with that of treasurer, the treasurer shall exercise all the powers vested in and perform all the duties required to be performed by the clerk. [1965 c 7 § 35.27.190. Prior: (i) 1945 c 58 § 2; Rem. Supp. 1945 § 9177-2. (ii) 1945 c 58 § 3; Rem. Supp. 1945 § 9177-3.]

35.27.200 Abandonment of consolidation. Every town which has combined the office of treasurer with that of clerk or the office of clerk with that of treasurer may terminate the combination by ordinance, fixing the time when the combination shall cease and providing that the duties thereafter be performed by separate officials. If the office of treasurer was combined with that of clerk, the mayor shall appoint a treasurer who shall serve until the next town election when a treasurer shall be elected for the term as provided by law. [1965 c 7 § 35.27.200. Prior: 1945 c 58 § 4, part; Rem. Supp. 1945 § 9177-4, part.]

35.27.210 Duty of officers collecting moneys. Every officer collecting or receiving any money belonging to a town shall settle for it with the clerk on the first Monday of each month and immediately pay it into the treasury on the order of the clerk to be credited to the fund to which it belongs. [1965 c 7 § 35.27.210. Prior: 1890 p 214 § 175; RRS § 9193.]

35.27.220 Town clerk—Duties. The town clerk shall be custodian of the seal of the town. He may appoint a deputy for whose acts he and his bondsmen shall be responsible; he and his deputy may administer oaths or affirmations and certify to them, and may take

affidavits and depositions to be used in any court or proceeding in the state.

He shall make a quarterly statement in writing showing the receipts and expenditures of the town for the preceding quarter and the amount remaining in the treasury.

At the end of every fiscal year he shall make a full and detailed statement of receipts and expenditures of the preceding year and a full statement of the financial condition of the town which shall be published.

He shall perform such other services as may be required by statute or by ordinances of the town council.

He shall keep a full and true account of all the proceedings of the council. [1965 c 7 § 35.27.220. Prior: 1890 p 210 § 170, part; RRS § 9188, part.]

35.27.230 Records to be kept by clerk. The proceedings of the town council shall be kept in a book marked "records of council."

The town clerk shall keep a book marked "town accounts," in which shall be entered on the debit side all moneys received by the town including but not limited to proceeds from licenses and general taxes and in which shall be entered on the credit side all warrants drawn on the treasury.

He shall also keep a book marked "marshal's account" in which he shall charge the marshal with all licenses delivered to him and credit him with all money collected and paid in.

He shall also keep a book marked "treasurer's account" in which he shall keep a full account of the transactions of the town with the treasurer.

He shall also keep a book marked "licenses" in which he shall enter all licenses issued by him—the date thereof, to whom issued, for what, the time they expire, and the amount paid.

Each of the foregoing books, except the records of the council, shall have a general index sufficiently comprehensive to enable a person readily to ascertain matters contained therein.

He shall also keep a book marked "demands and warrants" in which he shall enter every demand against the town at the time of filing it. He shall state therein the final disposition of each demand and if it is allowed and a warrant drawn, he shall state the number of the warrant and its date. This book shall contain an index in which reference shall be made to each demand. [1965 c 7 § 35.27.230. Prior: 1890 p 210 § 170, part; RRS § 9188, part.]

35.27.240 Town marshal—Police department. The department of police in a town shall be under the direction and control of the marshal subject to the direction of the mayor. He shall prosecute before the police justice all violations of town ordinances which come to his knowledge. He shall have charge of the prison and prisoners. He may pursue and arrest violators of town ordinances beyond the town limits.

His lawful orders shall be promptly executed by deputies, police officers and watchmen. Every citizen shall lend him aid, when required, for the arrest of offenders and maintenance of public order. He may appoint,

subject to the approval of the mayor, one or more deputies, for whose acts he and his bondsmen shall be responsible, whose compensation shall be fixed by the council. With the concurrence of the mayor, he may appoint additional policemen for one day only when necessary for the preservation of public order.

He shall have the same authority as that conferred upon sheriffs for the suppression of any riot, public tumult, disturbance of the peace, or resistance against the laws or public authorities in the lawful exercise of their functions and shall be entitled to the same protection.

He shall execute and return all process issued and directed to him by any legal authority and for his services shall receive the same fees as are paid to constables. He shall perform such other services as the council by ordinance may require. [1965 c 125 § 1; 1965 c 7 § 35.27.240. Prior: 1963 c 191 § 1; 1890 p 213 § 172; RRS § 9190.]

35.27.250 Town attorney—Duties. The town attorney shall advise the town authorities and officers in all legal matters pertaining to the business of the town. [1965 c 7 § 35.27.250. Prior: 1890 p 212 § 171; RRS § 9189.]

Employment of legal interns: RCW 35.21.760.

35.27.260 Park commissioners. See RCW 35.23.170.

35.27.270 Town council—Oath—Meetings. The town council shall meet on the second Tuesday in January succeeding the date of the general municipal election, shall take the oath of office, and shall hold regular meetings at least once each month at such times as may be fixed by ordinance. Special meetings may be called at any time by the mayor or by three councilmen, by written notice delivered to each member at least three hours before the time specified for the proposed meeting. No resolution or order for the payment of money shall be passed at any other than a regular meeting. No such resolution or order shall be valid unless passed by the votes of at least three councilmen.

All meetings of the council shall be held within the corporate limits of the town, at such places as may be designated by ordinance and shall be public. [1965 c 7 § 35.27.270. Prior: (i) 1890 p 200 § 150; RRS § 9171. (ii) 1890 p 201 § 153, part; RRS § 9174, part.]

Times for holding elections: Chapter 29.13 RCW.

35.27.280 Town council—Quorum—Rules—Journal. A majority of the councilmen shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.

The mayor shall preside at all meetings of the council. The mayor shall have a vote only in case of a tie in the votes of the councilmen. In the absence of the mayor the council may appoint a president pro tempore; in the absence of the clerk, the mayor or president pro tempore, shall appoint one of the council members as clerk pro tempore. The council may establish rules for

the conduct of its proceedings and punish any members or other person for disorderly behavior at any meeting. At the desire of any member, the ayes and noes shall be taken on any question and entered in the journal. [1965 c 107 § 2; 1965 c 7 § 35.27.280. Prior: (i) 1890 p 201 § 151; RRS § 9172. (ii) 1890 p 201 § 152, part; RRS § 9173, part.]

35.27.290 Ordinances—Style—Signatures. The enacting clause of all ordinances shall be as follows: "Be it ordained by the council of the town of _____."

Every ordinance shall be signed by the mayor and attested by the clerk. [1965 c 7 § 35.27.290. Prior: 1917 c 99 § 1, part; 1890 p 204 § 155, part; RRS § 9178, part.]

35.27.300 Ordinances—Publication. Every ordinance shall be published at least once in a newspaper published in the town or, if there is no such newspaper, it shall be printed and posted in at least three public places therein. [1965 c 7 § 35.27.300. Prior: 1917 c 99 § 1, part; 1890 p 204 § 155, part; RRS § 9178, part.]

35.27.310 Ordinances—Clerk to keep book of ordinances. The town clerk shall keep a book marked "ordinances" into which he shall copy all town ordinances, with his certificate annexed to said copy stating that the foregoing ordinance is a true and correct copy of an ordinance of the town, and giving the number and title of the ordinance, and stating that it has been published or posted according to law. Such record copy, with the clerk's certificate, shall be prima facie evidence of the contents of the ordinance and of its passage and publication, and shall be admissible as such in any court or proceeding. Such record shall not be filed in any case but shall be returned to the custody of the clerk. Nothing herein shall be construed to prevent the proof of the passage and publication of ordinances in the usual way. The book of ordinances shall have a general index sufficiently comprehensive to enable a person readily to ascertain matters contained therein. [1965 c 7 § 35.27.310. Prior: 1890 p 210 § 170, part; RRS § 9188, part.]

35.27.320 Ordinances—Prosecution for violations. The violation of an ordinance of a town shall be a misdemeanor, and may be prosecuted by the authorities thereof in the name of the people of the state of Washington or may be redressed by civil action.

Any person sentenced to imprisonment may be imprisoned in the town jail, or if the council by ordinance shall so prescribe and if the county commissioners have consented thereto, he may be imprisoned in the county jail, the expense thereof to be a charge against the town and in favor of the county. [1965 c 7 § 35.27.320. Prior: 1890 p 205 § 159; RRS § 9180.]

35.27.330 Ordinances granting franchises—Requisites. No ordinance or resolution granting any franchise for any purpose shall be passed by the council on the day of its introduction, nor within five days thereafter, nor at any other than a regular meeting, and no such

ordinance or resolution shall have any validity or effect unless passed by the vote of at least three councilmen. The town council may require a bond in a reasonable amount from any persons and corporations obtaining a franchise from the town conditioned for the faithful performance of the conditions and terms of the franchise and providing a recovery on the bond in case of failure to perform the terms and conditions of the franchise. [1965 c 7 § 35.27.330. Prior: (i) 1890 p 201 § 153, part; RRS § 9174, part. (ii) 1907 c 228 § 1, part; RRS § 9199, part.]

35.27.340 Audit and allowance of demands against town. All demands against a town shall be presented to and audited by the council in accordance with such regulations as they may by ordinance prescribe. Upon allowance of a demand the mayor shall draw a warrant therefor upon the treasurer; the warrant shall be countersigned by the clerk and shall specify the purpose for which it is drawn.

The town clerk and his deputy shall take all necessary affidavits to claims against the town and certify them. [1965 c 7 § 35.27.340. Prior: (i) 1890 p 210 § 170, part; RRS § 9188, part. (ii) 1890 p 204 § 156; RRS § 9179.]

35.27.350 Contract for town printing. Every town may designate any daily or weekly newspaper published or of general circulation therein as its official newspaper and all notices published in that newspaper for the period and in the manner provided by law or the ordinances of the town shall be due and legal notice. [1965 c 7 § 35.27.350. Prior: 1903 c 120 § 1; RRS § 9177.]

35.27.362 Contracts, purchases, advertising—Call for bids—Exceptions. See RCW 35.23.352.

35.27.363 Purchases relating to garbage collection and disposal. See RCW 35.23.353.

35.27.364 Contracts with cemetery districts and fire protection districts for public facilities and services—Joint purchasing. See RCW 35.24.274 and 35.24.275.

35.27.370 Specific powers enumerated. The council of said town shall have power:

(1) To pass ordinances not in conflict with the Constitution and laws of this state, or of the United States;

(2) To purchase, lease or receive such real estate and personal property as may be necessary or proper for municipal purposes, and to control, dispose of and convey the same for the benefit of the town; to acquire, own, and hold real estate for cemetery purposes either within or without the corporate limits, to sell and dispose of such real estate, to plat or replat such real estate into cemetery lots and to sell and dispose of any and all lots therein, and to operate, improve and maintain the same as a cemetery;

(3) To contract for supplying the town with water for municipal purposes, or to acquire, construct, repair and manage pumps, aqueducts, reservoirs, or other works necessary or proper for supplying water for use of such

town or its inhabitants, or for irrigating purposes therein;

(4) To establish, build and repair bridges, to establish, lay out, alter, widen, extend, keep open, improve, and repair streets, sidewalks, alleys, squares and other public highways and places within the town, and to drain, sprinkle and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, plank, macadamize, gravel and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks and crosswalks therein, or on any part thereof; to cause to be planted, set out and cultivated trees therein, and generally to manage and control all such highways and places;

(5) To establish, construct and maintain drains and sewers, and shall have power to compel all property owners on streets along which sewers are constructed to make proper connections therewith, and to use the same for proper purposes when such property is improved by the erection thereon of a building or buildings; and in case the owners of such improved property on such streets shall fail to make such connections within the time fixed by such council, they may cause such connections to be made, and to assess against the property in front of which such connections are made the costs and expenses thereof;

(6) To provide fire engines and all other necessary or proper apparatus for the prevention and extinguishment of fires;

(7) To impose and collect an annual license on every dog within the limits of the town, to prohibit dogs running at large, and to provide for the killing of all dogs found at large and not duly licensed;

(8) To levy and collect annually a property tax, for the payment of current expenses and for the payment of indebtedness (if any indebtedness exists) within the limits authorized by law;

(9) To license, for purposes of regulation and revenue, all and every kind of business, authorized by law and transacted and carried on in such town; and all shows, exhibitions and lawful games carried on therein and within one mile of the corporate limits thereof; to fix the rate of license tax upon the same, and to provide for the collection of the same, by suit or otherwise; to regulate, restrain, or prohibit the running at large of any and all domestic animals within the city limits, or any part or parts thereof, and to regulate the keeping of such animals within any part of the city; to establish, maintain and regulate a common pound for estrays, and to appoint a poundkeeper, who shall be paid out of the fines and fees imposed on, and collected from, the owners of any impounded stock;

(10) To improve the rivers and streams flowing through such town or adjoining the same; to widen, straighten and deepen the channels thereof, and to remove obstructions therefrom; to prevent the pollution of streams or water running through such town, and for this purpose shall have jurisdiction for two miles in either direction; to improve the waterfront of the town, and to construct and maintain embankments and other works to protect such town from overflow;

(11) To erect and maintain buildings for municipal purposes;

(12) To grant franchises or permits to use and occupy the surface, the overhead and the underground of streets, alleys and other public ways, under such terms and conditions as it shall deem fit, for any and all purposes, including but not being limited to the construction, maintenance and operation of railroads, street railways, transportation systems, water, gas and steam systems, telephone and telegraph systems, electric lines, signal systems, surface, aerial and underground tramways;

(13) To punish the keepers and inmates and lessors of houses of ill fame, and keepers and lessors of gambling houses and rooms and other places where gambling is carried on or permitted, gamblers and keepers of gambling tables;

(14) To impose fines, penalties and forfeitures for any and all violations of ordinances, and for any breach or violation of any ordinance, to fix the penalty by fine or imprisonment, or both; but no such fine shall exceed five hundred dollars, nor the term of imprisonment exceed six months;

(15) To cause all persons imprisoned for violation of any ordinance to labor on the streets or other public property or works within the town;

(16) To operate ambulance service which may serve the town and surrounding rural areas and, in the discretion of the council, to make a charge for such service;

(17) To make all such ordinances, bylaws, rules, regulations and resolutions not inconsistent with the Constitution and laws of the state of Washington, as may be deemed expedient to maintain the peace, good government and welfare of the town and its trade, commerce and manufacturers, and to do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter. [1965 ex.s. c 116 § 15; 1965 c 127 § 1; 1965 c 7 § 35.27.370. Prior: 1955 c 378 § 4; 1949 c 151 § 1; 1945 c 214 § 1; 1941 c 74 § 1; 1927 c 207 § 1; 1925 ex.s. c 159 § 1; 1895 c 32 § 1; 1890 p 201 § 154; Rem. Supp. 1949 § 9175.]

Validating—1925 ex.s. c 159: "All franchises, permits and rights of way heretofore granted by any municipality of the fourth class to any person, firm or corporation, to construct, maintain or operate surface, underground and aerial tramways and other means of conveyance over, above, across, upon and along its streets, highways and alleys are hereby validated, ratified and confirmed." [1925 ex.s. c 159 § 2.]

35.27.372 City and town license fees and taxes on financial institutions. See chapter 82.14A RCW.

35.27.373 City license fees or taxes on certain business activities to be at a single uniform rate. See RCW 35.21.710.

35.27.375 Additional powers—Parking meter revenue for revenue bonds. See RCW 35.24.305.

35.27.380 Additional powers—Eminent domain. Whenever it becomes necessary for a town to take or damage private property for the purpose of establishing,

laying out, extending, and widening streets and other public highways and places within the town, or for the purpose of rights-of-way for drains, sewers, and aqueducts, and for the purpose of widening, straightening, or diverting the channels of streams and the improvement of waterfronts, and the council cannot agree with the owner thereof as to the price to be paid, the council may direct proceedings to be taken under the general laws of the state to procure the same. [1965 c 7 § 35.27.380. Prior: 1890 p 207 § 162; RRS § 9182.]

Eminent domain: Chapter 8.12 RCW.

35.27.385 Additional powers—Construction and operation of boat harbors, marinas, docks, etc. See RCW 35.23.455.

35.27.390 Employees' group insurance. See RCW 35.23.460.

35.27.400 Fire limits—Parks. Towns are hereby given the power to establish fire limits with proper regulations; to acquire by purchase or otherwise, lands for public parks within or without the limits of the town, and to improve the same. [1965 c 7 § 35.27.400. Prior: 1961 c 58 § 1; 1899 c 103 § 1; RRS § 9176.]

35.27.410 Nuisances. Every act or thing done or being within the limits of a town, which is declared by law or by ordinance to be a nuisance shall be a nuisance and shall be so considered in all actions and proceedings. All remedies given by law for the prevention and abatement of nuisances shall apply thereto. [1965 c 7 § 35.27.410. Prior: 1890 p 205 § 160; RRS § 9181.]

Nuisances: Chapter 9.66 RCW.

35.27.490 Taxation—Park fund levy. See RCW 35.23.510.

35.27.500 Taxation—Street poll tax. A town may impose upon and collect from every inhabitant of the town over eighteen years of age an annual street poll tax not exceeding two dollars and no other road poll tax shall be collected within the limits of the town. [1973 1st ex.s. c 154 § 52; 1971 ex.s. c 292 § 62; 1965 c 7 § 35.27.500. Prior: 1905 c 75 § 1, part; RRS § 9210, part.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

35.27.510 Utilities—Transfer of part of net earnings to current expense fund. When any special fund of a public utility department of a town has retired all bond and warrant indebtedness and is on a cash basis, if a reserve or depreciation fund has been created in an amount satisfactory to the division of municipal corporations in the office of the state auditor and if the fixing of the rates of the utility is governed by contract with the supplier of water, electrical energy, or other commodity sold by the town to its inhabitants, and the rates are at the lowest possible figure, the town council may

set aside such portion of the net earnings of the utility as it may deem advisable and transfer it to the town's current expense fund: *Provided*, That no amount in excess of fifty percent of the net earnings shall be so set aside and transferred except with the unanimous approval of the council and mayor. [1965 c 7 § 35.27.510. Prior: 1939 c 96 § 1; 1929 c 98 § 1; RRS § 9185-1.]

35.27.520 Police justice—Appointment—Salary—Removal. In every town a police justice shall be appointed from among the regularly elected justices of the peace or any practicing attorney and shall receive such salary in addition to his salary as justice of the peace as the council by ordinance may direct and shall give such bond or additional bond as the council may provide: *Provided*, That the council of every town having a population under five thousand may provide that the mayor may appoint any person, without regard to whether he is a justice of the peace or practicing attorney, to the office of police justice, for a period of four years from and after the date of his appointment, and he shall be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering him incapable of performing the duties of his office. [1969 c 28 § 1; 1965 ex.s. c 116 § 16; 1965 c 7 § 35.27.520. Prior: 1921 c 70 § 1, part; 1890 p 214 § 174, part; RRS § 9192, part.]

35.27.525 Police judge pro tempore. In the event of the police judge's inability to act, or during any temporary absence, or if he should be disqualified, the mayor shall appoint a police judge pro tempore, who, before entering upon the duties of such office, shall take and subscribe an oath as other judicial officers, and while so acting, he shall have all the power of the police judge: *Provided*, That such appointment shall not continue for a longer period than the absence or inability of the police judge. Such police judge pro tempore shall receive such compensation for such services as shall be fixed by ordinance of the legislative body of the town, to be paid by the town. [1965 c 108 § 2.]

35.27.530 Police justice—Jurisdiction. The police justice in addition to his powers as justice of the peace, if he is a justice of the peace shall have exclusive jurisdiction over all offenses defined by any ordinance of the town and all other actions brought to enforce or recover any license, penalty, or forfeiture declared or given by any ordinance with full power to forfeit bail, issue executions on bail bonds, and hear and determine all causes, civil or criminal, arising under any ordinance and pronounce judgment in accordance therewith: *Provided*, That for the violation of a criminal ordinance no greater punishment shall be imposed than the fine or imprisonment or both such fine or imprisonment prescribed by ordinance. [1965 ex.s. c 116 § 17; 1965 c 7 § 35.27.530. Prior: 1921 c 70 § 1, part; 1890 p 214 § 174, part; RRS § 9192, part.]

35.27.535 Police justice—Change of venue. A change of venue from the police judge to a judge pro tempore appointed in the manner prescribed by RCW

35.27.525, as now or hereafter amended, shall be allowed in accordance with the provisions of RCW 3.20.100 and 3.20.110, as now or hereafter amended, in all civil and criminal proceedings. [1967 c 241 § 9.]

Application—1967 c 241: See note following RCW 3.66.090.

Severability—1967 c 241: See RCW 3.74.932.

35.27.540 Police justice—Procedure—Review. In actions brought before the police justice to enforce or recover any license, penalty, or forfeiture declared or given by any ordinance and in all other civil actions, the manner of commencing them, the manner of obtaining service upon the defendants, the procedure during the pendency of the action and for the enforcement of the judgment shall be as provided in the case of civil actions before justices of the peace.

In the trial of actions brought for violations of town ordinances no jury shall be allowed and no change of venue shall be allowed from the police judge.

All civil and criminal proceedings before a police justice and judgments rendered by him shall be subject to review in the superior court of the proper county by writ of review or appeal in the same manner as is provided in RCW 35.22.530 through 35.22.560. [1965 ex.s. c 116 § 18; 1965 c 7 § 35.27.540. Prior: 1921 c 70 § 1, part; 1890 p 214 § 174, part; RRS § 9192, part.]

35.27.550 Off-street parking space and facilities—Authorized—Declared public use. Towns of the fourth class are authorized to provide off-street parking space and facilities for motor vehicles, and the use of real property for such purpose is declared to be a public use. [1965 c 7 § 35.27.550. Prior: 1961 c 33 § 1.]

Off-street parking facilities, cities of the first, second and third classes: Chapter 35.86 RCW.

35.27.560 Off-street parking space and facilities—Financing. In order to provide for off-street parking space and/or facilities, such towns are authorized, in addition to their powers for financing public improvements, to finance their acquisition through the issuance and sale of revenue bonds and general obligation bonds. Any bonds issued by such towns pursuant to this section shall be issued in the manner and within the limitations prescribed by the Constitution and the laws of this state. In addition local improvement districts may be created and their financing procedures used for this purpose in accordance with the provisions of Title 35 RCW, as now or hereafter amended. Such towns may finance from their general budget, costs of land acquisition, planning, engineering, location, design and construction to the off-street parking. [1965 c 7 § 35.27.560. Prior: 1961 c 33 § 2.]

35.27.570 Off-street parking space and facilities—Acquisition and disposition of real property. Such towns are authorized to obtain by lease, purchase, donation and/or gift, or by eminent domain in the manner provided by law for the exercise of this power by cities, such real property for off-street parking as the legislative bodies thereof determine to be necessary by ordinance. Such property may be sold, transferred,

exchanged, leased, or otherwise disposed of by the town when its legislative body has determined by ordinance such property is no longer necessary for off-street parking purposes. [1965 c 7 § 35.27.570. Prior: 1961 c 33 § 3.]

Eminent domain: Chapter 8.12 RCW.

35.27.580 Off-street parking space and facilities—Operation—Lease. Such towns are authorized to establish the methods of operation of off-street parking space and/or facilities by ordinance, which may include leasing or municipal operation. [1965 c 7 § 35.27.580. Prior: 1961 c 33 § 4.]

35.27.590 Off-street parking space and facilities—Hearing prior to establishment. Before the establishment of any off-street parking space and/or facilities, the town shall hold a public hearing thereon, prior to the adoption of any ordinance relating to the leasing or acquisition of property, and for the financing thereof for this purpose. [1965 c 7 § 35.27.590. Prior: 1961 c 33 § 5.]

35.27.600 Off-street parking space and facilities—Construction. Insofar as the provisions of RCW 35.27.550 through 35.27.600 are inconsistent with the provisions of any other law, the provisions of RCW 35.27.550 through 35.27.600 shall be controlling. [1965 c 7 § 35.27.600. Prior: 1961 c 33 § 7.]

Chapter 35.30 UNCLASSIFIED CITIES

Sections

35.30.010	Additional powers.
35.30.020	Sewer systems—Sewer fund.
35.30.030	Assessment, levy and collection of taxes.
35.30.040	Limitation of indebtedness.
35.30.050	Additional indebtedness with popular vote.
35.30.060	Additional indebtedness for municipal utilities.

Elections: Title 29 RCW.

35.30.010 Additional powers. The council, or other legislative body, of all cities within the state of Washington which were created by special charter prior to the adoption of the state Constitution, and which have not since reincorporated under any general statute, shall have, in addition to the powers specially granted by the charter of such cities, the following powers:

(1) To construct, establish and maintain drains and sewers.

(2) To impose and collect an annual license not exceeding two dollars on every dog owned or harbored within the limits of the city.

(3) To levy and collect annually a property tax on all property within such city.

(4) To license all shows, exhibitions and lawful games carried on therein; and to fix the rates of license tax upon the same, and to provide for the collection of the same by suit or otherwise.

(5) To permit, under such restrictions as they may deem proper, the construction and maintenance of telephone, telegraph and electric light lines therein.

(6) To impose fines, penalties and forfeitures for any and all violations of ordinances; and for any breach or violation of any ordinance, to fix the penalty by fine or imprisonment or both, but no such fine shall exceed three hundred dollars nor the term of imprisonment exceed three months.

(7) To cause all persons imprisoned for violation of any ordinance to labor on the streets or other public property or works within the city.

(8) To make all such ordinances, bylaws and regulations, not inconsistent with the Constitution and laws of the state of Washington, as may be deemed expedient to maintain the peace, good government and welfare of the city, and to do and perform any and all other acts and things necessary and proper to carry out the purposes of the municipal corporation. [1965 c 7 § 35.30.010. Prior: 1899 c 69 § 1; RRS § 8944.]

35.30.020 Sewer systems—Sewer fund. The city council of all unclassified cities in this state are authorized to construct a sewer or system of sewers and to keep the same in repair; the cost of such sewer or sewers shall be paid from a special fund to be known as the "sewer fund" to be provided by the city council, which fund shall be created by a tax on all the property within the limits of such city: *Provided*, That such tax shall not exceed one dollar and twenty-five cents per thousand dollars of the assessed value of all real and personal property within such city for any one year. Whenever it shall become necessary for the city to take or damage private property for the purpose of making or repairing sewers, and the city council cannot agree with the owner as to the price to be paid, the city council may direct proceedings to be taken by law for the condemnation of such property for such purpose. [1973 1st ex.s. c 195 § 18; 1965 c 7 § 35.30.020. Prior: 1899 c 69 § 2; RRS § 8945.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

35.30.030 Assessment, levy and collection of taxes. The city council shall have power to provide by ordinance a complete system for the assessment, levy, and collection of all city taxes. All taxes assessed together with any percentage imposed for delinquency and the cost of collection, shall constitute liens on the property assessed from and after the first day of November each year; which liens may be enforced by a summary sale of such property, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance or by action in any court of competent jurisdiction to foreclose such liens: *Provided*, That any property sold for taxes shall be subject to redemption within the time and within the manner provided or that may hereafter be provided by law for the redemption of property sold for state and county taxes. [1965 c 7 § 35.30.030. Prior: 1899 c 69 § 3; RRS § 8946.]

35.30.040 Limitation of indebtedness. Whenever it is deemed advisable to do so by the city council thereof, any city having a corporate existence in this state at the

time of the adoption of the Constitution thereof is hereby authorized and empowered to borrow money and to contract indebtedness in any other manner for general municipal purposes, not exceeding in amount, together with the existing general indebtedness of the city, the amount of indebtedness authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred without the assent of the voters. [1965 c 7 § 35.30.040. Prior: 1890 p 225 § 1; RRS § 9532.]

Construction—1890 p 227: "That when this act comes in conflict with any provision, limitation or restriction in any local or special law or charter existing at the time that the Constitution of the State of Washington was adopted, this statute shall govern and control." [1890 p 227 § 6.] This applies to RCW 35.30.040–35.30.060.

Limitations upon indebtedness: State Constitution Art. 7 § 2 (Amendment 59), Art. 8 § 6 (Amendment 27), Chapter 39.36 RCW, RCW 84.52.050.

35.30.050 Additional indebtedness with popular vote. Any such city may borrow money or contract indebtedness for strictly municipal purposes over the amount specified in RCW 35.30.040, but not exceeding in amount, together with existing general indebtedness, the amount of indebtedness authorized by chapter 39.36 RCW as now or hereafter amended, to be incurred with the assent of the voters, through the council of the city, whenever three-fifths of the voters assent thereto, at an election to be held for that purpose, at such time, upon such reasonable notice, and in the manner presented by the city council, not inconsistent with the general election laws. [1965 c 7 § 35.30.050. Prior: 1890 p 225 § 2; RRS § 9533.]

Elections: Title 29 RCW.

35.30.060 Additional indebtedness for municipal utilities. In addition to the powers granted in RCW 35.30.040 and 35.30.050, any such city, through its council may borrow money or contract indebtedness not exceeding in amount the amount of indebtedness authorized by chapter 39.36 RCW, as now or hereafter amended, for the purpose of supplying the city with water, artificial light, or sewers, when the plants used therefor are owned and controlled by the city, whenever three-fifths of the voters assent thereto at an election to be held for that purpose, according to the provisions of RCW 35.30.050. [1965 c 7 § 35.30.060. Prior: 1890 p 225 § 3; RRS § 9534.]

**Chapter 35.31
ACCIDENT CLAIMS AND FUNDS**

Sections

- 35.31.010 Charter cities—Statement of residence required.
- 35.31.020 Charter cities—Time for filing—Claims by relatives or agents.
- 35.31.030 Compliance mandatory.
- 35.31.040 Noncharter cities and towns—Presentment and filing of claim, time limitation—Verification—Report—Requisites of claim.
- 35.31.050 Accident fund—Warrants for judgments.
- 35.31.060 Tax levy for fund.
- 35.31.070 Surplus to current expense fund.

Actions against public corporations: RCW 4.08.120.

Actions against state: Chapter 4.92 RCW.

Claims, reports, etc., filing: RCW 1.12.070.

Tortious conduct of political subdivision, municipal corporations and quasi municipal corporations, liability for damages: Chapter 4.96 RCW.

35.31.010 Charter cities—Statement of residence required. Whenever a claim for damages sounding in tort against any city permitted by law to have a charter is presented to and filed with the city clerk or other proper officer of the city, in compliance with valid charter provisions thereof, not inconsistent with the provisions of chapter 35.31 RCW, such claim must contain in addition to the valid requirements of the city charter relating thereto, a statement of the actual residence of the claimant, by street and number, at the date of presenting and filing such claim; and also a statement of the actual residence of the claimant for six months immediately prior to the time the claim for damages accrued. [1967 c 164 § 11; 1965 c 7 § 35.31.010. Prior: 1957 c 224 § 2; 1909 c 83 § 1; RRS § 9478.]

Purpose—1967 c 164: See note following RCW 4.96.010.

Severability—1967 c 164: See note following RCW 4.96.010.

Tortious conduct of political subdivisions and municipal corporations, liability for damages: Chapter 4.96 RCW.

35.31.020 Charter cities—Time for filing—Claims by relatives or agents. The provisions of chapter 35.31 RCW shall be applied notwithstanding any provisions to the contrary in any charter of any city permitted by law to have a charter; however, charter provisions not inconsistent herewith shall continue to apply. All claims for damages against a charter city shall be filed within one hundred and twenty days from the date that the damage occurred or the injury was sustained: *Provided*, That if the claimant is incapacitated from verifying and filing his claim for damages within the time prescribed, or if the claimant is a minor, or in case the claim is for damages to real or personal property, and if the owner of such property is a nonresident of such city or is absent therefrom during the time within which a claim for damages to said property is required to be filed, then the claim may be verified and presented on behalf of the claimant by any relative or attorney or agency representing the injured person, or in case of damages to property, representing the owner thereof. [1967 c 164 § 12; 1965 c 7 § 35.31.020. Prior: 1957 c 224 § 3; 1917 c 96 § 1; 1915 c 148 § 1; 1909 c 83 § 2; RRS § 9479.]

Purpose—1967 c 164: See note following RCW 4.96.010.

Severability—1967 c 164: See note following RCW 4.96.010.

Tortious conduct of political subdivisions and municipal corporations, liability for damages: Chapter 4.96 RCW.

35.31.030 Compliance mandatory. Compliance with the provisions of RCW 35.31.010 and 35.31.020 is hereby declared to be mandatory upon all such claimants presenting and filing any such claims for damages. [1965 c 7 § 35.31.030. Prior: 1909 c 83 § 3; RRS § 9480.]

35.31.040 Noncharter cities and towns—Presentment and filing of claim, time limitation—Verification—Report—Requisites of claim. All claims for damages against noncharter cities and towns must be

presented to the city or town council and filed with the city or town clerk within one hundred and twenty days from the date that the damage occurred or the injury was sustained: *Provided*, That if the claimant is incapacitated from verifying and filing his claim for damages within said time limitation, or if the claimant is a minor, then the claim may be verified and presented on behalf of the claimant by any relative or attorney or agent representing the injured person.

No ordinance or resolution shall be passed allowing such claim or any part thereof, or appropriating any money or other property to pay or satisfy the same or any part thereof, until the claim has first been referred to the proper department or committee, nor until such department or committee has made its report to the council thereon pursuant to such reference.

All such claims for damages must accurately locate and describe the defect that caused the injury, reasonably describe the injury and state the time when it occurred, give the residence for six months last past of claimant, contain the item of damages claimed and be sworn to by the claimant or a relative, attorney or agent of the claimant.

No action shall be maintained against any such city or town for any claim for damages until the same has been presented to the council and sixty days have elapsed after such presentation. [1967 c 164 § 13; 1965 c 7 § 35.31.040. Prior: 1957 c 224 § 4; 1915 c 148 § 2; 1909 c 167 § 1; RRS § 9481.]

Purpose—1967 c 164: See note following RCW 4.96.010.

Severability—1967 c 164: See note following RCW 4.96.010.

Tortious conduct of political subdivisions and municipal corporations, liability for damages: Chapter 4.96 RCW.

35.31.050 Accident fund—Warrants for judgments. Every city of the second or third class and town may create an accident fund upon which the clerk shall draw warrants for the full amount of any judgment including interest and costs against the city or town on account of personal injuries suffered by any person as shown by a transcript of the judgment duly certified to the clerk. The warrants shall be issued in denominations not less than one hundred dollars nor more than five hundred dollars; they shall draw interest at the rate of six percent per annum, shall be numbered consecutively and be paid in the order of their issue. [1965 c 7 § 35.31.050. Prior: (i) 1909 c 128 § 1; RRS § 9482. (ii) 1909 c 128 § 2; RRS § 9483. (iii) 1909 c 128 § 5; RRS § 9486.]

35.31.060 Tax levy for fund. The city or town council after the drawing of warrants against the accident fund shall estimate the amount necessary to pay the warrants with accrued interest thereon, and shall levy a tax sufficient to pay that amount not exceeding seventy-five cents per thousand dollars of assessed value. If a single levy of seventy-five cents per thousand dollars of assessed value is not sufficient, an annual levy of seventy-five cents per thousand dollars of assessed value shall be made until the warrants and interest are fully paid. [1973 1st ex.s. c 195 § 19; 1965 c 7 § 35.31.060. Prior: 1909 c 128 § 3; RRS § 9484.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

35.31.070 Surplus to current expense fund. If there is no judgment outstanding against the city or town for personal injuries the money remaining in the accident fund after the payment of the warrants drawn on that fund and interest in full shall be transferred to the current expense fund. [1965 c 7 § 35.31.070. Prior: 1909 c 128 § 4; RRS § 9485.]

Chapter 35.32A

BUDGETS IN CITIES OVER 300,000

Sections

- 35.32A.010 Budget to be enacted—Exempted functions or programs.
- 35.32A.020 Budget director.
- 35.32A.030 Estimates of revenues and expenditures—Preparation of proposed budget—Submission to city council—Copies—Publication.
- 35.32A.040 Consideration by city council—Hearings—Revision by council.
- 35.32A.050 Adoption of budget—Expenditure allowances constitute appropriations—Reappropriations—Transfers of allowances.
- 35.32A.060 Emergency fund.
- 35.32A.070 Utilities—Exemption from budgetary control.
- 35.32A.080 Unexpended appropriations—Annual—Operating and maintenance—Capital and betterment outlays.
- 35.32A.090 Budget mandatory—Other expenditures void—Liability of public officials—Penalty.
- 35.32A.900 Short title.
- 35.32A.910 Severability—1967 c 7.

Budgets, expenditures for streets: RCW 35.76.060.

Budgets, leases with or without option to purchase, budget to provide for payment of rentals: RCW 35.42.220.

Credit not to be loaned: State Constitution Art. 8 § 7.

Limitations upon indebtedness: State Constitution Art. 7 § 2 (Amendment 59), Art. 8 § 6 (Amendment 27), Chapter 39.36 RCW, RCW 84.52.050.

State auditor's division of municipal corporations: RCW 43.09.190-43.09.285.

35.32A.010 Budget to be enacted—Exempted functions or programs. In each city of over three hundred thousand population, there shall be enacted annually by the legislative authority a budget covering all functions or programs of such city: *Provided*, That the provisions of this chapter shall not apply to any municipal transportation system managed by a separate commission, the making of expenditures from proceeds of general obligation and revenue bond sales, or the expenditure of moneys derived from grants, gifts, bequests or devises for specified purposes. [1967 c 7 § 3.]

35.32A.020 Budget director. There shall be a budget director, appointed by the mayor without regard to civil service rules and regulations and subject to confirmation by a majority of the members of the city council, who shall be in charge of the city budget office and, under the direction of the mayor, shall be responsible for preparing the budget and supervising its execution. The budget director may be removed by the mayor upon filing with the city council a statement of his reasons therefor. [1967 c 7 § 4.]

35.32A.030 Estimates of revenues and expenditures—Preparation of proposed budget—Submission to city council—Copies—Publication. The heads of all departments, divisions or agencies of the city government, including the library department, and departments headed by commissions or elected officials shall submit to the mayor estimates of revenues and necessary expenditures for the ensuing fiscal year in such detail, in such form and at such time as the mayor shall prescribe.

The budget director shall assemble all estimates of revenues; necessary departmental expenditures; interest and redemption requirements for any city debt; and other pertinent budgetary information as may be required by uniform regulations of the state auditor; and, under the direction of the mayor, prepare a proposed budget for presentation to the city council.

The revenue estimates shall be based primarily on the collection experience of the first six months of the current fiscal year and the last six months of the preceding fiscal year and shall not include revenue from any source in excess of the amount so collected unless it shall be reasonably anticipated that such excess amounts will in fact be realized. The estimated revenues shall be only from sources previously established by law, and the estimated expenditures in the proposed budget shall, in no event, exceed such estimated revenues: *Provided*, That the mayor may recommend expenditures exceeding the estimated revenues when accompanied by proposed legislation to raise at least an equivalent amount of additional revenue.

The mayor shall submit the proposed budget to the city council not later than ninety days prior to the beginning of the ensuing fiscal year.

The budget director shall cause sufficient copies of the proposed budget to be prepared and made available to all interested persons and shall cause a summary of the proposed budget to be published at least once in the city official newspaper. [1967 c 7 § 5.]

35.32A.040 Consideration by city council—Hearings—Revision by council. The city council shall forthwith consider the proposed budget submitted by the mayor and shall cause such public hearings to be scheduled on two or more days to allow all interested persons to be heard. Such hearings shall be announced by public notice published in the city official newspaper as well as provided to general news media.

The city council may insert new expenditure allowances, increase or decrease expenditure allowances recommended by the mayor, or revise estimates of revenues subject to the same restrictions as are herein imposed on the mayor; but may not adopt a budget in which the total expenditure allowances exceed the total estimated revenues for the ensuing fiscal year. [1967 c 7 § 6.]

35.32A.050 Adoption of budget—Expenditure allowances constitute appropriations—Reappropriations—Transfers of allowances. Not later than thirty days prior to the beginning of the ensuing fiscal year

the city council shall, by ordinance adopt the budget submitted by the mayor as modified by the city council.

The expenditure allowances as set forth in the enacted budget shall constitute the budget appropriations for the ensuing fiscal year. The city council by ordinance may, during the fiscal year covered by the enacted budget, abrogate or decrease any unexpended allowance contained within the budget and reappropriate such unexpended allowances for other functions or programs. Transfers between allowances in the budget of any department, division or agency may be made upon approval by the budget director pursuant to such regulations as may be prescribed by ordinance. [1967 c 7 § 7.]

35.32A.060 Emergency fund. Every city having a population of over three hundred thousand may maintain an emergency fund, which fund balance shall not exceed thirty-seven and one-half cents per thousand dollars of assessed value. Such fund shall be maintained by an annual budget allowance. When the necessity therefor arises transfers may be made to the emergency fund from any tax-supported fund except bond interest and redemption funds.

The city council by an ordinance approved by two-thirds of all of its members may authorize the expenditure of sufficient money from the emergency fund to meet the expenses or obligations:

(1) Caused by fire, flood, explosion, storm, earthquake, epidemic, riot, insurrection, act of God, act of the public enemy or any other such happening that could not have been anticipated; or

(2) For the immediate preservation of order or public health or for the restoration to a condition of usefulness of public property the usefulness of which has been destroyed by accident; or

(3) In settlement of approved claims for personal injuries or property damages, exclusive of claims arising from the operation of a public utility owned by the city; or

(4) To meet mandatory expenditures required by laws enacted since the last budget was adopted.

The city council by an ordinance approved by three-fourths of all its members may appropriate from the emergency fund, an amount sufficient to meet the actual necessary expenditures of the city for which insufficient or no appropriations have been made due to causes which could not reasonably have been foreseen at the time of the making of the budget.

An ordinance authorizing an emergency expenditure shall become effective immediately upon being approved by the mayor or upon being passed over his veto as provided by the city charter. [1973 1st ex.s. c 195 § 20; 1967 c 7 § 8.]

~~Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.~~

35.32A.070 Utilities—Exemption from budgetary control. Notwithstanding the provisions of this chapter, the public utilities owned by a city having a population of over three hundred thousand supported wholly by revenues derived from sources other than taxation, may

make expenditures for utility purposes not contemplated in the annual budget, as the legislative authority by ordinance shall allow. [1967 c 7 § 9.]

35.32A.080 Unexpended appropriations—Annual—Operating and maintenance—Capital and betterment outlays. The whole or any part of any appropriation provided in the budget for operating and maintenance expenses of any department or activity remaining unexpended or unencumbered at the close of the fiscal year shall automatically lapse, except any such appropriation as the city council shall continue by ordinance. The whole or any part of any appropriation provided in the budget for capital or betterment outlays of any department or activity remaining unexpended or unencumbered at the close of the fiscal year shall remain in full force and effect and shall be held available for the following year, except any such appropriation as the city council by ordinance may have abandoned. [1967 c 7 § 10.]

35.32A.090 Budget mandatory—Other expenditures void—Liability of public officials—Penalty. There shall be no orders, authorizations, allowances, contracts or payments made or attempted to be made in excess of the expenditure allowances authorized in the final budget as adopted or modified as provided in this chapter, and any such attempted excess expenditure shall be void and shall never be the foundation of a claim against the city.

Any public official authorizing, auditing, allowing, or paying any claims or demands against the city in violation of the provisions of this chapter shall be jointly and severally liable to the city in person and upon their official bonds to the extent of any payments upon such claims or demands.

Any person violating any of the provisions of this chapter, in addition to any other liability or penalty provided therefor, shall be guilty of a misdemeanor. [1967 c 7 § 11.]

35.32A.900 Short title. This chapter shall be known and may be cited as the budget act for cities over three hundred thousand population. [1967 c 7 § 2.]

35.32A.910 Severability—1967 c 7. If any provision of this act, or its application to any person or circumstance, is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances, is not affected. [1967 c 7 § 12.]

Chapter 35.33

BUDGETS IN SECOND AND THIRD CLASS CITIES AND FIRST CLASS CITIES UNDER 300,000

Sections

- 35.33.011 Definitions.
- 35.33.020 Applicability of chapter.
- 35.33.031 Budget estimates.
- 35.33.041 Budget estimates—Classification and segregation.
- 35.33.051 Budget—Preliminary.
- 35.33.055 Budget—Preliminary—Filing—Copies.
- 35.33.057 Budget message—Hearings.

- 35.33.061 Budget—Notice of hearing on final.
- 35.33.071 Budget—Final—Hearing.
- 35.33.075 Budget—Final—Adoption—Appropriations.
- 35.33.081 Emergency expenditures—Nondebatable emergencies.
- 35.33.091 Emergency expenditures—Other emergencies—Hearing.
- 35.33.101 Emergency warrants.
- 35.33.106 Registered warrants—Payment.
- 35.33.107 Adjustment of wages, hours and conditions of employment.
- 35.33.111 Forms—Accounting—Supervision by state.
- 35.33.121 Funds—Limitations on expenditures—Transfers.
- 35.33.125 Liabilities incurred in excess of budget.
- 35.33.131 Funds received from sale of bonds and warrants—Expenditure program.
- 35.33.135 Revenue estimates—Amount to be raised by ad valorem taxes.
- 35.33.141 Report of expenditures and liabilities against budget appropriations.
- 35.33.145 Contingency fund—Creation—Purpose—Support—Lapse.
- 35.33.147 Contingency fund—Withdrawals.
- 35.33.151 Unexpended appropriations.
- 35.33.170 Violations and penalties.

Budgets, expenditures for streets: RCW 35.76.060.

Budgets, leases with or without option to purchase, budget to provide for payment of rentals: RCW 35.42.220.

Credit not to be loaned: State Constitution Art. 8 § 7.

Limitations upon indebtedness: State Constitution Art. 8 § 6 (Amendment 27), Art. 7 § 2 (Amendment 59), Chapter 39.36 RCW, RCW 84.52.050.

State auditor's division of municipal corporations: RCW 43.09.190-43.09.340.

35.33.011 Definitions. Unless the context clearly indicates otherwise, the following words as used in this chapter shall have the meaning herein prescribed:

(1) "Clerk" as used in this chapter includes the officer performing the functions of a finance or budget director, comptroller, auditor, or by whatever title he may be known in any city or town.

(2) "Department" as used in this chapter includes each office, division, service, system or institution of the city or town for which no other statutory or charter provision is made for budgeting and accounting procedures or controls.

(3) "Legislative body" as used in this chapter includes council, commission or any other group of officials serving as the legislative body of a city or town.

(4) "Chief administrative officer" as used in this chapter includes the mayor of cities or towns having a mayor-council form of government, the commissioners in cities or towns having a commission form of government, the city manager, or any other city or town official designated by the charter or ordinances of such city or town under the plan of government governing the same, or the budget or finance officer designated by the mayor, manager or commissioners, to perform the functions, or portions thereof, contemplated by this chapter.

(5) "Fiscal year" as used in this chapter means that fiscal period set by the city or town pursuant to authority given under RCW 1.16.030.

(6) "Fund", as used in this chapter and "funds" where clearly used to indicate the plural of "fund", shall mean the budgeting or accounting entity authorized to provide a sum of money for specified activities or purposes.

(7) "Funds" as used in this chapter where not used to indicate the plural of "fund" shall mean money in hand or available for expenditure or payment of a debt or obligation.

(8) Except as otherwise defined herein, municipal accounting terms used in this chapter have the meaning prescribed in "Governmental Accounting, Auditing, and Financial Reporting," prepared by the National Committee on Governmental Accounting, 1968. [1969 ex.s. c 95 § 1.]

35.33.020 Applicability of chapter. The provisions of this chapter apply to cities of the first class which have a population of less than three hundred thousand, to all cities of the second and third classes, and to all towns. [1969 ex.s. c 95 § 2; 1965 c 7 § 35.33.020. Prior: 1923 c 158 § 8; RRS § 9000-8.]

35.33.031 Budget estimates. On or before the second Monday of the fourth month prior to the beginning of the city's or town's next fiscal year, or at such other time as the city or town may provide by ordinance or charter, the clerk shall notify in writing the head of each department of a city or town to file with the clerk within fourteen days of the receipt of such notification, detailed estimates of the probable revenue from sources other than ad valorem taxation and of all expenditures required by his department for the ensuing fiscal year. The notice shall be accompanied by the proper forms provided by the clerk, prepared in accordance with the requirements and classification established by the division of municipal corporations in the office of the state auditor. The clerk shall prepare the estimates for interest and debt redemption requirements and all other estimates, the preparation of which falls properly within the duties of his office. The chief administrative officers of the city or town shall submit to the clerk detailed estimates of all expenditures proposed to be financed from the proceeds of bonds or warrants not yet authorized, together with a statement of the proposed method of financing them. In the absence or disability of the official or person regularly in charge of a department, the duties herein required shall devolve upon the person next in charge of such department. [1969 ex.s. c 95 § 3.]

35.33.041 Budget estimates—Classification and segregation. All estimates of receipts and expenditures for the ensuing year shall be fully detailed in the annual budget and shall be classified and segregated according to a standard classification of accounts to be adopted and prescribed by the state auditor through the division of municipal corporations after consultation with the Washington finance officers association, the association of Washington cities and the association of Washington city managers. [1969 ex.s. c 95 § 4.]

35.33.051 Budget—Preliminary. On or before the first business day in the third month prior to the beginning of the fiscal year of a city or town or at such other time as the city or town may provide by ordinance or charter, the clerk or other person designated by the charter, by ordinances, or by the chief administrative

officer of the city or town shall submit to the chief administrative officer a proposed preliminary budget which shall set forth the complete financial program of the city or town for the ensuing fiscal year, showing the expenditure program requested by each department and the sources of revenue by which each such program is proposed to be financed.

The revenue section shall set forth in comparative and tabular form for each fund the actual receipts for the last completed fiscal year, the estimated receipts for the current fiscal year and the estimated receipts for the ensuing fiscal year, which shall include the amount to be raised from ad valorem taxes and unencumbered fund balances estimated to be available at the close of the current fiscal year.

The expenditure section shall set forth in comparative and tabular form for each fund and every department operating within each fund the actual expenditures for the last completed fiscal year, the appropriations for the current fiscal year and the estimated expenditures for the ensuing fiscal year. The salary or salary range for each office, position or job classification shall be set forth separately together with the title or position designation thereof: *Provided*, That salaries may be set out in total amounts under each department if a detailed schedule of such salaries and positions be attached to and made a part of the budget document. [1969 ex.s. c 95 § 5.]

35.33.055 Budget—Preliminary—Filing—Copies. The chief administrative officer shall prepare the preliminary budget in detail, making any revisions or additions to the reports of the department heads deemed advisable by such chief administrative officer and at least sixty days before the beginning of the city's or town's next fiscal year he shall file it with the clerk as the recommendation of the chief administrative officer for the final budget. The clerk shall provide a sufficient number of copies of such preliminary budget and budget message to meet the reasonable demands of taxpayers therefor and have them available for distribution not later than six weeks before the beginning of the city's or town's next fiscal year. [1969 ex.s. c 95 § 6.]

35.33.057 Budget message—Hearings. In every city or town a budget message prepared by or under the direction of the city's or town's chief administrative officer shall be submitted as a part of the preliminary budget to the city's or town's legislative body at least sixty days before the beginning of the city's or town's next fiscal year and shall contain the following:

- (1) An explanation of the budget document;
- (2) An outline of the recommended financial policies and programs of the city for the ensuing fiscal year;
- (3) A statement of the relation of the recommended appropriation to such policies and programs;
- (4) A statement of the reason for salient changes from the previous year in appropriation and revenue items;
- (5) An explanation for any recommended major changes in financial policy.

Prior to the final hearing on the budget, the legislative body or a committee thereof, shall schedule hearings on the budget or parts thereof, and may require the presence of department heads to give information regarding estimates and programs. [1969 ex.s. c 95 § 7.]

35.33.061 Budget—Notice of hearing on final. Immediately following the filing of the preliminary budget with the clerk, the clerk shall publish a notice once each week for two consecutive weeks stating that the preliminary budget for the ensuing fiscal year has been filed with the clerk; that a copy thereof will be furnished to any taxpayer who will call at the clerk's office therefor and that the legislative body of the city or town will meet on or before the first Monday of the month next preceding the beginning of the ensuing fiscal year for the purpose of fixing the final budget, designating the date, time and place of the legislative budget meeting and that any taxpayer may appear thereat and be heard for or against any part of the budget. The publication of such notice shall be made in the official newspaper of the city or town if there is one, otherwise in a newspaper of general circulation in the city or town or if there be no newspaper of general circulation in the city or town, then by posting in three public places fixed by ordinance as the official places for posting the city's or town's official notices. [1973 c 67 § 2; 1969 ex.s. c 95 § 8.]

35.33.071 Budget—Final—Hearing. The council shall meet on the day fixed by RCW 35.33.061 for the purpose of fixing the final budget of the city or town at the time and place designated in the notice thereof. Any taxpayer may appear and be heard for or against any part of the budget. The hearing may be continued from day to day but not later than the twenty-fifth day prior to commencement of the city's or town's fiscal year. [1969 ex.s. c 95 § 9.]

35.33.075 Budget—Final—Adoption—Appropriations. Following conclusion of the hearing, and prior to the beginning of the fiscal year, the legislative body shall make such adjustments and changes as it deems necessary or proper and after determining the allowance in each item, department, classification and fund, and shall by ordinance, adopt the budget in its final form and content. Appropriations shall be limited to the total estimated revenues contained therein including the amount to be raised by ad valorem taxes and the unencumbered fund balances estimated to be available at the close of the current fiscal year. Such ordinances may adopt the final budget by reference: *Provided*, That the ordinance adopting such budget shall set forth in summary form the totals of estimated revenues and appropriations for each separate fund and the aggregate totals for all such funds combined.

A complete copy of the final budget as adopted shall be transmitted to the division of municipal corporations in the office of the state auditor, and to the association of Washington cities. [1969 ex.s. c 95 § 10.]

35.33.081 Emergency expenditures—Nondebatable emergencies. Upon the happening of any emergency caused by violence of nature, casualty, riot, insurrection, war, or other unanticipated occurrence requiring the immediate preservation of order or public health, or for the restoration to a condition of usefulness of any public property which has been damaged or destroyed by accident, or for public relief from calamity, or in settlement of approved claims for personal injuries or property damages, or to meet mandatory expenditures required by laws enacted since the last annual budget was adopted, or to cover expenses incident to preparing for or establishing a new form of government authorized or assumed after adoption of the current budget, including any expenses incident to selection of additional or new officials required thereby, or incident to employee recruitment at any time, the city or town legislative body, upon the adoption of an ordinance, by the vote of one more than the majority of all members of the legislative body, stating the facts constituting the emergency and the estimated amount required to meet it, may make the expenditures therefor without notice or hearing. [1969 ex.s. c 95 § 11.]

35.33.091 Emergency expenditures—Other emergencies—Hearing. If a public emergency which could not reasonably have been foreseen at the time of filing the preliminary budget requires the expenditure of money not provided for in the annual budget, and if it is not one of the emergencies specifically enumerated in RCW 35.33.081, the city or town legislative body before allowing any expenditure therefor shall adopt an ordinance stating the facts constituting the emergency and the estimated amount required to meet it and declaring that an emergency exists.

Such ordinance shall not be voted on until five days have elapsed after its introduction, and for passage shall require the vote of one more than the majority of all members of the legislative body of the city or town.

Any taxpayer may appear at the meeting at which the emergency ordinance is to be voted on and be heard for or against the adoption thereof. [1969 ex.s. c 95 § 12.]

35.33.101 Emergency warrants. All expenditures for emergency purposes as provided in this chapter shall be paid by warrants from any available money in the fund properly chargeable with such expenditures. If, at any time, there is insufficient money on hand in a fund with which to pay such warrants as presented, the warrants shall be registered, bear interest and be called in the same manner as other registered warrants as prescribed in RCW 35.33.111. [1969 ex.s. c 95 § 13.]

Warrants—Interest rate—Payment: RCW 35.21.320.

35.33.106 Registered warrants—Payment. In adopting the final budget for any fiscal year, the legislative body shall appropriate from estimated revenue sources available, a sufficient amount to pay the principal and interest on all outstanding registered warrants issued since the adoption of the last preceding budget except those issued and identified as revenue warrants and except those for which an appropriation previously

has been made: *Provided*, That no portion of the revenues which are restricted in use by law may be appropriated for the redemption of warrants issued against a utility or other special purpose fund of a self-supporting nature: *Provided further*, That all or any portion of the city's or town's outstanding registered warrants may be funded into bonds in any manner authorized by law. [1969 ex.s. c 95 § 14.]

35.33.107 Adjustment of wages, hours and conditions of employment. Notwithstanding the appropriations for any salary, or salary range of any employee or employees adopted in a final budget, the legislative body of any city or town may, by ordinance, change the wages, hours, and conditions of employment of any or all of its appointive employees if sufficient funds are available for appropriation to such purposes. [1969 ex.s. c 95 § 15.]

35.33.111 Forms—Accounting—Supervision by state. The division of municipal corporations in the office of the state auditor is empowered to make and install the forms and classifications required by this chapter to define what expenditures are chargeable to each budget class and to establish the accounting and cost systems necessary to secure accurate budget information. [1969 ex.s. c 95 § 16.]

35.33.121 Funds—Limitations on expenditures—Transfers. The expenditures as classified and itemized in the final budget shall constitute the city's or town's appropriations for the ensuing fiscal year. Unless otherwise ordered by a court of competent jurisdiction, and subject to further limitations imposed by ordinance of the city or town, the expenditure of city or town funds or the incurring of current liabilities on behalf of the city or town shall be limited to the following:

(1) The total amount appropriated for each fund in the budget for the current fiscal year, without regard to the individual items contained therein, except that this limitation shall not apply to wage adjustments authorized by RCW 35.33.107; and

(2) The unexpended appropriation balances of a preceding budget which may be carried forward from prior fiscal years pursuant to RCW 35.33.151; and

(3) Funds received from the sale of bonds or warrants which have been duly authorized according to law; and

(4) Funds received in excess of estimated revenues during the current fiscal year, when authorized by an ordinance amending the original budget; and

(5) Expenditures required for emergencies, as authorized in RCW 35.33.081 and 35.33.091.

Transfers between individual appropriations within any one fund may be made during the current fiscal year by order of the city's or town's chief administrative officer subject to such regulations, if any, as may be imposed by the city or town legislative body. Notwithstanding the provisions of RCW 43.09.210 or of any statute to the contrary, transfers, as herein authorized, may be made within the same fund regardless of the various offices, departments or divisions of the city or town which may be affected.

The city or town legislative body, upon a finding that it is to the best interests of the city or town to decrease, revoke or recall all or any portion of the total appropriations provided for any one fund, may, by ordinance, approved by the vote of one more than the majority of all members thereof, stating the facts and findings for doing so, decrease, revoke or recall all or any portion of an unexpended fund balance, and by said ordinance, or a subsequent ordinance adopted by a like majority, the moneys thus released may be reappropriated for another purpose or purposes, without limitation to department, division or fund, unless the use of such moneys is otherwise restricted by law, charter, or ordinance. [1969 ex.s. c 95 § 17.]

35.33.125 Liabilities incurred in excess of budget. Liabilities incurred by any officer or employee of the city or town in excess of any budget appropriations shall not be a liability of the city or town. The clerk shall issue no warrant and the city or town legislative body or other authorized person shall approve no claim for an expenditure in excess of the total amount appropriated for any individual fund, except upon an order of a court of competent jurisdiction or for emergencies as provided in this chapter. [1969 ex.s. c 95 § 18.]

35.33.131 Funds received from sale of bonds and warrants—Expenditure program. Moneys received from the sale of bonds or warrants shall be used for no other purpose than that for which they were issued and no expenditure shall be made for that purpose until the bonds have been duly authorized. If any unexpended fund balance remains from the proceeds realized from the bonds or warrants after the accomplishment of the purpose for which they were issued it shall be used for the redemption of such bond or warrant indebtedness. Where a budget contains an expenditure program to be financed from a bond issue to be authorized thereafter, no such expenditure shall be made or incurred until after the bonds have been duly authorized. [1969 ex.s. c 95 § 19.]

35.33.135 Revenue estimates—Amount to be raised by ad valorem taxes. At a time fixed by the city's or town's ordinance or city charter, not later than the first Monday in October of each year, the chief administrative officer shall provide the city's or town's legislative body with current information on estimates of revenues from all sources as adopted in the budget for the current year, together with estimates submitted by the clerk under RCW 35.33.051. The city's or town's legislative body and the city's or town's administrative officer or his designated representative shall consider the city's or town's total anticipated financial requirements for the ensuing fiscal year, and the legislative body shall determine and fix by ordinance the amount to be raised by ad valorem taxes. Upon adoption of the ordinance fixing the amount of ad valorem taxes to be levied, the clerk shall certify the same to the board of county commissioners as required by RCW 84.52.020. [1969 ex.s. c 95 § 20.]

35.33.141 Report of expenditures and liabilities against budget appropriations. At such intervals as may be required by city charter or city or town ordinance, however, being not less than quarterly, the clerk shall submit to the city's or town's legislative body and chief administrative officer a report showing the expenditures and liabilities against each separate budget appropriation incurred during the preceding reporting period and like information for the whole of the current fiscal year to the first day of the current reporting period together with the unexpended balance of each appropriation. The report shall also show the receipts from all sources. [1969 ex.s. c 95 § 21.]

35.33.145 Contingency fund—Creation—Purpose—Support—Lapse. Every city or town may create and maintain a contingency fund to provide moneys with which to meet any municipal expense, the necessity or extent of which could not have been foreseen or reasonably evaluated at the time of adopting the annual budget, or from which to provide moneys for those emergencies described in RCW 35.33.081 and 35.33.091. Such fund may be supported by a budget appropriation from any tax or other revenue source not restricted in use by law, or also may be supported by a transfer from other unexpended or decreased funds made available by ordinance as set forth in RCW 35.33.121: *Provided*, That the total amount accumulated in such fund at any time shall not exceed the equivalent of thirty-seven and one-half cents per thousand dollars of assessed valuation of property within the city or town at such time. Any moneys in the contingency fund at the end of the fiscal year shall not lapse except upon reappropriation by the council to another fund in the adoption of a subsequent budget. [1973 1st ex.s. c 195 § 21; 1969 ex.s. c 95 § 22.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

35.33.147 Contingency fund—Withdrawals. No money shall be withdrawn from the contingency fund except by transfer to the appropriate operating fund authorized by a resolution or ordinance of the legislative body of the city or town, adopted by a majority vote of the entire legislative body, clearly stating the facts constituting the reason for the withdrawal or the emergency as the case may be, specifying the fund to which the withdrawn money shall be transferred. [1969 ex.s. c 95 § 23.]

35.33.151 Unexpended appropriations. All appropriations in any current operating fund shall lapse at the end of each fiscal year: *Provided*, That this shall not prevent payments in the following year upon uncompleted programs or improvements in progress or on orders subsequently filled or claims subsequently billed for the purchase of material, equipment and supplies or for personal or contractual services not completed or furnished by the end of the fiscal year, all of which have been properly budgeted and contracted for prior to the close of such fiscal year but furnished or completed in due course thereafter.

All appropriations in a special fund authorized by ordinance or by state law to be used only for the purpose or purposes therein specified, including any cumulative reserve funds lawfully established in specific or general terms for any municipal purpose or purposes, or a contingency fund as authorized by RCW 35.33.145, shall not lapse, but shall be carried forward from year to year until fully expended or the purpose has been accomplished or abandoned, without necessity of reappropriation.

The accounts for budgetary control for each fiscal year shall be kept open for twenty days after the close of such fiscal year for the purpose of paying and recording claims for indebtedness incurred during such fiscal year; any claim presented after the twentieth day following the close of the fiscal year shall be paid from appropriations lawfully provided for the ensuing period, including those made available by provisions of this section, and shall be recorded in the accounts for the ensuing fiscal year. [1969 ex.s. c 95 § 24.]

35.33.170 Violations and penalties. Upon the conviction of any city or town official, department head or other city or town employee of knowingly failing, or refusing, without just cause, to perform any duty imposed upon such officer or employee by this chapter, or city charter or city or town ordinance, in connection with the giving of notice, the preparing and filing of estimates of revenues or expenditures or other information required for preparing a budget report in the time and manner required, or of knowingly making expenditures in excess of budget appropriations, he shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars for each separate violation. [1969 ex.s. c 95 § 25.]

Chapter 35.35 RETAIL SALES AND USE TAXES

City and county retail sales and use taxes: Chapter 82.14 RCW.

Chapter 35.36 EXECUTION OF BONDS BY PROXY—FIRST CLASS CITIES

Sections	
35.36.010	Appointment of proxies.
35.36.020	Coupons—Printing facsimile signatures.
35.36.030	Deputies—Exemptions.
35.36.040	Designation of bonds to be signed.
35.36.050	Liability of officer.
35.36.060	Notice to council.
35.36.070	Revocation of proxy.

35.36.010 Appointment of proxies. The mayor, city comptroller and city clerk of every city of the first class may each severally designate one or more bonded persons to affix his signature to any bond or bonds requiring his signature.

If the signature of one of these officers is affixed to a bond during his continuance in office by a proxy designated by him whose authority has not been revoked,

the bond shall be as binding upon the city and all concerned as though the officer had signed the bond in person.

This chapter shall apply to all bonds, whether they constitute obligations of the city as a whole or of any local improvement or other district or subdivision thereof, whether they call for payment from the general funds of the city or from a local, special or other fund, and whether negotiable or otherwise. [1965 c 7 § 35.36-.010. Prior: 1929 c 212 § 1; RRS § 9005-5.]

35.36.020 Coupons—Printing facsimile signatures.

A facsimile reproduction of the signature of the mayor, city comptroller, or city clerk in every city of the first class may be printed, engraved, or lithographed upon bond coupons with the same effect as though the particular officer had signed the coupon in person. [1965 c 7 § 35.36.020. Prior: 1929 c 212 § 4; RRS § 9005-8.]

35.36.030 Deputies—Exemptions. Nothing in this chapter shall be construed as requiring the appointment of deputy comptrollers or deputy city clerks in first class cities to be made in accordance herewith so far as concerns signatures or other doings which may be lawfully made or done by such deputy under the provisions of any other law. [1965 c 7 § 35.36.030. Prior: 1929 c 212 § 5; RRS § 9005-9.]

35.36.040 Designation of bonds to be signed. The officer whose duty it is to cause any bonds to be printed, engraved, or lithographed, shall specify in a written order or requisition to the printer, engraver, or lithographer the number of bonds to be printed, engraved, or lithographed and the manner of numbering them.

Every printer, engraver, or lithographer who prints, engraves, or lithographs a greater number of bonds than that specified or who prints, engraves, or lithographs more than one bond bearing the same number shall be guilty of a felony. [1965 c 7 § 35.36.040. Prior: 1929 c 212 § 6; RRS § 9005-10.]

35.36.050 Liability of officer. A mayor, comptroller, or clerk authorizing the affixing of his signature to a bond by a proxy shall be subject to the same liability personally and on his bond for any signature so affixed and to the same extent as if he had affixed his signature in person. [1965 c 7 § 35.36.050. Prior: 1929 c 212 § 3; RRS § 9005-7.]

35.36.060 Notice to council. In order to designate a proxy to affix his signature to bonds, a mayor, comptroller, or clerk shall address a written notice to the governing body of the city giving the name of the person whom he has selected therefor and stating generally or specifically what bonds are to be so signed.

Attached to or included in the notice shall be a written signature of the officer making the designation executed by the proposed proxy followed by the word "by" and his own signature; or, if the notice so states, the specimen signatures may consist of a facsimile reproduction of the officer's signature impressed by some

mechanical process followed by the word "by" and the proxy's own signature.

If the authority is intended to include the signature upon bonds bearing an earlier date than the effective date of the notice, the prior dated bonds must be specifically described by reasonable reference thereto.

The notice designating a proxy shall be filed with the city comptroller or city clerk, together with the specimen signatures attached thereto and a record of the filing shall be made in the journal of the governing body. This record shall note the date and hour of filing and may be made by the official who keeps the journal at any time after filing of the notice, even during a period of recess or adjournment of the governing body. The notice shall be effective from the time of its recording. [1965 c 7 § 35.36.060. Prior: 1929 c 212 § 2, part; RRS § 9005-6, part.]

35.36.070 Revocation of proxy. Any designation of a proxy may be revoked by written notice addressed to the governing body of the city signed by the officer who made the designation and filed and recorded in the same manner as the notice of designation. It shall be effective from the time of its recording but shall not affect the validity of any signature theretofore made. [1965 c 7 § 35.36.070. Prior: 1929 c 212 § 2, part; RRS § 9005-6, part.]

Chapter 35.37

FISCAL—CITIES UNDER 20,000 AND CITIES OTHER THAN FIRST CLASS—BONDS

Sections	
35.37.010	Accounting—Funds.
35.37.020	Accounting—Surplus and deficit in utility accounts.
35.37.027	Validation of preexisting obligations by former city.
35.37.030	Applicability of chapter.
35.37.040	Authority to contract debts—Limits.
35.37.050	Excess indebtedness—Authority to contract.
35.37.060	Excess indebtedness—Election to authorize.
35.37.070	General indebtedness bonds—Issuance.
35.37.090	General indebtedness bonds—Preparation and printing.
35.37.100	General indebtedness bonds—Sale—Registration.
35.37.110	General indebtedness bonds—Taxation to pay.
35.37.120	General indebtedness bonds—Taxation—Failure to levy—Remedy.

Elections: Title 29 RCW.

Limitations upon indebtedness: State Constitution Art. 7 § 2 (Amendment 59), Art. 8 § 6 (Amendment 27), Chapter 39.36 RCW, RCW 84.52.050.

State auditor's division of municipal corporations: RCW 43.09.190-43.09.340.

35.37.010 Accounting—Funds. Every city and town having less than twenty thousand inhabitants shall maintain a current expense fund out of which it must pay current expenses. It shall also maintain an "indebtedness fund," and if it has outstanding general indebtedness bonds, it must maintain a sinking fund therefor. If it maintains waterworks, lighting plant, cemetery, or other public works or institutions from which rent or other revenue is derived it must maintain a separate fund for each utility or institution. All moneys collected by such cities and towns from licenses shall be credited

to the current expense fund. [1965 c 7 § 35.37.010. Prior: (i) 1897 c 84 § 1; RRS § 5635. (ii) 1897 c 84 § 2; RRS § 5636. (iii) 1897 c 84 § 9; RRS § 5643. (iv) 1897 c 84 § 10, part; RRS § 5644, part.]

35.37.020 Accounting—Surplus and deficit in utility accounts. Any deficit for operation and maintenance of utilities and institutions owned and controlled by cities and towns having less than twenty thousand inhabitants, over and above the revenue therefrom, shall be paid out of the current expense fund. Any surplus in the waterworks fund, lighting fund, cemetery fund, or other like funds at the end of the fiscal year shall be paid into the current expense fund except such part as the council by a finding entered into the record of the proceedings may conclude to be necessary for the purpose of:

(1) Extending or repairing the particular utility or institution; or

(2) Paying interest or principal of any indebtedness incurred in the construction or purchase of the particular utility or institution; or

(3) Creating or adding to a sinking fund for the payment of any indebtedness incurred in the construction or purchase of the particular utility or institution. [1965 c 7 § 35.37.020. Prior: 1897 c 84 § 10, part; RRS § 5644, part.]

35.37.027 Validation of preexisting obligations by former city. All elections for the validation of any debt created by any city or town which has since become consolidated with any other city or town shall be by ballot, and the vote shall be taken in the new consolidated city as constituted at the time of the election. [1965 c 7 § 35.37.027. Prior: 1897 c 84 § 12; RRS § 5646.]

Elections: Title 29 RCW.

35.37.030 Applicability of chapter. The provisions of the remainder of this chapter shall not be applied to cities of the first class nor to borrowing money and issuing bonds by any city or town for the purpose of supplying it with water, artificial light, or sewers if the works for supplying the water, artificial light, or sewers are to be owned and controlled by the city or town. [1965 c 7 § 35.37.030. Prior: (i) 1891 c 128 § 10; RRS § 9548. (ii) 1891 c 128 § 11; RRS § 9549.]

35.37.040 Authority to contract debts—Limits. Every city and town, may, without a vote of the people, contract indebtedness or borrow money for strictly municipal purposes on the credit of the city or town and issue negotiable bonds therefor in an amount which when added to its existing indebtedness will not exceed the amount of indebtedness authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred without the assent of the voters.

When bonds are issued under this section the ordinance providing therefor shall contain a statement showing the value of the taxable property in the city or town, as the term "value of the taxable property" is defined in RCW 39.36.015, together with the amount of

the existing indebtedness of the city or town, which indebtedness shall include the amount for which such bonds are issued. Passage of such ordinance shall require the votes of at least four councilmen. [1970 ex.s. c 42 § 12; 1965 c 7 § 35.37.040. Prior: (i) 1891 c 128 § 1; RRS § 9538. (ii) 1891 c 128 § 6, part; RRS § 9544, part.]

Severability and effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Limitations upon indebtedness: State Constitution Art. 7 § 2 (Amendment 59), Art. 8 § 6 (Amendment 27), Chapter 39.36 RCW, RCW 84.52.050.

35.37.050 Excess indebtedness—Authority to contract. Every city and town may, with a vote of the people, contract indebtedness or borrow money for strictly municipal purposes on the credit of the city or town and issue negotiable bonds therefor in an amount which when added to its existing indebtedness will exceed the amount of indebtedness authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred without the assent of the voters but will not exceed the amount of indebtedness authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred with the assent of the voters. The amount of the indebtedness desired to be created or the amount of the money desired to be borrowed shall be stated in an ordinance passed by the council and referred to the voters of the city or town for their ratification or rejection at a special election of which fifteen days notice shall be given in the newspaper which is doing the city or town printing by publication in every issue of that paper during that period. [1965 c 7 § 35.37.050. Prior: (i) 1891 c 128 § 2; RRS § 9539. (ii) 1891 c 128 § 4, part; RRS § 9542, part.]

Validation—1969 ex.s. c 191: "Any city or town, which has prior to the effective date of this act, submitted to the voters thereof for their ratification or rejection the proposition of incurring indebtedness by the issuance of negotiable bonds in an amount when added to its existing indebtedness will exceed the amount of indebtedness authorized to be incurred without the assent of the voters, but will not exceed the amount of indebtedness authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred with the assent of the voters, may incur such indebtedness and issue such bonds even though the amount of money desired to be borrowed and the amount of negotiable bonds to be issued therefor were stated in a resolution adopted by the city or town council submitting such proposition to the voters, instead of in an ordinance passed by such council, if all other requirements of law, including, but not limited to the other provisions of RCW 35.37.050 are complied with." [1969 ex.s. c 191 § 1.]

Effective date—1969 ex.s. c 191. This act contained an emergency clause and became effective April 25, 1969.

35.37.060 Excess indebtedness—Election to authorize. The election required to ratify or reject an ordinance authorizing the incurring of indebtedness or the borrowing of money on the credit of city or town shall be conducted consistent with the general election laws of the state.

If the question is that of creating an indebtedness other than that of borrowing money, the ballots shall contain in substance:

"Shall the city (or town) of _____ for (here state purpose) incur an indebtedness of \$ _____?

- YES
- NO

If the question is that of borrowing money and issuing negotiable bonds therefor, the ballots shall contain in substance:

"Shall the city (or town) of _____ for municipal purposes borrow \$ _____ and issue its negotiable bonds therefor?

- YES
- NO

The elector shall prepare his ballot by placing a cross (X) in the square opposite the word "Yes" or in the square opposite the word "No."

The polls shall open and close at the hours fixed by statute for general state, county or municipal elections, any provisions in the city charter to the contrary notwithstanding. [1965 c 7 § 35.37.060. Prior: 1951 c 65 § 1. Formerly: (i) 1891 c 128 § 3; RRS § 9540. (ii) 1911 c 31 § 1; RRS § 9541.]

Elections: Title 29 RCW.

35.37.070 General indebtedness bonds—Issuance. If three-fifths of the ballots cast upon the question favor it, the council must incur the indebtedness or borrow the money and issue the bonds authorized by the election. No portion of the money so authorized to be borrowed shall ever be used for other than strictly municipal purposes. [1965 c 7 § 35.37.070. Prior: 1891 c 128 § 4, part; RRS § 9542, part.]

35.37.090 General indebtedness bonds—Preparation and printing. All general indebtedness bonds and coupons shall be printed, engraved, or lithographed on good bond paper, signed by the mayor and attested by the clerk under the seal of the city or town. [1965 c 7 § 35.37.090. Prior: (i) 1891 c 128 § 5, part; RRS § 9543, part. (ii) 1891 c 128 § 6, part; RRS § 9544, part.]

35.37.100 General indebtedness bonds—Sale—Registration. General indebtedness bonds shall be sold in the manner the city or town authorities deem for the best interest of the city or town. The city or town treasurer shall keep a register of all bonds showing the number, date, amount, interest, name of payee, and when and where payable of every bond executed, issued and sold under this chapter. [1965 c 7 § 35.37.100. Prior: 1891 c 128 § 7; RRS § 9545.]

35.37.110 General indebtedness bonds—Taxation to pay. So long as any general indebtedness bonds are outstanding an amount sufficient to pay the interest upon them as it accrues shall be included in each annual levy for municipal purposes and a sufficient amount shall be included in each annual levy for payment of principal so that all bonds may be paid serially as they mature. [1965 c 7 § 35.37.110. Prior: 1891 c 128 § 8; RRS § 9546.]

35.37.120 General indebtedness bonds—Taxation—Failure to levy—Remedy. If the council of any city or town which has issued general indebtedness bonds fails to make any levy necessary to pay the bonds and interest coupons at maturity, the owner of any bond or coupon which has been presented to the treasurer and payment thereof refused because of the failure to make a levy may file the bond together with all unpaid coupons with the county auditor, taking his receipt therefor.

The county auditor shall register bonds so filed in like manner and form as they were originally registered by the city or town treasurer of the city or town which issued them and the county commissioners at their next session at which they levy the annual county tax shall add to the city's or town's levy a sum sufficient to realize the amount of principal and interest past due and to become due prior to the next annual levy to be collected and held by the county treasurer and paid out only upon warrants drawn by the county auditor as the payments mature in favor of the owner of the bond as shown by the auditor's register. Similar levies shall be made in each succeeding year until the bonds and coupons are fully satisfied.

This remedy is alternative and in addition to any other remedy which the owner of such a bond or coupon may have. [1965 c 7 § 35.37.120. Prior: 1891 c 128 § 9; RRS § 9547.]

**Chapter 35.38
FISCAL—DEPOSITARIES**

Sections	
35.38.010	Cities of 75,000 or more inhabitants—Designation of depositaries.
35.38.030	Cities and towns of less than 75,000 inhabitants—Designation of depositaries.
35.38.040	Cities and towns of less than 75,000 inhabitants—Segregation of collateral.
35.38.041	Segregation of eligible securities as collateral.
35.38.050	Treasurer's official bond not affected.
35.38.055	City official as officer, employee or stockholder of depositary.
35.38.060	"Bank" includes trust company.
35.38.120	Banks claiming exemption from sales, use or ad valorem taxes—Designation as depositary prohibited.
35.38.130	Banks claiming exemption from sales, use or ad valorem taxes—Deposit of public moneys in prohibited.
35.38.140	Banks claiming exemption from sales, use or ad valorem taxes—Notification of city or town treasurer.

*Deposit of public funds: State Constitution Art. 11 § 15.
State fiscal agency: Chapter 43.80 RCW.*

35.38.010 Cities of 75,000 or more inhabitants—Designation of depositaries. The city treasurer in all cities having a population of seventy-five thousand or more inhabitants shall annually at the end of each fiscal year designate one or more banks in the city which are qualified public depositaries as set forth by the public deposit protection commission as depositary or depositaries for the moneys required to be kept by the treasurer, and such designation shall be subject to the approval of the mayor, and filed with the comptroller. [1973 c 126 § 1; 1969 ex.s. c 193 § 22; 1965 c 7 § 35.38.010. Prior: 1905 c 103 § 1; RRS § 5568.]

~~Construction—Severability—1969 ex.s. c 193:~~ See notes following RCW 39.58.010.

Liability of treasurers, public deposits: RCW 39.58.140.

Public depositaries, deposit and investment of public funds: Chapter 39.58 RCW.

35.38.030 Cities and towns of less than 75,000 inhabitants—Designation of depositaries. Any city or town having a population of less than seventy-five thousand inhabitants shall, upon a majority vote of its governing body, instruct its city or town treasurer annually at the end of each fiscal year, or at such other times as may be deemed necessary by the treasurer, to designate one or more banks in the county wherein the city or town is located which are qualified public depositaries as set forth by the public deposit protection commission as depository or depositaries for the moneys required to be kept by said treasurer: *Provided*, That where any bank has been designated as a depository hereunder such designation shall continue in force until revoked by a majority vote of the governing body of the city or town. [1973 c 126 § 2; 1969 ex.s. c 193 § 24; 1965 c 7 § 35.38.030. Prior: 1923 c 18 § 1; 1907 c 22 § 1; RRS § 5571.]

~~Construction—Severability—1969 ex.s. c 193:~~ See notes following RCW 39.58.010.

35.38.040 Cities and towns of less than 75,000 inhabitants—Segregation of collateral. Before any such designation shall entitle the treasurer to make deposits in such bank or banks, the bank or banks so designated shall, within ten days after the same is filed with the city or town clerk, segregate eligible securities as collateral as provided by RCW 39.58.050 as now or hereafter amended. [1973 c 126 § 3; 1969 ex.s. c 193 § 25; 1967 c 132 § 6; 1965 c 7 § 35.38.040. Prior: 1945 c 240 § 2; 1935 c 45 § 3; 1931 c 87 § 5; 1909 c 40 § 1; 1907 c 22 § 2; Rem. Supp. 1945 § 5572.]

~~Construction—Severability—1969 ex.s. c 193:~~ See notes following RCW 39.58.010.

35.38.041 Segregation of eligible securities as collateral. Each such bank shall segregate eligible securities as collateral in accordance with RCW 39.58.050 as now or hereafter amended. [1973 c 126 § 17.]

35.38.050 Treasurer's official bond not affected. The foregoing provisions of this chapter shall in no way affect the duty of a city or town treasurer to give bond to the city or town for the faithful performance of his duties in such amount as may be fixed by the city or town council or other governing body by ordinance. [1965 c 7 § 35.38.050. Prior: (i) 1905 c 103 § 3; RRS § 5570. (ii) 1907 c 22 § 3; RRS § 5573.]

35.38.055 City official as officer, employee or stockholder of depository. Whenever a bank is designated by the treasurer or governing body of a city or town in accordance with the provisions of this chapter, as a depository for funds to be kept by the treasurer of such city or town and such bank has filed and had approved a contract with such city or town and deposited a surety bond or bonds or securities as provided in this chapter, such contract shall not be invalid by reason of any

official of the city being also an officer, employee, or stockholder of such bank. [1965 c 7 § 35.38.055. Prior: 1955 c 81 § 1.]

35.38.060 "Bank" includes trust company. The word bank as used in the foregoing provisions of this chapter includes any trust company organized under the laws of this state and engaged in the banking business. [1965 c 7 § 35.38.060. Prior: 1907 c 22 § 4; RRS § 5574.]

35.38.120 Banks claiming exemption from sales, use or ad valorem taxes—Designation as depository prohibited. A city or town treasurer shall not approve, designate or select as a depository for any public funds any bank which claims exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state. [1969 ex.s. c 230 § 6.]

Construction as to existing contracts: RCW 43.85.270.

35.38.130 Banks claiming exemption from sales, use or ad valorem taxes—Deposit of public moneys in prohibited. A city or town treasurer shall not deposit public moneys in any bank which claims exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state. [1969 ex.s. c 230 § 7.]

Construction as to existing contracts: RCW 43.85.270.

35.38.140 Banks claiming exemption from sales, use or ad valorem taxes—Notification of city or town treasurer. The director of revenue shall notify each city and town treasurer on or before July 1, 1969, and quarterly on the first day of October, January, April and July thereafter of the names and addresses of any banks which have claimed exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state. [1969 ex.s. c 230 § 8.]

Construction as to existing contracts: RCW 43.85.270.

Chapter 35.39 FISCAL—FINANCE COMMITTEE— INVESTMENT OF FUNDS

Sections	
35.39.030	Excess or inactive funds—Investment.
35.39.032	Approval of legislative authority—Delegation of authority—Reports.
35.39.034	Investment by individual fund or commingling of funds—Investment in United States securities.
35.39.040	Investment of pension funds.
35.39.050	Construction—1965 c 7.

Investment of municipal funds in savings and loan associations by county or other municipal corporation treasurer: RCW 36.29.020.

Investment of public and trust funds in federal agency bonds: Chapter 39.60 RCW.

Municipal revenue bond act: Chapter 35.41 RCW.

State auditor's division of municipal corporations: RCW 43.09.190-43.09.340.

35.39.030 Excess or inactive funds—Investment. Every city and town may invest any portion of the moneys in its inactive funds or in other funds in excess of current needs in:

- (1) United States bonds;
- (2) United States certificates of indebtedness;
- (3) Bonds or warrants of this state;
- (4) General obligation or utility revenue bonds or warrants of its own or of any other city or town in the state;
- (5) Its own bonds or warrants of a local improvement or condemnation award district which is within the protection of the local improvement guaranty fund law; and
- (6) In any other investments authorized by law for any other taxing districts. [1969 ex.s. c 33 § 1; 1965 ex.s. c 46 § 1; 1965 c 7 § 35.39.030. Prior: 1943 c 92 § 1; Rem. Supp. 1943 § 5646-13.]

Effective date—1969 ex.s. c 33: "This 1969 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing political subdivisions; and shall take effect July 1, 1969." [1969 ex.s. c 33 § 4.] This applies to RCW 35.39.030-35.39.034.

35.39.032 Approval of legislative authority—Delegation of authority—Reports. No investment shall be made without the approval of the legislative authority of the city or town expressed by ordinance: *Provided*, That except as otherwise provided by law, the legislative authority may by ordinance authorize a city official or a committee composed of several city officials to determine the amount of money available in each fund for investment purposes and make the investments authorized as indicated in RCW 35.39.030 as now or hereafter amended and the provisions of RCW 35.39.034, without the consent of the legislative authority for each investment. The responsible official or committee shall make a monthly report of all investment transactions to the city legislative authority. The legislative authority of a city or town or city official or committee authorized to invest city or town funds may at any time convert any of its investment securities, or any part thereof, into cash. [1969 ex.s. c 33 § 2.]

35.39.034 Investment by individual fund or commingling of funds—Investment in United States securities. Moneys thus determined available for this purpose may be invested on an individual fund basis or may, unless otherwise restricted by law be commingled within one common investment portfolio for the mutual benefit of all participating funds: *Provided*, That if such moneys are commingled in a common investment portfolio, all income derived therefrom shall be apportioned among the various participating funds in direct proportion to the amount of money invested by each.

Any excess or inactive funds on hand in the city treasury not otherwise invested for the specific benefit of any particular fund, may be invested by the city treasurer in United States government bonds, notes, bills or certificates of indebtedness for the benefit of the general or current expense fund. [1969 ex.s. c 33 § 3.]

35.39.040 Investment of pension funds. Any city or town now or hereafter operating an employees' pension system, established and operated pursuant to state statute or charter provision, or any pension system operating now or hereafter under state statute or charter

provision exclusively for employees of cities or towns, is authorized to invest pension fund moneys in the following classes of investments, and not otherwise:

(1) Bonds, notes or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States, or those guaranteed by, or for which the credit of the United States is pledged for the payment of the principal and interest or dividends thereof;

(2) Bonds or other evidences of indebtedness of this state or a duly authorized authority or agency thereof; and full faith and credit obligations of, or obligations unconditionally guaranteed as to principal and interest by any other state of the United States and the Commonwealth of Puerto Rico;

(3) Bonds, debentures, notes, or other full faith and credit obligations issued, guaranteed, or assumed as to both principal and interest by the government of the Dominion of Canada, or by any province of Canada: *Provided*, That the principal and interest thereof shall be payable in United States funds, either unconditionally or at the option of the holder;

(4) Bonds, notes, or other obligations of any municipal corporation, political subdivision or state supported institution of higher learning of this state, issued pursuant to the laws of this state: *Provided*, That the issuer has not, within ten years prior to the making of the investment, been in default for more than ninety days in the payment of any part of the principal or interest on any debt evidenced by its bonds, notes, or obligations;

(5) Bonds, notes, or other obligations issued, guaranteed or assumed by any municipal or political subdivision of any other state of the United States: *Provided*, That any such municipal or political subdivisions, or the total of its component parts, shall have a population as shown by the last preceding federal census of not less than ten thousand and shall not within ten years prior to the making of the investment have defaulted in payment of principal or interest of any debt evidenced by its bonds, notes or other obligations for more than ninety days;

(6) Bonds, debentures, notes, or other obligations issued, guaranteed, or assumed as to both principal and interest by any city of Canada which has a population of not less than one hundred thousand inhabitants: *Provided*, That the principal and interest thereof shall be payable in United States funds, either unconditionally or at the option of the holder: *Provided further*, That the issuer shall not within ten years prior to the making of the investment have defaulted in payment of principal or interest of any debt evidenced by its bonds, notes or other obligations for more than ninety days;

(7) Bonds, notes, or other obligations issued, assumed, or unconditionally guaranteed by the international bank for reconstruction and development, or by the federal national mortgage association or the inter-American bank, or the Asian development bank;

(8) Bonds, debentures, or other obligations issued by a federal land bank, or by a federal intermediate credit bank, under the act of Congress of July 17, 1916, known as the "federal farm loan act", as amended or supplemented from time to time;

(9) Obligations of any public housing authority or urban redevelopment authority issued pursuant to the laws of this state relating to the creation or operation of a public housing or urban redevelopment authority;

(10) Obligations of any other state or the Commonwealth of Puerto Rico, municipal authority or political subdivision within the state or the commonwealth issued pursuant to the laws of such state or commonwealth with principal and interest payable from tolls or other special revenues: *Provided*, That the issuer has not, within ten years prior to the making of the investment, been in default for more than three months in the payment of any part of the principal or interest on any debt evidenced by its bonds, notes, or obligations;

(11) Bonds and debentures issued by any corporation duly organized and operating in any state of the United States of America: *Provided*, That such securities can qualify for an "A" rating or better by a nationally recognized rating agency;

(12) Capital notes or debentures of any national or state bank doing business in the United States of America;

(13) Equipment trust certificates issued by any corporation duly organized and operating in any state of the United States of America;

(14) Investments in savings and loan associations organized under federal or state law, insured by the federal savings and loan insurance corporation, and operating in this state: *Provided*, That the investment in any such savings and loan association shall not exceed the amount insured by the federal savings and loan insurance corporation;

(15) Savings deposits in commercial banks and mutual savings banks organized under federal or state law, insured by the federal deposit insurance corporation, and operating in this state: *Provided*, That the deposit in such banks shall not exceed the amount insured by the federal deposit insurance corporation;

(16) First mortgages on unencumbered real property which are insured by the federal housing administration under the national housing act (as from time to time amended), or are guaranteed by the veterans administration under the Servicemen's Readjustment Act of 1944 (as from time to time amended), or are otherwise insured or guaranteed by the United States of America, or by any agency or instrumentality of the United States of America, so as to give the investor protection at least equal to that provided by the said national housing act or the said Servicemen's Readjustment Act;

(17) Appropriate contracts of life insurance or annuities from insurers duly authorized to do business in the state of Washington, if and when such purchase or purchases in the judgment of the retirement board be appropriate or necessary to carry out the purposes of this chapter.

(18) Subject to the limitations hereinafter provided, investments may be made in amounts not to exceed thirty-five percent of the system's total investments in the shares of certain open-end investment companies: *Provided*, That not more than five percent of the system's total investments may be made in the shares of any one such open-end investment company. The total

amount invested in any one company shall not exceed five percent of the assets of such company and shall only be made in the shares of such companies as are registered as "open-end companies" under the federal Investment Company Act of 1940, as amended. Such company must be at least ten years old and have net assets of at least ten million dollars. It must have no outstanding bonds, debentures, notes, or other evidences of indebtedness, or any stock having priority over the shares being purchased, either as to distribution of assets or payment of dividends. It must have paid dividends from investment income in each of the ten years next preceding purchase;

(19) Subject to the limitations hereinafter provided, investments may be made in preferred stock or common stock of corporations created or existing under the laws of the United States, or any state, district or territory thereof: *Provided*, That

(a) The board receives advice in writing on all stock investments from an investment counsel. This counsel shall be an investment counseling firm hired on a contractual basis by the board. Such advice shall become part of the official minutes of the next succeeding meeting of the board. The counsel shall not be engaged in the business of buying, selling, or otherwise marketing securities during the time of its employment by the board.

(b) Stock investments shall be made only by retirement or pension funds which have invested assets (cost basis) in excess of ten million dollars.

(c) Stock investments and investments in open-end investment companies combined shall not exceed thirty-five percent of the total investments (cost basis) of the system.

(d) Such investment in the stock of any one company shall not exceed five percent of the common shares outstanding.

(e) No single common stock investment, based on cost, may exceed two percent of the assets of the fund.

(f) Such stock is registered on a national securities exchange, as provided in the "Securities Exchange Act of 1934" as amended. Such registration shall not be required with respect to the following stocks:

(i) The common stock of a bank which is a member of the federal deposit insurance corporation and has capital funds represented by capital, surplus, and undivided profits of at least fifty million dollars.

(ii) The common stock of an insurance company which has capital funds, represented by capital, special surplus funds, and unassigned surplus, of at least fifty million dollars.

(iii) Any preferred stock.

(iv) The common stock of Washington corporations which meet all other listed qualifications except that of being registered on a national exchange.

(g) Such corporation has paid a cash and/or stock dividend on its common stock in at least eight of the ten years next preceding the date of investment, and aggregate net earnings available for dividends on the common stock of such corporation for the whole of such period have been equal to the amount of such dividends paid, and such corporation has paid an

earned cash and/or stock dividend in each of the last three years.

Investment of pension funds shall be made by the pension board, board of trustees or other board charged with administering the affairs of the pension system. [1969 ex.s. c 211 § 1; 1965 c 19 § 1; 1965 c 7 § 35.39-.040. Prior: 1961 c 212 § 1; 1951 c 275 § 1; 1943 c 92 § 2; Rem. Supp. 1943 § 5646-14.]

35.39.050 Construction—1965 c 7. RCW 35.39.030 and 35.39.040 shall be deemed cumulative and not exclusive and shall be additional to any other power or authority granted any city or town. [1965 c 7 § 35.39-.050. Prior: 1943 c 92 § 3; Rem. Supp. 1943 § 5646-15.]

Chapter 35.40 FISCAL—VALIDATION AND FUNDING OF DEBTS

Sections

- 35.40.010 Ratification and funding at same election.
- 35.40.020 Effect of vote to fund validated indebtedness.
- 35.40.030 Ratification and funding after consolidation or annexation.
- 35.40.040 Ratification and funding after consolidation or annexation—Effect of vote to fund validated indebtedness.
- 35.40.050 Ratification and funding after consolidation or annexation—Conduct of election.

Elections: Title 29 RCW.

Funding indebtedness in counties, cities and towns: Chapter 39.52 RCW.

Metropolitan municipal corporations, funding and refunding bonds: RCW 35.58.470.

35.40.010 Ratification and funding at same election. At any election which may be held in any city or town in this state in accordance with the Constitution and laws thereof, for the purpose of voting upon the question of ratifying any indebtedness of such city or town, theretofore attempted to be incurred by such city or town, such city or town may submit to the voters thereof any proposition to fund such indebtedness so sought to be ratified, or any existing indebtedness of such city or town, or both. The proposition to ratify such indebtedness and the proposition to fund the same may be submitted to the voters in such city or town by the corporate authorities thereof in the same or in separate ordinances, as may be required or permitted by law; but the proposition to fund shall be the subject of a distinct vote in favor of or against the same, separate from the vote upon the proposition to ratify, and separate from the vote upon a proposition to fund any part of such indebtedness as to which a proposition to ratify is not submitted. [1965 c 7 § 35.40.010. Prior: 1891 c 132 § 1; RRS § 9550.]

Elections: Title 29 RCW.

35.40.020 Effect of vote to fund validated indebtedness. If at such election any such indebtedness so proposed to be ratified is validated in accordance with the requirements of the Constitution and statutes of this state, any vote cast at such election in accordance with the requirements of RCW 35.40.010, upon a proposition to fund such indebtedness so validated, by the issuing

of bonds therefor, shall have the same effect as an assent to or dissent from the funding of such indebtedness, as if such indebtedness had been validated previously to the passage of the ordinance submitting such proposition to fund the same. [1965 c 7 § 35.40-.020. Prior: 1891 c 132 § 2; RRS § 9551.]

35.40.030 Ratification and funding after consolidation or annexation. If, in any case where any city or town in this state has been or may hereafter be formed by the consolidation of two or more cities or towns, or has annexed or may hereafter annex any new territory, an election shall be held, in accordance with the Constitution and laws of this state, for the purpose of submitting to the voters residing within the former corporate limits of either such former city or town, or of such city or town prior to such annexation, for ratification or disapproval, the attempted incurring on the part of such former city or town or of such city or town prior to such annexation by the corporate authorities thereof, of any indebtedness thereof, such consolidated or existing city or town may submit to all of the voters therein, at the same or a separate election, any proposition to fund such indebtedness so sought to be ratified or any part thereof or any existing indebtedness of such consolidated or existing city or town, or both. The proposition to ratify any such indebtedness so previously attempted to be incurred on the part of either such former city or town, or on the part of such city or town prior to such annexation, and the proposition to fund the same may be submitted, respectively, to the voters residing within the corporate limits of such former city or town or in such city or town prior to such annexation, and to all the voters in such consolidated city or town, respectively, in the same or in separate ordinances, as may be required or permitted by law; but the proposition to fund shall be the subject of a distinct vote in favor of or against the same, separate from the vote upon the proposition to ratify, and separate from the vote upon a proposition to fund any part of such indebtedness as to which a proposition to ratify is not submitted. [1965 c 7 § 35.40.030. Prior: 1893 c 58 § 1; RRS § 9556.]

Annexation of unincorporated areas: Chapter 35.13 RCW.

Consolidation including annexation of third class city or town to first class city: Chapter 35.10 RCW.

35.40.040 Ratification and funding after consolidation or annexation—Effect of vote to fund validated indebtedness. If at any such election any such indebtedness so proposed to be ratified shall be validated in accordance with the requirements of the Constitution and laws of this state, any vote cast at the same or a separate election in accordance with the requirements of RCW 35.40.030, upon a proposition to fund such indebtedness so validated, by the issuing of bonds therefor, shall have the same effect as an assent to or dissent from the funding of such indebtedness, as if such indebtedness had been validated previously to the passage of the ordinance submitting such proposition to fund the same. [1965 c 7 § 35.40.040. Prior: 1893 c 58 § 2; RRS § 9557.]

35.40.050 Ratification and funding after consolidation or annexation—Conduct of election. Any alteration or division of any existing election precinct or precincts in such consolidated or existing city or town, and any segregation of the names of voters registered for the current year in the existing registration lists in such consolidated or existing city or town, and any new poll books of registration, and any further registration in such new poll books, which may be made for the purposes of any such election held to submit a question of ratification, as aforesaid, in accordance with any law authorizing such election to submit such question of ratification, shall so far as applicable govern the holding of the election herein authorized to submit a proposition or propositions to fund. The city council or other legislative body of such consolidated or existing city or town shall, in the ordinance providing for the election herein authorized, or in a separate ordinance or ordinances, appoint inspectors and judges of such election for the several precincts in said city or town, and prescribe the form of the ballot to be used at such election, and the mode of the voter's indicating thereon his vote for or against each proposition submitted. Said provisions shall be made in conformity with the existing registration and election laws of the state as nearly as may be, but the provisions hereof shall prevail over existing laws so far as may be necessary to effectuate the purposes of RCW 35.40.030 through 35.40.050; and the election herein authorized shall be conducted and the result thereof canvassed and declared in accordance with the general laws of the state as modified hereby and in accordance with said provisions to be made in pursuance hereof. [1965 c 7 § 35.40.050. Prior: 1893 c 58 § 3; RRS § 9558.]

Conduct of elections—Canvass: RCW 29.13.040.

Chapter 35.41

FISCAL—MUNICIPAL REVENUE BOND ACT

Sections

35.41.010	Special funds—Authorized—Composition.
35.41.030	Revenue bonds authorized—Form, term, etc.
35.41.040	Coupons.
35.41.050	Revenue warrants.
35.41.060	Sale of revenue bonds and warrants—Contract provisions.
35.41.070	Suit to compel city to pay amount into special fund.
35.41.080	Rates and charges for services, use or benefits.
35.41.090	Rates and charges for services, use or benefits—Costs, expenses, interest may be included.
35.41.095	Revenue bonds for water or sewerage system—Pledge of utility local improvement district assessments.
35.41.100	Chapter is alternative and additional method.
35.41.900	Short title.

Municipal utilities: Chapter 35.92 RCW.

35.41.010 Special funds—Authorized—Composition. For the purpose of providing funds for defraying all or a portion of the costs of planning, purchase, leasing, condemnation, or other acquisition, construction, reconstruction, development, improvement, extension, repair, maintenance, or operation of any municipally owned public land, building, facility, or utility, for which the municipality now has or hereafter is granted

authority to acquire, condemn, develop, repair, maintain, or operate, the legislative body of any city or town may authorize, by ordinance, the creation of a special fund or funds into which the city or town shall be obligated to set aside and pay: Any or all municipal license fees specified in such ordinance creating such special fund, and/or any and all revenues derived from any utility or facility specified in said ordinance creating such special fund. The ordinance may provide that the city or town shall be obligated to set aside and pay into a special fund or funds so created:

- (1) A fixed proportion of any revenues or fees, or
- (2) A fixed amount of, and not to exceed, a fixed proportion of any revenues or fees, or
- (3) A fixed amount without regard to any fixed proportion of any revenues or fees, or
- (4) An amount of such revenues sufficient, together with any other moneys lawfully pledged to be paid into such fund or funds, to meet principal and interest requirements and to accumulate any reserves and additional funds that may be required.

The legislative body may also authorize the creation of a special fund or funds to defray all or part of the costs of planning, purchase, condemnation, or other acquisition, construction, improvement, maintenance or operation of any public park in, upon or above property used or to be used as municipally owned off-street parking space and facilities, whether or not revenues are received or fees charged in the course of public use of such park. Part or all of the otherwise unpledged revenues, fees or charges arising from municipal ownership, operation, lease or license of any off-street parking space and facilities, or arising from municipal license of any off-street parking space, shall be set aside and paid into such special fund or funds in accordance with this section. [1971 ex.s. c 223 § 1; 1967 ex.s. c 144 § 12; 1965 c 7 § 35.41.010. Prior: 1957 c 117 § 1.]

Severability—1967 ex.s. c 144: See note following RCW 36.98.030.

Bids for operation of parking space or facilities in or beneath public parks: RCW 35.86.010.

"Facilities" defined: RCW 35.86.010.

General obligation bonds, use in financing off-street parking space and facilities: RCW 35.86.020.

35.41.030 Revenue bonds authorized—Form, term, etc. If the legislative body of a city or town deems it advisable to purchase, lease, condemn, or otherwise acquire, construct, develop, improve, extend, or operate any land, building, facility, or utility, and adopts an ordinance authorizing such purchase, lease, condemnation, acquisition, construction, development, improvement and to provide funds for defraying all or a portion of the cost thereof from the proceeds of the sale of revenue bonds, and such ordinance has been ratified by the voters of the city or town in those instances where the original acquisition, construction, or development of such facility or utility is required to be ratified by the voters under the provisions of RCW 35.67.030 and 35.92.070, such city or town may issue revenue bonds against the special fund or funds created solely from revenues. The revenue bonds so issued shall:

- (1) Be registered or coupon bonds;
- (2) Be issued in such denominations as determined by the legislative body of the city or town;
- (3) Be numbered from one upwards consecutively;
- (4) Bear the date of their issue;
- (5) Be serial or term bonds and the final maturity thereof shall not extend beyond the reasonable life expectancy of the facility or utility;
- (6) Bear interest at such rate or rates as authorized by the legislative body of the city or town, with interest coupons attached unless such bonds are registered as to interest, in which no case no interest coupons need be attached;
- (7) Be payable as to principal and interest at such place as may be designated therein;
- (8) State upon their face that they are payable from a special fund, naming it, and the ordinance creating it, and that they do not constitute a general indebtedness of the city or town;
- (9) Be signed by the mayor and bear the seal of the city or town and be attested by the clerk: *Provided*, That the facsimile signatures of the mayor and clerk may be used when the ordinance authorizing the issuance of such bonds provides for the signatures thereof by an authenticating officer; and
- (10) Be printed upon good bond paper. [1971 ex.s. c 223 § 2; 1970 ex.s. c 56 § 34; 1969 ex.s. c 232 § 15; 1965 c 7 § 35.41.030. Prior: 1957 c 117 § 3.]

~~Purpose~~—~~Effective date~~—1970 ex.s. c 56: See note following RCW 39.44.030.

~~Validation~~—~~Saving~~—~~Severability~~—1969 ex.s. c 232: See note following RCW 39.44.030.

35.41.040 Coupons. The signatures of the mayor and clerk may be printed upon the coupons or may be lithographic facsimiles of their signatures. The coupons need not bear the seal of the city or town. [1965 c 7 § 35.41.040. Prior: 1957 c 117 § 4.]

35.41.050 Revenue warrants. Revenue warrants may be issued and such warrants and interest thereon may be payable out of the special fund or refunded through the proceeds of the sale of revenue bonds. Every revenue warrant and the interest thereon issued against the special fund shall be a valid claim of the holder thereof only as against that fund and the amount of revenue pledged to the fund, and shall not constitute an indebtedness of the city or town. Every revenue warrant shall state on its face that it is payable from a special fund, naming it and the ordinance creating it. [1965 c 7 § 35.41.050. Prior: 1957 c 117 § 5.]

35.41.060 Sale of revenue bonds and warrants—Contract provisions. Revenue bonds and warrants may be sold by negotiation or by public or private sale in any manner and for any price the legislative body of any city or town deems to be for the best interest of the city or town. Such legislative body may provide in any contract, for the construction or acquisition of the proposed facility or utility or the maintenance and operation thereof, and that payment therefor shall be made

only in revenue bonds and/or warrants at their par value. [1965 c 7 § 35.41.060. Prior: 1957 c 117 § 6.]

35.41.070 Suit to compel city to pay amount into special fund. If a city or town fails to set aside and pay into the special fund created for the payment of revenue bonds and warrants the amount which it has obligated itself in the ordinance creating the fund to set aside and pay therein, the holder of any bond or warrant issued against the bond may bring suit against the city or town to compel it to do so. [1965 c 7 § 35.41.070. Prior: 1957 c 117 § 7.]

35.41.080 Rates and charges for services, use or benefits. The legislative body of any city or town may provide by ordinance for revenues by fixing rates and charges for the furnishing of service, use, or benefits to those to whom service, use, or benefits from such facility or utility is available, which rates and charges shall be uniform for the same class of service. And, if revenue bonds or warrants are issued against the revenues thereof, the legislative body of the city or town shall fix charges at rates which will be sufficient, together with any other moneys lawfully pledged therefor, to provide for the payment of bonds and warrants, principal and interest, sinking fund requirements and expenses incidental to the issuance of such revenue bonds or warrants; in fixing such charges the legislative body of the city or town may establish rates sufficient to pay, in addition, the costs of operating and maintaining such facility or utility. [1971 ex.s. 223 § 3; 1965 c 7 § 35.41.080. Prior: 1959 c 203 § 1; 1957 c 117 § 8.]

35.41.090 Rates and charges for services, use or benefits—Costs, expenses, interest may be included. In setting the rates to be charged for the service, use, or benefits derived from such facility or utility, or in determining the cost of the planning, acquisition, construction, reconstruction, development, improvement, extension, repair, maintenance, or operation thereof the legislative body of the city or town may include all costs and estimated costs of the issuance of said bonds, all engineering, inspection, fiscal and legal expense and interest which it is estimated will accrue during the construction period and for such period of time thereafter deemed by the legislative body to be necessary or desirable on money borrowed, or which it is estimated will be borrowed in connection therewith. [1971 ex.s. c 223 § 4; 1965 c 7 § 35.41.090. Prior: 1957 c 117 § 9.]

35.41.095 Revenue bonds for water or sewerage system—Pledge of utility local improvement district assessments. The legislative body of any city or town may provide as an additional method for securing the payment of any such bonds issued to pay the whole or a portion of the cost of providing the city or town with a system of water or sewerage as set forth in RCW 35.43.042, that utility local improvement district assessments authorized to be made for the purposes and subject to the limitations contained in RCW 35.43.042 may be pledged to secure the payment of such bonds. [1967 c 52 § 26.]

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

35.41.100 Chapter is alternative and additional method. The authority granted by this chapter shall be considered an alternative and additional method of issuing revenue bonds or warrants by cities and towns and no restriction, limitation, or regulation relative to the issuance of such bonds contained in any other law shall apply to the bonds issued hereunder. [1965 c 7 § 35.41.100. Prior: 1957 c 117 § 10.]

35.41.900 Short title. This chapter shall be known as "the municipal revenue bond act." [1965 c 7 § 35.41.900. Prior: 1957 c 117 § 11.]

Chapter 35.42 LEASES

Sections

LEASING OF SPACE WITH OPTION TO PURCHASE—1959 ACT

- 35.42.010 Purpose.
- 35.42.020 Building defined.
- 35.42.030 Authority to lease.
- 35.42.040 Renewals—Option to purchase.
- 35.42.050 Provisions to pay taxes, insurance, make repairs, improvements, etc.
- 35.42.060 Execution of lease prior to construction—Lessor's bond—City not obligated for construction costs.
- 35.42.070 Lease of city land for building purposes and lease back of building by city.
- 35.42.080 Lease of city land for building purposes and lease back of building by city—Bids.
- 35.42.090 Leases exempted from certain taxes.

LEASES OF REAL OR PERSONAL PROPERTY OR PROPERTY RIGHTS WITH OR WITHOUT OPTION TO PURCHASE—1963 ACT

- 35.42.200 Leases authorized.
- 35.42.210 Exercise of option to purchase.
- 35.42.220 Budgeting rental payments—Bids—Construction of agreement where rental equals purchase price.

LEASING OF SPACE WITH OPTION TO PURCHASE—1959 ACT

35.42.010 Purpose. It is the purpose of RCW 35.42.010 through 35.42.090 to supplement existing law for the leasing of space by cities and towns to provide for the leasing of such space through leases with an option to purchase and the acquisition of buildings erected upon land owned by a city or town upon the expiration of a lease of such land. [1965 c 7 § 35.42.010. Prior: 1959 c 80 § 1.]

35.42.020 Building defined. The term "building" as used in RCW 35.42.010 through 35.42.090 shall be construed to mean any building or buildings used as a part of, or in connection with, the operation of a city or town, and shall include the site and appurtenances, including but not limited to, heating facilities, water supply, sewage disposal, landscaping, walks, and drives. [1965 c 7 § 35.42.020. Prior: 1959 c 80 § 2.]

35.42.030 Authority to lease. Any city or town may, as lessee, lease a building for its use for a term of not to exceed fifty years. [1965 c 7 § 35.42.030. Prior: 1959 c 80 § 3.]

35.42.040 Renewals—Option to purchase. A lease of a building executed pursuant to RCW 35.42.010 through 35.42.090 may grant the lessee city or town an option to renew for a further term on like conditions, or an option to purchase the building covered by the lease at any time prior to the expiration of the term. A lease with an option to purchase shall provide that all sums paid as rent up to the time of exercising the option shall be credited toward the payment of the purchase price as of the date of payment. No lease shall provide, nor be construed to provide, that any city or town shall be under any obligation to purchase the leased building. [1965 c 7 § 35.42.040. Prior: 1959 c 80 § 4.]

35.42.050 Provisions to pay taxes, insurance, make repairs, improvements, etc. A lease of a building may provide that as a part of the rental, the lessee city or town may pay taxes and assessments on the leased building, maintain insurance thereon for the benefit of the lessor, and assume responsibilities for repair, replacement, alterations, and improvements during the term of the lease. [1965 c 7 § 35.42.050. Prior: 1959 c 80 § 5.]

35.42.060 Execution of lease prior to construction—Lessor's bond—City not obligated for construction costs. A city or town may, in anticipation of the acquisition of a site and the construction of a building, execute a lease, as lessee, prior to the actual acquisition of a site and the construction of a building, but the lease shall not require payment of rental by the lessee until the building is ready for occupancy. The lessor shall furnish a bond satisfactory to the lessee conditioned on the delivery of possession of the completed building to the lessee city or town at the time prescribed in the lease, unavoidable delay excepted. The lease shall provide that no part of the cost of construction of the building shall ever become an obligation of the lessee city or town. [1965 c 7 § 35.42.060. Prior: 1959 c 80 § 6.]

35.42.070 Lease of city land for building purposes and lease back of building by city. Any city or town desiring to have a building for its use erected on land owned, or to be acquired, by it, may, as lessor, lease the land for a reasonable rental for a term of not to exceed fifty years: *Provided*, That the city or town shall lease back the building or a portion thereof for the same term. The leases shall contain terms as agreed upon between the parties, and shall include the following provisions:

(1) No part of the cost of construction of the building shall ever be or become an obligation of the city or town.

(2) The city or town shall have a prior right to occupy any or all of the building upon payment of rental as

agreed upon by the parties, which rental shall not exceed prevailing rates for comparable space.

(3) During any time that all or any portion of the building is not required for occupancy by the city or town, the lessee of the land may rent the unneeded portion to suitable tenants approved by the city or town.

(4) Upon the expiration of the lease, all buildings and improvements on the land shall become the property of the city or town. [1965 c 7 § 35.42.070. Prior: 1959 c 80 § 7.]

35.42.080 Lease of city land for building purposes and lease back of building by city—Bids. A lease and lease back agreement requiring a lessee to build on city or town property shall be made pursuant to a call for bids upon terms most advantageous to the city or town. The call for bids shall be given by posting notice thereof in a public place in the city or town and by publication in the official newspaper of the city or town once each week for two consecutive weeks before the date fixed for opening the bids. If there is no official newspaper, the notice shall be published in a newspaper of general circulation in the city or town. The city council or commission of the city or town may by resolution reject all bids and make further calls for bids in the same manner as the original call. If no bid is received on the first call, the city council or commission may re-advertise and make a second call, or may execute a lease without any further call for bids. [1965 c 7 § 35.42.080. Prior: 1959 c 80 § 8.]

35.42.090 Leases exempted from certain taxes. All leases executed pursuant to RCW 35.42.010 through 35.42.090 shall be exempt from the tax imposed by chapter 19, Laws of 1951 second extraordinary session, as amended, and chapter 28.45 RCW; section 5, chapter 389, Laws of 1955, and RCW 82.04.040; and section 9, chapter 178, Laws of 1941, and RCW 82.08.090, and by rules and regulations of the tax commission issued pursuant thereto. [1965 c 7 § 35.42.090. Prior: 1959 c 80 § 9.]

LEASES OF REAL OR PERSONAL PROPERTY OR PROPERTY RIGHTS WITH OR WITHOUT OPTION TO PURCHASE—1963 ACT

35.42.200 Leases authorized. Any city or town may execute leases for a period of years with or without an option to purchase with the state or any of its political subdivisions, with the government of the United States, or with any private party for the lease of any real or personal property, or property rights, if the annual rental specified in such lease does not result in a total indebtedness in excess of one and one-half percent of the taxable property of such city or town computed in accordance with RCW 39.36.030: *Provided*, That if the annual rental payment specified in such a proposed lease would result in a total indebtedness in excess of one and one-half percent of the taxable property of such city or town, a proposition in regard to whether or not such a lease may be executed shall be submitted to

the voters for their approval or rejection in the same manner that bond issues for capital purposes are submitted: *Provided further*, That any city or town may execute leases authorized by this act jointly with the state or any of its political subdivisions. [1965 c 7 § 35.42.200. Prior: 1963 c 170 § 1.]

35.42.210 Exercise of option to purchase. If at the time an option to purchase is exercised the remaining amount to be paid in order to purchase the real or personal property leased after crediting the rental payments toward the total purchase price therefor does not result in a total indebtedness in excess of one and one-half percent of the taxable property of such city or town computed in accordance with RCW 39.36.030, such a city or town may exercise its option to purchase such property. If such remaining amount to be paid to purchase such leased property will result in a total indebtedness in excess of one and one-half percent of the taxable property of such city or town, a proposition in regard to whether or not to purchase the property shall be submitted to the voters for approval or rejection in the same manner that bond issues for capital purposes are submitted to the voters. [1965 c 7 § 35.42.210. Prior: 1963 c 170 § 2.]

35.42.220 Budgeting rental payments—Bids—Construction of agreement where rental equals purchase price. The annual budget of a city shall provide for the payment of rental that falls due in the year for which the budget is applicable: *Provided*, That if the cost of the real or personal property to be leased exceeds the amounts specified in RCW 35.23.352 prior to the execution of a lease with option to purchase therefor, the city or town shall call for bids in accordance with RCW 35.23.352: *Provided*, That if at the expiration of a lease with option to purchase a city or town exercises such an option, the fact that the rental payments theretofore made equal the amount of the purchase price of the real or personal property involved in such lease shall not preclude the agreement from being a lease with option to purchase up to the date of the exercising of the option. [1965 c 7 § 35.42.220. Prior: 1963 c 170 § 3.]

Chapter 35.43

LOCAL IMPROVEMENTS—AUTHORITY— INITIATION OF PROCEEDINGS

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35.43.010 Terms defined. Whenever the words "city council" or "town council" are used in this and the following chapters relating to municipal local improvements, they shall be construed to mean the council or other legislative body of such city or town. Whenever the word "mayor" is used therein, it shall be construed to mean the presiding officer of said city or town. Whenever the words "installment" or "installments" are used therein, they shall be construed to include installment or installments of interest. [1965 c 7 § 35.43.010. Prior: 1925 ex.s. c 117 § 2; 1911 c 98 § 68; RRS § 9421.]

35.43.020 Construction. The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this and the following chapters relating to municipal local improvements but the same shall be liberally construed for the purpose of carrying out the objects for which intended. [1965 c 7 § 35.43.020. Prior: 1911 c 98 § 69; RRS § 9422.]

35.43.030 Charters superseded—Application—Ordinances—Districts outside city authorized. This and the following chapters relating to municipal local improvements shall supersede the provisions of the charter of any city of the first class.

They shall apply to all incorporated cities and towns, including unclassified cities and towns operating under special charters.

The council of each city and town shall pass such general ordinance or ordinances as may be necessary to carry out their provisions and thereafter all proceedings relating to local improvements shall be conducted in accordance with this and the following chapters relating to municipal local improvements and the ordinance or ordinances of such city or town.

Cities or towns may form local improvement districts or utility local improvement districts composed entirely or in part of unincorporated territory outside of such city or town's corporate limits in the manner provided in this chapter. [1971 ex.s. c 116 § 4; 1967 c 52 § 2; 1965 c 7 § 35.43.030. Prior: 1963 c 56 § 1; prior: (i) 1911 c 98 § 60; 1899 c 146 § 1; RRS § 9413. (ii) 1911 c 98 § 67; RRS § 9420. (iii) 1911 c 98 § 71; RRS § 9424.]

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

35.43.040 Authority generally. Whenever the public interest or convenience may require, the legislative authority of any city or town may order the whole or any

part of any local improvement including but not restricted to those, or any combination thereof, listed below to be constructed, reconstructed, repaired, or renewed and landscaping including but not restricted to the planting, setting out, cultivating, maintaining, and renewing of shade or ornamental trees and shrubbery thereon; may order any and all work to be done necessary for completion thereof; and may levy and collect special assessments on property specially benefited thereby to pay the whole or any part of the expense thereof, viz:

(1) Alleys, avenues, boulevards, lanes, park drives, parkways, public places, public squares, public streets, their grading, regrading, planking, replanking, paving, repaving, macadamizing, remacadamizing, graveling, regravelling, piling, repiling, capping, recapping, or other improvement; if the management and control of park drives, parkways, and boulevards is vested in a board of park commissioners, the plans and specifications for their improvement must be approved by the board of park commissioners before their adoption;

(2) Auxiliary water systems;

(3) Auditoriums, field houses, gymnasiums, swimming pools, or other recreational or playground facilities or structures;

(4) Bridges, culverts, and trestles and approaches thereto;

(5) Bulkheads and retaining walls;

(6) Dikes and embankments;

(7) Drains, sewers and sewer appurtenances which as to trunk sewers shall include as nearly as possible all the territory which can be drained through the trunk sewer and subsewers connected thereto;

(8) Escalators or moving sidewalks together with the expense of operation and maintenance;

(9) Parks and playgrounds;

(10) Sidewalks, curbing, and crosswalks;

(11) Street lighting systems together with the expense of furnishing electrical energy, maintenance, and operation;

(12) Underground utilities transmission lines;

(13) Water mains, hydrants and appurtenances which as to trunk water mains shall include as nearly as possible all the territory in the zone or district to which water may be distributed from the trunk water mains through lateral service and distribution mains and services;

(14) Fences, culverts, syphons, or coverings or any other feasible safeguards along, in place of, or over open canals or ditches to protect the public from the hazards thereof. [1969 ex.s. c 258 § 1; 1965 c 7 § 35.43-.040. Prior: 1959 c 75 § 1; 1957 c 144 § 2; prior: (i) 1911 c 98 § 1; RRS § 9352. (ii) 1945 c 190 § 1, part; 1915 c 168 § 6, part; 1913 c 131 § 1, part; 1911 c 98 § 6, part; Rem. Supp. 1945 § 9357, part. (iii) 1911 c 98 § 15; RRS § 9367. (iv) 1911 c 98 § 58, part; RRS § 9411, part.]

35.43.042 Authority to establish utility local improvement districts—Procedure. Whenever the legislative authority of any city or town has provided pursuant to law for the acquisition, construction, reconstruction,

purchase, condemnation and purchase, addition to, repair, or renewal of the whole or any portion of a:

(1) System for providing the city or town and the inhabitants thereof with water, which system includes as a whole or as a part thereof water mains, hydrants or appurtenances which are authorized subjects for local improvements under RCW 35.43.040(13) or other law; or a

(2) System for providing the city or town with sewerage and storm or surface water disposal, which system includes as a whole or as a part thereof drains, sewers or sewer appurtenances which are authorized subjects for local improvements under RCW 35.43.040(7) or other law; or

(3) Off-street parking facilities; and

Has further provided in accordance with any applicable provisions of the Constitution or statutory authority for the issuance and sale of revenue bonds to pay the cost of all or a portion of any such system, such legislative authority shall have the authority to establish utility local improvement districts, and to levy special assessments on all property specially benefited by any such local improvement to pay in whole or in part the damages or costs of any local improvements so provided for.

The initiation and formation of such utility local improvement districts and the levying, collection and enforcement of assessments shall be in the manner and subject to the same procedures and limitations as are now or hereafter provided by law for the initiation and formation of local improvement districts in cities and towns and the levying, collection and enforcement of assessments pursuant thereto.

It must be specified in any petition or resolution initiating the formation of such a utility local improvement district in a city or town and in the ordinance ordered pursuant thereto, that the assessments shall be for the sole purpose of payment into such revenue bond fund as may be specified by the legislative authority for the payment of revenue bonds issued to defray the cost of such system or facilities or any portion thereof as provided for in this section.

Assessments in any such utility local improvement district may be made on the basis of special benefits up to but not in excess of the total cost of the local improvements portion of any system or facilities payable by issuance of revenue bonds. No warrants or bonds shall be issued in any such utility local improvement district, but the collection of interest and principal on all assessments in such utility local improvement district, when collected, shall be paid into any such revenue bond fund.

When in the petition or resolution for establishment of a local improvement district and in the ordinance ordered pursuant thereto, it is specified or provided that the assessments shall be for the sole purpose of payment into a revenue bond fund for the payment of revenue bonds, then the local improvement district shall be designated a "utility local improvement district".

The provisions of chapters 35.45, 35.47 and 35.48 RCW shall have no application to utility local improvement districts created under authority of this section. [1969 ex.s. c 258 § 2; 1967 c 52 § 1.]

Construction—1967 c 52: "The authority granted by this 1967 amendatory act shall be considered an alternative and additional method of securing payment of revenue bonds issued for the purposes specified in RCW 35.43.042 and shall not be construed as a restriction or limitation upon any other method for providing for the payment of any such revenue bonds." [1967 c 52 § 27.]

Severability—1967 c 52: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1967 c 52 § 29.]

The foregoing annotations apply to RCW 35.41.095, 35.43.030, 35.43.042, 35.43.043, 35.43.050, 35.43.075, 35.43.080, 35.43.130, 35.43.160, 35.43.180, 35.44.010, 35.44.030, 35.44.140, 35.44.360, 35.49.010, 35.49.060, 35.49.070, 35.49.080, 35.50.020, 35.50.070, 35.50.230, 35.53.010, 35.53.020, 35.53.050, 35.53.070, 35.67.120 and 35.92.100.

35.43.043 Conversion of local improvement district into utility local improvement district. The legislative authority of any city or town may by ordinance convert any then existing local improvement district into a utility local improvement district at any time prior to the adoption of an ordinance approving and confirming the final assessment roll of such local improvement district. The ordinance so converting the local improvement district shall provide for the payment of the special assessments levied in that district into the special fund established or to be established for the payment of revenue bonds issued to defray the cost of the local improvement in that district. [1967 c 52 § 28.]

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

35.43.045 Open canals or ditches—Safeguards. Every city or town shall have the right of entry upon all irrigation, drainage, or flood control canal or ditch rights of way within its limits for all purposes necessary to safeguard the public from the hazards of such open canals or ditches, and the right to cause to be constructed, installed, and maintained upon or adjacent to such rights of way safeguards as provided in RCW 35.43.040: *Provided*, That such safeguards must not unreasonably interfere with maintenance of the canal or ditch or with the operation thereof. The city or town, at its option, notwithstanding any laws to the contrary, may require the irrigation, drainage, flood control, or other district, agency, person, corporation, or association maintaining the canal or ditch to supervise the installation and construction of such safeguards, or to maintain the same. If such option is exercised reimbursement must be made by the city or town for all actual costs thereof. [1965 c 7 § 35.43.045. Prior: 1959 c 75 § 2.]

Safeguarding open canals or ditches, assessments: RCW 35.43.040, 35.44.045, 36.88.015, 36.88.350, 36.88.380–36.88.400, 87.03.480, 87.03.526.

35.43.050 Authority—Noncontinuous improvements. A local improvement district or utility local improvement district may include adjoining, vicinal or neighboring streets, avenues and alleys even though the

improvement thus made is not connected or continuous: *Provided*, That the cost and expense of each continuous unit of the improvement shall be ascertained separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and expense of each unit. In the event of the initiation of a local improvement district authorized by this section or a utility local improvement district authorized by this section, the legislative body may, in its discretion, eliminate from said district any unit of the improvement which is not connected or continuous and may proceed with the balance of the improvement within said local improvement district or utility local improvement district, as fully and completely as though said eliminated unit had not been included within the improvement district, without the giving of any notices to the property owners remaining within the district, other than such notices as are required by the provisions of this chapter to be given subsequent to such elimination. [1967 c 52 § 3; 1965 c 7 § 35.43.050. Prior: 1957 c 144 § 14; prior: 1947 c 155 § 1, part; 1941 c 90 § 1, part; 1915 c 168 § 2, part; 1911 c 98 § 13, part; Rem. Supp. 1947 § 9365, part.]

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

35.43.060 Consolidated cities—Procedure. The city council of any city which is composed of two or more cities or towns which have been or may hereafter be consolidated may make and pass all resolutions, orders and ordinances necessary for any assessment where the improvement was made or was being made by a component city or town prior to consolidation. [1965 c 7 § 35.43.060. Prior: 1911 c 98 § 64; RRS § 9417.]

35.43.070 Ordinance—Action on petition or resolution. A local improvement may be ordered only by an ordinance of the city or town council, pursuant to either a resolution or petition therefor. The ordinance must receive the affirmative vote of at least a majority of the members of the council.

Charters of cities of the first class may prescribe further limitations. In cities and towns other than cities of the first class, the ordinance must receive the affirmative vote of at least two-thirds of the members of the council if, prior to its passage, written objections to its enactment are filed with the city clerk by or on behalf of the owners of a majority of the lineal frontage of the improvement and of the area within the limits of the proposed improvement district. [1965 c 7 § 35.43.070. Prior: (i) 1911 c 98 § 8; RRS § 9359. (ii) 1911 c 98 § 66; RRS § 9419.]

35.43.075 Petition for district outside city may be denied. Whenever the formation of a local improvement district or utility local improvement district which lies entirely or in part outside of a city or town's corporate limits is initiated by petition the legislative authority of the city or town may by a majority vote deny the petition and refuse to form the local improvement district or utility local improvement district. [1967 c 52 § 4; 1965 c 7 § 35.43.075. Prior: 1963 c 56 § 3.]

Construction—1967 c 52: See note following RCW 35.43.042.
Severability—1967 c 52: See note following RCW 35.43.042.

35.43.080 Ordinance—Creation of district. Every ordinance ordering a local improvement to be paid in whole or in part by assessments against the property specially benefited shall describe the improvement and establish a local improvement district to be known as "local improvement district No. _____," or a utility local improvement district to be known as "utility local improvement district No. _____" which shall embrace as nearly as practicable all the property specially benefited by the improvement. [1969 ex.s. c 258 § 3; 1967 c 52 § 5; 1965 c 7 § 35.43.080. Prior: 1957 c 144 § 15; prior: (i) 1947 c 155 § 1, part; 1941 c 90 § 1, part; 1915 c 168 § 2, part; 1911 c 98 § 13, part; Rem. Supp. 1947 § 9365, part. (ii) 1929 c 97 § 2; 1911 c 98 § 14; RRS § 9366.]

Construction—1967 c 52: See note following RCW 35.43.042.
Severability—1967 c 52: See note following RCW 35.43.042.

35.43.100 Ordinance—Finality—Limitation upon challenging jurisdiction or authority to proceed. The council may continue the hearing upon any petition or resolution provided for in this chapter and shall retain jurisdiction thereof until it is finally disposed of. The action and decision of the council as to all matters passed upon by it in relation to any petition or resolution shall be final and conclusive. No lawsuit whatsoever may be maintained challenging the jurisdiction or authority of the council to proceed with the improvement and creating the local improvement district or in any way challenging the validity thereof or any proceedings relating thereto unless that lawsuit is served and filed no later than thirty days after the date of passage of the ordinance ordering the improvement and creating the district or, when applicable, no later than thirty days after the expiration of the thirty-day protest period provided in RCW 35.43.180. [1969 ex.s. c 258 § 4; 1965 c 7 § 35.43.100. Prior: 1911 c 98 § 19; RRS § 9371.]

35.43.110 Petition—Mandatory, when. Proceedings to establish local improvement districts must be initiated by petition in the following cases:

(1) Any local improvement payable in whole or in part by special assessments which includes a charge for the cost and expense of furnishing electrical energy to any system of street lighting or for the cost and expense of operation and maintenance of escalators or moving sidewalks shall be initiated only upon a petition signed by the owners of two-thirds of the lineal frontage upon the improvement to be made and two-thirds of the area within the limits of the proposed improvement district;

(2) If the management of park drives, parkways, and boulevards of a city has been vested in a board of park commissioners or similar authority: *Provided*, That the proceedings may be initiated by a resolution, if the ordinance is passed at the request of the park board or similar authority therefor specifying the particular drives, parkways, or boulevards or portions thereof to

be improved and the nature of the improvement. [1965 c 7 § 35.43.110. Prior: 1957 c 144 § 3; prior: (i) 1911 c 98 § 58, part; RRS § 9411, part. (ii) 1945 c 190 § 1, part; 1915 c 168 § 6, part; 1913 c 131 § 1, part; 1911 c 98 § 6, part; Rem. Supp. 1945 § 9357, part.]

35.43.120 Petition—Requirements. Any local improvement may be initiated upon a petition signed by the owners of property aggregating a majority (1) of the lineal frontage upon the improvement and (2) of the area within the proposed district. The petition must set forth the nature and territorial extent of the proposed improvement, the mode of payment, and what proportion of the lineal frontage upon the improvement and of the area within the proposed district is owned by the petitioners as shown by the records in the office of the county auditor.

If any of the property within the area of the proposed district stands in the name of a deceased person, or of any person for whom a guardian has been appointed and not discharged, the signature of the executor, administrator, or guardian, as the case may be, shall be equivalent to the signature of the owner of the property on the petition. The petition must be filed with the clerk or with such other officer as the city or town by charter or ordinance may require. [1969 ex.s. c 258 § 5; 1965 c 7 § 35.43.120. Prior: 1957 c 144 § 6; prior: 1911 c 98 § 9, part; RRS § 9360, part.]

35.43.130 Preliminary estimates and assessment roll. Upon the filing of a petition or upon the adoption of a resolution, as the case may be, initiating a proceeding for the formation of a local improvement district or utility local improvement district, the proper board, officer, or authority designated by charter or ordinance to make the preliminary estimates and assessment roll shall cause an estimate to be made of the cost and expense of the proposed improvement and certify it to the legislative authority of the city or town together with all papers and information in its possession touching the proposed improvement, a description of the boundaries of the district, a statement of what portion of the cost and expense of the improvement should be borne by the property within the proposed district, a statement in detail of the local improvement assessments outstanding and unpaid against the property in the proposed district, and a statement of the aggregate actual valuation of the real estate including twenty-five percent of the actual valuation of the improvements in the proposed district according to the valuation last placed upon it for the purposes of general taxation.

If the proceedings were initiated by petition the designated board, officer or authority shall also determine the sufficiency of the petition and whether the facts set forth therein are true. If the petition is found to be sufficient and in all proceedings initiated by resolution of the legislative authority of the city or town, the estimates must be accompanied by a diagram showing thereon the lots, tracts, and parcels of land and other property which will be specially benefited by the proposed improvement and the estimated amount of the cost and expense thereof to be borne by each lot, tract,

or parcel of land or other property: *Provided*, That no such diagram shall be required where such estimates are on file in the office of the city engineer, or other designated city office, together with a detailed copy of the preliminary assessment roll and the plans and assessment maps of the proposed improvement.

For the purpose of estimating and levying local improvement assessments, the value of property of the United States, of the state, or of any county, city, town, school district, or other public corporation whose property is not assessed for general taxes shall be computed according to the standards afforded by similarly situated property which is assessed for general taxes. [1967 c 52 § 6; 1965 c 7 § 35.43.130. Prior: 1957 c 144 § 7; prior: 1953 c 26 § 1. (i) 1911 c 98 § 9, part; RRS § 9360, part. (ii) 1929 c 97 § 1, part; 1911 c 98 § 10, part; RRS § 9361, part. (iii) 1949 c 28 § 1, part; 1931 c 85 § 1, part; 1927 c 109 § 1, part; 1923 c 135 § 1, part; 1921 c 128 § 1, part; 1915 c 168 § 1, part; 1911 c 98 § 12, part; Rem. Supp. 1949 § 9363, part. (iv) 1927 c 209 § 4, part; 1923 c 141 § 4, part; RRS § 9351-4, part.]

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

35.43.140 Resolutions—Contents, publication—Hearing, by whom held. Any local improvement to be paid for in whole or in part by the levy and collection of assessments upon the property within the proposed improvement district may be initiated by a resolution of the city council or other legislative authority of the city, declaring its intention to order the improvement, setting forth the nature and territorial extent of the improvement and notifying all persons who may desire to object thereto to appear and present their objections at a time to be fixed therein.

In the case of trunk sewers and trunk water mains the resolution must describe the routes along which the trunk sewer, subsewer and branches of trunk water main and laterals are to be constructed.

In case of dikes or other structures to protect the city or town or any part thereof from overflow or to open, deepen, straighten, or enlarge watercourses, waterways and other channels the resolution must set forth the place of commencement and ending thereof and the route to be used.

In the case of auxiliary water systems, or extensions thereof or additions thereto for protection of the city or town or any part thereof from fire, the resolution must set forth the routes along which the auxiliary water system or extensions thereof or additions thereto are to be constructed and specifications of the structures or works necessary thereto or forming a part thereof.

The resolution shall be published in at least two consecutive issues of the official newspaper of the city or town, or if there is no official newspaper, in any legal newspaper of general circulation therein; the first publication to be at least fifteen days before the day fixed for the hearing.

The hearing herein required may be held before the city council, or other legislative authority, or before a committee thereof. If the hearing is before a committee,

the committee shall following the hearing report its recommendation on the resolution to the city council or other legislative authority for final action. [1965 c 7 § 35.43.140. Prior: 1957 c 144 § 8; prior: 1953 c 177 § 1. (i) 1929 c 97 § 1, part; 1911 c 98 § 10, part; RRS § 9361, part. (ii) 1911 c 98 § 16, part; RRS § 9368, part. (iii) 1911 c 98 § 17, part; RRS § 9369, part. (iv) 1911 c 98 § 18, part; RRS § 9370, part.]

35.43.150 Resolutions—Hearing upon—Notice. Notice of the hearing upon a resolution declaring the intention of the legislative authority of a city or town to order an improvement shall be given by mail at least fifteen days before the day fixed for hearing to the owners or reputed owners of all lots, tracts, and parcels of land or other property to be specially benefited by the proposed improvement, as shown on the rolls of the county treasurer, directed to the address thereon shown.

The notice shall set forth the nature of the proposed improvement, the estimated cost, and the estimated benefits of the particular lot, tract, or parcel. [1965 c 7 § 35.43.150. Prior: 1957 c 144 § 9; prior: 1929 c 97 § 1, part; 1911 c 98 § 10, part; RRS § 9361, part.]

35.43.180 Restraint by protest. The jurisdiction of the legislative authority of a city or town to proceed with any local improvement initiated by resolution shall be divested by a protest filed with the city or town council within thirty days from the date of passage of the ordinance ordering the improvement, signed by the owners of the property within the proposed local improvement district or utility local improvement district subject to sixty percent or more of the total cost of the improvement including federally-owned or other non-assessable property as shown and determined by the preliminary estimates and assessment roll of the proposed improvement district or, if all or part of the local improvement district or utility local improvement district lies outside of the city or town, such jurisdiction shall be divested by a protest filed in the same manner and signed by the owners of property which is within the proposed local improvement district or utility local improvement district but outside the boundaries of the city or town, and which is subject to sixty percent or more of that part of the total cost of the improvement allocable to property within the proposed local improvement district or utility local improvement district but outside the boundaries of the city or town, including federally-owned or other nonassessable property: *Provided*, That such restraint by protest shall not apply to any local improvement by sanitary sewers or watermains and fire hydrants where the health officer of any city or town shall file with the legislative authority thereof a report showing the necessity for such improvement accompanied by a report of the chief of the fire department in the event such improvement includes fire hydrants, and such legislative body finds and recites in the ordinance or resolution authorizing the improvement that such improvement is necessary for the protection of the public health and safety and such ordinance or resolution is passed by unanimous vote of all members present. [1967 c 52 § 8; 1965 c 58 § 2; 1965

c 7 § 35.43.180. Prior: 1963 c 56 § 2; 1957 c 144 § 12; prior: 1949 c 28 § 1, part; 1931 c 85 § 1, part; 1927 c 109 § 1, part; 1923 c 135 § 1, part; 1921 c 128 § 1, part; 1915 c 168 § 1, part; 1911 c 98 § 12, part; Rem. Supp. 1949 § 9363, part.]

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

35.43.190 Work—By contract or by city. All local improvements, the funds for the making of which are derived in whole or in part from assessments upon property specially benefited shall be made by contract on competitive bids whenever the estimated cost of such improvement including the cost of materials, supplies, labor, and equipment will exceed the sum of five thousand dollars. The city or town may reject any and all bids. The city or town itself may make the local improvements if all the bids received exceed by ten percent preliminary cost estimates prepared by an independent consulting engineer or registered professional engineer retained for that purpose by the city or town. [1971 ex.s. c 116 § 6; 1965 c 7 § 35.43.190. Prior: 1911 c 98 § 59; RRS § 9412.]

35.43.200 Street railways at expense of property benefited. Any city or town in this state owning and operating a municipal street railway over one hundred miles of track shall have power to provide for purchasing, or otherwise acquiring, or constructing and equipping surface, subway and elevated street railways and extensions thereof, and to levy and collect special assessments on property specially benefited thereby, for paying the cost and expense of the same or any portion thereof, as hereinafter provided. [1965 c 7 § 35.43.200. Prior: 1923 c 176 § 1; RRS § 9425-1.]

35.43.210 Street railways at expense of property benefited—Petition—Assessment district. Any improvement district created under RCW 35.43.200-35.43.230 shall be created only by ordinance defining its boundaries as specified and described in the petition therefor and specifying the plan or system therein provided for; and shall be initiated only upon a petition therefor, specifying and describing the boundaries of such district and specifying the plan or system of proposed improvement, signed by the owners of at least sixty percent of the lineal frontage upon the proposed improvement and of at least fifty percent of the area within the limits of the proposed improvement district: *Provided*, That the city council may in its discretion reject any such petition. [1965 c 7 § 35.43.210. Prior: 1923 c 176 § 2; RRS § 9425-2.]

35.43.220 Street railways at expense of property benefited—Assessment of cost. The cost and expense of any such improvement shall be distributed and assessed against all the property included in such local improvement district, in accordance with the special benefits conferred thereon. [1965 c 7 § 35.43.220. Prior: 1923 c 176 § 3; RRS § 9425-3.]

35.43.230 Street railways at expense of property benefited—Procedure. Except as herein otherwise provided all matters and proceedings relating to such local improvement district, the levying and collecting of assessments, the issuance and redemption of local improvement warrants and bonds, and the enforcement of local assessment liens hereunder shall be governed by the laws relating to local improvements; and all matters and proceedings relating to the purchase, acquisition, or construction and equipment of the improvement and the operation of the same hereunder and the issuance and redemption of utility bonds and warrants, if any, and the use of general or utility funds, if any, in connection with the purchase, acquisition, construction, equipping, or operation of the improvement shall be governed by the laws relating to municipal public utilities. [1965 c 7 § 35.43.230. Prior: 1923 c 176 § 4; RRS § 9425-4.]

35.43.250 Deferral of collection of assessments for economically disadvantaged persons—Authorized. Any city of the first class in this state ordering any local improvement upon which shall be levied and collected special assessments on property specifically benefited thereby may provide as part of the ordinance creating any local improvement district that the collection of any assessment levied therefor may be deferred until a time previous to the dissolution of the district for those economically disadvantaged property owners or other persons who, under the terms of a recorded contract of purchase, recorded mortgage, recorded deed of trust transaction or recorded lease are responsible under penalty of forfeiture, foreclosure or default as between vendor/vendee, mortgagor/mortgagee, grantor and trustor/trustee and grantee, and beneficiary and lender, or lessor and lessee for the payment of local improvement district assessments, and in the manner specified in the ordinance qualify for such deferment, upon assurance of property security for the payment thereof. [1972 ex.s. c 137 § 2.]

Severability—1972 ex.s. c 137: See note following RCW 35.49.010.

Chapter 35.44

LOCAL IMPROVEMENTS—ASSESSMENTS AND REASSESSMENTS

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35.44.010 Assessment district—All property to be assessed—Basis. All property included within the limits of a local improvement district or utility local improvement district shall be considered to be the property specially benefited by the local improvement and shall be the property to be assessed to pay the cost and expense thereof or such part thereof as may be chargeable against the property specially benefited. The cost and expense shall be assessed upon all the property in accordance with the special benefits conferred thereon in proportion to area and distance back from the marginal line of the public way or area improved. [1967 c 52 § 9; 1965 c 7 § 35.44.010. Prior: 1957 c 144 § 16; prior: 1947 c 155 § 1, part; 1941 c 90 § 1, part; 1915 c 168 § 2, part; 1911 c 98 § 13, part; Rem. Supp. 1947 § 9365, part.]

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

35.44.020 Assessment district—Cost items to be included. There shall be included in the cost and expense of every local improvement for assessment against the property in the district created to pay the same, or any part thereof:

(1) The cost of all of the construction or improvement authorized for the district including, but not limited to, that portion of the improvement within the street intersections;

(2) The estimated cost and expense of all engineering and surveying necessary for the improvement done under the supervision of the city or town engineer;

(3) The estimated cost and expense of ascertaining the ownership of the lots or parcels of land included in the assessment district;

(4) The estimated cost and expense of advertising, mailing, and publishing all necessary notices;

(5) The estimated cost and expense of accounting, clerical labor, and of books and blanks extended or used on the part of the city or town clerk and city or town treasurer in connection with the improvement;

(6) All cost of the acquisition of rights of way, property, easements or other facilities or rights, whether by eminent domain, purchase, gift, or in any other manner: *Provided*, That any of the costs enumerated in this section may be excluded from the cost and expense to be assessed against the property in such local improvement district if the legislative body of such city or town so designates by ordinance at any time and may be paid from any other moneys available therefor.

(7) The cost for legal, financial, and appraisal services and any other expenses incurred by the city or town for the district or in the formation thereof, or by the city or town in connection with such construction or improvement and in the financing thereof, including the issuance of any bonds. [1971 ex.s. c 116 § 8; 1969 ex.s. c 258 § 6; 1965 c 7 § 35.44.020. Prior: 1955 c 364 § 1; 1911 c 98 § 55; RRS § 9408.]

35.44.030 Assessment district—Zones. For the purpose of ascertaining the amount to be assessed against each separate lot, tract, parcel of land or other property therein, the local improvement district or utility local improvement district shall be divided into subdivisions or zones paralleling the margin of the street, avenue, lane, alley, boulevard, park drive, parkway, public place or public square to be improved, numbered respectively first, second, third, fourth, and fifth.

The first subdivision shall include all lands within the district lying between the street margins and lines drawn parallel therewith and thirty feet therefrom.

The second subdivision shall include all lands within the district lying between lines drawn parallel with and thirty and sixty feet respectively from the street margins.

The third subdivision shall include all lands within the district lying between lines drawn parallel with and sixty and ninety feet respectively from the street margins.

The fourth subdivision shall include all lands, if any, within the district lying between lines drawn parallel with and ninety and one hundred twenty feet respectively from the street margins.

The fifth subdivision shall include all lands, if any, within the district lying between a line drawn parallel with and one hundred twenty feet from the street margin and the outer limit of the improvement district. [1967 c 52 § 10; 1965 c 7 § 35.44.030. Prior: 1957 c 144 § 17; prior: 1947 c 155 § 1, part; 1941 c 90 § 1, part; 1915 c 168 § 2, part; 1911 c 98 § 13, part; Rem. Supp. 1947 § 9365, part.]

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

35.44.040 Assessment rate per square foot. The rate of assessment per square foot in each subdivision of an improvement district shall be fixed on the basis that the special benefits conferred on a square foot of land in subdivisions first, second, third, fourth and fifth, respectively, are related to each other as are the numbers, forty-five, twenty-five, twenty, ten, and five, respectively, and shall be ascertained in the following manner:

(1) The products of the number of square feet in subdivisions first, second, third, fourth, and fifth, respectively, and the numbers forty-five, twenty-five, twenty, ten, and five, respectively, shall be ascertained;

(2) The aggregate sum thereof shall be divided into the total cost and expense of the improvement;

(3) The resultant quotient multiplied by forty-five, twenty-five, twenty, ten, and five, respectively, shall be the respective rate of assessment per square foot for subdivisions first, second, third, fourth and fifth: *Provided*, That in lieu of the above formula the rate of assessment per square foot in each subdivision of an improvement district may be fixed on the basis that the special benefits conferred on a square foot of land in subdivisions first, second, third, fourth and fifth, respectively, are related to each other as are the numbers 0.015000, 0.008333, 0.006666, 0.003333, and 0.001666, respectively; and the method of determining the assessment on each lot, tract, or parcel of land in the improvement district may be ascertained in the following manner:

(1) The products of the number of square feet in subdivisions first, second, third, fourth and fifth, respectively, for each lot, tract or parcel of land in the improvement district and the numbers 0.015000, 0.008333, 0.006666, 0.003333 and 0.001666, respectively, shall be ascertained. The sum of all such products for each such lot, tract or parcel of land shall be the number of "assessable units of frontage" therein;

(2) The rate for each assessable unit of frontage shall be determined by dividing that portion of the total cost of the improvement representing special benefits by the aggregate sum of all assessable units of frontage;

(3) The assessment for each lot, tract or parcel of land in the improvement district shall be the product of the assessable units of frontage therefor, multiplied by the rate per assessable unit of frontage. [1965 c 7 § 35.44.040. Prior: 1957 c 144 § 18; prior: 1947 c 155 § 1, part; 1941 c 90 § 1, part; 1915 c 168 § 2, part; 1911 c 98 § 13, part; Rem. Supp. 1947 § 9365, part.]

35.44.045 Open canals or ditches—Safeguards—Ascertaining assessments. As an alternative to other methods of ascertaining assessments for local improvements, in a local improvement district established for safeguarding open canals or ditches, the district may be sectioned into subdivisions or zones paralleling the canal or ditch, numbered respectively, first, second, third and fourth. Each subdivision shall be equal to one-quarter of the width of the district as measured back from the margin of the canal right of way. The

rate of assessment per square foot in each subdivision so formed shall be fixed on the basis that the special benefits conferred on a square foot of land in subdivisions first, second, third, and fourth, respectively, are related to each other as are the numbers, forty, thirty, twenty, and ten, respectively, and shall be ascertained in the following manner:

(1) The products of the number of square feet in subdivisions first, second, third, and fourth, respectively, and the numbers forty, thirty, twenty, and ten, respectively, shall be ascertained;

(2) The aggregate sum thereof shall be divided into the total cost and expense of the local improvement;

(3) The resultant quotient multiplied by forty, thirty, twenty, and ten, respectively, shall be the respective rate of assessment per square foot for each subdivision. [1965 c 7 § 35.44.045. Prior: 1959 c 75 § 3.]

Safeguarding open canals or ditches, assessments: RCW 35.43.040, 35.43.045, 36.88.015, 36.88.350, 36.88.380, 36.88.400, 87.03.480, 87.03.526.

35.44.047 Other methods of computing assessments may be used. Notwithstanding the methods of assessment provided in RCW 35.44.030, 35.44.040 and 35.44.045, the city or town may use any other method or combination of methods to compute assessments which may be deemed to more fairly reflect the special benefits to the properties being assessed. The failure of the council to specifically recite in its ordinance ordering the improvement and creating the local improvement district that it will not use the zone and termini method of assessment shall not invalidate the use of any other method or methods of assessment. [1969 ex.s. c 258 § 7.]

35.44.050 Assessment roll—Entry of assessments against property. The total assessment thus ascertained against each separate lot, tract, parcel of land, or other property in the district shall be entered upon the assessment roll as the amount to be levied and assessed against each separate lot, tract, parcel of land, or other property. [1965 c 7 § 35.44.050. Prior: 1957 c 144 § 19; prior: 1947 c 155 § 1, part; 1941 c 90 § 1, part; 1915 c 168 § 2, part; 1911 c 98 § 13, part; Rem. Supp. 1947 § 9365, part.]

35.44.060 Assessment roll—Diagram on preliminary survey not conclusive. The diagram or print directed to be submitted to the council shall be in the nature of a preliminary determination by the designated administrative board, officer, or authority upon the method and relative estimated amounts of assessments to be levied upon the property specially benefited by the improvement and shall not be binding or conclusive in any way upon the board, officer, or authority in the preparation of the assessment roll for the improvement or upon the council in any hearing affecting the assessment roll. [1965 c 7 § 35.44.060. Prior: 1911 c 98 § 11; RRS § 9362.]

35.44.070 Assessment roll—Filing—Hearing, date, by whom held. The assessment roll for local improvements when prepared as provided by law shall be

filed with the city or town clerk. The council or other legislative authority shall thereupon fix a date for a hearing thereon before such legislative authority or may direct that the hearing shall be held before a committee thereof. The committee designated shall hold a hearing on the assessment roll and consider all objections filed following which it shall report its recommendations to such legislative authority which shall either adopt or reject the recommendations of the committee. If a hearing is held before such a committee it shall not be necessary to hold a hearing on the assessment roll before such legislative authority. The same procedure may if so directed by such legislative authority be followed with respect to any assessment upon the roll which is raised or changed to include omitted property. Such legislative authority shall direct the clerk to give notice of the hearing and of the time and place thereof. [1965 c 7 § 35.44.070. Prior: 1953 c 177 § 2; 1929 c 97 § 3, part; 1911 c 98 § 21, part; RRS § 9373, part.]

35.44.080 Assessment roll—Notice of hearing. The notice of hearing upon the assessment roll shall specify the time and place of hearing and shall notify all persons who may desire to object thereto:

(1) To make their objections in writing and to file them with the city or town clerk at or prior to the date fixed for the hearing;

(2) That at the time and place fixed and at times to which the hearing may be adjourned, the council will sit as a board of equalization for the purpose of considering the roll; and

(3) That at the hearing the council will consider the objections made and will correct, revise, raise, lower, change, or modify the roll or any part thereof or set aside the roll and order the assessment to be made de novo, and at the conclusion thereof confirm the roll by ordinance. [1965 c 7 § 35.44.080. Prior: 1929 c 97 § 3, part; 1911 c 98 § 21, part; RRS § 9373, part.]

35.44.090 Assessment roll—Notice—Mailing—Publication. At least fifteen days before the date fixed for hearing, notice thereof shall be mailed to the owner or reputed owner of the property whose name appears on the assessment roll, at the address shown on the tax rolls of the county treasurer for each item of property described on the list. In addition thereto the notice shall be published at least five times in a daily newspaper or at least two times in a weekly newspaper, the last publication to be at least fifteen days before the date fixed for hearing.

If the city or town has an official newspaper, the notice must be published therein; otherwise it may be published in any legal newspaper of general circulation in the city or town. [1965 c 7 § 35.44.090. Prior: 1929 c 97 § 3, part; 1911 c 98 § 21, part; RRS § 9373, part.]

35.44.100 Assessment roll—Hearing—Objections—Authority of council. At the time fixed for hearing objections to the confirmation of the assessment roll, and at the times to which the hearing may be adjourned, the council may correct, revise, raise, lower, change, or modify the roll or any part thereof, or set

aside the roll and order the assessment to be made de novo and at the conclusion thereof confirm the roll by ordinance. [1965 c 7 § 35.44.100. Prior: 1929 c 97 § 3, part; 1911 c 98 § 21, part; RRS § 9373, part.]

35.44.110 Assessment roll—Objections—Timeliness. All objections to the confirmation of the assessment roll shall state clearly the grounds of objections. Objections not made within the time and in the manner prescribed in this chapter shall be conclusively presumed to have been waived. [1965 c 7 § 35.44.110. Prior: 1929 c 97 § 3, part; 1911 c 98 § 21, part; RRS § 9373, part.]

35.44.120 Assessment roll—Amendment—Procedure. If an assessment roll is amended so as to raise any assessment appearing thereon or to include omitted property, a new time and place for hearing shall be fixed and a new notice of hearing on the roll given as in the case of an original hearing: *Provided*, That as to any property originally entered upon the roll the assessment upon which has not been raised, no objections to confirmation of the assessment roll shall be considered by the council or by any court on appeal unless the objections were made in writing at or prior to the date fixed for the original hearing upon the assessment roll. [1965 c 7 § 35.44.120. Prior: 1929 c 97 § 3, part; 1911 c 98 § 21, part; RRS § 9373, part.]

35.44.130 City property—Assessment. Every city and town shall include in its annual tax levy an amount sufficient to pay all unpaid assessments with all interest, penalties, and charges thereon levied against all lands belonging to the city or town. The proceeds of such a portion of the tax levy shall be placed in a separate fund to be known as the "city (or town) property assessments redemption fund" and by the city or town treasurer inviolably applied in payment of any unpaid assessment liens on any lands belonging to the city or town. [1965 c 7 § 35.44.130. Prior: (i) 1929 c 183 § 1; 1909 c 130 § 1; RRS § 9344. (ii) 1929 c 183 § 2, part; 1909 c 130 § 2, part; RRS § 9345, part.]

35.44.140 County property assessment. All lands held or owned by any county in fee simple, in trust, or otherwise within the limits of a local improvement district or utility local improvement district of a city or town shall be assessed and charged for their proportion of the cost of the local improvement in the same manner as other property in the district and the county commissioners are authorized to cause the assessments to be paid at the times and in the manner provided by law and the ordinances of the city or town. This section shall apply to all cities and towns, any charter or ordinance provision to the contrary notwithstanding. [1971 ex.s. c 116 § 9; 1967 c 52 § 11; 1965 c 7 § 35.44.140. Prior: (i) 1905 c 29 § 1; RRS § 9340. (ii) 1907 c 61 § 1; 1905 c 29 § 2; RRS § 9341. (iii) 1929 c 139 § 2; 1905 c 29 § 4; RRS § 9343.]

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

35.44.150 Harbor area leaseholds—Assessment. All leasehold rights and interests of private individuals, firms or corporations in or to harbor areas located within the limits of a city or town are declared to be real property for the purpose of assessment for the payment of the cost of local improvements. They may be assessed and reassessed in accordance with the special benefits received, which shall be limited to benefits accruing during the term of the lease, to the property subject to lease immediately abutting upon the improvement and extending one-half block therefrom not exceeding, however, three hundred fifty feet. [1965 c 7 § 35.44.150. Prior: 1915 c 134 § 1; RRS § 9364.]

35.44.160 Leases on tidelands—Assessment. All leases of tidelands owned in fee by the state are declared to be real property for the purpose of assessment for the payment of the cost of local improvements. [1965 c 7 § 35.44.160. Prior: 1911 c 98 § 56; RRS § 9409.]

35.44.170 Metropolitan park district property—Assessment. All lands held by a metropolitan park district in fee simple, in trust, or otherwise within the limits of a local improvement district in a city or town shall be assessed and charged for their proportion of the cost of all local improvements in the same manner as other property in the district. [1965 c 7 § 35.44.170. Prior: (i) 1929 c 204 § 1; RRS § 9343-1. (ii) 1929 c 204 § 2; RRS § 9343-2.]

35.44.180 Notices—Mailing—Proof. The mailing of any notice required in connection with municipal local improvements shall be conclusively proved by the written certificate of the officer, board, or authority directed by the provisions of the charter or ordinance of a city or town to give the notice. [1965 c 7 § 35.44.180. Prior: 1929 c 97 § 4; RRS § 9373-1.]

35.44.190 Proceedings conclusive—Exceptions. Whenever any assessment roll for local improvements has been confirmed by the council, the regularity, validity, and correctness of the proceedings relating to the improvement and to the assessment therefor, including the action of the council upon the assessment roll and the confirmation thereof shall be conclusive in all things upon all parties. They cannot in any manner be contested or questioned in any proceeding by any person unless he filed written objections to the assessment roll in the manner and within the time required by the provisions of this chapter and unless he prosecutes his appeal in the manner and within the time required by the provisions of this chapter.

No proceeding of any kind shall be commenced or prosecuted for the purpose of defeating or contesting any assessment or the sale of any property to pay an assessment or any certificate of delinquency issued therefor, or the foreclosure of any lien therefor, except that injunction proceedings may be brought to prevent the sale of any real estate upon the ground (1) that the property about to be sold does not appear upon the assessment roll or, (2) that the assessment has been paid.

[1965 c 7 § 35.44.190. Prior: 1911 c 98 § 23; RRS § 9375.]

35.44.200 Procedure on appeal—Perfecting appeal. The decision of the council or other legislative body, upon any objections made in the manner and within the time herein prescribed, shall be final and conclusive, subject however to review by the superior court upon appeal. The appeal shall be made by filing written notice of appeal with the city or town clerk and with the clerk of the superior court of the county in which the city or town is situated. [1965 c 7 § 35.44.200. Prior: 1957 c 143 § 2; prior: 1911 c 98 § 22, part; RRS § 9374, part.]

35.44.210 Procedure on appeal—Notice of appeal. The notice of appeal must be filed within ten days after the ordinance confirming the assessment roll becomes effective and shall describe the property and set forth the objections of the appellant to the assessment. [1965 c 7 § 35.44.210. Prior: 1957 c 143 § 3; prior: 1911 c 98 § 22, part; RRS § 9374, part.]

35.44.220 Procedure on appeal—Bond. At the time of filing the notice of appeal with the clerk of the superior court, the appellant shall execute and file with him a sufficient bond in the penal sum of two hundred dollars, with at least two sureties to be approved by the judge of the court, conditioned to prosecute the appeal without delay and, if unsuccessful, to pay all reasonable costs and expenses which the city or town incurs by reason of the appeal. Upon application therefor, the court may order the appellant to execute and file such additional bonds as the necessity of the case may require. [1971 ex.s. c 116 § 3; 1969 ex.s. c 258 § 8; 1965 c 7 § 35.44.220. Prior: 1957 c 143 § 4; prior: 1911 c 98 § 22, part; RRS § 9374, part.]

35.44.230 Procedure on appeal—Transcript. Within ten days from the filing of the notice of appeal, the appellant shall file with the clerk of the superior court a transcript consisting of the assessment roll and his objections thereto, together with the ordinance confirming the assessment roll and the record of the council with reference to the assessment. This transcript, upon payment of the necessary fees therefor, shall be furnished by the city or town clerk and shall be certified by him to contain full, true and correct copies of all matters and proceedings required to be included in the transcript. The fees payable therefor shall be the same as those payable to the clerk of the superior court for the preparation and certification of transcripts on appeal to the supreme court or the court of appeals in civil actions. [1971 c 81 § 90; 1965 c 7 § 35.44.230. Prior: 1957 c 143 § 5; prior: 1911 c 98 § 22, part; RRS § 9374, part.]

35.44.240 Procedure on appeal—Notice of hearing. Within three days after the filing of the transcript with the clerk of the superior court, the appellant shall give notice to the head of the legal department of the city or town and to its clerk that the transcript has been filed.

The notice shall also state a time (not less than three days from the date of service thereof) when the appellant will call up the cause for hearing. [1965 c 7 § 35.44.240. Prior: 1957 c 143 § 6; prior: 1911 c 98 § 22, part; RRS § 9374, part.]

35.44.250 Procedure on appeal—Hearing by superior court. At the time fixed for hearing in the notice thereof or at such further time as may be fixed by the court, the superior court shall hear and determine the appeal without a jury and the cause shall have preference over all other civil causes except proceedings relating to eminent domain in cities and towns and actions of forcible entry and detainer. The judgment of the court shall confirm, unless the court shall find from the evidence that such assessment is founded upon a fundamentally wrong basis and/or the decision of the council or other legislative body thereon was arbitrary or capricious; in which event the judgment of the court shall correct, change, modify, or annul the assessment insofar as it affects the property of the appellant. [1969 ex.s. c 258 § 9; 1965 c 7 § 35.44.250. Prior: 1957 c 143 § 7; prior: 1911 c 98 § 22, part; RRS § 9374, part.]

35.44.260 Procedure on appeal—Appeal to supreme court or court of appeals. An appeal shall lie to the supreme court or the court of appeals from the judgment of the superior court as in other cases if taken within fifteen days after the date of the entry of the judgment in the superior court. The record and the opening brief of the appellant must be filed in the supreme court or the court of appeals within sixty days after the filing of the notice of appeal: *Provided*, That the time for filing the record and the serving and filing of briefs may be extended by order of the superior court or by stipulation of the parties concerned. [1971 c 81 § 91; 1965 c 7 § 35.44.260. Prior: 1957 c 143 § 8; prior: 1911 c 98 § 22, part; RRS § 9374, part.]

35.44.270 Procedure on appeal—Certified copy of decision or order. A certified copy of the decision of the superior court pertaining to assessments for local improvements shall be filed with the officer having custody of the assessment roll and he shall modify and correct the assessment roll in accordance with the decision. In case of appeal to the supreme court or the court of appeals, a certified copy of its order shall be filed with the officer having custody of the assessment roll and he shall thereupon modify and correct the assessment roll in accordance with the order. [1971 c 81 § 92; 1965 c 7 § 35.44.270. Prior: 1957 c 143 § 9; prior: 1911 c 98 § 22, part; RRS § 9374, part.]

35.44.280 Reassessments—When authorized. In all cases of special assessments for local improvements wherein the assessments are not valid in whole or in part for want of form, or insufficiency, informality, irregularity, or nonconformance with the provisions of law, charter, or ordinance, the city or town council may reassess the assessments and enforce their collection in accordance with the provisions of law and ordinance existing at the time the reassessment is made. This shall

apply not only to an original assessment but also to any reassessment, to any assessment upon omitted property and to any supplemental assessment which is declared void and its enforcement refused by any court or which for any cause has been set aside, annulled or declared void by any court either directly or by virtue of any decision thereof. [1965 c 7 § 35.44.280. Prior: 1911 c 98 § 42, part; 1893 c 96 § 3; RRS § 9395, part.]

35.44.290 Reassessments—Basis—Property included. Every reassessment shall be made upon the property which has been or will be specially benefited by the local improvement and may be made upon property whether or not it abuts upon, is adjacent to, or proximate to the improvement or was included in the original assessment district.

Property not included in the original improvement district when so assessed shall become a part of the improvement district and all payments of assessments shall be paid into and become part of the local improvement fund to pay for the improvement.

Property in the original local improvement district which is excluded in reassessment need not be entered upon the assessment roll.

Every reassessment must be based upon the actual cost of the improvement at the time of its completion. [1965 c 7 § 35.44.290. Prior: (i) 1911 c 98 § 42, part; 1893 c 96 § 3, part; RRS § 9395, part. (ii) 1911 c 98 § 43, part; 1909 c 71 § 1, part; 1893 c 95 § 2, part; RRS § 9396, part.]

35.44.300 Reassessments—Irregularities not fatal. The fact that the contract has been let or that the improvement has been made and completed in whole or in part shall not prevent the reassessment from being made, nor shall the omission or neglect of any office or officers to comply with the law, the charter, or ordinances governing the city or town as to petition, notice, resolution to improve, estimate, survey, diagram, manner of letting contract, or execution of work or any other matter connected with the improvement and the first assessment thereof operate to invalidate or in any way affect the making of a reassessment. [1965 c 7 § 35.44.300. Prior: 1911 c 98 § 43, part; 1909 c 71 § 1, part; 1893 c 95 § 2, part; RRS § 9396, part.]

35.44.310 Reassessments—Amount thereof. The reassessment shall be for an amount which shall not exceed the actual cost and expense of the improvement, together with the accrued interest thereon, it being the true intent and meaning of the statutes relating to local improvements to make the cost and expense of local improvements payable by the property specially benefited thereby, notwithstanding the proceedings of the council, board of public works or other board, officer, or authority may be found to be irregular or defective, whether jurisdictional or otherwise. [1965 c 7 § 35.44.310. Prior: 1911 c 98 § 43, part; 1909 c 71 § 1, part; 1893 c 95 § 2, part; RRS § 9396, part.]

35.44.320 Reassessments—Credit for prior payments. In case of reassessment, all sums paid on the former attempted assessments shall be credited to the property on account of which they were paid. [1965 c 7 § 35.44.320. Prior: 1911 c 98 § 43, part; 1909 c 71 § 1, part; 1893 c 95 § 2, part; RRS § 9396, part.]

35.44.330 Reassessments—Payment. In case of reassessment after the certification of the assessment roll to the city or town treasurer for collection, the same length of time for payment of the assessment thereon without the imposition of any penalties or interest and the notice that the assessments are in the hands of the treasurer for collection shall be given as in case of an original assessment. After delinquency, penalties and interest may be charged as in cases of original assessment and if the original assessment was payable in installments, the new assessment may be divided into equal installments and made payable at such times as the city or town council may prescribe in the ordinance ordering the new assessment. [1965 c 7 § 35.44.330. Prior: 1911 c 98 § 43, part; 1909 c 71 § 1, part; 1893 c 95 § 2, part; RRS § 9396, part.]

35.44.340 Reassessments—Limitation of time for. No city or town shall have jurisdiction to proceed with any reassessment unless the ordinance ordering it is passed by the city or town council within ten years from and after the time the original assessment for the same improvement was finally held to be invalid, insufficient or for any cause set aside, in whole or in part or its enforcement denied directly or indirectly by the courts. [1965 c 7 § 35.44.340. Prior: 1911 c 98 § 45, part; RRS § 9398, part.]

35.44.350 Reassessments, assessments on omitted property, supplemental assessments—Provisions governing. All of the provisions of law relating to the filing of assessment rolls, time and place for hearing thereon, notice of hearing, the hearing upon the roll, the confirmation of the assessment roll, the time when the assessments become a lien upon the property assessed, the proceedings on appeal from any such assessment, the method of collecting the assessment and all proceedings for enforcing the lien thereof shall be had and conducted the same in the case of reassessments, assessments on omitted property, or supplemental assessments as in the case of an original assessment. [1965 c 7 § 35.44.350. Prior: 1911 c 98 § 44; 1893 c 95 § 1; RRS § 9397.]

35.44.360 Assessments on omitted property—Authority. If by reason of mistake, inadvertence, or for any cause, property in a local improvement district or utility local improvement district which except for its omission would have been subject to assessment has been omitted from the assessment roll, the city or town council, upon its own motion, or upon the application of the owner of any property in the district which has been assessed for the improvement, may proceed to assess the property so omitted in accordance with the benefits accruing to it by reason of the improvement in proportion to the assessments levied upon other property in

the district. [1967 c 52 § 12; 1965 c 7 § 35.44.360. Prior: 1911 c 98 § 37, part; RRS § 9390, part.]

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

35.44.370 Assessments on omitted property—Resolution—Notice. In case of assessments on omitted property the city or town council shall pass a resolution:

(1) Setting forth that the property therein described was omitted from the assessment;

(2) Notifying all persons who may desire to object thereto to appear at a meeting of the city or town council at a time specified in the resolution and present their objections thereto, and

(3) Directing the proper board, officer, or authority to report to the council at or prior to the date fixed for the hearing the amount which should be borne by each lot, tract, or parcel of land or other property so omitted. The resolution shall be published in all respects as provided for publishing the resolutions for an original assessment. [1965 c 7 § 35.44.370. Prior: 1911 c 98 § 37, part; RRS § 9390, part.]

35.44.380 Assessments on omitted property—Confirmation ordinance—Collection. At the conclusion of the hearing or any adjournment thereof upon proposed assessments on omitted property the council shall consider the matter as though the property were included in the original roll and may confirm the roll or any portion thereof by ordinance. Thereupon the roll of omitted property shall be certified to the treasurer for collection as other assessments. [1965 c 7 § 35.44.380. Prior: 1911 c 98 § 37, part; RRS § 9390, part.]

35.44.390 Supplemental assessments—When authorized. If by reason of any mistake, inadvertence, or other cause, the amount assessed was not equal to the cost and expense of a local improvement or that portion thereof to be paid by assessment of the property benefited the city or town council shall make supplemental assessments on all the property in the district. The property found to be specially benefited shall not be limited to the property included in the original assessment district.

These assessments shall be made in accordance with the provisions of law, charter, and ordinances existing at the time of the levy. [1965 c 7 § 35.44.390. Prior: 1911 c 98 § 42, part; 1893 c 96 § 3, part; RRS § 9395, part.]

35.44.400 Supplemental assessments—Limitation of time for. No city or town shall have jurisdiction to proceed with any supplemental assessment unless the ordinance ordering it is passed by the city or town council within ten years from and after the time that it was finally determined that the total amount of valid assessments levied and assessed on account of a local improvement was insufficient to pay the whole or that portion of the cost and expense thereof to be paid by special assessment. [1965 c 7 § 35.44.400. Prior: 1911 c 98 § 45, part; RRS § 9398, part.]

35.44.410 Segregation of assessments. Whenever any land against which there has been levied any special assessment by any city or town shall have been sold in part or subdivided, the legislative authority of that city or town shall have the power to order a segregation of the assessment.

Any person desiring to have such a special assessment against a tract of land segregated to apply to smaller parts thereof shall apply to the city or town which levied the assessment. If the legislative authority thereof determines that a segregation should be made, it shall by resolution order the city or town treasurer to make segregation on the original assessment roll as directed in the resolution. The segregation shall be made as nearly as possible on the same basis as the original assessment was levied, and the total of the segregated parts of the assessment shall equal the assessment before segregation. The resolution shall describe the original tract, the amount and date of the original assessment, and shall define the boundaries of the divided parts and the amount of the assessment chargeable to each part. A certified copy of the resolution shall be delivered to the city or town treasurer who shall proceed to make the segregation ordered upon being tendered a fee of ten dollars for each tract of land for which a segregation is to be made. In addition to such charge the legislative authority of the city or town may require as a condition to the order of segregation that the person seeking it pay the city or town the reasonable engineering and clerical costs incident to making the segregation. No segregation need be made if the legislative authority of the city or town shall find that by such segregation the security of the lien for such assessment will be so jeopardized as to reduce the security for any outstanding local improvement district obligations payable from such assessment. [1969 ex.s. c 258 § 10.]

Chapter 35.45 LOCAL IMPROVEMENTS—BONDS AND WARRANTS

Sections

35.45.010	Authority to issue bonds.
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35.45.160	Consolidated local improvement districts—Authorized—Purpose.

35.45.010 Authority to issue bonds. The city or town council may provide by ordinance for the payment of the whole or any portion of the cost and expense of any local improvement by bonds of the improvement district, but no bonds shall be issued in excess of the cost and expense of the improvement, nor shall they be issued prior to twenty days after the thirty days allowed for the payment of assessments without penalty or interest. [1965 c 7 § 35.45.010. Prior: (i) 1911 c 98 § 46, part; 1899 c 124 § 1; RRS § 9399, part. (ii) 1917 c 139 § 1, part; 1915 c 168 § 4, part; 1911 c 98 § 47, part; 1899 c 124 § 2, part; RRS § 9400, part. (iii) 1911 c 98 § 50, part; RRS § 9403, part.]

35.45.020 Bond issue—Due date—Interest. Local improvement bonds shall be issued pursuant to ordinance and shall be made payable on or before a date not to exceed thirty years from and after the date of issue, which latter date may be fixed by ordinance or resolution of the council, and bear interest at such rate or rates as authorized by the council. The council may, in addition to issuing bonds callable under the provisions of RCW 35.45.050 whenever sufficient moneys are available, issue bonds with a fixed maturity schedule or with a fixed maximum annual retirement schedule. [1971 ex.s. c 116 § 10; 1970 ex.s. c 56 § 35; 1969 ex.s. c 258 § 11; 1969 c 81 § 1; 1965 c 7 § 35.45.020. Prior: 1917 c 139 § 1, part; 1915 c 168 § 4, part; 1911 c 98 § 47, part; 1899 c 124 § 2, part; RRS § 9400, part.]

Purpose—1970 ex.s. c 56: See note following RCW 39.44.030.

Rights not impaired—1969 c 81: "No phrase, clause, subdivision or section of this 1969 amendatory act shall be construed to impair the rights of bondholders as to any bonds issued prior to the effective date of this 1969 amendatory act." [1969 c 81 § 2.]

35.45.030 Bonds—Form—Content—Coupons. Local improvement bonds shall be in such denominations as may be provided in the ordinance authorizing their issue and shall be numbered from one upwards consecutively. Each bond shall (1) be signed by the mayor and attested by the clerk, (2) have the seal of the city or town affixed thereto, (3) refer to the improvement to pay for which it is issued and the ordinance ordering it, (4) provide that the principal sum therein named and the interest thereon shall be payable out of the local improvement fund created for the cost and expense of the improvement, or out of the local improvement guaranty fund, or, with respect to interest only, out of the general revenues of the city or town, and not otherwise, (5) provide that the bondholders' remedy in case of nonpayment shall be confined to the enforcement of the special assessments made for the improvement and to the guaranty fund, and (6) have attached thereto interest coupons for each interest payment.

The interest coupons may be signed by the mayor and attested by the clerk, or in lieu thereof, may have printed thereon a facsimile of their signatures. [1967 ex.s. c 44 § 1; 1965 c 7 § 35.45.030. Prior: (i) 1917 c 139 § 1, part; 1915 c 168 § 4, part; 1911 c 98 § 47, part; 1899 c 124 § 2; RRS § 9400, part. (ii) 1927 c 209 § 5, part; 1925 ex.s. c 183 § 5, part; 1923 c 141 § 5, part;

RRS § 9351-5, part. (iii) 1911 c 98 § 52, part; RRS § 9405, part.]

35.45.040 Bonds—Sale of. Local improvement bonds may be issued to the contractor or sold by the officers authorized by the ordinance directing their issue to do so, in the manner prescribed therein and at not less than par and accrued interest. Any portion of the bonds of any issue remaining unsold may be issued to the contractor constructing the improvement in payment thereof.

The proceeds of all sales of bonds shall be applied in payment of the cost and expense of the improvement. [1965 c 7 § 35.45.040. Prior: (i) 1911 c 98 § 46, part; 1899 c 124 § 1; RRS § 9399, part. (ii) 1911 c 98 § 48; 1899 c 124 § 3; RRS § 9401.]

35.45.050 Call of bonds. Except when bonds have been issued with a fixed maturity schedule or with a fixed maximum annual retirement schedule as authorized in RCW 35.45.020, the city or town treasurer shall call in and pay the principal of one or more bonds of any issue in their numerical order whenever there is sufficient money in any local improvement fund, against which the bonds have been issued, over and above sufficient for the payment of interest on all unpaid bonds of that issue. The call shall be made for publication in the city or town official newspaper in its first publication following the date of delinquency of any installment of the assessment or as soon thereafter as practicable. The call shall state that bonds No. ----- (giving the serial number or numbers of the bonds called) will be paid on the day the next interest coupons on the bonds become due and that interest on those bonds will cease upon that date. [1971 ex.s. c 116 § 11; 1965 c 7 § 35.45.050. Prior: 1911 c 98 § 54, part; RRS § 9407, part.]

35.45.060 Interest on bonds—How payable. The city or town treasurer shall pay interest on the bonds issued against local improvement funds out of the local improvement fund from which the bonds are payable. [1965 c 7 § 35.45.060. Prior: 1911 c 98 § 54, part; RRS § 9407, part.]

35.45.065 Interest on bonds—Payment from general revenues—Authority—Procedure. The city or town council may provide by ordinance that all or part of the interest upon said bonds shall be paid from the general revenues of the city or town and may create a local improvement district bond interest fund for this purpose. If the city or town council determine that the city or town shall pay all interest on such bonds from its general revenues, the interest coupons attached to the bond shall recite that the interest thereby evidenced is payable from general revenues. If the city or town council determines that the city or town council shall pay a part of the interest on such bonds from its general revenues, the interest coupons representing interest payable from the general revenues of the city or town shall be denominated as "B" coupons and shall recite that the interest payable thereunder is payable from the

general revenues of the city or town. [1967 ex.s. c 44 § 2.]

35.45.070 Nonliability of city or town. Neither the holder nor owner of any bond, interest coupon, or warrant issued against a local improvement fund shall have any claim therefor against the city or town by which it is issued, except for payment from the special assessments made for the improvement for which the bond or warrant was issued and except also for payment from the local improvement guaranty fund of the city or town as to bonds issued after the creation of a local improvement guaranty fund of that city or town. The city or town shall not be liable to the holder or owner of any bond, interest coupon, or warrant for any loss to the local improvement guaranty fund occurring in the lawful operation thereof. A copy of the foregoing part of this section shall be plainly written, printed or engraved on each bond. [1965 c 7 § 35.45.070. Prior: (i) 1911 c 98 § 52, part; RRS § 9405, part. (ii) 1927 c 209 § 5; 1925 ex.s. c 183 § 5; 1923 c 141 § 5, part; RRS § 9351-5, part.]

35.45.080 Remedy of bondholders. If a city or town fails to pay any bonds or to promptly collect any local improvement assessments when due, the owner of the bonds may proceed in his own name to collect the assessment and foreclose the lien thereof in any court of competent jurisdiction and shall recover in addition to the amount of the bond and interest thereon, five percent, together with the cost of suit. Any number of holders of bonds for any single improvement may join as plaintiffs and any number of owners of property upon which the assessments are liens may be joined as defendants in the same suit.

The owners of local improvement bonds issued by a city or town after the creation of a local improvement guaranty fund therein, shall also have recourse against the local improvement guaranty fund of such city or town. [1965 c 7 § 35.45.080. Prior: (i) 1927 c 209 § 5, part; 1925 ex.s. c 183 § 5, part; 1923 c 141 § 5, part; RRS § 9351-5, part. (ii) 1911 c 98 § 51; 1899 c 124 § 6; RRS § 9404.]

35.45.090 Excess to be refunded—Demand—Right of action. Any funds in the treasury of any municipal corporation belonging to the fund of any local improvement district after the payment of the whole cost and expense of such improvement, in excess of the total sum required to defray all the expenditures by such municipal corporation on account thereof, shall be refunded, on demand, to the payers into such fund. Each such payer shall be entitled to such proportion of such excess as his original assessment bears to the entire original assessment levied for such improvement. Such municipal corporation may, after one year from the date on which the last installment becomes due, transfer any balance remaining on hand to the general fund of such municipal corporation, but shall, notwithstanding such transfer remain liable for the refund herein provided for until such refund shall have been made, unless

the actual cost involved in making such refund shall exceed the excess in such fund.

Such demand shall be made in writing to the treasurer of such municipal corporation. No action shall be commenced in any court to obtain any such refund, except upon such demand, and until ninety days after making such demand. No excess shall be recovered in any action where the excess in the fund does not average the sum of one dollar in favor of all payers into such fund.

This section shall not be deemed to require the refunding of any balance left in any local improvement fund after the payment of all outstanding obligations issued against such fund, where such balance accrues from any saving in interest or from penalties collected upon delinquent assessments, but any such balance, whether accruing heretofore or hereafter, may be turned into the general fund or otherwise disposed of, as the legislative authority of the city may direct.

The provisions of this chapter relating to the refund of excess local improvement district funds shall not apply to any district whose obligations are guaranteed by the local improvement guaranty fund. [1965 c 7 § 35-.45.090. Prior: 1917 c 140 § 1; 1909 c 108 § 1; RRS § 9351.]

35.45.130 Warrants against local improvement fund authorized. Every city and town may provide by ordinance for the issuance of warrants in payment of the cost and expense of any local improvement, payable out of the local improvement district fund. The warrants shall bear interest at a rate or rates as authorized by ordinance and shall be redeemed either in cash or by local improvement bonds for the same improvement authorized by ordinance.

All warrants against any local improvement fund sold by the city or town or issued to a contractor and by him sold or hypothecated for a valuable consideration shall be claims and liens against the improvement fund against which they are drawn prior and superior to any right, lien, or claim of any surety upon the bond or bonds given to the city or town by or for the contractor to secure the performance of his contract or to secure the payment of persons who have performed work thereon, furnished materials therefor, or provisions and supplies for the carrying on of the work. [1970 ex.s. c 56 § 36; 1965 c 7 § 35.45.130. Prior: 1953 c 117 § 1; prior: 1915 c 168 § 3; 1911 c 98 § 72; 1899 c 146 § 7; RRS 9425.]

Purpose—1970 ex.s. c 56: See note following RCW 39.44.030.

35.45.140 Warrants acceptable in payment of assessments. Cities and towns may accept warrants drawn against any local improvement fund upon such conditions as they may by ordinance or resolution prescribe, in satisfaction of:

- (1) Assessments levied to supply such fund, in due order of priority of right;
- (2) Judgments rendered against property owners who have become delinquent in the payment of assessments levied to supply such fund; and

(3) In payment of certificates of purchase in cases where property of delinquents has been sold under execution or at tax sale for failure to pay assessments levied to supply such fund. [1965 c 7 § 35.45.140. Prior: (i) 1899 c 97 § 1; RRS § 9346. (ii) 1899 c 97 § 2; RRS § 9347. (iii) 1899 c 97 § 3; RRS § 9348. (iv) 1899 c 97 § 4; RRS § 9349. (v) 1899 c 97 § 5; RRS § 9350.]

35.45.150 Installment notes—Interest certificates (as amended by 1970 ex.s. c 56 § 37). In addition to the issuance of bonds and warrants in payment of the cost and expense of any local improvement, any city or town may also issue installment notes payable out of the local improvement district fund, where such notes are to be sold exclusively to another fund of the same municipality as an investment thereof. Such installment notes may be issued any time after the thirty day period allowed by law for the payment of assessments of any district without penalty or interest, and may bear any denomination or denominations, the aggregate of which shall represent the balance of the cost and expense of the local improvement district which is to be borne by the property owners therein.

Application of local improvement district funds for the reduction of the principal and interest amounts due on any notes herein provided to finance said improvement shall be made not less than once each year beginning with the issue date thereof. If more than one local improvement installment note is issued for a single district, said notes shall be numbered consecutively. All notes issued shall bear on the face thereof: (1) The name of the payee; (2) the number of the local improvement district from whose funds the notes are payable; (3) the date of issue of each note; (4) the date on which the note, or the final installment thereon shall become due; (5) the rate of interest to be paid on the unpaid balance thereof, and; (6) such manual or facsimile signatures and attestations as are required by state statute or city charter to appear on the warrants of each issuing municipality.

The reverse side of each installment note issued pursuant to this section shall bear a tabular payment record which shall indicate at prescribed installment dates, the receipt of any local improvement district funds for the purpose of servicing the debt evidenced by said notes. Such receipts shall first be applied toward the interest due on the unpaid balance of the note, and any additional moneys shall thereafter apply as a reduction of the principal amount thereof. The tabular payment record shall, in addition to the above, show the unpaid principal balance due on each installment note, together with sufficient space opposite each transaction affecting said note for the manual signature of the city's clerk, treasurer or other properly designated receiving officer of the municipality.

Whenever there are insufficient funds in a local improvement district to meet any payment of installment interest due on any note herein authorized, a noninterest-bearing defaulted installment interest certificate shall be issued by the city treasurer which shall consist of a written statement certifying the amount of such defaulted interest installment; the name of the payee of

the note to whom the interest is due and the number of the local improvement district from whose funds the note and interest thereon is payable. The certificate herein provided shall bear the manual signature of the city treasurer or his authorized agent. The defaulted installment interest certificate so issued shall be redeemed for the face amount thereof with any available funds in the local improvement guaranty fund.

Whenever at the date of maturity of any installment note issued pursuant to this section, there are insufficient funds in a local improvement district, due to delinquencies in the collection of assessments, to pay the final installment of principal due thereon, the note shall be redeemed with any available funds in the local improvement guaranty fund for the amount of said final installment.

All certificates and notes issued pursuant to this section are to become subject to the same redemption privileges as apply to any local improvement district bonds and warrants now accorded the protection of the local improvement guaranty fund as provided in chapter 35.54 RCW, and whenever the certificates or notes issued as herein provided are redeemed by said local improvement guaranty fund, they shall be held therein as investments thereof in the same manner as prescribed for other defaulted local improvement district obligations.

Notwithstanding any other statutory provisions, local improvement installment notes authorized by this section which are within the protection of the local improvement guaranty fund law shall be considered legal investments for any available surplus funds of the issuing municipality which now or hereafter may be authorized to be invested in the city's local improvement districts' bonds or warrants. [1970 ex.s. c 56 § 37; 1965 c 7 § 35.45.150. Prior: 1961 c 165 § 1.]

Reviser's note: RCW 35.45.150 was amended twice in the 1970 extraordinary session.

(1) 1970 ex.s. c 56 § 37 (SSB 146): passed the senate February 11; passed the house February 11; was approved by the governor February 23; contained an emergency clause.

(2) 1970 ex.s. c 93 § 2 (HB 326): passed the senate February 6; passed the house February 10; was approved by the governor February 20; contained an emergency clause.

(3) For rule of construction concerning sections twice amended in the same session, see RCW 1.12.025.

Purpose—1970 ex.s. c 56: See note following RCW 39.44.030.

35.45.150 Installment notes—Interest certificates (as amended by 1970 ex.s. c 93 § 2). In addition to the issuance of bonds and warrants in payment of the cost and expense of any local improvement, any city or town may also issue and sell installment notes payable out of the local improvement district fund. Such installment notes may be issued any time after the thirty day period allowed by law for the payment of assessments of any district without penalty or interest, and may bear any denomination or denominations, the aggregate of which shall represent the balance of the cost and expense of the local improvement district which is to be borne by the property owners therein.

Application of local improvement district funds for the reduction of the principal and interest amounts due

on any notes herein provided to finance said improvement shall be made not less than once each year beginning with the issue date thereof. Appropriate notification of such application of funds shall be made by the city treasurer to the registered payees of said notes, except those notes owned by funds of the issuing municipality. If more than one local improvement installment note is issued for a single district, said notes shall be numbered consecutively. All notes issued shall bear on the face thereof: (1) The name of the payee; (2) the number of the local improvement district from whose funds the notes are payable; (3) the date of issue of each note; (4) the date on which the note, or the final installment thereon shall become due; (5) the rate of interest, not to exceed twelve percent, to be paid on the unpaid balance thereof, and; (6) such manual or facsimile signatures and attestations as are required by state statute or city charter to appear on the warrants of each issuing municipality.

The reverse side of each installment note issued pursuant to this section shall bear a tabular payment record which shall indicate at prescribed installment dates, the receipt of any local improvement district funds for the purpose of servicing the debt evidenced by said notes. Such receipts shall first be applied toward the interest due on the unpaid balance of the note, and any additional moneys shall thereafter apply as a reduction of the principal amount thereof. The tabular payment record shall, in addition to the above, show the unpaid principal balance due on each installment note, together with sufficient space opposite each transaction affecting said note for the manual signature of the city's clerk, treasurer or other properly designated receiving officer of the municipality, or of any other registered payee presenting said note for such installment payments.

Whenever there are insufficient funds in a local improvement district to meet any payment of installment interest due on any note herein authorized, a noninterest-bearing defaulted installment interest certificate shall be issued by the city treasurer which shall consist of a written statement certifying the amount of such defaulted interest installment; the name of the payee of the note to whom the interest is due and the number of the local improvement district from whose funds the note and interest thereon is payable. The certificate herein provided shall bear the manual signature of the city treasurer or his authorized agent. The defaulted installment interest certificate so issued shall be redeemed for the face amount thereof with any available funds in the local improvement guaranty fund.

Whenever at the date of maturity of any installment note issued pursuant to this section, there are insufficient funds in a local improvement district, due to delinquencies in the collection of assessments, to pay the final installment of the principal due thereon, the note shall be redeemed with any available funds in the local improvement guaranty fund for the amount of said final installment.

All certificates and notes issued pursuant to this section are to become subject to the same redemption privileges as apply to any local improvement district

bonds and warrants now accorded the protection of the local improvement guaranty fund as provided in chapter 35.54 RCW, and whenever the certificates or notes issued as herein provided are redeemed by said local improvement guaranty fund, they shall be held therein as investments thereof in the same manner as prescribed for other defaulted local improvement district obligations.

Notwithstanding any other statutory provisions, local improvement installment notes authorized by this section which are within the protection of the local improvement guaranty fund law shall be considered legal investments for any available surplus funds of the issuing municipality which now or hereafter may be authorized to be invested in the city's local improvement districts' bonds or warrants and shall be considered legal investments for all national and state banks, savings and loan institutions, and any and all other commercial banking or financial institutions to the same extent that the local improvement district bonds and coupons issued pursuant to the provisions of this chapter have been and are legal investments for such institutions. Any such local improvement installment notes may be transferred or sold by said city or town upon such terms or conditions and in such manner as the local governing body of said city or town may determine, pursuant to a call for public bid: *Provided, however,* That the same shall not be sold at less than par plus accrued interest. [1970 ex.s. c 93 § 2; 1965 c 7 § 35.45-.150. Prior: 1961 c 165 § 1.]

Reviser's note: RCW 35.45.150 was amended twice in the 1970 extraordinary session.

(1) 1970 ex.s. c 56 § 37 (SSB 146): passed the senate February 11; passed the house February 11; was approved by the governor February 23; contained an emergency clause.

(2) 1970 ex.s. c 93 § 2 (HB 326): passed the senate February 6; passed the house February 10; was approved by the governor February 20; contained an emergency clause.

(3) For rule of construction concerning sections twice amended in the same session, see RCW 1.12.025.

Severability—1970 ex.s. c 93: See note following RCW 39.60.050. *Investment of public funds in notes, debentures:* RCW 39.60.050.

35.45.155 Installment notes—Refunding. Any city or town having issued one or more installment notes pursuant to RCW 35.45.150 may refund all of such notes or the principal thereof then outstanding payable from any one local improvement district fund by the issuance of local improvement district bonds pursuant to chapter 35.45 RCW and by the payment into the city or town fund or funds holding such notes the then outstanding principal amount of such notes plus the interest thereon accrued to the date of such refunding. The bonds shall be payable from the same local improvement district fund from which such notes were payable; shall be payable no later than the final payment date of the notes being refunded; shall be in the same total principal amount as the outstanding principal amount of the notes being refunded less any sums in the local improvement district fund the city or town applies to the redemption of such notes; and shall be sold at not less than par plus accrued interest to date of delivery. Any interest payable on the bonds in excess of the interest payable on assessment installments payable into

the local improvement district fund shall be paid from the general fund of the city or town in accordance with RCW 35.45.065. The principal proceeds and interest accrued to date of delivery of the bonds shall be paid into the local improvement district fund and the notes shall be redeemed on that date. The city or town shall pay all costs and expenses of such refunding from moneys available therefor. [1969 ex.s. c 258 § 12.]

35.45.160 Consolidated local improvement districts—Authorized—Purpose. For the purpose of issuing bonds only, the governing body of any municipality may authorize the establishment of consolidated local improvement districts. The local improvements within such consolidated districts need not be adjoining, vicinal or neighboring. If the governing body orders the creation of such consolidated local improvement districts, the moneys received from the installment payment of the principal of and interest on assessments levied within original local assessment districts shall be deposited in a consolidated local improvement district bond redemption fund to be used to redeem outstanding consolidated local improvement district bonds. [1967 ex.s. c 44 § 3.]

Chapter 35.47

LOCAL IMPROVEMENTS—PROCEDURE FOR CANCELLATION OF NONGUARANTEED BONDS

Sections

- 35.47.010 Distribution of moneys in local improvement funds to holders of bonds and warrants—Notice—Time limitation—Abandonment and transfer to general fund.
- 35.47.020 Declaration of obsolescence and cancellation upon distribution of moneys, untimely presentment, or lack of money in local improvement fund.
- 35.47.030 Cancellation procedure where no money in local improvement fund.
- 35.47.040 Action under RCW 35.47.010 through 35.47.030 unaffected by chapter 35.48 RCW or other law.
- 35.47.900 Severability—1965 ex.s. c 6.

35.47.010 Distribution of moneys in local improvement funds to holders of bonds and warrants—Notice—Time limitation—Abandonment and transfer to general fund. Any city or town having any outstanding and unpaid local improvement bonds or warrants issued in connection with a local improvement therein to which the local guaranty fund law is not applicable and that have been delinquent for more than fifteen years, by ordinance, may direct that the money, if any, remaining in a given local improvement fund for which no real property is held in trust shall be distributed by the city or town on a pro rata basis, without any reference to numerical order, to the holders of outstanding bonds or warrants for each such fund, excluding the accrued interest thereon. If such outstanding bonds or warrants are not presented for payment within one year after the last date of publication of notice provided for herein, the money being held in the local improvement fund of a city or town shall be deemed abandoned, and shall be transferred to the city or town general fund: *Provided,* That such city or town shall publish a notice

once each week for two successive weeks in a newspaper published in such city or town in which it is indicated that L.I.D. bonds for ----- L.I.D. improvement Nos. ----- to ----- inclusive must be presented to the city or town for payment not later than one year from this date or the money being held in the local improvement fund of the city or town shall be transferred to the city or town general fund. [1965 ex.s. c 6 § 1.]

35.47.020 Declaration of obsolescence and cancellation upon distribution of moneys, untimely presentment, or lack of money in local improvement fund. After the city or town having said bonds or warrants referred to in RCW 35.47.010 has distributed the money in a local improvement district fund in accordance with RCW 35.47.010, or such bonds or warrants are not presented for payment within one year after the last date of publication of notice provided for in RCW 35.47.010, such city or town may, by ordinance, declare such bonds and warrants, without any reference to numerical order, to be obsolete, cancel the same, and terminate all accounting thereon, and clear such bonds and warrants off their records including any unguaranteed bonds or warrants outstanding against districts in which there remains no money in the given local improvement fund. [1965 ex.s. c 6 § 2.]

35.47.030 Cancellation procedure where no money in local improvement fund. If the bonds or warrants outstanding against a district are unguaranteed and if there remains no money in the appropriate local improvement fund to pay them, and if no real property is held in trust for the fund, the city or town shall give notice in the same manner as provided in RCW 35.47.010, stating that L.I.D. ----- (bonds or warrants) for ----- L.I.D. improvement Nos. ----- to ----- inclusive will be canceled as provided in RCW 35.47.020, unless such bonds or warrants are presented to the city or town within one year from the date of last publication of the notice, together with good cause shown as to why such cancellation should not take place. If such bonds or warrants are not presented, with good cause shown, within one year after the last date of publication of such notice, they may be canceled as provided in RCW 35.47.020. [1965 ex.s. c 6 § 3.]

35.47.040 Action under RCW 35.47.010 through 35.47.030 unaffected by chapter 35.48 RCW or other law. Nothing in chapter 35.48 RCW or other existing law to the contrary shall preclude the action authorized herein. [1965 ex.s. c 6 § 4.]

35.47.900 Severability—1965 ex.s. c 6. If any provision of this act, or its application to any person or circumstance is held to be invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1965 ex.s. c 6 § 6.]

Reviser's note: "this act" (1965 ex.s. c 6) is codified as RCW 35.47.010-35.47.040 and 87.84.071.

Chapter 35.48

LOCAL IMPROVEMENTS—NONGUARANTEED BONDS

Sections	
35.48.010	Special revolving fund for delinquent nonguaranteed bonds and warrants—Composition.
35.48.020	Use of revolving fund—Maximum bond price.
35.48.030	Subrogation—Refund of surplus.
35.48.040	Refund to revolving fund.
35.48.050	Purchase of warrants on previous funds—Transfer of assets to revolving fund—Disposition.
35.48.060	Procedure governed by ordinance.

35.48.010 Special revolving fund for delinquent nonguaranteed bonds and warrants—Composition. If any city or town has issued bonds or warrants payable from a local improvement or condemnation award fund, to which the local improvement guaranty fund law is not applicable, and if the assessment, or last installment thereof, against which the bonds or warrants were issued has been delinquent not more than thirty-two years, the city or town may create a special revolving fund and may provide moneys therefor by general tax levy, if the levy, together with other levies made or authorized by such city or town, will not exceed the levy which is legally allowed; or such city or town may place in said fund or advance or loan to said fund any money which it is not prohibited by law from advancing, loaning to or placing in said fund. [1965 c 7 § 35.48.010. Prior: 1961 c 46 § 1; 1943 c 244 § 2; Rem. Supp. 1943 § 9351-11.]

Purpose—1943 c 244: "Whereas, there are many millions of dollars of delinquent and unpaid local improvement district and condemnation award bonds and warrants issued by various cities of the state and not protected by the Local Improvement Guaranty Fund, only a small part of which for the present at least can be paid and many of which will never be paid because of inability of property owners to pay the special assessments levied to provide funds for payment thereof and the depreciated value of the real estate which is the only security provided by present law from which payment of the assessments may be enforced; and, Whereas, the cities are not legally liable under existing law for payment of such bonds and warrants except as there are moneys available in the special fund from which the same are payable; and, Whereas, such cities and its citizens as a whole have derived benefit from the improvements installed with the proceeds or as a result of the issuance of such bonds and warrants; and, Whereas, the nonpayment of such unpaid and delinquent bonds and warrants not only causes great hardship and suffering on those who have invested money in such bonds and warrants, but also reflects discredit on the financial structure of the various cities involved, to the detriment of the cities as a whole and also the entire state; Now, therefore, this law is enacted to enable cities to provide some relief from the hardship imposed by such conditions." [1943 c 244 § 1.]

35.48.020 Use of revolving fund—Maximum bond price. Any moneys in such revolving fund may be used for the purchase of unpaid delinquent local improvement warrants, or bonds and interest coupons thereon, issued by the city or town, payable from a local improvement district fund or condemnation award fund, to which the local improvement guaranty fund law is not applicable, if the assessment, or last installment thereof, against which the bonds or warrants have been issued, has been delinquent not more than thirty-two years. The maximum purchase price to be paid for said bonds or warrants shall be fixed by the municipality, and may from time to time be changed but shall never

exceed fifty percent of the face value of the bonds, interest coupons, or warrants: *Provided*, That no warrants shall be issued payable from the revolving fund unless there is sufficient cash in said fund available for payment of such warrants. [1965 c 7 § 35.48.020. Prior: 1961 c 46 § 2; 1943 c 244 § 3; Rem. Supp. 1943 § 9351-12.]

35.48.030 Subrogation—Refund of surplus. The purchase of any such bonds or warrants shall not relieve the local improvement or condemnation award fund from which the same are payable from liability for payment of the same, but the city or town upon purchase thereof shall become subrogated to all the rights of the former owners thereof and may proceed to enforcement of said bonds or warrants as any owner thereof might do. The city or town may sell any property acquired by it in such proceedings upon such terms and for such prices as it sees fit, or it may resell any of the bonds or warrants for such prices as it shall fix.

Any excess in any local improvement district fund or condemnation award fund which will average a payment of one dollar to each payer into said fund shall, after payment, retirement, or cancellation of all bonds or warrants payable from said fund, be refunded and paid to the payers into the fund in the proportion that their respective assessments bear to the entire original assessment levied for such improvement, and any unpaid assessments, or portion thereof, shall be reduced in the same proportion. Any proceeds derived from the sale of any bonds or warrants, or from the sale of real estate, shall be placed in the revolving fund. [1965 c 7 § 35.48.030. Prior: 1943 c 244 § 4; Rem. Supp. 1943 § 9351-13.]

35.48.040 Refund to revolving fund. If there are funds in any local improvement district fund or condemnation award fund sufficient to pay or retire any bond or warrant issued and payable from said fund, and the city or town is the owner and holder of the bond or warrant next payable from the fund, the city or town treasurer shall from the moneys in the local improvement or condemnation award fund place in the revolving fund a sum of money equivalent to the amount paid by the city or town for such bond or warrant and shall thereupon cancel, mark paid and remove from said revolving fund such bond or warrant. [1965 c 7 § 35.48.040. Prior: 1943 c 244 § 5; Rem. Supp. 1943 § 9351-14.]

35.48.050 Purchase of warrants on previous funds—Transfer of assets to revolving fund—Disposition. Whenever a city or town has heretofore by ordinance created a fund for use in purchasing delinquent local improvement or condemnation award bonds or warrants not protected by the local improvement guaranty fund law, and has purchased any such bonds or warrants and issued warrants payable from said fund, which warrants are unpaid because of lack of funds and have remained unpaid for a period of less than thirty-two years from date of issue thereof, the city or town may use any funds available in the revolving fund to

purchase said warrants at such price as it may determine, but in no event at more than fifty percent of the face value, without interest.

Whenever all such warrants have been purchased or paid, the city or town may transfer to the revolving fund any bonds, warrants or other assets belonging to said fund first above mentioned, and thereafter such bonds, warrants or other assets shall be held and disposed of for the benefit of said revolving fund in the same manner as other funds and assets therein: *Provided*, That nothing contained in this chapter shall legalize any warrants heretofore issued or render any city or town liable thereunder. [1965 c 7 § 35.48.050. Prior: 1961 c 46 § 3; 1943 c 244 § 6; Rem. Supp. 1943 § 9351-15.]

35.48.060 Procedure governed by ordinance. All actions of a city or town respecting the purchase of bonds and warrants or sales of bonds, warrants or assets of the revolving fund shall be as directed by general or special ordinance. [1965 c 7 § 35.48.060. Prior: 1943 c 244 § 7; Rem. Supp. 1943 § 9351-16.]

Chapter 35.49

LOCAL IMPROVEMENTS—COLLECTION OF ASSESSMENTS

Sections	
35.49.010	Collection by city treasurer—Notices.
35.49.020	Installments—Number—Due date.
35.49.030	Ordinance to prescribe time of payment—Interest—Penalties.
35.49.040	Payment without interest or penalty.
35.49.050	Prepayment of installments subsequently due.
35.49.060	Payment by city or town.
35.49.070	Payment by county.
35.49.080	Payment by metropolitan park district.
35.49.090	Payment by joint owner.
35.49.100	Payment in error—Remedy.
35.49.110	Record of payment.
35.49.120	Tax liens—Private certificate holder takes subject to local assessments.
35.49.130	Tax liens—County foreclosures—Notice to city treasurers—City may protect assessment lien.
35.49.140	Tax liens—Payment by city after taking property on foreclosure of local assessments.
35.49.150	Tax title property—City may acquire from county before resale.
35.49.160	Tax title property—Disposition of proceeds upon resale.
35.49.170	Acquisition of property by state or political subdivisions which is subject to unpaid assessments and delinquencies.

Prepayment of taxes and assessments: RCW 35.21.650.

35.49.010 Collection by city treasurer—Notices. All assessments for local improvements in local improvement districts shall be collected by the city treasurer and shall be kept in a separate fund to be known as "local improvement fund, district No. ____" and shall be used for no other purpose than the redemption of warrants drawn upon and bonds issued against the fund to provide payment for the cost and expense of the improvement.

All assessments for local improvements in a utility local improvement district shall be collected by the city treasurer, shall be paid into the appropriate revenue

bond fund, and shall be used for no other purpose than the redemption of revenue bonds issued to provide funds for the cost and expense of the improvement.

As soon as the assessment roll has been placed in the hands of the city or town treasurer for collection, he shall publish a notice in the official newspaper of the city or town once a week for two consecutive weeks, that the roll is in his hands for collection and that all or any portion of the assessment may be paid within thirty days from the date of the first publication of the notice without penalty, interest or costs.

Within fifteen days of the first newspaper publication, the city or town treasurer shall notify each owner or reputed owner whose name appears on the assessment roll, at the address shown on the tax rolls of the county treasurer for each item of property described on the list, of the nature of the assessment, of the amount of his real property subject to such assessment, of the total amount of assessment due, and of the time during which such assessment may be paid without penalty, interest, or costs. [1972 ex.s. c 137 § 1; 1969 ex.s. c 258 § 13; 1967 c 52 § 13; 1965 c 7 § 35.49.010. Prior: (i) 1911 c 98 § 28; RRS § 9380. (ii) 1911 c 98 § 50, part; RRS § 9403, part.]

Severability—1972 ex.s. c 137: "If any provision of this 1972 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 137 § 6.] This applies to the 1972 ex.s. amendments to this section and RCW 35.50.050 and to RCW 35.43.250 and 35.54.100.

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

Saving—1927 c 275: "All local improvement initiated or proceedings commenced by any city or town before the taking effect of this act, relating to the making of any local improvement, or the collection and foreclosure of local improvement, or the collection and foreclosure of local improvement assessments, and the sale of property therefor, shall proceed without being in any manner affected by the passage of this act; *Provided*, That any city or town may at its option foreclose in the manner provided in this act the lien of any local improvement assessment created prior to the effective date of this act, and cause deed to issue, but as to any such property purchased by such city or town at such foreclosure the same shall be held and sold by such city or town under and pursuant to the provisions of law in force and effect prior to the taking effect of this act." [1927 c 275 § 8.]

35.49.020 Installments—Number—Due date. In all cases where bonds are issued to pay the cost and expense of a local improvement, the ordinance levying the assessments shall provide that the sum charged against any lot, tract, and parcel of land or other property, or any portion thereof, may be paid during the thirty day period allowed for the payment of assessments without penalty or interest and that thereafter the sum remaining unpaid may be paid in equal annual installments. The number of installments shall be less by two than the number of years which the bonds issued to pay for the improvement are to run. Interest on the whole amount unpaid at the rate fixed by the ordinance shall be due on the due date of the first installment of principal and each year thereafter on the due date of each installment of principal: *Provided*, That the legislative authority of any city or town having made a bond issue payable on or before twenty-two years after the

date of issue may provide by ordinance that all assessments and portions of assessments unpaid after the thirty day period allowed for payment of assessments without penalty or interest may be paid in ten equal installments beginning with the eleventh year and ending with the twentieth year from the expiration of said thirty day period, together with interest on the unpaid installments at the rate fixed by such ordinance, and that in each year after the said thirty day period, to and including the tenth year thereafter, one installment of interest on the principal sum of the assessment at the rate so fixed shall be paid and collected, and that beginning with the eleventh year after the thirty day period one installment of the principal, together with the interest due thereon, and on all installments thereafter to become due shall be paid and collected. [1969 ex.s. c 258 § 14; 1965 c 7 § 35.49.020. Prior: 1925 ex.s. c 117 § 1; 1915 c 168 § 5; 1911 c 98 § 49; 1899 c 124 § 4; RRS § 9402.]

35.49.030 Ordinance to prescribe time of payment—Interest—Penalties. Every city and town shall prescribe by ordinance within what time assessments or installments thereof shall be paid, and shall provide for the payment and collection of interest thereon at a rate as shall be fixed by the legislative body of the city or town. Assessments or installments thereof, when delinquent, in addition to such interest, shall bear such penalty not less than five percent as shall be by general ordinance prescribed. [1971 ex.s. c 116 § 5; 1969 ex.s. c 258 § 15; 1965 c 7 § 35.49.030. Prior: 1955 c 353 § 3; prior: 1927 c 275 § 1, part; 1921 c 92 § 1, part; 1911 c 98 § 24, part; RRS § 9376, part.]

35.49.040 Payment without interest or penalty. The owner of any lot, tract, or parcel of land or other property charged with local improvement assessment may redeem it from all or any portion thereof by paying to the city or town treasurer all or any portion thereof without interest within thirty days after the first publication by the treasurer of notice that the assessment roll is in his hands for collection. [1965 c 7 § 35.49.040. Prior: 1911 c 98 § 50, part; RRS § 9403, part.]

35.49.050 Prepayment of installments subsequently due. The owner of any lot, tract, or parcel of land or other property charged with a local improvement assessment may redeem it from all liability for the unpaid amount of the assessment at any time after the thirty day period allowed for payment of assessments without penalty or interest by paying the entire installments of the assessment remaining unpaid to the city or town treasurer with interest thereon to the date of maturity of the installment next falling due. [1965 c 7 § 35.49.050. Prior: 1911 c 98 § 50, part; RRS § 9403, part.]

35.49.060 Payment by city or town. On or before the fifteenth day of August of each year, the city or town treasurer shall certify to the city or town council a detailed statement showing:

(1) The proceedings authorizing and confirming any local improvement assessments or utility local improvement assessments affecting city or town property,

(2) The lots, tracts, or parcels of lands of the city or town so assessed,

(3) The several assessments against each,

(4) The interest, penalties, and charges thereon,

(5) The penalties and charges which will accrue upon the assessments to the date of payment, and

(6) The total of all such assessments, interest, penalty, and charges.

The longest outstanding liens shall be paid first, but if the money in the "city (or town) property assessments redemption fund" is insufficient at any time to discharge all such liens against the lands of the city or town upon a given assessment roll, the city or town treasurer may pay such portion thereof as may be possible from the funds available.

If deemed necessary, the city or town council may transfer money from the general fund to the redemption fund as a loan to be repaid when the money is available for repayment. [1967 c 52 § 14; 1965 c 7 § 35.49.060. Prior: 1929 c 183 § 2, part; 1909 c 130 § 2; RRS § 9345, part.]

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

35.49.070 Payment by county. Upon the confirmation of the assessment roll for a local improvement district or utility local improvement district, the city or town treasurer shall certify and forward to the board of county commissioners a statement of all the lots, tracts, or parcels of land held or owned by the county assessed thereon, separately describing each lot, tract, or parcel, with the amount of the assessment charged against it.

The board of county commissioners shall cause the amount of such local assessments to be paid to the city or town as other claims against the county are paid.

If title to any property thus described was acquired by the county through foreclosure of general tax liens, the county shall:

(1) Pay the assessment from the proceeds of the sale of the property; or

(2) Sell the property subject to the lien of the assessment. [1967 c 52 § 15; 1965 c 7 § 35.49.070. Prior: 1929 c 139 § 1; 1905 c 29 § 3; RRS § 9342.]

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

35.49.080 Payment by metropolitan park district. Upon the confirmation of the assessment roll for a local improvement district or utility local improvement district, the city treasurer shall certify and forward to the board of park commissioners of any metropolitan park district in which the city is located, a statement of all the lots, tracts, and parcels of land or other property held or owned by the district, assessed thereon, separately describing each lot, tract, or parcel with the amount of the assessment charged against it.

The board of park commissioners shall cause the amount of the local assessments to be paid as other claims against the metropolitan park district are paid.

[1967 c 52 § 16; 1965 c 7 § 35.49.080. Prior: 1929 c 204 § 3; RRS § 9343-3.]

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

35.49.090 Payment by joint owner. If any assessment for a local improvement, or an installment thereof, or judgment for either of them is paid, or a certificate of sale for either of them is redeemed by a joint owner of any of the property so assessed, he may, after demand and refusal, recover from his co-owners, by an action brought in superior court, the respective portions of the payment which each co-owner should bear. He shall have a lien upon the undivided interests of his co-owners from the date of the payment made by him and in the action shall recover interest at ten percent from the date of payment by him and the costs of the action in addition to the principal sum due him. [1965 c 7 § 35.49.090. Prior: 1911 c 98 § 62; RRS § 9415.]

35.49.100 Payment in error—Remedy. If, through error or inadvertence, a person pays any assessment for a local improvement or an installment thereof upon the lands of another, he may, after demand and refusal, recover from the owner of such lands, by an action in the superior court, the amount so paid and the costs of the action. [1965 c 7 § 35.49.100. Prior: 1911 c 98 § 65; RRS § 9418.]

35.49.110 Record of payment. If the amount of any assessment for a local improvement with interest, penalty, costs, and charges accrued thereon is paid to the treasurer before sale of the property in foreclosure of the lien thereon, the city or town treasurer shall mark it paid upon the assessment roll with the date of payment thereof. [1965 c 7 § 35.49.110. Prior: 1927 c 275 § 2; 1911 c 98 § 30; RRS § 9382.]

35.49.120 Tax liens—Private certificate holder takes subject to local assessments. The holder of a certificate of delinquency for general taxes, before commencing any action to foreclose the lien of such certificate, shall pay in full all local improvement assessments or installments thereof which are a lien against the property or any portion thereof, or he may elect to proceed to acquire title to the property subject to certain or all of the assessments or installments which are a lien thereon, in which case the complaint, decree of foreclosure, order of sale, sale, certificate of sale, and deed shall so state.

If the holder pays such local assessments or installments he shall be entitled to twelve percent interest per annum on the amount of the delinquent assessments or delinquent installments thereof so paid, from the date of payment. [1965 c 7 § 35.49.120. Prior: 1929 c 143 § 1, part; 1925 ex.s. c 170 § 1, part; 1911 c 98 § 40, part; RRS § 9393, part.]

35.49.130 Tax liens—County foreclosures—Notice to city treasurers—City may protect assessment lien. In county foreclosures for delinquency in the payment of general taxes, the county treasurer shall mail a

copy of the published summons to the treasurer of every city and town within which any property involved in the foreclosure proceeding is situated. The copy of the summons shall be mailed within fifteen days after the first publication thereof, but the county treasurer's failure to do so shall not affect the jurisdiction of the court nor the priority of the tax sought to be foreclosed.

If any property situated in a city or town is offered for sale for general taxes, the city or town shall have power to protect the lien or liens of any local improvement assessments outstanding against the whole or portion of such property by purchase thereof or otherwise. [1965 c 7 § 35.49.130. Prior: (i) 1911 c 98 § 63; RRS § 9416. (ii) 1929 c 143 § 1, part; 1925 ex.s. c 170 § 1, part; 1911 c 98 § 40, part; RRS § 9393, part.]

35.49.140 Tax liens—Payment by city after taking property on foreclosure of local assessments. If a city or town has bid in any property on sale for local improvement assessments, it may satisfy the lien of any outstanding general taxes upon the property by payment of the face of such taxes and costs, without penalty or interest, but this shall not apply where certificates of delinquency against the property have been issued to private persons. [1965 c 7 § 35.49.140. Prior: 1929 c 143 § 1, part; 1925 ex.s. c 170 § 1, part; 1911 c 98 § 40, part; RRS § 9393, part.]

35.49.150 Tax title property—City may acquire from county before resale. If property is struck off to or bid in by a county at a sale for general taxes, and is subject to local improvement assessments in any city or town, or has been taken over by the city or town on the foreclosure of local improvement assessments, the city or town may acquire the property from the county at any time before resale and receive a deed therefor upon paying the face of such taxes and costs, without penalty or interest. [1965 c 7 § 35.49.150. Prior: 1929 c 143 § 1, part; 1925 ex.s. c 170 § 1, part; 1911 c 98 § 40, part; RRS § 9393, part.]

35.49.160 Tax title property—Disposition of proceeds upon resale. Whenever property struck off to or bid in by a county at a sale for general taxes is subsequently sold by the county, the proceeds of the sale shall first be applied to discharge in full the lien or liens for general taxes for which property was sold; the remainder, or such portion thereof as may be necessary, shall be paid to the city or town to discharge all local improvement assessment liens against the property; and the surplus, if any, shall be distributed among the proper county funds. [1965 c 7 § 35.49.160. Prior: 1929 c 143 § 1, part; 1925 ex.s. c 170 § 1, part; 1911 c 98 § 40, part; RRS § 9393, part.]

35.49.170 Acquisition of property by state or political subdivisions which is subject to unpaid assessments and delinquencies. See RCW 79.44.190.

Chapter 35.50 LOCAL IMPROVEMENTS—FORECLOSURE OF ASSESSMENTS

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Civil procedure: Title 4 RCW.

35.50.005 Filing of title, diagram, expense—Posting proposed roll. Within fifteen days after any city or town has ordered a local improvement and created a local improvement district, the city or town shall cause to be filed with the officer authorized by law to collect the assessments for such improvement, the title of the improvement and district number and a copy of the diagram or print showing the boundaries of the district and preliminary assessment roll or abstract of same showing thereon the lots, tracts and parcels of land that will be specially benefited thereby and the estimated cost and expense of such improvement to be borne by each lot, tract, or parcel of land. Such officer shall immediately post the proposed assessment roll upon his index of local improvement assessments against the properties affected by the local improvement. [1969 ex.s. c 258 § 16; 1965 c 7 § 35.50.005. Prior: 1955 c 353 § 1.]

35.50.010 Assessment lien—Attachment—Priority. The charge assessed upon the respective lots, tracts, or parcels of land and other property in the assessment roll confirmed by ordinance of the city or town council for the purpose of paying the cost and expense in whole or in part of any local improvement, shall be a lien upon the property assessed from the time the assessment roll is placed in the hands of the city or town treasurer for collection, but as between the grantor and grantee, or vendor and vendee of any real property, when there is no express agreement as to payment of the local improvement assessments against the real property, the lien of such assessment shall attach thirty

days after the filing of the diagram or print and the estimated cost and expense of such improvement to be borne by each lot, tract, or parcel of land, as provided in RCW 35.50.005. Interest and penalty shall be included in and shall be a part of the assessment lien.

The assessment lien shall be paramount and superior to any other lien or encumbrance theretofore or thereafter created except a lien for general taxes. [1965 c 7 § 35.50.010. Prior: 1955 c 353 § 4; prior: (i) 1911 c 98 § 20; RRS § 9372. (ii) 1927 c 275 § 1, part; 1921 c 92 § 1; 1911 c 98 § 24, part; RRS § 9376, part.]

35.50.020 Assessment lien—Validity. If the city or town council in making assessments against any property within any local improvement district or utility local improvement district has acted in good faith and without fraud, the assessments shall be valid and enforceable as such and the lien thereof upon the property assessed shall be valid.

It shall be no objection to the validity of the assessment, or the lien thereof:

(1) That the contract for the improvement was not awarded in the manner or at the time required by law; or

(2) That the assessment was made by an unauthorized officer or person if the assessment roll was confirmed by the city or town authorities; or

(3) That the assessment is based upon a front foot basis, or upon a basis of benefits to the property within the improvement district unless it is made to appear that the city or town authorities did not act in good faith and did not attempt to act fairly in regard thereto or unless it is made to appear that the city or town authorities acted fraudulently or oppressively in making the assessment.

All local improvement assessments heretofore or hereafter made by city or town authorities in good faith are valid and in full force and effect. [1967 c 52 § 17; 1965 c 7 § 35.50.020. Prior: 1911 c 98 § 61; RRS § 9414.]

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

35.50.030 Authority and conditions precedent to foreclosure. If on the first day of January in any year, two installments of any local improvement assessment are delinquent, or if the final installment thereof has been delinquent for more than one year, the city or town shall proceed with the foreclosure of the delinquent assessment or delinquent installments thereof by proceedings brought in its own name in the superior court of the county in which the city or town is situate.

The proceedings shall be commenced on or before March 1st of that year or on or before such other date in such year as may be fixed by general ordinance, but not before the city or town treasurer has mailed to the persons whose names appear on the assessment roll as owners of the property charged with the assessments or installments which are delinquent, at the address last known to the treasurer, a notice thirty days before the commencement of the proceedings.

The notice shall state the amount due upon each separate lot, tract, or parcel of land and the date after which the proceedings will be commenced. The city or town treasurer shall file with the clerk of the superior court at the time of commencement of the foreclosure proceeding the affidavit of the person who mailed the notices. This affidavit shall be conclusive proof of compliance with the requirements of this section. [1965 c 7 § 35.50.030. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.]

Construction—1933 c 9: "The provisions of this act shall be applicable to the lien of assessments heretofore as well as hereafter levied and to foreclosure proceedings now pending." [1933 c 9 § 3.]

35.50.040 Entire assessment, foreclosure of. When the local improvement assessment is payable in installments, the enforcement of the lien of any installment shall not prevent the enforcement of the lien of any subsequent installment.

A city or town may by general ordinance provide that upon failure to pay any installment due the entire assessment shall become due and payable and the collection thereof enforced by foreclosure: *Provided*, That the payment of all delinquent installments together with interest, penalty, and costs at any time before entry of judgment in foreclosure shall extend the time of payment on the remainder of the assessments as if there had been no delinquency or foreclosure. Where foreclosure of two installments of the same assessment on any lot, tract, or parcel is sought, the city or town treasurer shall cause such lot, tract, or parcel to be dismissed from the action, if the installment first delinquent together with interest, penalty, costs, and charges is paid at any time before sale. [1965 c 7 § 35.50.040. Prior: (i) 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2, part; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part. (ii) 1919 c 70 § 1; 1911 c 98 § 35; RRS § 9388; prior: 1897 c 111.]

35.50.050 Limitation of foreclosure action. An action to collect a local improvement assessment or any installment thereof or to enforce the lien thereof whether brought by the city or town, or by any person having the right to bring such action must be commenced within ten years after the assessment becomes delinquent or within ten years after the last installment becomes delinquent, if the assessment is payable in installments: *Provided*, That the time during which payment of principal is deferred as to economically disadvantaged property owners as provided for in RCW 35.43.250 and in RCW 35.50.030 shall not be a part of the time limited for the commencement of action. [1972 ex.s. c 137 § 5; 1965 c 7 § 35.50.050. Prior: 1911 c 98 § 41; RRS § 9394.]

Reviser's note: The amendment to RCW 35.50.030 by 1972 ex.s. c 137 § 4 (referred to in this section) was vetoed and failed to become law.

Severability—1972 ex.s. c 137: See note following RCW 35.49.010.

35.50.060 Procedure—Commencement of action.

The proceeding when brought by the city or town shall be initiated by filing with the clerk of the superior court a certificate of the city or town treasurer setting forth a description of each separate lot, tract, or parcel of land or other property upon which the assessment or installments thereof are delinquent, the date of delinquency and the amount thereof, including interest and penalty, the name of the owner thereof as appears upon the assessment roll, or that the owner is unknown, the number and date of passage of the ordinance authorizing the improvement, the number and date of passage of the ordinance confirming the assessment roll and the number of the local improvement district.

All such lots, tracts, or parcels of land or other property may be included in one certificate. [1965 c 7 § 35.50.060. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.]

35.50.070 Procedure—Parties and property included.

It shall not be necessary to bring a separate suit for each lot, tract, or parcel of land or other property or for each separate local improvement district or utility local improvement district, but all or any part of the property upon which local improvement assessments are delinquent under any and all local improvement assessment rolls in the city or town may be proceeded against in the same action and all or any of the owners or persons interested in any of the property being foreclosed upon may be joined as parties defendant in a single action to foreclose, and all or any liens for such delinquent assessments or installments thereof may be foreclosed in such proceeding. [1967 c 52 § 18; 1965 c 7 § 35.50.070. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.]

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

35.50.080 Procedure—Pleadings and evidence.

The certificate of the city or town treasurer the filing of which initiated the foreclosure action shall be prima facie evidence of the regularity and legality of the proceedings and the burden of proof shall be on the defendants.

The persons whose names appear on the rolls as owners of the property shall be considered as the owners thereof for the purpose of foreclosure and if it appears upon the rolls that the owner of any property is unknown, that property shall be proceeded against as belonging to an unknown owner and all persons owning, or claiming to own the property, or who have or claim to have an interest therein, are required to take notice of the proceedings and of all steps thereunder. [1965 c 7 § 35.50.080. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.]

35.50.090 Procedure—Summons and service.

Upon the filing of the certificate which initiated the foreclosure action, the city or town treasurer with such

legal assistance as the council may provide, shall cause a summons to be served by publication in one general notice describing the property as it is described on the assessment rolls. The summons shall require the defendants and each of them to appear and answer it within sixty days from the date of its first publication.

The summons shall be published once each week for four successive weeks in the official newspaper of the city or town or, if it has none, in any weekly newspaper published in the county in which the city or town is situated.

The publication of the summons shall be sufficient service thereof on all persons interested in the property described therein. [1965 c 7 § 35.50.090. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.]

35.50.100 Procedure—Trial and judgment.

The action shall be tried before the court without a jury. If the owner or persons interested in any particular lot, tract, or parcel of land or other property included in the foreclosure action suffer a default, the court may enter a judgment of foreclosure and sale as to them and the action may proceed as to the remaining defendants and property.

The judgment shall specify separately the amount of the assessment or installments thereof, including interest, penalty, and costs, chargeable to the several lots, tracts, or parcels of land or other property in the proceeding. The judgment shall have the effect of a separate judgment as to each lot, tract, or parcel described in the judgment, and any appeal from the judgment shall not invalidate or delay the judgment except as to the property concerning which the appeal is taken.

In entering judgment, the court shall decree that the lots, tracts, or parcels of land or other property be sold by the city or town treasurer to enforce the judgment. Judgment may be entered as to any one or more separate lots, tracts, or parcels involved in the proceeding and the court shall retain jurisdiction as to the balance. [1965 c 7 § 35.50.100. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.]

35.50.110 Procedure—Appeals. The laws governing appeals from general tax foreclosure judgments shall apply to appeals from judgments had in a local improvement assessment lien foreclosure action. [1965 c 7 § 35.50.110. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.]

Appeal from general tax foreclosure judgment: RCW 84.64.120.

35.50.120 Sale. All sales shall be held by the city or town treasurer at the front door of the city or town hall or the building in which the treasurer's office is located. All sales shall be made on Saturday between the hours of nine o'clock in the morning and four o'clock in the afternoon, unless the treasurer's office of the city or town is closed on that day in accordance with law, in which event the sale shall be held on the next preceding

business day, and shall continue from day to day, Saturdays, Sundays and holidays excepted, during the same hours until all lots, tracts, or parcels of land or other property are sold. [1965 c 7 § 35.50.120. Prior: 1953 c 134 § 1; 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.]

35.50.130 Sale—Notice. Notice containing a description of the property to be sold shall be given of the time and place where such sale is to take place by publication once each week for two successive weeks in the official newspaper of the city or town, or if it has none, in a weekly newspaper published in the county in which the city or town is situated. The date fixed for the sale shall be not less than ninety days after the first publication of the notice. The notice shall be substantially in the following form:

LOCAL IMPROVEMENT ASSESSMENT SALE

Public notice is hereby given that pursuant to local improvement assessment judgment of the superior court of the county of _____ in the state of Washington, entered the _____ day of _____, _____, in proceedings for foreclosure of local improvement assessment liens upon real property, as per provisions of law, that I shall on the _____ day of _____, _____, at _____ o'clock _____ at the front door of the city or town hall (or building in which the city or town treasurer's office is located) in the city or town of _____ in the county of _____, state of Washington, sell the following described lots, tracts or parcels of land or other property to satisfy the full amount of local improvement assessments, interest, penalty and costs adjudged to be due thereon together with interest accrued on such assessment to the date of sale and costs of sale as follows to wit:

(Description of property)

(Amount due)

In witness whereof, I have hereunto set my hand this _____ day of _____, _____. Treasurer of _____ county of _____, state of Washington. [1965 c 7 § 35.50.130. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.]

35.50.140 Sale—Manner of. At the sale pursuant to a local improvement assessment lien foreclosure each lot, tract, or parcel of land or other property shall be sold to the person offering to pay therefor not less than the full amount of the assessment, interest, penalty, and costs adjudged to be due thereon, and if no such offer is received, shall be sold to the city or town for such amount.

If any bidder to whom any property is stricken off does not pay the amount of his bid before ten o'clock in the morning on the day following the day of its sale, the property shall then be resold, or if the sale has been closed, it shall be deemed to have been sold to the city or town.

Any amount received upon the sale of any lot, tract, or parcel in excess of the amount of the assessment, penalty, interest, and costs adjudged to be due thereon shall be paid by the city or town clerk to the clerk of the superior court for the benefit of the owner of the property. [1965 c 7 § 35.50.140. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.]

35.50.150 Sale—Purchaser's title. The purchaser of any lot, tract, or parcel shall take it subject to the lien of all unpaid general taxes and local improvement assessments or installments still outstanding against it. [1965 c 7 § 35.50.150. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.]

35.50.160 Sale—Report of. The city or town treasurer shall file with the clerk of the superior court, for deposit with other papers in the foreclosure action, proof of publication of the notice of sale and a report of the sale.

The report of sale shall contain the title and number of the action, a description of each lot, tract, or parcel sold, the amount for which it was sold, the date of the sale thereof, and the name of the purchaser. [1965 c 7 § 35.50.160. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.]

35.50.170 Sale—Certificate of purchase—Content. The city or town treasurer shall execute and deliver to each purchaser a certificate of purchase. All lots, tracts, or parcels sold to the city or town on the same day may be included in one certificate of purchase.

The certificate signed by the treasurer shall be dated as of the date of sale, contain the name of the owner as given on the assessment roll, a description of each lot, tract, or parcel and the amount for which it was sold, a brief designation of the improvement for which the assessment was levied, the name of the purchaser, and a statement that the purchaser, his successor, or assigns will be entitled to a deed at the expiration of the period of redemption allowed by law unless redemption is made. [1965 c 7 § 35.50.170. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.]

35.50.180 Sale—Certificate of purchase—Assignment—Recording. A certificate of purchase may be assigned by a written assignment, signed by the assignor and acknowledged in the same manner and before the same officers as provided for deeds. Certificates of purchase and assignments thereof may be recorded in the office of the county auditor of the county wherein the land affected is situated. [1965 c 7 § 35.50.180. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.]

35.50.190 Sale—Redemption. Any lot, tract or parcel sold pursuant to the foreclosure of a local improvement assessment lien shall be subject to redemption within two years from date of sale.

Redemption may be made by the persons designated in and shall be governed by the statutes applicable to redemptions from sales under decrees foreclosing mortgages on real property, the city or town treasurer to perform the duties therein imposed upon the sheriff, and the terms "judgment debtor" or "successor in interest" as used in such statutes shall be held to include an owner or a vendee. [1965 c 7 § 35.50.190. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.]

Redemption from sale—Who may redeem: RCW 6.24.130.

35.50.200 Sale—Deed—Form. If the time for redemption from a sale made pursuant to the foreclosure of a local improvement assessment lien has expired without any redemption having been made, the treasurer shall deliver to the purchaser at the sale, his successor or assigns, a local improvement assessment deed. All property to be conveyed to the city or town as a result of the sale may be included in one deed.

The deed shall be substantially in the following form:

LOCAL IMPROVEMENT ASSESSMENT DEED

State of Washington, }
County of _____ } ss.

This indenture, made this _____ day of _____, _____, between _____ as treasurer of the city (or town) of _____, _____ county, state of Washington, party of the first part, and _____, party of the second part.

WITNESSETH, that, whereas, at a public sale of real property held on the _____ day of _____, _____, pursuant to a real property local improvement assessment judgment entered in the superior court in the county of _____, on the _____ day of _____, in proceedings to foreclose local improvement assessment liens upon real property, the real property hereinafter described was duly sold, and the said party of the second part is now entitled to a deed to said real property.

NOW, THEREFORE, KNOW YE, that the party of the first part, in consideration of the premises and by virtue of the statutes of the state of Washington in such cases provided, does hereby grant and convey unto the party of the second part, his heirs and assigns forever, the following described real property in the county of _____, state of Washington, to wit:

(Here insert description of real property conveyed.)

This deed is subject to the lien of all unpaid general taxes and local improvement assessments, other than the particular installment or installments thereof for which the judgment aforesaid was entered. Given under my hand this _____ day of _____, _____,

Treasurer of _____, county of _____, state of Washington.

[1965 c 7 § 35.50.200. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.]

35.50.210 Sale—Deed—Validity—Cancellation. A local improvement assessment deed shall be prima facie evidence that the property therein described was assessed according to law, that it was not redeemed and that the person executing the deed was the proper officer. It shall be conclusive evidence of the regularity of all other proceedings from the assessment up to and including the execution of the deed and shall vest in the grantee, his heirs and assigns, fee simple title to the property therein described without further acknowledgment or evidence of the conveyance. The deed shall be recorded in the same manner as other conveyances of real property.

Actions to cancel a local improvement assessment deed or for the recovery of property sold for delinquent local improvement assessments must be brought within three years from the date of the issuance of the deed. [1965 c 7 § 35.50.210. Prior: (i) 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part. (ii) 1927 c 275 § 6; RRS § 9394-1; prior: 1897 c 111.]

35.50.220 Alternative procedure—Commencement of action. In lieu of the foregoing procedure for foreclosing local improvement assessment liens a city or town may by ordinance authorize and direct the use of an alternative method of proceeding by filing a complaint in the superior court of the county in which the city or town is located. It shall be sufficient to allege in the complaint (1) the passage of the ordinance authorizing the improvement, (2) the making of the improvement, (3) the levying of the assessment, (4) the confirmation thereof, (5) the date of delinquency of the installment or installments of the assessment for the enforcement of which the action is brought and (6) that they have not been paid prior to delinquency or at all. [1965 c 7 § 35.50.220. Prior: 1933 c 9 § 2, part; RRS § 9386-1, part.]

35.50.230 Alternative procedure—Parties and property included. In the alternative method of foreclosing local improvement assessment liens, all or any of the lots, tracts, or parcels of land or other property included in the assessment for one local improvement district or one utility local improvement district may be proceeded against in the same action. All persons owning or claiming to own or having or claiming to have any interest in or lien upon the lots, tracts, or parcels involved in the action and all persons unknown who may have an interest or claim of interest therein shall be made defendants thereto. [1967 c 52 § 19; 1965 c 7 § 35.50.230. Prior: 1933 c 9 § 2, part; RRS § 9386-1, part.]

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

35.50.240 Alternative procedure—Pleadings and evidence. In the alternative method of foreclosing local improvement assessment liens, the assessment roll and the ordinance confirming it, or duly authenticated copies thereof shall be prima facie evidence of the regularity and legality of the proceedings connected therewith and the burden of proof shall be on the defendants. [1965 c 7 § 35.50.240. Prior: 1933 c 9 § 2, part; RRS § 9386-1, part.]

35.50.250 Alternative procedure—Summons and service. In the alternative method of foreclosing local improvement assessments, summons and the service thereof shall be governed by the statutes governing the foreclosure of mortgages on real property. [1965 c 7 § 35.50.250. Prior: 1933 c 9 § 2, part; RRS § 9386-1, part.]

Commencement of actions: Chapter 4.28 RCW.

35.50.260 Alternative procedure—Trial and judgment. In the alternative method of foreclosing local improvement assessments the action shall be tried to the court without a jury. If the parties interested in any particular lot, tract, or parcel default, the court may enter judgment of foreclosure and sale as to such parties and lots, tracts, or parcels and the action may proceed as to the remaining defendants and lots, tracts, or parcels. Judgment and order of sale may be entered as to any one or more separate lots, tracts, or parcels involved in the action and the court shall retain jurisdiction to others.

The judgment shall specify separately the amount of the installments with interest, penalty, and costs chargeable to each lot, tract, or parcel. The judgment shall have the effect of a separate judgment as to each lot, tract, or parcel described in the judgment, and any appeal shall not invalidate or delay the judgment except as to the property concerning which the appeal is taken. In the judgment the court shall order the lots, tracts, or parcels therein described sold, and an order of sale shall issue pursuant thereto for the enforcement of the judgment.

In all other respects the trial, judgment and order of sale, and appeals to the supreme court or the court of appeals shall be governed by the statutes governing the foreclosure of mortgages on real property. [1971 c 81 § 93; 1965 c 7 § 35.50.260. Prior: 1933 c 9 § 2, part; RRS § 9386-1, part.]

Foreclosure of real estate and chattel mortgages: Chapter 61.12 RCW.

35.50.270 Alternative procedure—Sale—Redemption—Deed. In the alternative method of foreclosing local improvement assessments, all sales shall be subject to the right of redemption within two years from the date of sale. In all other respects, the sale, redemption and issuance of deed shall be governed by the statutes governing the foreclosure of mortgages on real property and the terms "judgment debtor" and "successor in interest" as used in such statutes shall be held to include an owner or a vendee. [1965 c 7 § 35.50.270. Prior: 1933 c 9 § 2, part; RRS § 9386-1, part.]

Chapter 35.53

LOCAL IMPROVEMENTS—DISPOSITION OF PROPERTY ACQUIRED

Sections

- 35.53.010 Property to be held in trust—Taxability.
- 35.53.020 Discharge of trust.
- 35.53.030 Sale or lease of trust property.
- 35.53.040 Termination of trust in certain property.
- 35.53.050 Termination of trust in certain property—Complaint—Allegations.
- 35.53.060 Termination of trust in certain property—Property—Parties—Summons.
- 35.53.070 Termination of trust in certain property—Receivership—Regulations.

35.53.010 Property to be held in trust—Taxability. Property bid in by the city or town or struck off to it pursuant to proceedings for the foreclosure of local improvement assessment liens shall be held in trust by the city or town for the fund of the improvement district or the revenue bond fund into which assessments in utility local improvement districts are pledged to be paid for the benefit of which the property was sold. Any property so held in trust shall be exempt from taxation for general state, county and municipal purposes during the period that it is so held. [1967 c 52 § 20; 1965 c 7 § 35.53.010. Prior: 1933 c 107 § 1, part; 1927 c 275 § 3, part; 1911 c 98 § 31, part; RRS § 9383, part.]

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

35.53.020 Discharge of trust. The city or town may relieve itself of its trust relation to a local improvement district fund or revenue bond fund into which utility local improvement assessments are pledged to be paid as to any lot, tract, or parcel of property by paying into the fund the amount of the delinquent assessment for which the property was sold and all accrued interest, together with interest to the time of the next call of bonds or warrants against such fund at the rate provided thereon. Upon such payment the city or town shall hold the property discharged of the trust. [1967 c 52 § 21; 1965 c 7 § 35.53.020. Prior: 1933 c 107 § 1, part; 1927 c 275 § 3, part; 1911 c 98 § 31, part; RRS § 9383, part.]

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

35.53.030 Sale or lease of trust property. A city or town may lease or sell and convey any such property held in trust by it, by virtue of the conveyance thereof to it by a local improvement assessment deed. The sale may be public or private and for such price and upon such terms as may be determined by resolution of the council, any provisions of law, charter, or ordinance to the contrary notwithstanding. After first reimbursing any funds which may have advanced moneys on account of any lot, tract, or parcel, all proceeds resulting from lease or sale thereof shall ratably belong and be paid into the funds of the local improvement concerned. [1965 c 7 § 35.53.030. Prior: 1927 c 275 § 4; 1911 c 98 § 32; RRS § 9384.]

35.53.040 Termination of trust in certain property. A city or town which has heretofore acquired or hereafter acquires any property through foreclosure of delinquent assessments for local improvements initiated or proceedings commenced before June 8, 1927, may terminate its trust therein by an action in the superior court, if all the bonds and warrants outstanding in the local improvement district in which the assessments were levied are delinquent. [1965 c 7 § 35.53.040. Prior: 1929 c 142 § 1, part; RRS § 9384-1, part.]

35.53.050 Termination of trust in certain property—Complaint—Allegations. The complaint in any such action by a city or town to terminate its trust in property acquired at a local improvement assessment sale shall set forth:

(1) The number of the local improvement district or utility local improvement district,

(2) The bonds and warrants owing thereby,

(3) The owners thereof or that the owners are unknown,

(4) A description of the assets of the district with the estimated value thereof,

(5) The amount of the assessments, including penalty and interest, of any other local improvement districts or utility local improvement districts which are a lien upon the same property,

(6) The amount of the bonds and warrants owing by such other districts and the names of the owners thereof unless they are unknown, except where the bonds and warrants are guaranteed by a local improvement guaranty fund or pursuant to any other form of guaranty authorized by law. [1967 c 52 § 22; 1965 c 7 § 35.53.050. Prior: 1929 c 142 § 1, part; RRS § 9384-1, part.]

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

35.53.060 Termination of trust in certain property—Property—Parties—Summons. Two or more delinquent districts and all property, bonds and warrants therein may be included in one action to terminate the trust.

All persons owning any bonds or warrants of the districts involved in the action or having an interest therein shall be made parties defendant except in cases where the bonds or warrants are guaranteed by a local improvement guaranty fund or pursuant to any other form of guaranty authorized by law.

Summons shall be served as in other actions. Unknown owners and unknown parties shall be served by publication. [1965 c 7 § 35.53.060. Prior: 1929 c 142 § 1, part; RRS § 9384-1, part.]

Commencement of actions: Chapter 4.28 RCW.

35.53.070 Termination of trust in certain property—Receivership—Regulations. In such an action the court after acquiring jurisdiction shall proceed as in the case of a receivership except that the city or town shall serve as trustee in lieu of a receiver.

The assets of the improvement districts involved shall be sold at such prices and in such manner as the court may deem advisable and be applied to the costs and

expenses of the action and the liquidation of the bonds and warrants of the districts or revenue bonds to which utility local improvement assessments are pledged to pay.

No notice to present claims other than the summons in the action shall be necessary. Any claim presented shall be accompanied by the bonds and warrants upon which it is based. Dividends upon any bonds or warrants for which no claim was filed shall be paid into the general fund of the city or town, but the owner thereof may obtain it at any time within five years thereafter upon surrender and cancellation of his bonds and warrants.

Upon the termination of the receivership the city or town shall be discharged from all trusts relating to the property, funds, bonds, and warrants involved in the action. [1967 c 52 § 23; 1965 c 7 § 35.53.070. Prior: 1929 c 142 § 1, part; RRS § 9384-1, part.]

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

Chapter 35.54

LOCAL IMPROVEMENTS—GUARANTY FUNDS

Sections

35.54.010	Establishment.
35.54.020	Rules and regulations.
35.54.030	Source—Interest and earnings.
35.54.040	Source—Subrogation rights to assessments.
35.54.050	Source—Surplus from improvement funds.
35.54.060	Source—Taxation.
35.54.070	Use of fund—Purchase of bonds, coupons and warrants.
35.54.080	Use of fund—Purchase of general tax certificates or property on or after foreclosure—Disposition.
35.54.090	Warrants against fund.
35.54.100	Deferral of collection of assessments for economically disadvantaged persons—Payment from guaranty fund—Lien—Payment dates for deferred obligations.

35.54.010 Establishment. There is established in every city and town a fund to be designated the "local improvement guaranty fund" for the purpose of guaranteeing, to the extent of the fund, the payment of its local improvement bonds and warrants issued to pay for any local improvement ordered in the city or town or in any area wholly or partly outside its corporate boundaries: (1) In any city of the first class having a population of more than three hundred thousand, subsequent to June 8, 1927; (2) in any city or town having created and maintained a guaranty fund under chapter 141, Laws of 1923, subsequent to the date of establishment of such fund; and (3) in any other city or town subsequent to April 7, 1926: *Provided*, That this shall not apply to any city of the first class which maintains a local improvement guaranty fund under chapter 138, Laws of 1917, but any such city maintaining a guaranty fund under chapter 138, Laws of 1917 may by ordinance elect to operate under the provisions of this chapter and may transfer to the guaranty fund created hereunder all the assets of the former fund and, upon such election and transfer, all bonds guaranteed under the former fund shall be guaranteed under the provisions of this chapter. [1971 ex.s. c 116 § 7; 1965 c 7 §

35.54.010. Prior: (i) 1917 c 138 § 1; RRS § 8986. (ii) 1917 c 138 § 2; RRS § 8987. (iii) 1917 c 138 § 3; RRS § 8988. (iv) 1917 c 138 § 4; RRS § 8989. (v) 1917 c 138 § 5; RRS § 8990. (vi) 1917 c 138 § 6; RRS § 8991. (vii) 1927 c 209 § 1; 1925 ex.s. c 183 § 1; 1923 c 141 § 1; RRS § 9351-1. (viii) 1927 c 209 § 2, part; 1925 ex.s. c 183 § 2, part; 1923 c 141 § 2, part; RRS § 9351-2, part.]

35.54.020 Rules and regulations. Every city and town operating under the provisions of this chapter shall prescribe by ordinance appropriate rules and regulations for the maintenance and operation of the guaranty fund not inconsistent with the provisions of this chapter. [1965 c 7 § 35.54.020. Prior: 1933 c 109 § 1, part; 1927 c 209 § 3, part; 1925 ex.s. c 183 § 3, part; 1923 c 141 § 3, part; RRS § 9351-3, part.]

35.54.030 Source—Interest and earnings. Interest and earnings from the local improvement guaranty fund shall be paid into the fund. [1965 c 7 § 35.54.030. Prior: 1933 c 109 § 1, part; 1927 c 209 § 3, part; 1925 ex.s. c 183 § 3, part; 1923 c 141 § 3, part; RRS § 9351-3, part.]

35.54.040 Source—Subrogation rights to assessments. Whenever any sum is paid out of the local improvement guaranty fund on account of principal or interest of a local improvement bond or warrant, the city or town as trustee of the fund shall be subrogated to all the rights of the holder of the bond or interest coupon or warrant so paid, and the proceeds thereof, or of the underlying assessment, shall become part of the guaranty fund. [1965 c 7 § 35.54.040. Prior: 1933 c 109 § 1, part; 1927 c 209 § 3, part; 1925 ex.s. c 183 § 3, part; 1923 c 141 § 3, part; RRS § 9351-3, part.]

35.54.050 Source—Surplus from improvement funds. If in any local improvement fund guaranteed by a local improvement guaranty fund there is a surplus remaining after the payment of all outstanding bonds and warrants payable therefrom, it shall be paid into the local improvement guaranty fund. [1965 c 7 § 35.54.050. Prior: 1933 c 109 § 1, part; 1927 c 209 § 3, part; 1925 ex.s. c 183 § 3, part; 1923 c 141 § 3, part; RRS § 9351-3, part.]

35.54.060 Source—Taxation. For the purpose of maintaining the local improvement guaranty fund, every city and town shall, at the time of making its annual budget and tax levy, provide for the levy of a sum sufficient, with the other sources of the fund, to pay the warrants issued against the fund during the preceding fiscal year and to establish a balance therein: *Provided*, That the levy in any one year shall not exceed five percent of the outstanding obligations guaranteed by the fund.

The taxes levied for the maintenance of the local improvement guaranty fund shall be additional to and, if need be, in excess of all statutory and charter limitations applicable to tax levies in any city or town. [1965 c 7 § 35.54.060. Prior: (i) 1933 c 109 § 1, part; 1927 c 209 § 3, part; 1925 ex.s. c 183 § 3, part; 1923 c 141 § 3, part; RRS § 9351-3, part. (ii) 1927 c 209 § 2, part; 1925

ex.s. c 183 § 2, part; 1923 c 141 § 2, part; RRS § 9351-2, part.]

Special assessments or taxation for local improvements: State Constitution Art. 7 § 9.

35.54.070 Use of fund—Purchase of bonds, coupons and warrants. Defaulted bonds, interest coupons and warrants against local improvement funds shall be purchased out of the guaranty fund, and as between the several issues of bonds, coupons, or warrants no preference shall exist, but they shall be purchased in the order of their presentation. [1965 c 7 § 35.54.070. Prior: 1933 c 109 § 1, part; 1927 c 209 § 3, part; 1925 ex.s. c 183 § 3, part; 1923 c 141 § 3, part; RRS § 9351-3, part.]

35.54.080 Use of fund—Purchase of general tax certificates or property on or after foreclosure—Disposition. For the purpose of protecting the guaranty fund, so much of the guaranty fund as is necessary may be used to purchase certificates of delinquency for general taxes on property subject to local improvement assessments which underlie the bonds, coupons, or warrants guaranteed by the fund, or to purchase such property at county tax foreclosures, or from the county after foreclosure.

The city or town, as trustee of the fund, may foreclose the lien of general tax certificates of delinquency and purchase the property at foreclosure sale; when doing so the court costs, costs of publication, expense for clerical work and other expenses incidental thereto shall be charged to and paid from the local improvement guaranty fund.

After acquiring title to property by purchase at general tax foreclosure sale or from the county after foreclosure, a city or town may lease it or sell it at public or private sale at such price on such terms as may be determined by resolution of the council. All proceeds shall belong to and be paid into the local improvement guaranty fund. [1965 c 7 § 35.54.080. Prior: 1933 c 109 § 1, part; 1927 c 209 § 3, part; 1925 ex.s. c 183 § 3, part; 1923 c 141 § 3, part; RRS § 9351-3, part.]

35.54.090 Warrants against fund. Warrants drawing interest at a rate not to exceed six percent shall be issued against the local improvement guaranty fund to meet any liability accruing against it. The warrants so issued shall at no time exceed five percent of the outstanding obligations guaranteed by the fund. [1965 c 7 § 35.54.090. Prior: 1933 c 109 § 1, part; 1927 c 209 § 3, part; 1925 ex.s. c 183 § 3, part; 1923 c 141 § 3, part; RRS § 9351-3, part.]

35.54.100 Deferral of collection of assessments for economically disadvantaged persons—Payment from guaranty fund—Lien—Payment dates for deferred obligations. Whenever payment of a local improvement district assessment is deferred pursuant to the provisions of RCW 35.43.250 the amount of the deferred assessment shall be paid out of the local improvement guaranty fund. The local improvement guaranty fund shall have a lien on the benefited property in an amount

equal to the deferral together with interest as provided for by the establishing ordinance.

The lien may accumulate up to an amount not to exceed the sum of two installments: *Provided*, That the ordinance creating the local improvement district may provide for one or additional deferrals of up to two installments. Local improvement assessment obligations deferred under *this 1972 amendatory act shall become payable upon the earliest of the following dates:

(1) Upon the date and pursuant to conditions established by the political subdivision granting the deferral; or

(2) Upon the sale of property which has a deferred assessment lien upon it from the purchase price; or

(3) Upon the death of the person to whom the deferral was granted from the value of his estate; except a surviving spouse shall be allowed to continue the deferral which shall then be payable by that spouse as provided in this section. [1972 ex.s. c 137 § 3.]

***Reviser's note:** "this 1972 amendatory act" [1972 ex.s. c 137] consists of the 1972 ex.s. amendments to RCW 35.49.010 and 35.50.050, and to RCW 35.43.250 and 35.54.100.

Severability—1972 ex.s. c 137: See note following RCW 35.49.010.

Chapter 35.55 LOCAL IMPROVEMENTS—FILLING LOWLANDS

Sections

35.55.010	Authority—Second and third class cities.
35.55.020	Alternative methods of financing.
35.55.030	Boundaries—Excepted property.
35.55.040	Damages—Eminent domain.
35.55.050	Estimates—Plans and specifications.
35.55.060	Assessment roll—Items—Assessment units—Installments.
35.55.070	Hearing on assessment roll—Notice—Council's authority.
35.55.080	Hearings—Appeals.
35.55.090	Lien—Collection of assessments.
35.55.100	Interest on assessments.
35.55.110	Payment of cost of improvement—Interest on warrants.
35.55.120	Local improvement bonds—Terms.
35.55.130	Local improvement bonds—Guaranties.
35.55.140	Local improvement bonds and warrants—Sale to pay damages, preliminary financing.
35.55.150	Local improvement fund—Investment.
35.55.160	Letting contract for improvement—Excess or deficiency of fund.
35.55.170	Payment of contractor—Bonds, warrants, cash.
35.55.180	Reassessments.
35.55.190	Provisions of chapter not exclusive.

35.55.010 Authority—Second and third class cities. If the city council of any city of the second and third class deems it necessary or expedient on account of the public health, sanitation, the general welfare, or other cause, to fill or raise the grade of any marshlands, swamplands, tidelands, shorelands, or lands commonly known as tideflats, or any other lowlands situated within the limits of the city, and to clear and prepare the lands for such filling, it may do so and assess the expense thereof, including the cost of making compensation for property taken or damaged, and all other costs and expense incidental to such improvement, to the

property benefited, except such amount of such expense as the city council may direct to be paid out of the current or general expense fund.

If, in the judgment of the city council the special benefits for any such improvement shall extend beyond the boundaries of the filled area, the council may create an enlarged district which shall include, as near as may be, all the property, whether actually filled or not, which will be specially benefited by such improvement, and in such case the council shall specify and describe the boundaries of such enlarged district in the ordinance providing for such improvement and shall specify that such portion of the total cost and expense of such improvement as may not be borne by the current or general expense fund, shall be distributed and assessed against all the property of such enlarged district. [1965 c 7 § 35.55.010. Prior: 1917 c 63 § 1; 1909 c 147 § 1; RRS § 9432.]

35.55.020 Alternative methods of financing. If the city council desires to make any improvement authorized by the provisions of this chapter it shall provide therefor by ordinance and unless the ordinance provides that the improvement shall be paid for wholly or in part by special assessments upon the property benefited, compensation therefor shall be made from any general funds of the city applicable thereto. If the ordinance provides that the improvement shall be paid for wholly or in part by special assessments upon property benefited, the proceedings for the making of the special assessments shall be as hereinafter provided. [1965 c 7 § 35.55.020. Prior: 1909 c 147 § 2, part; RRS § 9433, part.]

Special assessments or taxation for local improvements: State Constitution Art. 7 § 9.

35.55.030 Boundaries—Excepted property. Such ordinance shall specify the boundaries of the proposed improvement district and shall describe the lands which it is proposed to assess for said improvement. If any parcel of land within the boundaries of such proposed improvement district has been wholly filled to the proposed grade elevation of the proposed fill, such parcel of land may be excluded from the lists of lands to be assessed, when in the opinion of the city council justice and equity require its exclusion. The boundaries of any improvement district may be altered so as to exclude land therefrom at any time up to the levying of the assessment but such changing of the boundaries shall be by ordinance. [1965 c 7 § 35.55.030. Prior: 1909 c 147 § 2, part; RRS § 9433, part.]

35.55.040 Damages—Eminent domain. If an ordinance has been passed as in this chapter provided, and it appears that in making of the improvement so authorized, private property will be taken or damaged thereby, the city shall file a petition in the superior court of the county in which such city is situated, in the name of the city, praying that just compensation to be made for the property to be taken or damaged for the improvement specified in the ordinance be ascertained,

and conduct proceedings in eminent domain in accordance with the statutes relating to cities for the ascertainment of the compensation to be made for the taking and damaging of property, except insofar as the same may be inconsistent with this chapter.

The filling of unimproved and uncultivated lowlands of the character mentioned in RCW 35.55.010 shall not be considered as damaging or taking of such lands. The damage if any, done to cultivated lands or growing crops thereon, or to buildings and other improvements situated within the district proposed to be filled, shall be ascertained and determined in the manner above provided; but no damage shall be awarded to any property owner for buildings or improvements placed upon lands included within said district after the publication of the ordinance defining the boundaries of the proposed improvement district: *Provided*, That the city shall after the passage of such ordinance, proceed with said improvement with due diligence. If the improvement is to be made at the expense of the property benefited, no account shall be taken of benefits by the jury or court in assessing the amount of compensation to be made to the owner of any property within such district, but such compensation shall be assessed without regard to benefits to the end that said property for which damages may be so awarded, may be assessed the same as other property within the district for its just share and proportion of the expense of making said improvement, and the fact that compensation has been awarded for the damaging or taking of any parcel of land shall not preclude the assessment of such parcel of land for its just proportion of said improvement. [1965 c 7 § 35.55-.040. Prior: 1909 c 147 § 3; RRS § 9434.]

Eminent domain by cities: Chapter 8.12 RCW.

35.55.050 Estimates—Plans and specifications. At the time of the initiation of the proceedings for any improvement as contemplated by this chapter, or at any time afterward, the city council shall cause plans and specifications for said improvement to be prepared and shall cause an estimate to be made of the cost and expense of making said improvement, including the cost of supervision and engineering, abstractor's fees, interest and discounts and all other expenses incidental to said improvement, including an estimate of the amount of damages for property taken or damaged, which plans, specifications and estimates shall be approved by the city council. [1965 c 7 § 35.55.050. Prior: 1909 c 147 § 4; RRS § 9435.]

35.55.060 Assessment roll—Items—Assessment units—Installments. When such plans and specifications have been prepared and the estimates of the cost and expense of making the improvement have been adopted by the council and when an estimate has been made of the compensation to be paid for property damaged or taken, either before or after the compensation has been ascertained in the eminent domain proceedings, the city council shall cause an assessment roll to be prepared containing a list of all of the property within the improvement district which it is proposed to assess for the improvement, together with the names of

the owners, if known, and if unknown the property shall be assessed to an unknown owner, and opposite each description shall be set the amount assessed to such description.

When so ordered by the council, the entire amount of compensation paid or to be paid for property damaged or taken, including all of the costs and expenses incidental to the condemnation proceedings together with the entire cost and expense of making the improvement, may be assessed against the property within the district subject to assessment, but the council may order any portion of the costs paid out of the current or general expense fund of the city.

The assessments shall be made according to and in proportion to surface area one square foot of surface to be the unit of assessment, except that the several parcels of land in any enlarged district not actually filled shall be assessed in accordance with special benefits: *Provided*, That where any parcel of land was partially filled by the owner prior to the initiation of the improvement, an equitable deduction for such partial filling may be allowed.

The cost and expense incidental to the filling of the streets, alleys and public places within such assessment district shall be borne by the private property within such district subject to assessment when so ordered by the council. When the assessments are payable in installments, the assessment roll when equalized, shall show the number of installments and the amounts thereof. The assessments may be made payable in any number of equal annual installments not exceeding ten in number. [1965 c 7 § 35.55.060. Prior: 1917 c 63 § 2; 1909 c 147 § 5; RRS § 9436.]

35.55.070 Hearing on assessment roll—Notice—Council's authority. When such assessment roll has been prepared it shall be filed in the office of the city clerk and thereupon the city clerk shall give notice by publication in at least three issues of the official paper that such roll is on file in his office and that at a date mentioned in said notice, which shall be at least twenty days after the date of the first publication thereof, the city council will sit as a board of equalization to equalize said roll and to hear, consider and determine protests and objections against the same.

At the time specified in the notice, the city council shall sit as a board of equalization to equalize the roll and they may adjourn the sitting from time to time until the equalization of such roll is completed. The city council as board of equalization may hear, consider and determine objections and protests against any assessment and may make such alterations and modifications in the assessment roll as justice and equity may require. [1965 c 7 § 35.55.070. Prior: 1909 c 147 § 6; RRS § 9437.]

35.55.080 Hearings—Appeals. Any person who has made objections to the assessment as equalized, shall have the right to appeal from the equalization as made by the city council to the superior court of the county. The appeal shall be made by filing a written notice of appeal with the city clerk within ten days after

the equalization of the assessments by the council. The notice of appeal shall describe the property and the objections of such appellant to such assessment.

The appellant shall also file with the clerk of the superior court within ten days from the time of taking the appeal a copy of the notice of appeal together with a copy of the assessment roll and proceedings thereon, certified by the city clerk and a bond to the city conditioned to pay all costs that may be awarded against appellant in such sum not less than two hundred dollars and with such security as shall be approved by the clerk of the court.

The case shall be docketed by the clerk of the court in the name of the person taking the appeal as plaintiff and the city as defendant. The cause shall then be at issue and shall be tried immediately by the court as in the case of equitable causes; no further pleadings shall be necessary. The judgment of the court shall be either to confirm, modify or annul the assessment insofar as the same affects the property of the appellant. Appeal shall lie to the supreme court or the court of appeals as in other causes. [1971 c 81 § 94; 1965 c 7 § 35.55.080. Prior: 1909 c 147 § 7; RRS § 9438.]

35.55.090 Lien—Collection of assessments. From and after the equalization of the roll, the several assessments therein shall become a lien upon the real estate described therein and shall remain a lien until paid. The assessment lien shall take precedence of all other liens against such property, except the lien of general taxes. The assessments shall be collected by the same officers and enforced in the same manner as provided by law for the collection and enforcement of local assessments for street improvements. All of the provisions of laws and ordinances relative to the enforcement and collection of local assessments for street improvements shall be applicable to these assessments. [1965 c 7 § 35.55.090. Prior: 1909 c 147 § 8; RRS § 9439.]

Assessments for local improvements, collection and foreclosure: Chapters 35.49, 35.50 RCW.

35.55.100 Interest on assessments. The local assessments shall bear interest at such rate as may be fixed by the council, not exceeding the rate of eight percent per annum from and after the expiration of thirty days after the equalization of the assessment roll and shall bear such interest after delinquency as may be provided by general ordinance of the city. [1965 c 7 § 35.55.100. Prior: 1909 c 147 § 12, part; RRS § 9443, part.]

35.55.110 Payment of cost of improvement—Interest on warrants. If the improvement contemplated by this chapter is ordered to be made upon the immediate payment plan, the city council shall provide for the payment thereof by the issuance of local improvement fund warrants against the local improvement district, which warrants shall be paid only out of the funds derived from the local assessments in the district and shall bear interest at the rate of eight percent per annum from date of issuance. If the improvement is ordered to be made upon the bond installment plan, the city council shall provide for the issuance of bonds against

the improvement district. [1965 c 7 § 35.55.110. Prior: (i) 1909 c 147 § 12, part; RRS § 9443, part. (ii) 1909 c 147 § 9; RRS § 9440.]

35.55.120 Local improvement bonds—Terms. The city council shall have full authority to provide for the issuance of bonds against the improvement district fund in such denominations as the city council may provide which shall bear such rate of interest as the city council may fix, not exceeding, however, eight percent per annum. Interest shall be paid annually and the bonds shall become due and payable at such time, not exceeding ten years from the date thereof, as may be fixed by the council and shall be payable out of the local assessment district fund.

If so ordered by the council, the bonds may be issued in such a way that different numbers of the bonds may become due and payable at different intervals of time, or they may be so issued that all of the bonds against said district mature together. [1965 c 7 § 35.55.120. Prior: 1909 c 147 § 10, part; RRS § 9441, part.]

35.55.130 Local improvement bonds—Guaranties. The city may guarantee the payment of the whole or any part of the bonds issued against a local improvement district, but the guaranties on the part of the city, other than a city operating under the council-manager form or the commission form, shall be made only by ordinance passed by the vote of not less than nine councilmen and the approval of the mayor in cities of the second class, and six councilmen and approval of the mayor in cities of the third class. In a city under the council-manager form of government, such guaranties shall be made only in an ordinance passed by a vote of three out of five or five out of seven councilmen, as the case may be, and approval of the mayor. In a city under the commission form of government, such guaranties shall be made only in an ordinance passed by a vote of two out of three of the commissioners. The mayor's approval shall not be necessary in commission form cities. [1965 c 7 § 35.55.130. Prior: 1909 c 147 § 10, part; RRS § 9441, part.]

35.55.140 Local improvement bonds and warrants—Sale to pay damages, preliminary financing. The city council may negotiate sufficient warrants or bonds against any local improvement district at a price not less than ninety-five percent of their par value to raise sufficient money to pay any and all compensation which may be awarded for property damaged or taken in the eminent domain proceedings including the costs of such proceedings. In lieu of so doing, the city council may negotiate current or general expense fund warrants at par to raise funds for the payment of such compensation and expenses in the first instance, but in that event the current or general expense fund shall be reimbursed out of the first moneys collected in any such local assessment district or realized from the negotiation or sale of local improvement warrants or bonds. [1965 c 7 § 35.55.140. Prior: 1909 c 147 § 11; RRS § 9442.]

35.55.150 Local improvement fund—Investment. If money accumulates in an improvement fund and is likely to lie idle awaiting the maturity of the bonds against the district, the city council, under proper safeguards, may invest it temporarily, or may borrow it temporarily, at a reasonable rate of interest, but when so invested or borrowed, the city shall be responsible and liable for the restoration to such fund of the money so invested or borrowed with interest thereon, whenever required for the redemption of bonds maturing against such district. [1965 c 7 § 35.55.150. Prior: 1909 c 147 § 15; RRS § 9446.]

35.55.160 Letting contract for improvement—Excess or deficiency of fund. The contract for the making of the improvement may be let either before or after the making up of the equalization of the assessment roll, and warrants, or bonds may be issued against the local improvement district fund either before or after the equalization of the roll as in the judgment of the council may best subserve the public interest.

If, after the assessment roll is made up and equalized, based in whole or in part upon an estimate of the cost of the improvement, and it is found that the estimate was too high, the excess shall be rebated pro rata to the property owners on the assessment roll, the rebates to be deducted from the last installment, or installments, when the assessment is upon the installment plan.

If it is found that the estimated cost was too low and that the actual bona fide cost of the improvement is greater than the estimate, the city council, after due notice and a hearing, as in case of the original equalization of the roll, may add the required additional amount to the assessment roll to be apportioned among the several parcels of property upon the same rules and principles as if it had been originally included, except that the additional amount shall be added to the last installment of an assessment if assessments are payable upon the installment plan. The same notice shall be required for adding to the assessment roll in this manner as is required for the original equalization of the roll, and the property owner shall have the right of appeal. [1965 c 7 § 35.55.160. Prior: 1909 c 147 § 13; RRS § 9444.]

35.55.170 Payment of contractor—Bonds, warrants, cash. The city council may provide in letting the contract for an improvement, that the contractor shall accept special fund warrants or local improvement bonds against the local improvement district within which such improvement is to be made, in payment for the contract price of the work, and that the warrants or bonds may be issued to the contractor from time to time as the work progresses, or the city council may negotiate the special fund warrants or bonds against the local improvement district at not less than ninety-five cents in money for each dollar of warrants or bonds, and with the proceeds pay the contractor for the work and pay the other costs of such improvement. [1965 c 7 § 35.55.170. Prior: 1909 c 147 § 14; RRS § 9445.]

35.55.180 Reassessments. If any assessment is found to be invalid for any cause or if it is set aside for any reason in judicial proceeding, a reassessment may be made and all laws relative to the reassessment of local assessments, for street or other improvements, shall, as far as practicable, be applicable hereto. [1965 c 7 § 35.55.180. Prior: 1909 c 147 § 16; RRS § 9447.]

35.55.190 Provisions of chapter not exclusive. The provisions of this chapter shall not be construed as repealing or in any wise affecting any existing laws relative to the making of any such improvements, but shall be considered as concurrent therewith. [1965 c 7 § 35.55.190. Prior: 1909 c 147 § 17; RRS § 9448.]

Chapter 35.56

LOCAL IMPROVEMENTS—FILLING AND DRAINING LOWLANDS—WATERWAYS

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35.56.010 Authority—First, second and third class cities. If the city council or commission of any city of the first, second or third class in this state deems it necessary or expedient on account of the public health, sanitation, the general welfare, or other cause, to fill or raise the grade or elevation of any marshlands, swamp-lands, tidelands or lands commonly known as tideflats, or any other lands situated within the limits of such city and to clear and prepare said lands for such filling it

may do so by proceeding in accordance with the provisions of this chapter.

For the purpose of filling and raising the grade or elevation of such lands and to secure material therefor and to provide for the proper drainage thereof after such fill has been effected, the city council or commission may acquire rights of way (and where necessary or desirable, may vacate, use and appropriate streets and alleys for such purposes) and lay out, build, construct and maintain over and across such lowlands, canals or artificial waterways of at least sufficient width, depth and length to provide and afford the quantity of earth, dirt and material required to complete such fill, and with the earth, dirt and material removed in digging and constructing such canals and waterways, fill and raise the grade or elevation of such marshlands, swamplands, tidelands or tideflats; and such canals or waterways shall be constructed of such width and depth (provided that all the earth, dirt and other suitable material removed in constructing the same shall be used to fill the lowlands as herein provided) as will make them available, convenient and suitable to provide water frontage for landings, wharves and other conveniences of navigation and commerce for the use and benefit of the city and the public. If canals or waterways are to be constructed as herein provided, such city may construct and maintain the necessary bridges over and across the same; such canals or waterways shall be forever under the control of such city and shall be and become public thoroughfares and waterways for the use and benefit of commerce, shipping, the city and the public generally.

The expense of making such improvement and in doing, accomplishing and effecting all the work provided for in this chapter including the cost of making compensation for property taken or damaged, and all other cost and expense incidental to such improvement, shall be assessed to the property benefited, except such amount of such expense as the city council or commission, in its discretion, may direct to be paid out of the current or general expense fund. [1965 c 7 § 35.56.010. Prior: 1929 c 63 § 1; 1913 c 16 § 1; RRS § 9449.]

35.56.020 Alternative methods of financing. If the city council or commission desires to make any improvement authorized by the provisions of this chapter it shall provide therefor by ordinance and unless the ordinance provides that the improvement shall be paid for wholly or in part by special assessment upon the property benefited, compensation therefor shall be made from any general or special funds of the city applicable thereto. If the ordinance provides that the improvement shall be paid for wholly or in part by special assessments upon property benefited, the proceedings for the making of such special assessment shall be as hereafter provided. [1965 c 7 § 35.56.020. Prior: 1913 c 16 § 2, part; RRS § 9450, part.]

Special assessments or taxation for local improvements: State Constitution Art. 7 § 9.

35.56.030 Boundaries—Excepted property. Such ordinance shall specify the boundaries of the proposed improvement district and shall describe the lands which

it is proposed to assess for said improvement, and shall provide for the filling of such lowlands and shall outline the general scheme or plan of such fill. If any parcel of land within the boundaries of such proposed improvement district prior to the initiation of the improvement has been wholly filled to the proposed grade or elevation of the proposed fill, such parcel of land may be excluded from the lands to be assessed when in the opinion of the city council or commission justice and equity require its exclusion. The boundaries of any improvement district may be altered so as to exclude land therefrom at any time up to the levying of the assessment but such changing of the boundaries shall be by ordinance. [1965 c 7 § 35.56.030. Prior: 1913 c 16 § 2, part; RRS § 9450, part.]

35.56.040 Conditions precedent to passage of ordinance—Protests. Upon the introduction of an ordinance providing for such fill, if the city council or commission desires to proceed, it shall fix a time, not less than ten days, in which protests against said fill may be filed in the office of the city clerk. Thereupon it shall be the duty of the clerk of said city to publish in the official newspaper of said city in at least two consecutive issues thereof before the time fixed for the filing of protests, a notice of the time fixed for the filing of protests together with a copy of the proposed ordinance as introduced.

Protests against the proposed fill to be effective must be filed by the owners of more than half of the area of land situated within the proposed filling district exclusive of streets, alleys and public places on or before the date fixed for such filing. If an effective protest is filed the council shall not proceed further unless two-thirds of the members of the city council vote to proceed with the work; if the city is operating under a commission form of government composed of three commissioners, the commission shall not proceed further except by a unanimous affirmative vote of all the members thereof, if the commission is composed of five members, at least four affirmative votes thereof shall be necessary before proceeding.

If no effective protest is filed or if an effective protest is filed and two-thirds of the councilmen vote to proceed with the work or in cases where cities are operating under the commission form of government, the commissioners vote unanimously or four out of five commissioners vote to proceed with the work, the city council or commission shall at such meeting or in a succeeding meeting proceed to pass the proposed ordinance for the work, with such amendments and modifications as to the said city council or commission of said city may seem proper. The local improvement district shall be called "filling district No. _____." [1965 c 7 § 35.56.040. Prior: 1913 c 16 § 2, part; RRS § 9450, part.]

35.56.050 Damages—Eminent domain. If an ordinance is passed as in this chapter provided, and it appears that in making of the improvements so authorized, private property will be taken or damaged thereby within or without the city, the city shall file a petition in the superior court of the county in which

such city is situated, in the name of the city, praying that just compensation be made for the property to be taken or damaged for the improvement specified in the ordinance and conduct proceedings in eminent domain in accordance with the statutes relating to cities for the ascertainment of the compensation to be made for the taking and damaging of property, except insofar as the same may be inconsistent with this chapter.

The filling of unimproved and uncultivated lowlands of the character mentioned in RCW 35.56.010 shall not be considered as a damaging or taking of such lands. The damage, if any, done to cultivated lands or growing crops thereon, or to buildings and other improvements situated within the district proposed to be filled shall be ascertained and determined in the manner above provided; but no damage shall be awarded to any property owner for buildings or improvements placed upon lands included within said district after the publication of the ordinance defining the boundaries of the proposed improvement district: *Provided*, That the city shall, after the passage of such ordinance, proceed with said improvement with due diligence.

If the improvement is to be made at the expense of the property benefited, no account shall be taken of benefits by the jury or court in assessing the amount of compensation to be made to the owner of any property within such district, but such compensation shall be assessed without regard to benefits to the end that said property for which damages may be so awarded, may be assessed the same as other property within the district for its just share and proportion of the expense of making said improvement, and the fact that compensation has been awarded for the damaging or taking of any parcel of land shall not preclude the assessment of such parcel of land for its just proportion of said improvement. [1965 c 7 § 35.56.050. Prior: (i) 1913 c 16 § 3; RRS § 9451. (ii) 1929 c 63 § 4; 1913 c 16 § 21; RRS § 9469.]

Eminent domain, cities: Chapter 8.12 RCW.

35.56.060 Estimates—Plans and specifications. At the time of the initiation of the proceedings for any improvement as contemplated by this chapter or at any time afterward, the city council or commission shall cause plans and specifications for said improvement to be prepared and shall cause an estimate to be made of the cost and expense of making said improvement, including the cost of supervision and engineering, abstractor's fees, interest and discounts and all other expenses incidental to said improvement, including an estimate of the amount of damages for property taken or damaged, which plans, specifications and estimates shall be approved by the city council or commission. [1965 c 7 § 35.56.060. Prior: 1913 c 16 § 4; RRS § 9452.]

35.56.070 Assessment roll—Items—Assessment units—Installments. When such plans and specifications shall have been prepared and the estimate of the cost and expense of making the improvement has been adopted by the council or commission and when an estimate has been made of the compensation to be paid

for property damaged or taken, either before or after the compensation has been ascertained in the eminent domain proceedings, the city council or commission shall cause an assessment roll to be prepared containing a list of all the property within the improvement district which it is proposed to assess for the improvements together with the names of the owners, if known, and if unknown, the property shall be assessed to an unknown owner, and opposite each description shall be set the amount assessed to such description.

When so ordered by the city council or commission, the entire amount of compensation paid or to be paid for property damaged or taken, including all of the costs and expenses incidental to the condemnation proceedings together with the entire cost and expense of making the improvement may be assessed against the property within the district subject to assessment, but the city council or commission may order any portion of the costs paid out of the current or general expense fund of the city. The assessments shall be made according to and in proportion to surface area, one square foot of surface to be the unit of assessment: *Provided*, That where any parcel of land was wholly or partially filled by the owner prior to the initiation of the improvement an equitable deduction for such filling or partial filling may be allowed.

The cost and expense incidental to the filling of the streets, alleys and public places within said assessment district shall be borne by the private property within such district subject to assessment when so ordered by the city council or commission. When the assessments are payable in installments, the assessment roll when equalized shall show the number of installments and the amounts thereof. The assessment may be made payable in any number of equal annual installments not exceeding fifteen in number. [1965 c 7 § 35.56.070. Prior: 1913 c 16 § 5; RRS § 9453.]

35.56.080 Hearing on assessment roll—Notice—Council's authority. When such assessment roll has been prepared it shall be filed in the office of the city clerk and thereupon the city clerk shall give notice by publication in at least three issues of the official paper that such roll is on file in his office and on a date mentioned in said notice, which shall be at least twenty days after the date of the first publication thereof, the city council or commission will sit as a board of equalization to equalize said roll and to hear, consider and determine protests and objections against the same.

At the time specified in the notice, the city council or commission shall sit as a board of equalization to equalize the roll and they may adjourn the sitting from time to time until the equalization of such roll is completed. The city council or commission as such board of equalization may hear, consider and determine objections and protests against any assessment and make such alterations and modifications in the assessment roll as justice and equity may require. [1965 c 7 § 35.56.080. Prior: 1913 c 16 § 6; RRS § 9454.]

35.56.090 Hearing—Appeals. Any person who has made objections to the assessment as equalized, shall have the right to appeal from the equalization as made by the city council or commission to the superior court of the county. The appeal shall be made by filing a written notice of appeal with the city clerk within ten days after the equalization of the assessments by the council or commission. The notice of appeal shall describe the property and the objections of such appellant to such assessment.

The appellant shall also file with the clerk of the superior court within ten days from the time of taking the appeal a copy of the notice of appeal together with a copy of the assessment roll and proceedings thereon, certified by the city clerk and a bond to the city conditioned to pay all costs that may be awarded against appellant in such sum not less than two hundred dollars, and with such security as shall be approved by the clerk of the court.

The case shall be docketed by the clerk of the court in the name of the person taking the appeal as plaintiff, and the city as defendant. The cause shall then be at issue and shall be tried immediately by the court as in the case of equitable causes; no further pleadings shall be necessary. The judgment of the court shall be either to confirm, modify or annul the assessment insofar as the same affects the property of the appellant. An appeal shall lie to the supreme court or the court of appeals as in other causes. [1971 c 81 § 95; 1965 c 7 § 35.56.090. Prior: 1913 c 16 § 7; RRS § 9455.]

35.56.100 Lien—Collection of assessments. From and after the equalization of the roll, the several assessments therein shall become a lien upon the real estate described therein and shall remain a lien until paid. The assessment lien shall take precedence of all other liens against such property, except the lien of general taxes. The assessments shall be collected by the same officers and enforced in the same manner as provided by law for the collection and enforcement of local assessments for street improvements. All of the provisions of laws and ordinances relative to the guaranty, enforcement, and collection of local assessments for street improvements, including foreclosure in case of delinquency, shall be applicable to these assessments. [1965 c 7 § 35.56.100. Prior: 1929 c 63 § 2; 1913 c 16 § 8; RRS § 9456.]

Assessments for local improvements, collection and foreclosure: Chapters 35.49, 35.50 RCW.

35.56.110 Interest on assessments. The local assessments shall bear interest at such rate as may be fixed by the council or commission, not exceeding the rate of eight percent per annum from and after the expiration of thirty days after the equalization of the assessment roll and shall bear such interest after delinquency as may be provided by general ordinance of the city. [1965 c 7 § 35.56.110. Prior: 1929 c 63 § 3; 1913 c 16 § 12; RRS § 9460.]

35.56.120 Payment of cost of improvement—Interest on warrants. If the improvement contemplated by this chapter is ordered to be made upon the immediate payment plan, the city council or commission shall provide for the payment thereof by the issuance of local improvement fund warrants against the local improvement district, which warrants shall be paid only out of the funds derived from the local assessments in the district and shall bear interest at the rate of eight percent per annum from date of issuance. If the improvement is ordered to be made upon the bond installment plan, the city council or commission shall provide for the issuance of bonds against the improvement district. [1965 c 7 § 35.56.120. Prior: 1913 c 16 § 9; RRS § 9457.]

35.56.130 Local improvement bonds—Terms. The city council or commission shall have full authority to provide for the issuance of such bonds against the improvement district fund in such denominations as the city council or commission may provide, which shall bear such rate of interest as the city council or commission may fix, not exceeding, however, eight percent per annum. Interest shall be paid annually and the bonds shall become due and payable at such time, not exceeding fifteen years from the date thereof, as may be fixed by the said council or commission and shall be payable out of the assessment district funds.

If so ordered by the council or commission, the bonds may be issued in such a way that different numbers of the bonds may become due and payable at different intervals of time, or they may be so issued that all of the bonds against said district mature together. The city may reserve the right to call or mature any bond on any interest paying date when sufficient funds are on hand for its redemption; but bonds shall be called in numerical order. [1965 c 7 § 35.56.130. Prior: 1913 c 16 § 10, part; RRS § 9458, part.]

35.56.140 Local improvement bonds—Guaranties. The city may guarantee the payment of the whole or any part of the bonds issued against a local improvement district, but the guaranties on the part of the city shall be made only by ordinance passed by the vote of not less than two-thirds of the councilmen and the approval of the mayor, or three commissioners in case the governing body consist of three commissioners, or four where such city is governed by five commissioners. [1965 c 7 § 35.56.140. Prior: 1913 c 16 § 10, part; RRS § 9458, part.]

35.56.150 Local improvement bonds and warrants—Sale to pay damages—Preliminary financing. The city council or commission may negotiate sufficient warrants or bonds against any local improvement district at a price not less than ninety-five percent of their par value to raise sufficient money to pay any and all compensation which may be awarded for property damaged or taken in the eminent domain proceedings, including the costs of such proceedings. In lieu of so doing, the city council or commission may negotiate current or general expense fund warrants at par to raise

funds for the payment of such compensation and expenses in the first instance, but in that event the current or general expense fund shall be reimbursed out of the first moneys collected in any such local assessment district or realized from the negotiation or sale of local improvement warrants or bonds. [1965 c 7 § 35.56.150. Prior: 1913 c 16 § 11; RRS § 9459.]

35.56.160 Local improvement fund—Investment. If money accumulates in an improvement fund and is likely to lie idle waiting the maturity of the bonds against the district, the city council or commission, under proper safeguards, may invest it temporarily, or may borrow it temporarily, at a reasonable rate of interest, but when so invested or borrowed, the city shall be responsible and liable for the restoration to such fund of the money so invested or borrowed with interest thereon, whenever required for the redemption of bonds maturing against such district. [1965 c 7 § 35.56.160. Prior: 1913 c 16 § 15; RRS § 9463.]

35.56.170 Letting contracts for improvement—Excess or deficiency of fund. The contract for the making of the improvement may be let either before or after the making up of the equalization of the assessment roll, and warrants or bonds may be issued against the local improvement district fund either before or after the equalization of the roll as in the judgment of the council or commission may best subserve the public interest.

If after the assessment roll is made up and equalized, based in whole or in part upon an estimate of the cost of the improvement, and it is found that the estimate was too high, the excess shall be rebated pro rata to the property owners on the assessment roll, the rebates to be deducted from the last installment, or installments, when the assessment is upon the installment plan.

If it is found that the estimated cost was too low and that the actual bona fide cost of the improvement is greater than the estimate, the city council or commission after due notice and a hearing, as in case of the original equalization of the roll, may add the required additional amount to the assessment roll to be apportioned among the several parcels of property upon the same rules and principles as if it had been originally included except that the additional amount shall be added to the last installment of an assessment if assessments are payable upon the installment plan. The same notice shall be required for adding to the assessment roll in this manner as is required for the original equalization of the roll, and the property owner shall have the right of appeal. [1965 c 7 § 35.56.170. Prior: 1913 c 16 § 13; RRS § 9461.]

35.56.180 Payment of contractor—Bonds—Warrants—Cash. The city council or commission may provide in letting the contract for an improvement, that the contractor shall accept special fund warrants or local improvement bonds against the local improvement district within which such improvement is to be made, in payment for the contract price of the work, and that the warrants or bonds may be issued to the contractor from time to time as the work progresses, or the city

council or commission may negotiate the special fund warrants or bonds against the local improvement district at not less than ninety-five cents in money for each dollar of warrants or bonds, and with the proceeds pay the contractor for the work and pay the other costs of such improvement. [1965 c 7 § 35.56.180. Prior: 1913 c 16 § 14; RRS § 9462.]

35.56.190 Tax levy—General—Purposes—Limit. For the purpose of raising revenues to carry on any project under this chapter including funds for the payment for the lands taken, purchased, acquired or condemned and the expenses incident to the acquiring thereof, or any other cost or expenses incurred by the city under the provisions of this chapter but not including the cost of actually filling the lands for which the local improvement district was created, a city may levy an annual tax of not exceeding seventy-five cents per thousand dollars of assessed valuation of all property within the city. The city council or commission may create a fund into which all moneys so derived from taxation and moneys derived from rents and issues of the lands shall be paid and against which special fund warrants may be drawn or negotiable bonds issued to meet expenditures under this chapter. [1973 1st ex.s. c 195 § 22; 1965 c 7 § 35.56.190. Prior: 1913 c 16 § 19; RRS § 9467.]

~~Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.~~

35.56.200 Waterways constructed—Requirements. In the filling of any marshland, swampland, tideland or tideflats no canal or waterway shall be constructed in connection therewith less than three hundred feet wide at the top between the shore lines and with sufficient slope to the sides or banks thereof to as nearly as practicable render bulkheadings or other protection against caving or falling in of said sides or banks unnecessary and of sufficient depth to meet all ordinary requirements of navigation and commerce. [1965 c 7 § 35.56.200. Prior: 1913 c 16 § 17, part; RRS § 9465, part.]

35.56.210 Waterways constructed—Control. The canal or waterway shall be and remain under the control of the city and immediately upon its completion the city shall establish outer dock lines lengthwise of said canal or waterway on both sides thereof in such manner and position that not less than two hundred feet of the width thereof shall always remain open between such lines and beyond and between which lines no right shall ever be granted to build wharves or other obstructions except bridges; nor shall any permanent obstruction to the free use of the channel so laid out between said wharf or dock lines excepting bridges, their approaches, piers, abutments and spans, ever be permitted but the same shall be kept open for navigation. [1965 c 7 § 35.56.210. Prior: 1913 c 16 § 17, part; RRS § 9465, part.]

35.56.220 Waterways constructed—Leasing facilities. The city shall have the right to lease the area so created between the said shore lines and the wharf lines

so established or any part, parts or parcels thereof during times when the use thereof is not required by the city, for periods not exceeding thirty years, to private individuals or concerns for wharf, warehouse or manufacturing purposes at such annual rate or rental per lineal foot of frontage on the canal or waterway as it may deem reasonable.

The rates of wharfage, and other charges to the public which any lessee may impose shall be reasonable; and the city council or commission may regulate such rates. The lease so granted by the city shall never be transferred or assigned without the consent of the city council or commission having been first obtained.

A city shall never lease to any individual or concern more than four hundred lineal feet of frontage of the area lying between the shore lines and the dock lines and no individual or concern shall ever hold or occupy by lease, sublease or otherwise more than the said four hundred lineal feet of frontage of such area: *Provided*, That any individual or concern may acquire by lease or sublease whatever additional number of lineal feet of frontage of such area may in the judgment of the city council or commission be necessary for the use of such individual or concern, upon petition therefor to the city council or commission signed by not less than five hundred resident freeholders of the city. [1965 c 7 § 35.56.220. Prior: 1913 c 16 § 17, part; RRS § 9465, part.]

35.56.230 Waterway shoreline front—Lessee must lease abutting property. If the city owns the land abutting upon any part of the area between the shore lines and dock lines, no portion of the area which has city owned property abutting upon it shall ever be leased unless an equal frontage of the abutting property immediately adjoining it is leased at the same time for the same period to the same individual or concern. [1965 c 7 § 35.56.230. Prior: 1913 c 16 § 17, part; RRS § 9465, part.]

35.56.240 Waterways constructed—Acquisition of abutting property. While acquiring the rights of way for such canals or waterways or at any time thereafter such city may acquire for its own use and public use by purchase, gift, condemnation or otherwise, and pay therefor by any lawful means including but not restricted to payment out of the current expense fund of such city or by bonding the city or by pledging revenues to be derived from rents and issues therefrom, lands abutting upon the shore lines or right-of-way of such canals or waterways to a distance, depth or width of not more than three hundred feet back from the banks or shore lines of such canals or waterways on either side or both sides thereof, or not more than three hundred lineal feet back from and abutting on the outer lines of such rights-of-way on either side or both sides of such rights-of-way, and such area of such abutting lands as the council or commission may deem necessary for its use for public docks, bridges, wharves, streets and other conveniences of navigation and commerce and for its own use and benefit generally. [1965 c 7 § 35.56.240. Prior: 1913 c 16 § 18, part; RRS § 9466, part.]

35.56.250 Waterways—Abutting city owned lands—Lease of. If the city is not using the abutting lands so acquired it may lease any parcels thereof as may be deemed for the best interest and convenience of navigation, commerce and the public interest and welfare to private individuals or concerns for terms not exceeding thirty years each at such annual rate or rental as the city council or commission of such city may deem just, proper and fair, for the purpose of erecting wharves for wholesale and retail warehouses and for general commercial purposes and manufacturing sites, but the said city shall never convey or part with title to the abutting lands above mentioned and so acquired nor with the control other than in the manner herein specified. Any lease or leases granted by the city on such abutting lands shall never be transferred or assigned without the consent of the city council or commission having been first obtained.

A city shall never lease to any individual or concern more than four hundred lineal feet of canal or waterway frontage of said land and no individual or concern shall ever hold or occupy by lease, sublease, or otherwise more than the said four hundred lineal feet of said frontage: *Provided*, That any individual or concern may acquire by lease or sublease whatever additional frontage of such abutting land may be in the judgment of the city council or commission necessary for the use of such individual or concern, upon petition presented to the city council or commission therefor signed by not less than five hundred resident freeholders of such city. [1965 c 7 § 35.56.250. Prior: 1913 c 16 § 18, part; RRS § 9466, part.]

35.56.260 Waterways—Abutting lands—Lessee must lease shoreline property. At the time that the city leases to any individual or concern any of the land abutting on the area between the shore lines and the dock lines the same individual or concern must likewise for the same period of time lease all of the area between the shore line and dock line of such canal or waterway lying contiguous to and immediately in front of the abutting land so leased. [1965 c 7 § 35.56.260. Prior: 1913 c 16 § 18, part; RRS § 9466, part.]

35.56.270 Work by day labor. When a city undertakes any improvement authorized by this chapter and the expenditures required exceed the sum of five hundred dollars, it shall be done by contract and shall be let to the lowest responsible bidder, after due notice, under such regulation as may be prescribed by ordinance: *Provided*, That the city council or commission may reject all bids presented and readvertise, or, if in the judgment of the city council or commission the work can be performed, or supplies or materials furnished by the city independent of contract, cheaper than under the bid submitted, it may after having so advertised and examined the bids, cause the work to be performed or supplies or materials to be furnished independent of contract. This section shall be construed as a concurrent and cumulative power conferred on cities and shall not be construed as in any wise repealing

or affecting any law now in force relating to the performing, execution and construction of public works. [1965 c 7 § 35.56.270. Prior: 1913 c 16 § 20; RRS § 9468.]

35.56.280 Reassessments. If any assessment is found to be invalid for any cause or if it is set aside for any reason in judicial proceeding, a reassessment may be made and all laws then in force relative to the reassessment of local assessments, for street or other improvements, shall, as far as practical, be applicable hereto. [1965 c 7 § 35.56.280. Prior: 1913 c 16 § 16; RRS § 9464.]

Local improvements, assessments and reassessments: Chapter 35.44 RCW.

35.56.290 Provisions of chapter not exclusive. The provisions of this chapter shall not be construed as repealing or in any wise affecting other existing laws relative to the making of any such improvements but shall be considered as concurrent therewith. [1965 c 7 § 35.56.290. Prior: 1929 c 63 § 5; 1913 c 16 § 22; RRS § 9470.]

Chapter 35.58

METROPOLITAN MUNICIPAL CORPORATIONS

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School districts, intermediate school districts, agreements with other governmental entities for transportation of students, the public or other noncommon school purposes—Limitations: RCW 28A.24.180.

35.58.010 Declaration of policy and purpose. It is hereby declared to be the public policy of the state of Washington to provide for the people of the populous metropolitan areas in the state the means of obtaining essential services not adequately provided by existing agencies of local government. The growth of urban population and the movement of people into suburban areas has created problems of water pollution abatement, garbage disposal, water supply, transportation, planning, parks and parkways which extend beyond the boundaries of cities, counties and special districts. For reasons of topography, location and movement of population, and land conditions and development, one or more of these problems cannot be adequately met by the individual cities, counties and districts of many metropolitan areas.

It is the purpose of this chapter to enable cities and counties to act jointly to meet these common problems

in order that the proper growth and development of the metropolitan areas of the state may be assured and the health and welfare of the people residing therein may be secured. [1974 1st ex.s. c 70 § 1; 1965 c 7 § 35.58.010. Prior: 1957 c 213 § 1.]

35.58.020 Definitions (as amended by 1974 1st ex.s. c 70 § 2). As used herein:

(1) "Metropolitan municipal corporation" means a municipal corporation of the state of Washington created pursuant to this chapter.

(2) "Metropolitan area" means the area contained within the boundaries of a metropolitan municipal corporation, or within the boundaries of an area proposed to be organized as such a corporation.

(3) "City" means an incorporated city or town.

(4) "Component city" means an incorporated city or town within a metropolitan area.

(5) "Component county" means a county, all or part of which is included within a metropolitan area.

(6) "Central city" means the city with the largest population in a metropolitan area.

(7) "Central county" means the county containing the city with the largest population in a metropolitan area.

(8) "Special district" means any municipal corporation of the state of Washington other than a city, county, or metropolitan municipal corporation.

(9) "Metropolitan council" means the legislative body of a metropolitan municipal corporation.

(10) "City council" means the legislative body of any city or town.

(11) "Population" means the number of residents as shown by the figures released for the most recent official state, federal, or county census, or population determination made under the direction of *the state census board.

(12) "Metropolitan function" means any of the functions of government named in RCW 35.58.050.

(13) "Authorized metropolitan function" means a metropolitan function which a metropolitan municipal corporation shall have been authorized to perform in the manner provided in this chapter.

(14) "Metropolitan public transportation" or "metropolitan transportation" for the purposes of this chapter shall mean the transportation of passengers only and their incidental baggage by means other than by chartered bus, sightseeing bus, or any other motor vehicle not on an individual fare-paying basis, together with the necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people-moving systems: *Provided*, That nothing in this chapter shall be construed to prohibit a metropolitan municipal corporation from leasing its buses to private certified carriers or to prohibit the metropolitan municipal corporation from providing school bus service for the transportation of pupils.

(15) "Pollution" has the meaning given in RCW 90.48.020. [1974 1st ex.s. c 70 § 2; 1971 ex.s. c 303 § 2; 1965 c 7 § 35.58.020. Prior: 1957 c 213 § 2.]

***Reviser's note:** State census board abolished by RCW 43.63A.150. Powers and duties pertaining to state census vested in office of program planning and fiscal management. See RCW 43.41.110(7).

Reviser's note: RCW 35.58.020 was amended twice during the 1974 1st extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same legislative session, see RCW 1.12.025.

35.58.020 Definitions (as amended by 1974 1st ex.s. c 84 § 1). As used herein:

(1) "Metropolitan municipal corporation" means a municipal corporation of the state of Washington created pursuant to this chapter.

(2) "Metropolitan area" means the area contained within the boundaries of a metropolitan municipal corporation, or within the boundaries of an area proposed to be organized as such a corporation.

(3) "City" means an incorporated city or town.

(4) "Component city" means an incorporated city or town within a metropolitan area.

(5) "Component county" means a county, all or part of which is included within a metropolitan area.

(6) "Central city" means the city with the largest population in a metropolitan area.

(7) "Central county" means the county containing the city with the largest population in a metropolitan area.

(8) "Special district" means any municipal corporation of the state of Washington other than a city, county, or metropolitan municipal corporation.

(9) "Metropolitan council" means the legislative body of a metropolitan municipal corporation.

(10) "City council" means the legislative body of any city or town.

(11) "Population" means the number of residents as shown by the figures released for the most recent official state, federal, or county census, or population determination made under the direction of *the state census board.

(12) "Metropolitan function" means any of the functions of government named in RCW 35.58.050.

(13) "Authorized metropolitan function" means a metropolitan function which a metropolitan municipal corporation shall have been authorized to perform in the manner provided in this chapter.

(14) "Metropolitan public transportation" or "metropolitan transportation" for the purposes of this chapter shall mean the transportation of packages, passengers and their incidental baggage by means other than by chartered bus, sightseeing bus, or any other motor vehicle not on an individual fare-paying basis, together with the necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people-moving systems: *Provided*, That nothing in this chapter shall be construed to prohibit a metropolitan municipal corporation from leasing its buses to private certified carriers or to prohibit the metropolitan municipal corporation from providing school bus service for the transportation of pupils. [1974 1st ex.s. c 84 § 1; 1971 ex.s. c 303 § 2; 1965 c 7 § 35.58.020. Prior: 1957 c 213 § 2.]

***Reviser's note:** State census board abolished by RCW 43.63A.150. Powers and duties pertaining to state census vested in office of program planning and fiscal management. See RCW 43.41.110(7).

Reviser's note: RCW 35.58.020 was amended twice during the 1974 1st extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same legislative session, see RCW 1.12.025.

35.58.030 Corporations authorized. Any area of the state containing two or more cities, at least one of which is a city of the first class, may organize as a metropolitan municipal corporation for the performance of certain functions, as provided in this chapter. [1965 c 7 § 35.58.030. Prior: 1957 c 213 § 3.]

35.58.040 Territory which must be included or excluded—Boundaries. At the time of its formation no metropolitan municipal corporation shall include only a part of any city, and every city shall be either wholly included or wholly excluded from the boundaries of such corporation. If subsequent to the formation of a metropolitan municipal corporation a part only of any city shall be included within the boundaries of a metropolitan municipal corporation such part shall be deemed to be "unincorporated" for the purpose of selecting a member of the metropolitan council pursuant to RCW 35.58.120(3) and such city shall neither select nor participate in the selection of a member on the metropolitan council pursuant to RCW 35.58.120.

Any metropolitan municipal corporation now existing or hereafter created, within a class A county contiguous to a class AA county or class AA county, shall, upon May 21, 1971 as to metropolitan corporations existing on such date or upon the date of formation as to metropolitan corporations formed after May 21, 1971, have the same boundaries as those of the respective central

county of such metropolitan corporation: *Provided*, That the boundaries of such metropolitan corporation may be enlarged after such date by annexation as provided in chapter 35.58 RCW as now or hereafter amended. Any contiguous metropolitan municipal corporations may be consolidated into a single metropolitan municipal corporation upon such terms, for the purpose of performing such metropolitan function or functions, and to be effective at such time as may be approved by resolutions of the respective metropolitan councils. In the event of such consolidation the component city with the largest population shall be the central city of such consolidated metropolitan municipal corporation and the component county with the largest population shall be the central county of such consolidated metropolitan municipal corporation. [1971 ex.s. c 303 § 3; 1967 c 105 § 1; 1965 c 7 § 35.58.040. Prior: 1957 c 213 § 4.]

35.58.050 Functions authorized. A metropolitan municipal corporation shall have the power to perform any one or more of the following functions, when authorized in the manner provided in this chapter:

- (1) Metropolitan water pollution abatement.
- (2) Metropolitan water supply.
- (3) Metropolitan public transportation.
- (4) Metropolitan garbage disposal.
- (5) Metropolitan parks and parkways.
- (6) Metropolitan comprehensive planning. [1974 1st ex.s. c 70 § 3; 1965 c 7 § 35.58.050. Prior: 1957 c 213 § 5.]

35.58.060 Unauthorized functions to be performed under other law. All functions of local government which are not authorized as provided in this chapter to be performed by a metropolitan municipal corporation, shall continue to be performed by the counties, cities and special districts within the metropolitan area as provided by law. [1965 c 7 § 35.58.060. Prior: 1957 c 213 § 6.]

35.58.070 Resolution, petition for election—Requirements, procedure. A metropolitan municipal corporation may be created by vote of the qualified electors residing in a metropolitan area in the manner provided in this chapter. An election to authorize the creation of a metropolitan municipal corporation may be called pursuant to resolution or petition in the following manner:

- (1) A resolution or concurring resolutions calling for such an election may be adopted by either:
 - (a) The city council of a central city; or
 - (b) The city councils of two or more component cities other than a central city; or
 - (c) The board of commissioners of a central county.

A certified copy of such resolution or certified copies of such concurring resolutions shall be transmitted to the board of commissioners of the central county.

- (2) A petition calling for such an election shall be signed by at least four percent of the qualified voters residing within the metropolitan area and shall be filed with the auditor of the central county.

Any resolution or petition calling for such an election shall describe the boundaries of the proposed metropolitan area, name the metropolitan function or functions which the metropolitan municipal corporation shall be authorized to perform initially and state that the formation of the metropolitan municipal corporation will be conducive to the welfare and benefit of the persons and property within the metropolitan area. After the filing of a first sufficient petition or resolution with such county auditor or board of county commissioners respectively, action by such auditor or board shall be deferred on any subsequent petition or resolution until after the election has been held pursuant to such first petition or resolution.

Upon receipt of such a petition, the auditor shall examine the same and certify to the sufficiency of the signatures thereon. For the purpose of examining the signatures on such petition, the auditor shall be permitted access to the voter registration books of each component county and each component city. No person may withdraw his name from a petition after it has been filed with the auditor. Within thirty days following the receipt of such petition, the auditor shall transmit the same to the board of commissioners of the central county, together with his certificate as to the sufficiency thereof. [1965 c 7 § 35.58.070. Prior: 1957 c 213 § 7.]

35.58.080 Hearings on petition, resolution—Inclusion, exclusion of territory—Boundaries—Calling election. Upon receipt of a duly certified petition or a valid resolution calling for an election on the formation of a metropolitan municipal corporation, the board of commissioners of the central county shall fix a date for a public hearing thereon which shall be not more than sixty nor less than forty days following the receipt of such resolution or petition. Notice of such hearing shall be published once a week for at least four consecutive weeks in one or more newspapers of general circulation within the metropolitan area. The notice shall contain a description of the boundaries of the proposed metropolitan area, shall name the initial metropolitan function or functions and shall state the time and place of the hearing and the fact that any changes in the boundaries of the metropolitan area will be considered at such time and place. At such hearing or any continuation thereof, any interested person may appear and be heard on all matters relating to the effect of the formation of the proposed municipal metropolitan corporation. The commissioners may make such changes in the boundaries of the metropolitan area as they shall deem reasonable and proper, but may not delete any portion of the proposed area which will create an island of included or excluded lands, may not delete a portion of any city, and may not delete any portion of the proposed area which is contributing or may reasonably be expected to contribute to the pollution of any water course or body of water in the proposed area when the petition or resolution names metropolitan water pollution abatement as a function to be performed by the proposed metropolitan municipal corporation. If the commissioners shall determine that any additional territory should be included in the metropolitan area, a

second hearing shall be held and notice given in the same manner as for the original hearing. The commissioners may adjourn the hearing on the formation of a metropolitan municipal corporation from time to time not exceeding thirty days in all. At the next regular meeting following the conclusion of such hearing the commissioners shall adopt a resolution fixing the boundaries of the proposed metropolitan municipal corporation, declaring that the formation of the proposed metropolitan municipal corporation will be conducive to the welfare and benefit of the persons and property therein and providing for the calling of a special election on the formation of the metropolitan municipal corporation to be held not more than one hundred twenty days nor less than sixty days following the adoption of such resolution. [1974 1st ex.s. c 70 § 4; 1965 c 7 § 35.58.080. Prior: 1957 c 213 § 8.]

Elections: Title 29 RCW.

35.58.090 Election procedure to form corporation and levy tax—Qualified voters—Establishment of corporation—First meeting of council. The election on the formation of the metropolitan municipal corporation shall be conducted by the auditor of the central county in accordance with the general election laws of the state and the results thereof shall be canvassed by the county canvassing board of the central county, which shall certify the result of the election to the board of county commissioners of the central county, and shall cause a certified copy of such canvass to be filed in the office of the secretary of state. Notice of the election shall be published in one or more newspapers of general circulation in each component county in the manner provided in the general election laws. No person shall be entitled to vote at such election unless he is a qualified voter under the laws of the state in effect at the time of such election and has resided within the metropolitan area for at least thirty days preceding the date of the election. The ballot proposition shall be in substantially the following form:

"FORMATION OF METROPOLITAN MUNICIPAL CORPORATION

Shall a metropolitan municipal corporation be established for the area described in a resolution of the board of commissioners of _____ county adopted on the _____ day of _____, 19____, to perform the metropolitan functions of _____ (here insert the title of each of the functions to be authorized as set forth in the petition or initial resolution).

YES
NO

If a majority of the persons voting on the proposition residing within the central city shall vote in favor thereof and a majority of the persons voting on the proposition residing in the metropolitan area outside of the central city shall vote in favor thereof, the metropolitan municipal corporation shall thereupon be established and the board of commissioners of the central county shall adopt a resolution setting a time and place for the

first meeting of the metropolitan council which shall be held not later than thirty days after the date of such election. A copy of such resolution shall be transmitted to the legislative body of each component city and county and of each special district which shall be affected by the particular metropolitan functions authorized.

At the same election there shall be submitted to the voters residing within the metropolitan area, for their approval or rejection, a proposition authorizing the metropolitan municipal corporation, if formed, to levy at the earliest time permitted by law on all taxable property located within the metropolitan municipal corporation a general tax, for one year, of twenty-five cents per thousand dollars of assessed value in excess of any constitutional or statutory limitation for authorized purposes of the metropolitan municipal corporation. The proposition shall be expressed on the ballots in substantially the following form:

"ONE YEAR TWENTY-FIVE CENTS PER THOUSAND DOLLARS OF ASSESSED VALUE LEVY

Shall the metropolitan municipal corporation, if formed, levy a general tax of twenty-five cents per thousand dollars of assessed value for one year upon all the taxable property within said corporation in excess of the constitutional and/or statutory tax limits for authorized purposes of the corporation?

- YES
NO

Such proposition to be effective must be approved by a majority of at least three-fifths of the persons voting on the proposition to levy such tax in the manner set forth in Article VII, section 2(a) of the Constitution of this state, as amended by Amendment 59 and as thereafter amended. [1973 1st ex.s. c 195 § 23; 1965 c 7 § 35.58-.090. Prior: 1957 c 213 § 9.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Canvassing the returns, generally: Chapter 29.62 RCW.

Conduct of elections—Canvass: RCW 29.13.040.

Notice of elections: RCW 29.27.080.

35.58.100 Additional functions—Authorized by election. A metropolitan municipal corporation may be authorized to perform one or more metropolitan functions in addition to those which it has previously been authorized to perform, with the approval of the voters at an election, in the manner provided in this section.

An election to authorize a metropolitan municipal corporation to perform one or more additional metropolitan functions may be called pursuant to a resolution or a petition in the following manner:

- (1) A resolution calling for such an election may be adopted by:
(a) The city council of the central city; or
(b) The city councils of at least one-half in number of the component cities other than the central city; or

(c) The board of commissioners of the central county. Such resolution shall be transmitted to the metropolitan council.

(2) A petition calling for such an election shall be signed by at least four percent of the registered voters residing within the metropolitan area and shall be filed with the auditor of the central county.

Any resolution or petition calling for such an election shall name the additional metropolitan functions which the metropolitan municipal corporation shall be authorized to perform.

Upon receipt of such a petition, the auditor shall examine the signatures thereon and certify to the sufficiency thereof. For the purpose of examining the signatures on such petition, the auditor shall be permitted access to all voter registration books of any component county and of all component cities. No person may withdraw his name from a petition after it has been filed with the auditor. Within thirty days following the receipt of such petition, the auditor shall transmit the same to the metropolitan council, together with his certificate as to the sufficiency of signatures thereon.

Upon receipt of a valid resolution or duly certified petition calling for an election on the authorization of the performance of one or more additional metropolitan functions, the metropolitan council shall cause to be called a special election to be held not more than one hundred and twenty days nor less than sixty days following such receipt. Such special election shall be conducted and canvassed as provided in this chapter for an election on the question of forming a metropolitan municipal corporation. The ballot proposition shall be in substantially the following form:

"Shall the _____ metropolitan municipal corporation be authorized to perform the additional metropolitan functions of _____ (here insert the title of each of the additional functions to be authorized as set forth in the petition or resolution)?

- YES
NO

If a majority of the persons voting on the proposition shall vote in favor thereof, the metropolitan municipal corporation shall be authorized to perform such additional metropolitan function or functions. [1967 c 105 § 2; 1965 c 7 § 35.58.100. Prior: 1957 c 213 § 10.]

35.58.110 Additional functions—Authorized without election. A metropolitan municipal corporation may be authorized to perform one or more metropolitan functions in addition to those which it previously has been authorized to perform, without an election, in the manner provided in this section. A resolution providing for the performance of such additional metropolitan function or functions shall be adopted by the metropolitan council. A copy of such resolution shall be transmitted by registered mail to the legislative body of each component city and county. If, within ninety days after the date of such mailing, a concurring resolution is adopted by the legislative body of each component county, of each component city of the first class, and of

at least two-thirds of all other component cities, and such concurring resolutions are transmitted to the metropolitan council, such council shall by resolution declare that the metropolitan municipal corporation has been authorized to perform such additional metropolitan function or functions. A copy of such resolution shall be transmitted by registered mail to the legislative body of each component city and county and of each special district which will be affected by the particular additional metropolitan function authorized. [1965 c 7 § 35.58.110. Prior: 1957 c 213 § 11.]

35.58.112 Recommended comprehensive plan for performance of additional function—Study and preparation. The metropolitan council of a metropolitan municipal corporation upon the affirmative vote of two-thirds of the members of such council may make planning, engineering, legal, financial and feasibility studies preliminary to or incident to the preparation of a recommended comprehensive plan for any metropolitan function, and may prepare such a recommended comprehensive plan before the metropolitan municipal corporation has been authorized to perform such function. The studies and plan may cover territory within and without the metropolitan municipal corporation. A recommended comprehensive plan prepared pursuant to this section for any metropolitan function may not be adopted by the metropolitan council unless the metropolitan municipal corporation shall have been authorized to perform such function. [1967 c 105 § 7.]

35.58.114 Recommended comprehensive plan for performance of additional function—Resolution for special election to authorize additional function—Contents—Hearings—Election procedure. Whenever a recommended comprehensive plan for the performance of any additional metropolitan function shall have been prepared and the metropolitan council shall have found the plan to be feasible the council may by resolution call a special election to authorize the performance of such additional function without the filing of the petitions or resolutions provided for in RCW 35.58.100.

If the metropolitan council shall determine that the performance of such function requires enlargement of the metropolitan area, such resolution shall contain a description of the boundaries of the proposed metropolitan area and may be adopted only after a public hearing thereon before the council. Notice of such hearing shall be published once a week for at least two consecutive weeks in one or more newspapers of general circulation within the proposed metropolitan area. The notice shall contain a description of the boundaries of the proposed metropolitan area, shall name the additional function or functions to be performed and shall state the time and place of the hearing and the fact that any changes in the boundaries of the proposed metropolitan area will be considered at such time and place. At such hearing any interested person may appear and be heard. The council may make such changes in the proposed metropolitan area as they shall deem reasonable and proper, but may not delete any portion of the

existing metropolitan area and may not delete any portion of the proposed additional area which will create an island of included or excluded lands. If the council shall determine that the proposed additional area should be further enlarged, a second hearing shall be held and notice given in the same manner as for the original hearing. The council may adjourn the hearing or hearings from time to time.

Following the conclusion of such hearing or hearings the council may adopt a resolution fixing the boundaries of the proposed metropolitan area and calling a special election on the performance of such additional function. If the metropolitan municipal corporation is then authorized to perform the function of metropolitan sewage disposal the council may provide in such resolution that local governmental agencies collecting sewage from areas outside the metropolitan area as same is constituted on the date of adoption of such resolution will not thereafter be required to discharge such sewage into the metropolitan sewer system or to secure approval of local construction plans from the metropolitan municipal corporation unless such local agency shall first have entered into a contract with the metropolitan municipal corporation for the disposal of such sewage. The metropolitan council may also provide in such resolution that the authorization to perform such additional function be effective only if the voters at such election also authorize the issuance of any general obligation bonds required to carry out the recommended comprehensive plan.

The resolution calling such election shall fix the form of the ballot proposition and the same may vary from that specified in RCW 35.58.100. If the metropolitan council shall find that the issuance of general obligation bonds is necessary to perform such additional function and to carry out such recommended comprehensive plan then the ballot proposition shall set forth the principal amount of such bonds and the maximum maturity thereof and the proposition shall be so worded that the voters may by a single yes or no vote authorize the performance of the designated function in the area described in the resolution and the issuance of such general obligation bonds.

The persons voting at such election shall be all of the qualified voters who have resided within the boundaries of the proposed metropolitan area for at least thirty days preceding the date of the election. The election shall be conducted and canvassed as provided in RCW 35.58.090.

If the resolution calling such election does not require the approval of general obligation bonds as a condition of the performance of such additional function and if a majority of the persons voting on the ballot proposition residing within the existing metropolitan municipal corporation shall vote in favor thereof and a majority of the persons residing within the area proposed to be added to the existing metropolitan municipal corporation shall vote in favor thereof the boundaries described in the resolution calling the election shall become the boundaries of the metropolitan municipal corporation and the metropolitan municipal corporation shall be

authorized to perform the additional function described in the proposition.

If the resolution calling such election shall require the authorization of general obligation bonds as a condition of the performance of such additional function, then to be effective the ballot proposition must be approved as provided in the preceding paragraph and must also be approved by at least three-fifths of the persons voting thereon and the number of persons voting on such proposition must constitute not less than forty percent of the total number of votes cast within such area at the last preceding state general election. [1967 c 105 § 8.]

35.58.116 Proposition for issuance of general obligation bonds or levy of general tax—Submission at same election or special election. The metropolitan council may at the same election called to authorize the performance of an additional function or at a special election called by the council after it has been authorized to perform any metropolitan function submit a proposition for the issuance of general obligation bonds for capital purposes as provided in RCW 35.58.450 or a proposition for the levy of a general tax for any authorized purpose for one year in such total dollar amount as the metropolitan council may determine and specify in such proposition. Any such proposition to be effective must be assented to by at least three-fifths of the persons voting thereon and the number of persons voting on such proposition shall constitute not less than forty percent of the total number of votes cast within the metropolitan area at the last preceding state general election. Any such proposition shall only be effective if the performance of the additional function shall be authorized at such election or shall have been authorized prior thereto. [1967 c 105 § 9.]

35.58.118 Commission or council form of management of metropolitan transportation function—Submission of proposition to voters—Effect when no proposition submitted. The metropolitan council may at any time by resolution determine whether the metropolitan transportation function shall be performed with an appointed commission pursuant to RCW 35.58.270 or by the metropolitan council without the appointment of such a commission: *Provided*, That any resolution to perform the metropolitan transportation function with an appointed commission pursuant to RCW 35.58.270 shall not become effective until approved by the voters residing within the boundaries of the metropolitan municipal corporation. [1971 ex.s. c 303 § 4; 1967 c 105 § 10.]

35.58.120 Metropolitan council—Composition—Chairman. A metropolitan municipal corporation shall be governed by a metropolitan council composed of the following:

(1) One member (a) who shall be the elected county executive of the central county, or (b) if there shall be no elected county executive, one member who shall be selected by, and from, the board of commissioners of the central county.

(2) One additional member for each county commissioner district or county council district which shall contain fifteen thousand or more persons residing within the metropolitan municipal corporation, who shall be the county commissioner or county councilman from such district;

(3) One additional member selected by the board of commissioners or county council of each component county for each county commissioner district or county council district containing fifteen thousand or more persons residing in the unincorporated portion of such commissioner district lying within the metropolitan municipal corporation each such appointee to be a resident of such unincorporated portion;

(4) One member from each component city which shall have a population of fifteen thousand or more persons, who shall be the mayor of such city, if such city shall have the mayor-council form of government, and in other cities shall be selected by, and from, the mayor and city council of each of such cities.

(5) One member representing all component cities which have less than fifteen thousand population each, to be selected by and from the mayors of such smaller cities in the following manner: The mayors of all such cities shall meet on the second Tuesday following the establishment of a metropolitan municipal corporation and thereafter on the third Tuesday in June of each even-numbered year at two o'clock p.m. at the office of the board of county commissioners of the central county. The chairman of such board shall preside. After nominations are made, successive ballots shall be taken until one candidate receives a majority of all votes cast.

(6) One additional member selected by the city council of each component city containing a population of fifteen thousand or more for each fifty thousand population over and above the first fifteen thousand, such members to be selected from such city council until all councilmen are members and thereafter to be selected from other officers of such city.

(7) For any metropolitan municipal corporation which shall be authorized to perform the function of metropolitan water pollution abatement, one additional member who shall be a commissioner of a sewer district or a water district which is operating a sewer system and is a component part of the metropolitan municipal corporation and shall participate only in those council actions which relate to the performance of the function of metropolitan water pollution abatement. The commissioners of all such sewer districts and water districts which are component parts of the metropolitan municipal corporation shall meet on the first Tuesday of the month following May 21, 1971 and thereafter on the second Tuesday of June of each even-numbered year at two o'clock p.m. at the office of the board of county commissioners of the central county. After election of a chairman, nominations shall be made to select a member to serve on the metropolitan council and successive ballots taken until one candidate receives a majority of votes cast.

(8) One member, who shall be chairman of the metropolitan council, selected by the other members of the council. He shall not hold any public office of or be an

employee of any component city or component county of the metropolitan municipal corporation. [1974 1st ex.s. c 70 § 5; 1971 ex.s. c 303 § 5; 1969 ex.s. c 135 § 1; 1967 c 105 § 3; 1965 c 7 § 35.58.120. Prior: 1957 c 213 § 12.]

35.58.130 Metropolitan council—Organization, chairman, procedures. At the first meeting of the metropolitan council following the formation of a metropolitan municipal corporation, the mayor of the central city shall serve as temporary chairman. As its first official act the council shall elect a chairman. The chairman shall be a voting member of the council and shall preside at all meetings. In the event of his absence or inability to act the council shall select one of its members to act as chairman pro tempore. A majority of all members of the council shall constitute a quorum for the transaction of business. A smaller number of council members than a quorum may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as the council may provide. The council shall determine its own rules and order of business, shall provide by resolution for the manner and time of holding all regular and special meetings and shall keep a journal of its proceedings which shall be a public record. Every legislative act of the council of a general or permanent nature shall be by resolution. [1965 c 7 § 35.58.130. Prior: 1957 c 213 § 13.]

35.58.140 Metropolitan council—Terms. Each member of a metropolitan council except those selected under the provisions of RCW 35.58.120(1)(a), (5), (7), and (8), shall hold office at the pleasure of the body which selected him. Each member, who shall hold office ex officio, may not hold office after he ceases to hold the position of elected county executive, mayor, commissioner, or councilman. The chairman shall hold office until the second Tuesday in July of each even-numbered year and may, if reelected, serve more than one term. Each member shall hold office until his successor has been selected as provided in this chapter. [1971 ex.s. c 303 § 6; 1969 ex.s. c 135 § 2; 1967 c 105 § 4; 1965 c 7 § 35.58.140. Prior: 1957 c 213 § 14.]

35.58.150 Metropolitan council—Vacancies. A vacancy in the office of a member of the metropolitan council shall be filled in the same manner as provided for the original selection. The meeting of mayors to fill a vacancy of the member selected under the provisions of RCW 35.58.120(4) shall be held at such time and place as shall be designated by the chairman of the metropolitan council after ten days' written notice mailed to the mayors of each of the cities specified in RCW 35.58.120(4). [1967 c 105 § 5; 1965 c 7 § 35.58.150. Prior: 1957 c 213 § 15.]

35.58.160 Metropolitan council—Compensation. The chairman and committee chairmen of the metropolitan council except elected public officials serving on a full-time salaried basis may receive such compensation as the other members of the metropolitan council

shall provide. Members of the council other than the chairman and committee chairmen shall receive compensation for attendance at metropolitan council or committee meetings of forty dollars per diem but not exceeding a total of three hundred and twenty dollars in any one month, in addition to any compensation which they may receive as officers of component cities or counties: *Provided*, That elected public officers serving in such capacities on a full time basis shall not receive compensation for attendance at metropolitan, council or committee meetings: *Provided further*, That committee chairmen shall not receive compensation in any one year greater than one-third of the compensation authorized for the county commissioners or county councilmen of the central county. All members of the council shall be reimbursed for expenses actually incurred by them in the conduct of official business for the metropolitan municipal corporation. [1974 1st ex.s. c 84 § 2; 1965 c 7 § 35.58.160. Prior: 1957 c 213 § 16.]

35.58.170 Corporation name and seal. The name of a metropolitan municipal corporation shall be established by its metropolitan council. Each metropolitan municipal corporation shall adopt a corporate seal containing the name of the corporation and the date of its formation. [1965 c 7 § 35.58.170. Prior: 1957 c 213 § 17.]

35.58.180 General powers of corporation. In addition to the powers specifically granted by this chapter a metropolitan municipal corporation shall have all powers which are necessary to carry out the purposes of the metropolitan municipal corporation and to perform authorized metropolitan functions. A metropolitan municipal corporation may contract with the United States or any agency thereof, any state or agency thereof, any other metropolitan municipal corporation, any county, city, special district, or governmental agency and any private person, firm or corporation for the purpose of receiving gifts or grants or securing loans or advances for preliminary planning and feasibility studies, or for the design, construction or operation of metropolitan facilities and a metropolitan municipal corporation may contract with any governmental agency or with any private person, firm or corporation for the use by either contracting party of all or any part of the facilities, structures, lands, interests in lands, air rights over lands and rights of way of all kinds which are owned, leased or held by the other party and for the purpose of planning, constructing or operating any facility or performing any service which the metropolitan municipal corporation may be authorized to operate or perform, on such terms as may be agreed upon by the contracting parties: *Provided*, That before any contract for the lease or operation of any metropolitan public transportation facilities shall be let to any private person, firm or corporation, a general schedule of rental rates for bus equipment with or without drivers shall be publicly posted applicable to all private certificated carriers, and for other facilities competitive bids shall first be called upon such notice, bidder qualifications and bid conditions as the metropolitan council shall determine.

A metropolitan municipal corporation may sue and be sued in its corporate capacity in all courts and in all proceedings. [1974 1st ex.s. c 84 § 3; 1967 c 105 § 6; 1965 c 7 § 35.58.180. Prior: 1957 c 213 § 18.]

35.58.190 Performance of function or functions—
Commencement date. The metropolitan council shall provide by resolution the effective date on which the metropolitan municipal corporation will commence to perform any one or more of the metropolitan functions which it shall have been authorized to perform. [1965 c 7 § 35.58.190. Prior: 1957 c 213 § 19.]

35.58.200 Powers relative to water pollution abatement. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan water pollution abatement, it shall have the following powers in addition to the general powers granted by this chapter:

(1) To prepare a comprehensive water pollution abatement plan including provisions for waterborne pollutant removal, water quality improvement, sewage disposal, and storm water drainage plan for the metropolitan area.

(2) To acquire by purchase, condemnation, gift, or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of metropolitan facilities for water pollution abatement, including but not limited to, removal of waterborne pollutants, water quality improvement, sewage disposal and storm water drainage within or without the metropolitan area, including but not limited to trunk, interceptor and outfall sewers, whether used to carry sanitary waste, storm water, or combined storm and sanitary sewage, lift and pumping stations, pipelines, drains, sewage treatment plants, flow control structures together with all lands, property rights, equipment and accessories necessary for such facilities. Sewer facilities which are owned by a county, city, or special district may be acquired or used by the metropolitan municipal corporation only with the consent of the legislative body of the county, city, or special districts owning such facilities. Counties, cities, and special districts are hereby authorized to convey or lease such facilities to metropolitan municipal corporations or to contract for their joint use on such terms as may be fixed by agreement between the legislative body of such county, city, or special district and the metropolitan council, without submitting the matter to the voters of such county, city, or district.

(3) To require counties, cities, special districts and other political subdivisions to discharge sewage collected by such entities from any portion of the metropolitan area which can drain by gravity flow into such metropolitan facilities as may be provided to serve such areas when the metropolitan council shall declare by resolution that the health, safety, or welfare of the people within the metropolitan area requires such action.

(4) To fix rates and charges for the use of metropolitan water pollution abatement facilities, and to expend the moneys so collected for authorized water pollution abatement activities.

(5) To establish minimum standards for the construction of local water pollution abatement facilities and to approve plans for construction of such facilities by component counties or cities or by special districts, which are connected to the facilities of the metropolitan municipal corporation. No such county, city, or special district shall construct such facilities without first securing such approval.

(6) To acquire by purchase, condemnation, gift, or grant, to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of facilities for the local collection of sewage or storm water in portions of the metropolitan area not contained within any city or special district operating local public sewer facilities and, with the consent of the legislative body of any such city or special district, to exercise such powers within such city or special district and for such purpose to have all the powers conferred by law upon such city or special district with respect to such local collection facilities: *Provided*, That such consent shall not be required if the department of ecology certifies that a water pollution problem exists within any such city or special district and notifies the city or special district to correct such problem and corrective construction of necessary local collection facilities shall not have been commenced within six months after notification. All costs of such local collection facilities shall be paid for by the area served thereby.

(7) To participate fully in federal and state programs under the federal water pollution control act (86 Stat. 816 et seq., 33 U.S.C. 1251 et seq.) and to take all actions necessary to secure to itself or its component agencies the benefits of that act and to meet the requirements of that act, including but not limited to the following:

(a) authority to develop and implement such plans as may be appropriate or necessary under the act.

(b) authority to require by appropriate regulations that its component agencies comply with all effluent treatment and limitation requirements, standards of performance requirements, pretreatment requirements, a user charge and industrial cost recovery system conforming to federal regulation, and all conditions of national permit discharge elimination system permits issued to the metropolitan municipal corporation or its component agencies. Adoption of such regulations and compliance therewith shall not constitute a breach of any sewage disposal contract between a metropolitan municipal corporation and its component agencies nor a defense to an action for the performance of all terms and conditions of such contracts not inconsistent with such regulations and such contracts, as modified by such regulations, shall be in all respects valid and enforceable. [1974 1st ex.s. c 70 § 6; 1971 ex.s. c 303 § 7; 1965 c 7 § 35.58.200. Prior: 1957 c 213 § 20.]

35.58.210 Metropolitan water pollution abatement advisory committee. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan water pollution abatement, the metropolitan council shall, prior to the effective date of the assumption of such function, cause a metropolitan water

pollution abatement advisory committee to be formed by notifying the legislative body of each component city and county which operates a sewer system to appoint one person to serve on such advisory committee and the board of commissioners of each sewer district and water district which operates a sewer system, any portion of which lies within the metropolitan area, to appoint one person to serve on such committee who shall be a commissioner of such a sewer or water district. The metropolitan water pollution abatement advisory committee shall meet at the time and place provided in the notice and elect a chairman. The members of such committee shall serve at the pleasure of the appointing bodies and shall receive no compensation other than reimbursement for expenses actually incurred in the performance of their duties. The function of such advisory committee shall be to advise the metropolitan council in matters relating to the performance of the water pollution [abatement] function. [1974 1st ex.s. c 70 § 7; 1965 c 7 § 35.58.210. Prior: 1957 c 213 § 21.]

35.58.220 Powers relative to water supply. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan water supply, it shall have the following powers in addition to the general powers granted by this chapter:

(1) To prepare a comprehensive plan for the development of sources of water supply, trunk supply mains and water treatment and storage facilities for the metropolitan area.

(2) To acquire by purchase, condemnation, gift or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of metropolitan facilities for water supply within or without the metropolitan area, including buildings, structures, water sheds, wells, springs, dams, settling basins, intakes, treatment plants, trunk supply mains and pumping stations, together with all lands, property, equipment and accessories necessary to enable the metropolitan municipal corporation to obtain and develop sources of water supply, treat and store water and deliver water through trunk supply mains. Water supply facilities which are owned by a city or special district may be acquired or used by the metropolitan municipal corporation only with the consent of the legislative body of the city or special district owning such facilities. Cities and special districts are hereby authorized to convey or lease such facilities to metropolitan municipal corporations or to contract for their joint use on such terms as may be fixed by agreement between the legislative body of such city or special district and the metropolitan council, without submitting the matter to the voters of such city or district.

(3) To fix rates and charges for water supplied by the metropolitan municipal corporation.

(4) To acquire by purchase, condemnation, gift or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of facilities for the local distribution of water in portions of the metropolitan area not contained within any city or water district and, with the consent of the legislative body of any city or water district, to exercise such powers

within such city or water district and for such purpose to have all the powers conferred by law upon such city or water district with respect to such local distribution facilities. All costs of such local distribution facilities shall be paid for by the area served thereby. [1965 c 7 § 35.58.220. Prior: 1957 c 213 § 22.]

35.58.230 Metropolitan water advisory committee. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan water supply, the metropolitan council shall, prior to the effective date of the assumption of such function, cause a metropolitan water advisory committee to be formed by notifying the legislative body of each component city which operates a water system to appoint one person to serve on such advisory committee and the board of commissioners of each water district, any portion of which lies within the metropolitan area, to appoint one person to serve on such committee who shall be a water district commissioner. The metropolitan water advisory committee shall meet at the time and place provided in the notice and elect a chairman. The members of such committee shall serve at the pleasure of the appointing bodies and shall receive no compensation other than reimbursement for expenses actually incurred in the performance of their duties. The function of such advisory committee shall be to advise the metropolitan council with respect to matters relating to the performance of the water supply function. [1965 c 7 § 35.58.230. Prior: 1957 c 213 § 23.]

35.58.240 Powers relative to transportation. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan transportation, it shall have the following powers in addition to the general powers granted by this chapter:

(1) To prepare, adopt and carry out a general comprehensive plan for public transportation service which will best serve the residents of the metropolitan area and to amend said plan from time to time to meet changed conditions and requirements.

(2) To acquire by purchase, condemnation, gift or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of metropolitan transportation facilities and properties within or without the metropolitan area, including systems of surface, underground or overhead railways, tramways, buses, or any other means of local transportation except taxis, and including escalators, moving sidewalks or other people-moving systems, passenger terminal and parking facilities and properties and such other facilities and properties as may be necessary for passenger and vehicular access to and from such people-moving systems, terminal and parking facilities and properties, together with all lands, rights of way, property, equipment and accessories necessary for such systems and facilities. Public transportation facilities and properties which are owned by any city may be acquired or used by the metropolitan municipal corporation only with the consent of the city council of the city owning such facilities. Cities are hereby authorized to convey or lease such facilities to metropolitan corporations or to

contract for their joint use on such terms as may be fixed by agreement between the city council of such city and the metropolitan council, without submitting the matter to the voters of such city.

The facilities and properties of a metropolitan public transportation system whose vehicles will operate primarily within the rights of way of public streets, roads or highways, may be acquired, developed and operated without the corridor and design hearings which are required by RCW 35.58.273 for mass transit facilities operating on a separate right of way.

(3) To fix rates, tolls, fares and charges for the use of such facilities and to establish various routes and classes of service: *Provided*, That classes of service and fares will be maintained in the several parts of the metropolitan area at such levels as will provide, insofar as reasonably practicable, that the portion of any annual transit operating deficit of the metropolitan municipal corporation attributable to the operation of all routes, taken as a whole, which are located within the central city is approximately in proportion to the portion of total taxes collected by or on behalf of the metropolitan municipal corporation for transit purposes within the central city, and that the portion of such annual transit operating deficit attributable to the operation of all routes, taken as a whole, which are located outside the central city, is approximately in proportion to the portion of such taxes collected outside the central city.

In the event any metropolitan municipal corporation shall extend its metropolitan transportation function to any area or service already offered by any company holding a certificate of public convenience and necessity from the Washington utilities and transportation commission, under RCW 81.68.040 it shall by purchase or condemnation acquire at the fair market value, from the person holding the existing certificate for providing the services, that portion of the operating authority and equipment representing the services within the area of public operation. [1971 ex.s. c 303 § 8; 1967 c 105 § 11; 1965 c 7 § 35.58.240. Prior: 1957 c 213 § 24.]

35.58.245 Public transportation function—Authorization by election required—Procedure. Notwithstanding any other provision of chapter 35.58 RCW a metropolitan municipal corporation may perform the function of metropolitan public transportation only if the performance of such function is authorized by election. The metropolitan council may call such election and certify the ballot proposition. The election shall be conducted and canvassed as provided in RCW 35.58.090 and the municipality shall be authorized to perform the function of metropolitan public transportation if a majority of the persons voting on the proposition shall vote in favor. [1971 ex.s. c 303 § 1.]

35.58.250 Other local public passenger transportation service prohibited—Agreements—Purchase—Condemnation. Except in accordance with an agreement made as provided herein, upon the effective date on which the metropolitan municipal corporation commences to perform the metropolitan transportation function, no person or private corporation shall operate

a local public passenger transportation service within the metropolitan area with the exception of taxis, busses owned or operated by a school district or private school, and busses owned or operated by any corporation or organization solely for the purposes of the corporation or organization and for the use of which no fee or fare is charged.

An agreement may be entered into between the metropolitan municipal corporation and any person or corporation legally operating a local public passenger transportation service wholly within or partly within and partly without the metropolitan area and on said effective date under which such person or corporation may continue to operate such service or any part thereof for such time and upon such terms and conditions as provided in such agreement. Where any such local public passenger transportation service will be required to cease to operate within the metropolitan area, the commission may agree with the owner of such service to purchase the assets used in providing such service, or if no agreement can be reached, the commission shall condemn such assets in the manner provided herein for the condemnation of other properties.

Wherever a privately owned public carrier operates wholly or partly within a metropolitan municipal corporation, the Washington utilities and transportation commission shall continue to exercise jurisdiction over such operation as provided by law. [1965 c 7 § 35.58.250. Prior: 1957 c 213 § 25.]

35.58.260 Transportation function—Acquisition of city system. If a metropolitan municipal corporation shall be authorized to perform the metropolitan transportation function, it shall, upon the effective date of the assumption of such power, have and exercise all rights with respect to the construction, acquisition, maintenance, operation, extension, alteration, repair, control and management of passenger transportation which any component city shall have been previously empowered to exercise and such powers shall not thereafter be exercised by such component cities without the consent of the metropolitan municipal corporation: *Provided*, That any city owning and operating a public transportation system on such effective date may continue to operate such system within such city until such system shall have been acquired by the metropolitan municipal corporation and a metropolitan municipal corporation may not acquire such system without the consent of the city council of such city. [1965 c 7 § 35.58.260. Prior: 1957 c 213 § 26.]

35.58.265 Acquisition of existing transportation system—Assumption of labor contracts—Transfer of employees—Preservation of employee benefits—Collective bargaining. If a metropolitan municipal corporation shall perform the metropolitan transportation function and shall acquire any existing transportation system, it shall assume and observe all existing labor contracts relating to such system and, to the extent necessary for operation of facilities, all of the employees of such acquired transportation system whose duties are necessary to operate efficiently the facilities acquired

shall be appointed to comparable positions to those which they held at the time of such transfer, and no employee or retired or pensioned employee of such systems shall be placed in any worse position with respect to pension seniority, wages, sick leave, vacation or other benefits that he enjoyed as an employee of such system prior to such acquisition. The metropolitan municipal corporation shall engage in collective bargaining with the duly appointed representatives of any employee labor organization having existing contracts with the acquired transportation system and may enter into labor contracts with such employee labor organization. [1965 c 91 § 1.]

Retention of employees, preservation of pension rights and other benefits upon acquisition of metropolitan facility: RCW 35.58.380-35.58.400.

35.58.270 Metropolitan transit commission. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan transportation with a commission form of management, a metropolitan transit commission shall be formed prior to the effective date of the assumption of such function. Except as provided in this section, the metropolitan transit commission shall exercise all powers of the metropolitan municipal corporation with respect to metropolitan transportation facilities, including but not limited to the power to construct, acquire, maintain, operate, extend, alter, repair, control and manage a local public transportation system within and without the metropolitan area, to establish new passenger transportation services and to alter, curtail, or abolish any services as the commission may deem desirable and to fix tolls and fares.

The comprehensive plan for public transportation service and any amendments thereof shall be adopted by the metropolitan council and the metropolitan transit commission shall provide transportation facilities and service consistent with such plan. The metropolitan transit commission shall authorize expenditures for transportation purposes within the budget adopted by the metropolitan council. Tolls and fares may be fixed or altered by the commission only after approval thereof by the metropolitan council. Bonds of the metropolitan municipal corporation for public transportation purposes shall be issued by the metropolitan council as provided in this chapter.

The metropolitan transit commission shall consist of seven members. Six of such members shall be appointed by the metropolitan council and the seventh member shall be the chairman of the metropolitan council who shall be ex officio the chairman of the metropolitan transit commission. Three of the six appointed members of the commission shall be residents of the central city and three shall be residents of the metropolitan area outside of the central city. The three central city members of the first metropolitan transit commission shall be selected from the existing transit commission of the central city, if there be a transit commission in such city. The terms of first appointees shall be for one, two, three, four, five and six years, respectively. Thereafter, commissioners shall serve for a term of four years.

Compensation of transit commissioners shall be determined by the metropolitan council. [1967 c 105 § 12; 1965 c 7 § 35.58.270. Prior: 1957 c 213 § 27.]

Submission of commission or council form of management of transportation function to voters: RCW 35.58.118.

35.58.271 Public transportation in cities and metropolitan municipal corporations—Financing. See chapter 35.95 RCW.

35.58.2711 Local sales and use taxes for financing public transportation systems. See RCW 82.14.045-82.14.060.

35.58.272 Mass public transit system—Definitions. "Municipality" as used in RCW 35.58.272 through 35.58.279 means any metropolitan municipal corporation which shall have been authorized to perform the function of metropolitan public transportation and any city which is not located within the boundaries of such a metropolitan municipal corporation and which owns, operates or contracts for the services of a publicly owned or operated system of transportation.

"Motor vehicle" as used in RCW 35.58.272 through 35.58.279 shall have the same meaning as in RCW 82.44.010.

"County auditor" shall mean the county auditor of any county or any person designated to perform the duties of a county auditor pursuant to RCW 82.44.140.

"Person" shall mean any individual, corporation, firm, association or other form of business association. [1969 ex.s. c 255 § 7.]

Construction—1969 ex.s. c 255: "The powers and authority conferred upon municipalities under the provisions of this 1969 act shall be in addition to and supplemental to powers or authority conferred by any other law, and nothing contained herein limits any other power or authority of such municipalities." [1969 ex.s. c 255 § 21.]

Severability—1969 ex.s. c 255: "If any provision of this 1969 act, or its application to any municipality, person or circumstance is held invalid, the remainder of this 1969 act or the application of the provisions to other municipalities, persons or circumstances is not affected." [1969 ex.s. c 255 § 22.]

The foregoing annotations apply to RCW 35.58.272-35.58.2792, 35.95.010, 35.95.020, 39.33.050, 82.04.050, 82.04.190, 82.04.280 and 82.44.150.

Contracts between political subdivisions for services and use of public transportation systems: RCW 39.33.050.

35.58.273 Mass public transit system—Motor vehicle excise tax authorized—Credits—Public hearing on route and design. (Effective until June 30, 1981.) On or after July 1, 1971, any municipality is authorized to levy and collect a special excise tax not exceeding one percent on the fair market value of every motor vehicle owned by a resident of such municipality for the privilege of using such motor vehicle provided that in no event shall the tax be less than one dollar and, subject to the provisions of subsection (2) of RCW 82.44.150, the amount of such tax shall be credited against the amount of the excise tax levied by the state under RCW 82.44.020: *Provided*, That before utilization of any excise tax moneys collected under authorization of this section for acquisition of right of way or construction of a mass transit facility on a separate right of way

the municipality shall adopt rules affording the public an opportunity for "corridor public hearings" and "design public hearings" as herein defined, which rule shall provide in detail the procedures necessary for public participation in the following instances: (a) prior to adoption of location and design plans having a substantial social, economic or environmental effect upon the locality upon which they are to be constructed or (b) on such mass rapid transit systems operating on a separate right of way whenever a substantial change is proposed relating to location or design in the adopted plan. In adopting rules the municipality shall adhere to the provisions of the Administrative Procedure Act.

A "corridor public hearing" is a public hearing that: (a) is held before the municipality is committed to a specific mass transit route proposal, and before a route location is established; (b) is held to afford an opportunity for participation by those interested in the determination of the need for, and the location of, the mass rapid transit system; (c) provides a public forum that affords a full opportunity for presenting views on the mass rapid transit system route location, and the social, economic and environmental effects on that location and alternate locations: *Provided*, That such hearing shall not be deemed to be necessary before adoption of an overall mass rapid transit system plan by a vote of the electorate of the municipality.

A "design public hearing" is a public hearing that: (a) is held after the location is established but before the design is adopted; and (b) is held to afford an opportunity for participation by those interested in the determination of major design features of the mass rapid transit system; and (c) provides a public forum to afford a full opportunity for presenting views on the mass rapid transit system design, and the social, economic, environmental effects of that design and alternate designs. [1969 ex.s. c 255 § 8.]

35.58.273 Mass public transit system—Motor vehicle excise tax—Public hearing on route and design. (Amendment effective June 30, 1981.) Before utilization of any of the funds appropriated by the legislature and distributed to a municipality pursuant to RCW 35.58.2793 for acquisition of right of way or for construction of a mass transit facility on a separate right of way the municipality shall adopt rules affording the public an opportunity for "corridor public hearings" and "design public hearings" as herein defined, which rule shall provide in detail the procedures necessary for public participation in the following instances: (a) prior to adoption of location and design plans having a substantial social, economic or environmental effect upon the locality upon which they are to be constructed or (b) on such mass rapid transit systems operating on a separate right of way whenever a substantial change is proposed relating to location or design in the adopted plan. In adopting rules the municipality shall adhere to the provisions of the Administrative Procedure Act.

A "corridor public hearing" is a public hearing that: (a) is held before the municipality is committed to a specific mass transit route proposal, and before a route

location is established; (b) is held to afford an opportunity for participation by those interested in the determination of the need for, and the location of, the mass rapid transit system; (c) provides a public forum that affords a full opportunity for presenting views on the mass rapid transit system route location, and the social, economic and environmental effects on that location and alternate locations: *Provided*, That such hearing shall not be deemed to be necessary before adoption of an overall mass rapid transit system plan by a vote of the electorate of the municipality.

A "design public hearing" is a public hearing that: (a) is held after the location is established but before the design is adopted; and (b) is held to afford an opportunity for participation by those interested in the determination of major design features of the mass rapid transit system; and (c) provides a public forum to afford a full opportunity for presenting views on the mass rapid transit system design, and the social, economic, environmental effects of that design and alternate designs. [1973 1st ex.s. c 136 § 1; 1969 ex.s. c 255 § 8.]

Effective dates—1973 1st ex.s. c 136: "Sections 1 through 6 and section 8 of this 1973 amendatory act shall not take effect until June 30, 1981, and the remainder of this 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately." [1973 1st ex.s. c 136 § 9.] Sections 1 through 6 and section 8 refer to RCW 35.58.273, 35.58.279, 35.58.2791, 35.58.2792 and 82.44.150 as amended by 1973 1st ex.s. c 136, to RCW 35.58.2793, and to the repeal of RCW 35.58.274-35.58.278 by 1973 1st ex.s. c 136.

Severability—1973 1st ex.s. c 136: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 136 § 10.]

35.58.2731 Mass public transit system—Limitations upon amount of special motor vehicle excise tax levies—Bond issue authorized—Federal funds. (1) During the two fiscal years from July 1, 1973 to June 30, 1975, no municipality as defined in RCW 35.58.272 which has been authorized to levy a special excise tax pursuant to RCW 35.58.273 may levy an amount in each of such fiscal years greater than the maximum amount established pursuant to the following formula:

For each of the fiscal years 1973-74 and 1974-75 the total amount of such special excise taxes levied by all municipalities shall be \$6,000,000 per year and each municipality may levy not to exceed the proportion of such total amount for which the municipality qualifies proportionately with all other qualifying municipalities under RCW 35.58.273 and RCW 82.44.150 for local mass transit assistance purposes. Prior to May 1, 1973 and May 1, 1974 each municipality desiring to levy an excise tax during the immediately following fiscal year shall so advise the director of the department of motor vehicles. Necessary data shall be supplied by the office of program planning and fiscal management to the director of the department of motor vehicles, who shall determine the maximum amount of the excise tax levy for each qualifying municipality and shall certify such

amount to each such municipality prior to June 1 of each of the years 1973 and 1974.

(2) In addition to any other authority now provided by law, any municipality, including a metropolitan municipal corporation, shall be authorized to issue general obligation bonds for public mass transportation purposes with the principal and interest on said bonds to be paid from such taxes as shall be authorized to be levied by such municipality including motor vehicle excise taxes. Such bonds shall be issued and sold subject to the terms and limitations and in the manner provided in RCW 35.58.450: *Provided*, That no municipality may issue general obligation bonds secured by or payable from motor vehicle excise taxes which bonds mature later than June 30, 1981.

(3) Any federal funds received in excess of those anticipated in annual local transit budgets shall be used in lieu of state funds distributed to municipalities pursuant to *this 1973 amendatory act. An amount equal to the excess federal funds received shall be returned to the state treasurer and deposited in the state general fund. [1973 1st ex.s. c 136 § 7.]

*Reviser's note: "this 1973 amendatory act", see note following RCW 35.58.2793.

Severability—Effective dates—1973 1st ex.s. c 136: See notes following RCW 35.58.273.

35.58.274 Mass public transit system—Motor vehicles exempt from tax. (Effective until June 30, 1981.) Any vehicle for which an excise tax is payable under RCW 82.44.030 and RCW 82.44.070 shall be exempt from the tax imposed by RCW 35.58.273. [1969 ex.s. c 255 § 9.]

35.58.274 Mass public transit system—Motor vehicles exempt from tax. (Repeal effective June 30, 1981.) [1969 ex.s. c 255 § 9.] Repealed by 1973 1st ex.s. c 136 § 8, effective June 30, 1981.

Severability—Effective dates—1973 1st ex.s. c 136: See notes following RCW 35.58.273.

35.58.275 Mass public transit system—Provisions of motor vehicle excise tax chapter applicable. (Effective until June 30, 1981.) The schedule and basis for the excise tax imposed under RCW 35.58.273 shall be as provided in RCW 82.44.040 and RCW 82.44.050. Penalties, receipts, abatements, refunds and all other similar matters relating to the tax shall be as provided in chapter 82.44 RCW. [1969 ex.s. c 255 § 10.]

35.58.275 Mass public transit system—Provisions of motor vehicle excise tax chapter applicable. (Repeal effective June 30, 1981.) [1969 ex.s. c 255 § 10.] Repealed by 1973 1st ex.s. c 136 § 8, effective June 30, 1981.

Severability—Effective dates—1973 1st ex.s. c 136: See notes following RCW 35.58.273.

35.58.276 Mass public transit system—When tax due and payable—Collection. (Effective until June 30, 1981.) The excise tax authorized by RCW 35.58.273 shall be due and payable as set forth in RCW 82.44.060

and shall be collected by the county auditor of the county or counties in which such municipality is located or by a designee of the director under RCW 82.44.140, and remitted to the state at no cost to the municipality imposing the tax. [1971 ex.s. c 199 § 1; 1969 ex.s. c 255 § 11.]

35.58.276 Mass public transit system—When tax due and payable—Collection. (Repeal effective June 30, 1981.) [1971 ex.s. c 199 § 1; 1969 ex.s. c 255 § 11.] Repealed by 1973 1st ex.s. c 136 § 8, effective June 30, 1981.

Severability—Effective dates—1973 1st ex.s. c 136: See notes following RCW 35.58.273.

35.58.277 Mass public transit system—Remittance of tax by county auditor. (Effective until June 30, 1981.) When remitting license fee receipts to the state pursuant to RCW 82.44.110, the county auditor shall at the same time remit the special excise taxes collected for the municipality and, subject to the provisions of subsection (2) of RCW 82.44.150, the sum so collected and paid over on behalf of the municipality shall be credited against the amount of the tax the auditor would otherwise be required to collect and pay over to the director of motor vehicles for ultimate distribution to the general fund under chapter 82.44 RCW. [1969 ex.s. c 255 § 12.]

35.58.277 Mass public transit system—Remittance of tax by county auditor. (Repeal effective June 30, 1981.) [1969 ex.s. c 255 § 12.] Repealed by 1973 1st ex.s. c 136 § 8, effective June 30, 1981.

Severability—Effective dates—1973 1st ex.s. c 136: See notes following RCW 35.58.273.

35.58.278 Mass public transit system—Distribution of tax (section expires June 30, 1981). Distribution of the special excise taxes paid into the general fund on behalf of any municipality shall be made to such municipality as provided in RCW 82.44.150, as now or hereafter amended.

This section shall expire on June 30, 1981. [1974 1st ex.s. c 54 § 1; 1969 ex.s. c 255 § 13.]

Reviser's note: RCW 35.58.278 [1969 ex.s. c 255 § 13] was repealed by 1973 1st ex.s. c 136 § 8, effective June 30, 1981.

Severability—Construction—Transitional sections—Effective dates—1974 1st ex.s. c 54: See notes following RCW 82.44.070.

35.58.278 Mass public transit system—Distribution of tax. (Repeal effective June 30, 1981.) [1969 ex.s. c 255 § 13.] Repealed by 1973 1st ex.s. c 136 § 8, effective June 30, 1981.

Severability—Effective dates—1973 1st ex.s. c 136: See notes following RCW 35.58.273.

35.58.279 Mass public transit system—Crediting and use of tax revenues. (Effective until June 30, 1981.) All taxes levied and collected under RCW 35.58.273 shall be credited to a special fund in the treasury of the municipality imposing such tax. Such taxes shall be levied and used solely for the purpose of paying all or any

part of the cost of acquiring, constructing, equipping or operating a publicly owned mass transportation system, or contracting for the services thereof, or to pay or secure the payment of all or part of the principal of or interest on any general obligation bonds or revenue bonds issued for public transportation capital purposes and until withdrawn for use, the moneys accumulated in such fund or funds may be invested by the treasurer of such municipality in the manner authorized by the legislative body of the municipality.

If any of the revenue from any such special excise tax shall have been pledged by any municipality to secure the payment of any bonds as herein authorized, then as long as that pledge shall be in effect the legislature shall not withdraw from the municipality the authority to levy and collect the tax. Upon the effective date of this 1969 act any municipality is authorized to pledge that the tax authorized by RCW 35.58.273 shall be levied, collected and applied as provided in this 1969 act to pay or secure the payment of any bonds issued by such municipality after such effective date for authorized public transportation purposes. [1969 ex.s. c 255 § 14.]

Reviser's note: "this 1969 act" consists of RCW 35.58.272-35.58.2792, 35.95.010 and 35.95.020, 39.33.050, 82.04.050, 82.04.190, 82.04.280 and 82.44.150.

The effective date of 1969 ex.s. c 255 was August 11, 1969.

35.58.279 Mass public transit system—Crediting and use of funds. (Amendment effective June 30, 1981.) All funds appropriated by the legislature and distributed to municipalities for public mass transit assistance pursuant to RCW 35.58.2793 shall be credited to a special fund in the treasury of each such municipality. Such funds shall be used solely for the purpose of paying all or any part of the cost of acquiring, constructing, equipping or operating a publicly owned mass transportation system, or contracting for the services thereof, or to pay or secure the payment of all or part of the principal of or interest on any general obligation bonds or revenue bonds issued for public transportation capital purposes and until withdrawn for use, the moneys accumulated in such fund or funds may be invested by the treasurer of such municipality in the manner authorized by the legislative body of the municipality. [1973 1st ex.s. c 136 § 2; 1969 ex.s. c 255 § 14.]

Severability—Effective dates—1973 1st ex.s. c 136: See notes following RCW 35.58.273.

35.58.2791 Mass public transit system—Internal combustion equipment to comply with pollution control standards. (Effective until June 30, 1981.) No new internal combustion powered equipment shall be acquired with funds derived from the taxes levied and collected under RCW 35.58.273 or with funds derived from general obligation bonds wholly or partially secured by the taxes levied and collected under RCW 35.58.273 unless they meet the standards for control of pollutants emitted by internal combustion engines as determined by the state air pollution control board, which standards shall not be less than those required by similar federal standards. [1969 ex.s. c 255 § 19.]

35.58.2791 Mass public transit system—Internal combustion equipment to comply with pollution control standards. (Amendment effective June 30, 1981.) No new internal combustion powered equipment shall be acquired with funds appropriated by the legislature and distributed to a municipality pursuant to RCW 35.58.2793 unless they meet the standards for control of pollutants emitted by internal combustion engines as determined by the state air pollution control board, which standards shall not be less than those required by similar federal standards. [1973 1st ex.s. c 136 § 3; 1969 ex.s. c 255 § 19.]

Severability—Effective dates—1973 1st ex.s. c 136: See notes following RCW 35.58.273.

35.58.2792 Mass public transit system—Parking facilities to be in conjunction with system stations or transfer facilities. (Effective until June 30, 1981.) The construction of parking facilities to be wholly or partially financed with funds derived from the taxes levied and collected under RCW 35.58.273 or with funds derived from general obligation bonds wholly or partially secured by taxes levied and collected under RCW 35.58.273 shall be in conjunction with and adjacent to public transportation stations or transfer facilities. [1969 ex.s. c 255 § 20.]

35.58.2792 Mass public transit system—Parking facilities to be in conjunction with system stations or transfer facilities. (Amendment effective June 30, 1981.) The construction of parking facilities to be wholly or partially financed with funds appropriated by the legislature and distributed to a municipality pursuant to RCW 35.58.2793 shall be in conjunction with and adjacent to public transportation stations or transfer facilities. [1973 1st ex.s. c 136 § 4; 1969 ex.s. c 255 § 20.]

Severability—Effective dates—1973 1st ex.s. c 136: See notes following RCW 35.58.273.

35.58.2793 Mass public transit system—State financial assistance—Distribution of funds—Formula—Federal funds. (Effective June 30, 1981.) (1) The state treasurer, based on information provided by the department of motor vehicles, shall distribute to each municipality operating a public mass transportation system which requests and qualifies for state financial assistance, such amounts as the legislature appropriates for public mass transit assistance in each fiscal biennium. The amount to be distributed to any municipality for purposes of local public transportation assistance from any legislative appropriation for that purpose shall be an amount equal to the amount budgeted by such municipality to be expended for local public transportation from local tax sources but in no event shall the amount distributed to a municipality in any calendar year be more than the maximum limit established by the dollar amount calculated pursuant to the formula in subsection (2) of this section.

(2) The dollar amount of the maximum limit referred to in subsection (1) of this section shall be determined by the following formula: One-half of the total amount of motor vehicle excise taxes remitted to the department

during the most recent calendar year for which data is available, except those payable under RCW 82.44.030 and 82.44.070, from each county shall be multiplied by a fraction, the numerator of which is the population of the subject municipality residing in such county, and the denominator of which is the total population of the county in which such municipality or portion thereof is located. The product of this computation shall be the maximum amount to be distributed to any municipality from whatever funds may be appropriated by the legislature for purposes of local public transportation assistance. Where the municipality is located in more than one county, separate computations shall be made for each county, and the combined products shall provide the maximum limit. Population figures required for these computations shall be supplied by the office of program planning and fiscal management to the director of the department of motor vehicles, who shall adjust the fraction annually.

(3) The distribution of funds to municipalities from any legislative appropriation for purposes of mass transit assistance shall be made annually by the state treasurer no later than June 30th of the calendar year to which the distribution applies. For purposes of insuring the equitable distribution of funds appropriated by the legislature, the department of motor vehicles at the beginning of each state fiscal biennium for which funds are appropriated for distribution shall determine the amount of local matching money to be budgeted within maximum limits by each municipality for each municipal fiscal year covered by the state appropriation. In the event the appropriation by the legislature is insufficient to match the amount of locally generated tax revenues budgeted for transportation purposes by municipalities within maximum limits established by this section, the amount distributed to each municipality shall be reduced proportionately.

(4) If after the close of any calendar year the department of motor vehicles should determine that any municipality receiving a grant from the state appropriation for mass transit assistance has not expended or lawfully contracted to expend at least ninety percent of the local matching funds budgeted for mass transit from local taxes, the apportionment for the succeeding calendar year to that municipality from state assistance funds shall be reduced by the dollar amount of the municipality's under-expenditure of budgeted local tax funds less an adjustment factor calculated as five percent of the local matching funds budgeted, or one hundred thousand dollars, whichever is less.

(5) Any federal funds received in excess of those anticipated in annual local transit budgets shall be used in lieu of state funds distributed to municipalities pursuant to this 1973 amendatory act. An amount equal to the excess federal funds received shall be returned to the state treasurer and deposited in the state general fund. [1973 1st ex.s. c 136 § 6.]

***Reviser's note:** "this 1973 amendatory act" [1973 1st ex.s. c 136] refers to the amendments to RCW 35.58.273, 35.58.279, 35.58.2791, 35.58.2792 and 82.44.150 by 1973 1st ex.s. c 136, to RCW 35.58.2731 and 35.58.2793, and to the repeal of RCW 35.58.274-35.58.278.

Severability—Effective dates—1973 1st ex.s. c 136: See notes following RCW 35.58.273.

35.58.280 Powers relative to garbage disposal. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan garbage disposal, it shall have the following powers in addition to the general powers granted by this chapter:

(1) To prepare a comprehensive garbage disposal plan for the metropolitan area.

(2) To acquire by purchase, condemnation, gift, or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of metropolitan facilities for garbage disposal within or without the metropolitan area, including garbage disposal sites, central collection station sites, structures, machinery and equipment for the operation of central collection stations and for the hauling and disposal of garbage by any means, together with all lands, property, equipment and accessories necessary for such facilities. Garbage disposal facilities which are owned by a city or county may be acquired or used by the metropolitan municipal corporation only with the consent of the legislative body of the city or county owning such facilities. Cities and counties are hereby authorized to convey or lease such facilities to metropolitan municipal corporations or to contract for their joint use on such terms as may be fixed by agreement between the legislative body of such city or county and the metropolitan council, without submitting the matter to the voters of such city or county.

(3) To fix rates and charges for the use of metropolitan garbage disposal facilities.

(4) With the consent of any component city, to acquire by purchase, condemnation, gift or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of facilities for the local collection of garbage within such city, and for such purpose to have all the powers conferred by law upon such city with respect to such local collection facilities. Nothing herein contained shall be deemed to authorize the local collection of garbage except in component cities. All costs of such local collection facilities shall be paid for by the area served thereby. [1965 c 7 § 35.58.280. Prior: 1957 c 213 § 28.]

35.58.290 Powers relative to parks and parkways. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan parks and parkways, it shall have the following powers in addition to the general powers granted by this chapter:

(1) To prepare a comprehensive plan of metropolitan parks and parkways.

(2) To acquire by purchase, condemnation, gift or grant, to lease, construct, add to, improve, develop, replace, repair, maintain, operate and regulate the use of metropolitan parks and parkways, together with all lands, rights of way, property, equipment and accessories necessary therefor. A park or parkway shall be considered to be a metropolitan facility if the metropolitan council shall by resolution find it to be of use and benefit to all or a major portion of the residents of the

metropolitan area. Parks or parkways which are owned by a component city or county may be acquired or used by the metropolitan municipal corporation only with the consent of the legislative body of such city or county. Cities and counties are hereby authorized to convey or lease such facilities to metropolitan municipal corporations or to contract for their joint use on such terms as may be fixed by agreement between the legislative bodies of such city or county and the metropolitan council, without submitting the matter to the voters of such city or county. If parks or parkways which have been acquired or used as metropolitan facilities shall no longer be used for park purposes by the metropolitan municipal corporation, such facilities shall revert to the component city or county which formerly owned them.

(3) To fix fees and charges for the use of metropolitan park and parkway facilities. [1965 c 7 § 35.58.290. Prior: 1957 c 213 § 29.]

35.58.300 Metropolitan park board. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan parks and parkways, a metropolitan park board shall be formed prior to the effective date of the assumption of such function. Except as provided in this section, the metropolitan park board shall exercise all powers of the metropolitan municipal corporation with respect to metropolitan park and parkway facilities.

The metropolitan park board shall authorize expenditures for park and parkway purposes within the budget adopted by the metropolitan council. Bonds of the metropolitan municipal corporation for park and parkway purposes shall be issued by the metropolitan council as provided in this chapter.

The metropolitan park board shall consist of five members appointed by the metropolitan council at least two of whom shall be residents of the central city. The terms of first appointees shall be for one, two, three, four and five years, respectively. Thereafter members shall serve for a term of four years. Compensation of park board members shall be determined by the metropolitan council. [1965 c 7 § 35.58.300. Prior: 1957 c 213 § 30.]

35.58.310 Powers relative to planning. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan comprehensive planning, it shall have the following powers in addition to the general powers granted by this chapter:

(1) To prepare a recommended comprehensive land use and capital facilities plan for the metropolitan area.

(2) To review proposed zoning ordinances and resolutions or comprehensive plans of component cities and counties and make recommendations thereon. Such proposed zoning ordinances and resolutions or comprehensive plans must be submitted to the metropolitan council prior to adoption and may not be adopted until reviewed and returned by the metropolitan council. The metropolitan council shall cause such ordinances, resolutions and plans to be reviewed by the planning staff of the metropolitan municipal corporation and return such ordinances, resolutions and plans, together with

their findings and recommendations thereon within sixty days following their submission.

(3) To provide planning services for component cities and counties upon request and upon payment therefor by the cities or counties receiving such service. [1965 c 7 § 35.58.310. Prior: 1957 c 213 § 31.]

35.58.320 Eminent domain. A metropolitan municipal corporation shall have power to acquire by purchase and condemnation all lands and property rights, both within and without the metropolitan area, which are necessary for its purposes. Such right of eminent domain shall be exercised by the metropolitan council in the same manner and by the same procedure as is or may be provided by law for cities of the first class, except insofar as such laws may be inconsistent with the provisions of this chapter. [1965 c 7 § 35.58.320. Prior: 1957 c 213 § 32.]

Eminent domain by cities: Chapter 8.12 RCW.

35.58.330 Powers may be exercised with relation to public rights of way without franchise—Conditions. A metropolitan municipal corporation shall have power to construct or maintain metropolitan facilities in, along, on, under, over, or through public streets, bridges, viaducts, and other public rights of way without first obtaining a franchise from the county or city having jurisdiction over the same: *Provided*, That such facilities shall be constructed and maintained in accordance with the ordinances and resolutions of such city or county relating to construction, installation and maintenance of similar facilities in such public properties. [1965 c 7 § 35.58.330. Prior: 1957 c 213 § 33.]

35.58.340 Disposition of unneeded property. Except as otherwise provided herein, a metropolitan municipal corporation may sell, or otherwise dispose of any real or personal property acquired in connection with any authorized metropolitan function and which is no longer required for the purposes of the metropolitan municipal corporation in the same manner as provided for cities of the first class. When the metropolitan council determines that a metropolitan facility or any part thereof which has been acquired from a component city or county without compensation is no longer required for metropolitan purposes, but is required as a local facility by the city or county from which it was acquired, the metropolitan council shall by resolution transfer it to such city or county. [1965 c 7 § 35.58.340. Prior: 1957 c 213 § 34.]

35.58.350 Powers of metropolitan council. All the powers and functions of a metropolitan municipal corporation shall be vested in the metropolitan council unless expressly vested in specific officers, boards, or commissions by this chapter. Without limitation of the foregoing authority, or of other powers given it by this chapter, the metropolitan council shall have the following powers:

(1) To establish offices, departments, boards and commissions in addition to those provided by this chapter which are necessary to carry out the purposes

of the metropolitan municipal corporation, and to prescribe the functions, powers and duties thereof.

(2) To appoint or provide for the appointment of, and to remove or to provide for the removal of, all officers and employees of the metropolitan municipal corporation except those whose appointment or removal is otherwise provided by this chapter.

(3) To fix the salaries, wages and other compensation of all officers and employees of the metropolitan municipal corporation unless the same shall be otherwise fixed in this chapter.

(4) To employ such engineering, legal, financial, or other specialized personnel as may be necessary to accomplish the purposes of the metropolitan municipal corporation. [1965 c 7 § 35.58.350. Prior: 1957 c 213 § 35.]

35.58.360 Rules and regulations—Penalties—Enforcement. A metropolitan municipal corporation shall have power to adopt by resolution such rules and regulations as shall be necessary or proper to enable it to carry out authorized metropolitan functions and may provide penalties for the violation thereof. Actions to impose or enforce such penalties may be brought in the superior court of the state of Washington in and for the central county. [1965 c 7 § 35.58.360. Prior: 1957 c 213 § 36.]

35.58.370 Merit system. The metropolitan council shall establish and provide for the operation and maintenance of a personnel merit system for the employment, classification, promotion, demotion, suspension, transfer, layoff and discharge of its appointive officers and employees solely on the basis of merit and fitness without regard to political influence or affiliation. The person appointed or body created for the purpose of administering such personnel system shall have power to make, amend and repeal rules and regulations as are deemed necessary for such merit system. Such rules and regulations shall provide:

(1) That the person to be discharged or demoted must be presented with the reasons for such discharge or demotion specifically stated; and

(2) That he shall be allowed a reasonable time in which to reply thereto in writing and that he be given a hearing thereon within a reasonable time. [1965 c 7 § 35.58.370. Prior: 1957 c 213 § 37.]

35.58.380 Retention of existing personnel. A metropolitan municipal corporation shall offer to employ every person who on the date such corporation acquires a metropolitan facility is employed in the operation of such facility by a component city or county or by a special district. [1965 c 7 § 35.58.380. Prior: 1957 c 213 § 38.]

Assumption of labor contracts upon acquisition of transportation system: RCW 35.58.265.

35.58.390 Prior employees pension rights preserved. Where a metropolitan municipal corporation employs a person employed immediately prior thereto by a component city or county, or by a special district, such employee shall be deemed to remain an employee of such city, county, or special district for the purposes of any pension plan of such city, county, or special district, and shall continue to be entitled to all rights and benefits thereunder as if he had remained as an employee of the city, county, or special district, until the metropolitan municipal corporation has provided a pension plan and such employee has elected, in writing, to participate therein.

Until such election, the metropolitan municipal corporation shall deduct from the remuneration of such employee the amount which such employee is or may be required to pay in accordance with the provisions of the plan of such city, county, or special district and the metropolitan municipal corporation shall pay to the city, county, or special district any amounts required to be paid under the provisions of such plan by employer or employee. [1965 c 7 § 35.58.390. Prior: 1957 c 213 § 39.]

Preservation of pension rights upon acquisition of transportation system: RCW 35.58.265.

Public employment, civil service and pensions: Title 41 RCW.

35.58.400 Prior employees sick leave and vacation rights preserved. Where a metropolitan municipal corporation employs a person employed immediately prior thereto by a component city or county or by a special district, the employee shall be deemed to remain an employee of such city, county, or special district for the purposes of any sick leave credit plan of the component city, county, or special district until the metropolitan municipal corporation has established a sick leave credit plan for its employees, whereupon the metropolitan municipal corporation shall place to the credit of the employee the sick leave credits standing to his credit in the plan of such city, county, or special district.

Where a metropolitan municipal corporation employs a person theretofore employed by a component city, county, or by a special district, the metropolitan municipal corporation shall, during the first year of his employment by the metropolitan municipal corporation, provide for such employee a vacation with pay equivalent to that which he would have been entitled if he had remained in the employment of the city, county, or special district. [1965 c 7 § 35.58.400. Prior: 1957 c 213 § 40.]

Preservation of sick leave, vacation and other benefits upon acquisition of transportation system: RCW 35.58.265.

35.58.410 Budget—Expenditures—"Supplemental income" designated. On or before the third Monday in June of each year, each metropolitan municipal corporation shall adopt a budget for the following calendar year. Such budget shall include a separate section for each authorized metropolitan function. Expenditures shall be segregated as to operation and maintenance expenses and capital and betterment outlays. Administrative and other expense

general to the corporation shall be allocated between the authorized metropolitan functions. The budget shall contain an estimate of all revenues to be collected during the following budget year, including any surplus funds remaining unexpended from the preceding year. The remaining funds required to meet budget expenditures, if any, shall be designated as "supplemental income" and shall be obtained from the component cities and counties in the manner provided in this chapter. The metropolitan council shall not be required to confine capital or betterment expenditures made from bond proceeds or emergency expenditures to items provided in the budget. The affirmative vote of three-fourths of all members of the metropolitan council shall be required to authorize emergency expenditures. [1965 c 7 § 35.58.410. Prior: 1957 c 213 § 41.]

35.58.420 Supplemental income payments by component city and county. Each component city shall pay such proportion of the supplemental income of the metropolitan municipal corporation as the assessed valuation of property within its limits bears to the total assessed valuation of taxable property within the metropolitan area. Each component county shall pay such proportion of such supplemental income as the assessed valuation of the property within the unincorporated area of such county lying within the metropolitan area bears to the total assessed valuation of taxable property within the metropolitan area. In making such determination, the metropolitan council shall use the last available assessed valuations. The metropolitan council shall certify to each component city and county, prior to the fourth Monday in June of each year, the share of the supplemental income to be paid by such component city or county for the next calendar year. The latter shall then include such amount in its budget for the ensuing calendar year, and during such year shall pay to the metropolitan municipal corporation, in equal quarterly installments, the amount of its supplemental income share from whatever sources may be available to it. [1965 c 7 § 35.58.420. Prior: 1957 c 213 § 42.]

35.58.430 Funds—Disbursements—Treasurer—Expenses—Election expenses. The treasurer of each component county shall create a separate fund into which shall be paid all money collected from taxes levied by the metropolitan municipal corporation on property in such county and such money shall be forwarded quarterly by the treasurer of each such county to the treasurer of the central county as directed by the metropolitan council. The treasurer of the central county shall act as the treasurer of the metropolitan municipal corporation and shall establish and maintain such funds as may be authorized by the metropolitan council. Money shall be disbursed from such funds upon warrants drawn by the auditor of the central county as authorized by the metropolitan council. The central county shall be reimbursed by the metropolitan municipal corporation for services rendered by the treasurer and auditor of the central county in connection with

the receipt and disbursement of such funds. The expense of all special elections held pursuant to this chapter shall be paid by the metropolitan municipal corporation. [1965 c 7 § 35.58.430. Prior: 1957 c 213 § 43.]

35.58.440 County assessor's duties. It shall be the duty of the assessor of each component county to certify annually to the metropolitan council the aggregate assessed valuation of all taxable property in his county situated in any metropolitan municipal corporation as the same appears from the last assessment roll of his county. [1965 c 7 § 35.58.440. Prior: 1957 c 213 § 44.]

35.58.450 General obligation bonds—Issuance, sale, form, term, election, payment. Notwithstanding the limitations of chapter 39.36 RCW and any other statutory limitations otherwise applicable and limiting municipal debt, a metropolitan municipal corporation shall have the power to authorize and to issue general obligation bonds and to pledge the full faith and credit of the corporation to the payment thereof, for any authorized capital purpose of the metropolitan municipal corporation: *Provided*, That a proposition authorizing the issuance of any such bonds to be issued in excess of three-fourths of one percent of the value of the taxable property therein, as the term "value of the taxable property" is defined in RCW 39.36.015, shall have been submitted to the electors of the metropolitan municipal corporation at a special election and assented to by three-fifths of the persons voting on said proposition at said election at which such election the total number of persons voting on such bond proposition shall constitute not less than forty percent of the total number of votes cast within the area of said metropolitan municipal corporation at the last preceding state general election. Such general obligation bonds may be authorized in any total amount in one or more propositions and the amount of such authorization may exceed the amount of bonds which could then lawfully be issued. Such bonds may be issued in one or more series from time to time out of such authorization but at no time shall the total general indebtedness of the metropolitan municipal corporation exceed five percent of the value of the taxable property therein, as the term "value of the taxable property" is defined in RCW 39.36.015. Both principal of and interest on such general obligation bonds may be made payable from annual tax levies to be made upon all the taxable property within the metropolitan municipal corporation in excess of the constitutional and/or statutory tax limit or may be made payable from any other taxes or any special assessments which the metropolitan municipal corporation may be authorized to levy or from any otherwise unpledged revenue which may be derived from the ownership or operation of properties or facilities incident to the performance of the authorized function for which such bonds are issued or may be made payable from any combination of the foregoing sources. The metropolitan council may include in the principal amount of such bond issue an amount for engineering, architectural, planning, financial, legal, urban design

and other services incident to acquisition or construction solely for authorized capital purposes and may include an amount to establish a guaranty fund for revenue bonds issued solely for capital purposes.

General obligation bonds shall be sold as provided in RCW 39.44.030 and shall mature in not to exceed forty years from the date of issue. The various annual maturities shall commence not more than five years from the date of issue of the bonds and shall as nearly as practicable be in such amounts as will, together with the interest on all outstanding bonds of such issue, be met by equal annual tax levies.

Such bonds shall be signed by the chairman and attested by the secretary of the metropolitan council, one of which signatures may be a facsimile signature and the seal of the metropolitan corporation shall be impressed or imprinted thereon. Each of the interest coupons shall be signed by the facsimile signatures of said officials. General obligation bonds shall be sold at public sale as provided by law for sale of general obligation bonds of cities of the first class at a price not less than par and accrued interest. [1973 1st ex.s. c 195 § 24; 1971 ex.s. c 303 § 9; 1970 ex.s. c 56 § 38; 1970 ex.s. c 42 § 13; 1970 ex.s. c 11 § 1. Prior: 1969 ex.s. c 255 § 17; 1969 ex.s. c 232 § 16; 1967 c 105 § 13; 1965 c 7 § 35.58.450; prior: 1957 c 213 § 45.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Limitations upon indebtedness: *State Constitution Art. 7 § 2 (Amendment 59), Art. 8 § 6 (Amendment 27), Chapter 39.36 RCW, RCW 84.52.050.*

35.58.460 Revenue bonds—Issuance, sale, form, term, payment, reserves, actions. A metropolitan municipal corporation may issue revenue bonds to provide funds to carry out its authorized metropolitan water pollution abatement, water supply, garbage disposal or transportation purposes, without submitting the matter to the voters of the metropolitan municipal corporation. The metropolitan council shall create a special fund or funds for the sole purpose of paying the principal of and interest on the bonds of each such issue, into which fund or funds the metropolitan council may obligate the metropolitan municipal corporation to pay such amounts of the gross revenue of the particular utility constructed, acquired, improved, added to, or repaired out of the proceeds of sale of such bonds, as the metropolitan council shall determine and may obligate the metropolitan municipal corporation to pay such amounts out of otherwise unpledged revenue which may be derived from the ownership, use or operation of properties or facilities owned, used or operated incident to the performance of the authorized function for which such bonds are issued or out of otherwise unpledged fees, tolls, charges, tariffs, fares, rentals, special taxes or other sources of payment lawfully authorized for such purpose, as the metropolitan council shall determine. The principal of, and interest on, such bonds shall be payable only out of such special fund or funds, and the owners and holders of such bonds shall have a lien and charge against the gross revenue of such utility or any other revenue, fees, tolls, charges, tariffs, fares, special

taxes or other authorized sources pledged to the payment of such bonds.

Such revenue bonds and the interest thereon issued against such fund or funds shall be a valid claim of the holders thereof only as against such fund or funds and the revenue pledged therefor, and shall not constitute a general indebtedness of the metropolitan municipal corporation.

Each such revenue bond shall state upon its face that it is payable from such special fund or funds, and all revenue bonds issued under this chapter shall be negotiable securities within the provisions of the law of this state. Such revenue bonds may be registered either as to principal only or as to principal and interest, or may be bearer bonds; shall be in such denominations as the metropolitan council shall deem proper; shall be payable at such time or times and at such places as shall be determined by the metropolitan council; shall bear interest at such rate or rates as shall be determined by the metropolitan council; shall be signed by the chairman and attested by the secretary of the metropolitan council, one of which signatures may be a facsimile signature, and the seal of the metropolitan municipal corporation shall be impressed or imprinted thereon; each of the interest coupons shall be signed by the facsimile signatures of said officials.

Such revenue bonds shall be sold in such manner, at such price and at such rate or rates of interest as the metropolitan council shall deem to be for the best interests of the metropolitan municipal corporation, either at public or private sale.

The metropolitan council may at the time of the issuance of such revenue bonds make such covenants with the purchasers and holders of said bonds as it may deem necessary to secure and guarantee the payment of the principal thereof and the interest thereon, including but not being limited to covenants to set aside adequate reserves to secure or guarantee the payment of such principal and interest, to maintain rates sufficient to pay such principal and interest and to maintain adequate coverage over debt service, to appoint a trustee or trustees for the bondholders to safeguard the expenditure of the proceeds of sale of such bonds and to fix the powers and duties of such trustee or trustees and to make such other covenants as the metropolitan council may deem necessary to accomplish the most advantageous sale of such bonds. The metropolitan council may also provide that revenue bonds payable out of the same source may later be issued on a parity with revenue bonds being issued and sold.

The metropolitan council may include in the principal amount of any such revenue bond issue an amount to establish necessary reserves, an amount for working capital and an amount necessary for interest during the period of construction of any such metropolitan facilities plus six months. The metropolitan council may, if it deems it to the best interest of the metropolitan municipal corporation, provide in any contract for the construction or acquisition of any metropolitan facilities or additions or improvements thereto or replacements or extensions thereof that payment therefor shall be made only in such revenue bonds at the par value thereof.

If the metropolitan municipal corporation shall fail to carry out or perform any of its obligations or covenants made in the authorization, issuance and sale of such bonds, the holder of any such bond may bring action against the metropolitan municipal corporation and compel the performance of any or all of such covenants. [1974 1st ex.s. c 70 § 8; 1970 ex.s. c 56 § 39; 1970 ex.s. c 11 § 2; 1969 ex.s. c 255 § 18; 1969 ex.s. c 232 § 17; 1967 c 105 § 14; 1965 c 7 § 35.58.460. Prior: 1957 c 213 § 46.]

Purpose—Effective date—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

35.58.470 Funding, refunding bonds. The metropolitan council may, by resolution, without submitting the matter to the voters of the metropolitan municipal corporation, provide for the issuance of funding or refunding general obligation bonds to refund any outstanding general obligation bonds or any part thereof at maturity, or before maturity if they are by their terms or by other agreement subject to prior redemption, with the right in the metropolitan council to combine various series and issues of the outstanding bonds by a single issue of funding or refunding bonds, and to issue refunding bonds to pay any redemption premium payable on the outstanding bonds being refunded. The funding or refunding general obligation bonds shall, except as specifically provided in this section, be issued in accordance with the provisions of this chapter with respect to general obligation bonds.

The metropolitan council may, by resolution, without submitting the matter to the voters of the metropolitan municipal corporation, provide for the issuance of funding or refunding revenue bonds to refund any outstanding revenue bonds or any part thereof at maturity, or before maturity if they are by their terms or by agreement subject to prior redemption, with the right in the metropolitan council to combine various series and issues of the outstanding bonds by a single issue of refunding bonds, and to issue refunding bonds to pay any redemption premium payable on the outstanding bonds being refunded. The funding or refunding revenue bonds shall be payable only out of a special fund created out of the gross revenue of the particular utility, and shall be a valid claim only as against such special fund and the amount of the revenue of the utility pledged to the fund. The funding or refunding revenue bonds shall, except as specifically provided in this section, be issued in accordance with the provisions of this chapter with respect to revenue bonds.

The metropolitan council may exchange the funding or refunding bonds at par for the bonds which are being funded or refunded, or it may sell them in such manner, at such price and at such rate or rates of interest as it deems for the best interest of the metropolitan municipal corporation. [1970 ex.s. c 56 § 40; 1969 ex.s. c 232 § 18; 1965 c 7 § 35.58.470. Prior: 1957 c 213 § 47.]

Purpose—Effective date—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

35.58.480 Borrowing money from component city or county. A metropolitan municipal corporation shall have the power when authorized by a majority of all members of the metropolitan council to borrow money from any component city or county and such cities or counties are hereby authorized to make such loans or advances on such terms as may be mutually agreed upon by the legislative bodies of the metropolitan municipal corporation and any such component city or county to provide funds to carry out the purposes of the metropolitan municipal corporation. [1965 c 7 § 35.58.480. Prior: 1957 c 213 § 48.]

35.58.490 Interest bearing warrants. If a metropolitan municipal corporation shall have been authorized to levy a general tax on all taxable property located within the metropolitan municipal corporation in the manner provided in this chapter, either at the time of the formation of the metropolitan municipal corporation or subsequently, the metropolitan council shall have the power to authorize the issuance of interest bearing warrants on such terms and conditions as the metropolitan council shall provide, same to be repaid from the proceeds of such tax when collected. [1965 c 7 § 35.58.490. Prior: 1957 c 213 § 49.]

35.58.500 Local improvement districts—Utility local improvement districts. The metropolitan municipal corporation shall have the power to levy special assessments payable over a period of not exceeding twenty years on all property within the metropolitan area specially benefited by any improvement, on the basis of special benefits conferred, to pay in whole, or in part, the damages or costs of any such improvement, and for such purpose may establish local improvement districts and enlarged local improvement districts, issue local improvement warrants and bonds to be repaid by the collection of local improvement assessments and generally to exercise with respect to any improvements which it may be authorized to construct or acquire the same powers as may now or hereafter be conferred by law upon cities of the first class. Such local improvement districts shall be created and such special assessments levied and collected and local improvement warrants and bonds issued and sold in the same manner as shall now or hereafter be provided by law for cities of the first class. The duties imposed upon the city treasurer under such acts shall be imposed upon the treasurer of the county in which such local improvement district shall be located.

A metropolitan municipal corporation may provide that special benefit assessments levied in any local improvement district may be paid into such revenue bond redemption fund or funds as may be designated by the metropolitan council to secure the payment of revenue bonds issued to provide funds to pay the cost of improvements for which such assessments were levied. If local improvement district assessments shall be levied for payment into a revenue bond fund, the local improvement district created therefor shall be designated a

utility local improvement district. [1965 c 7 § 35.58.500. Prior: 1957 c 213 § 50.]

Special assessments or taxation for local improvements: State Constitution Art. 7 § 9.

35.58.510 Obligations of corporation are legal investments and security for public deposits. All banks, trust companies, bankers, savings banks, and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, curators, trustees and other fiduciaries, may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or other obligations issued by a metropolitan municipal corporation pursuant to this chapter. Such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize any persons, political subdivisions and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations. Nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities. [1965 c 7 § 35.58.510. Prior: 1957 c 213 § 51.]

35.58.520 Legal investments for corporate funds. A metropolitan municipal corporation shall have the power to invest its funds held in reserves or sinking funds or any such funds which are not required for immediate disbursement, in property or securities in which mutual savings banks may legally invest funds subject to their control. [1965 c 7 § 35.58.520. Prior: 1957 c 213 § 52.]

35.58.530 Annexation—Requirements, procedure. Territory annexed to a component city after the establishment of a metropolitan municipal corporation shall by such act be annexed to such corporation. Territory within a metropolitan municipal corporation may be annexed to a city which is not within such metropolitan municipal corporation in the manner provided by law and in such event either (1) such city may be annexed to such metropolitan municipal corporation by ordinance of the legislative body of the city concurred in by resolution of the metropolitan council, or (2) if such city shall not be so annexed such territory shall remain within the metropolitan municipal corporation unless such city shall by resolution of its legislative body request the withdrawal of such territory subject to any outstanding indebtedness of the metropolitan corporation and the metropolitan council shall by resolution consent to such withdrawal.

Any territory contiguous to a metropolitan municipal corporation and lying wholly within an incorporated city or town may be annexed to such metropolitan municipal corporation by ordinance of the legislative body of such city or town requesting such annexation concurred in by resolution of the metropolitan council.

Any other territory adjacent to a metropolitan municipal corporation may be annexed thereto by vote of the qualified electors residing in the territory to be annexed, in the manner provided in this chapter. An election to annex such territory may be called pursuant to a petition or resolution in the following manner:

(1) A petition calling for such an election shall be signed by at least four percent of the qualified voters residing within the territory to be annexed and shall be filed with the auditor of the central county.

(2) A resolution calling for such an election may be adopted by the metropolitan council.

Any resolution or petition calling for such an election shall describe the boundaries of the territory to be annexed, and state that the annexation of such territory to the metropolitan municipal corporation will be conducive to the welfare and benefit of the persons or property within the metropolitan municipal corporation and within the territory proposed to be annexed.

Upon receipt of such a petition, the auditor shall examine the same and certify to the sufficiency of the signatures thereon. For the purpose of examining the signatures on such petition, the auditor shall be permitted access to the voter registration books of each city within the territory proposed to be annexed and of each county a portion of which shall be located within the territory proposed to be annexed. No person may withdraw his name from a petition after it has been filed with the auditor. Within thirty days following the receipt of such petition, the auditor shall transmit the same to the metropolitan council, together with his certificate as to the sufficiency thereof. [1969 ex.s. c 135 § 3; 1967 c 105 § 15; 1965 c 7 § 35.58.530. Prior: 1957 c 213 § 53.]

35.58.540 Annexation—Hearings—Inclusion, exclusion of territory—Boundaries—Calling election. Upon receipt of a duly certified petition calling for an election on the annexation of territory to a metropolitan municipal corporation, or if the metropolitan council shall determine without a petition being filed, that an election on the annexation of any adjacent territory shall be held, the metropolitan council shall fix a date for a public hearing thereon which shall be not more than sixty nor less than forty days following the receipt of such petition or adoption of such resolution. Notice of such hearing shall be published once a week for at least four consecutive weeks in one or more newspapers of general circulation within the territory proposed to be annexed. The notice shall contain a description of the boundaries of the territory proposed to be annexed and shall state the time and place of the hearing thereon and the fact that any changes in the boundaries of such territory will be considered at such time and place. At such hearing or any continuation thereof, any interested person may appear and be heard on all matters relating to the proposed annexation. The metropolitan council may make such changes in the boundaries of the territory proposed to be annexed as it shall deem reasonable and proper, but may not delete any portion of the proposed area which will create an island of included or excluded lands and may not delete

a portion of any city. If the metropolitan council shall determine that any additional territory should be included in the territory to be annexed, a second hearing shall be held and notice given in the same manner as for the original hearing. The metropolitan council may adjourn the hearing on the proposed annexation from time to time not exceeding thirty days in all. At the next regular meeting following the conclusion of such hearing, the metropolitan council shall, if it finds that the annexation of such territory will be conducive to the welfare and benefit of the persons and property therein and the welfare and benefit of the persons and property within the metropolitan municipal corporation, adopt a resolution fixing the boundaries of the territory to be annexed and causing to be called a special election on such annexation to be held not more than one hundred twenty days nor less than sixty days following the adoption of such resolution. [1965 c 7 § 35.58.540. Prior: 1957 c 213 § 54.]

Notice of election: RCW 29.27.080.

35.58.550 Annexation—Election—Favorable vote. An election on the annexation of territory to a metropolitan municipal corporation shall be conducted and canvassed in the same manner as provided for the conduct of an election on the formation of a metropolitan municipal corporation except that notice of such election shall be published in one or more newspapers of general circulation in the territory proposed to be annexed and the ballot proposition shall be in substantially the following form:

ANNEXATION TO (here insert name of metropolitan municipal corporation).

"Shall the territory described in a resolution of the metropolitan council of (here insert name of metropolitan municipal corporation) adopted on the _____, 19__, be annexed to such incorporation?

YES
NO

If a majority of those voting on such proposition vote in favor thereof, the territory shall thereupon be annexed to the metropolitan municipal corporation. [1965 c 7 § 35.58.550. Prior: 1957 c 213 § 55.]

Canvassing returns, generally: Chapter 29.62 RCW.
Conduct of elections—Canvass: RCW 29.13.040.

35.58.560 Taxes—Counties or cities not to impose on certain operations—Credits or offsets against state taxes—Refund of motor vehicle fuel taxes paid. No county or city shall have the right to impose a tax upon the gross revenues derived by a metropolitan municipal corporation from the operation of a metropolitan sewage disposal, water supply, garbage disposal or public transportation system.

A metropolitan municipal corporation may credit or offset against the amount of any tax which is levied by the state during any calendar year upon the gross revenues derived by such metropolitan municipal corporation from the performance of any authorized function,

the amount of any expenditures made from such gross revenues by such metropolitan municipal corporation during the same calendar year or any year prior to May 21, 1971 in planning for or performing the function of metropolitan public transportation and including interest on any moneys advanced for such purpose from other funds and to the extent of such credit a metropolitan municipal corporation may expend such revenues for such purposes.

A metropolitan municipal corporation authorized to perform the function of metropolitan public transportation and engaged in the operation of an urban passenger transportation system shall receive a refund of the amount of the motor vehicle fuel tax levied by the state and paid on each gallon of motor vehicle fuel used, whether such vehicle fuel tax has been paid either directly to the vendor from whom the motor vehicle fuel was purchased or indirectly by adding the amount of such tax to the price of such fuel: *Provided*, That no refunds authorized by this section shall be granted on fuel used by any urban transportation vehicle on any trip where any portion of said trip is more than six road miles beyond the corporate limits of the metropolitan municipal corporation in which said trip originated. [1971 ex.s. c 303 § 10; 1967 c 105 § 16.]

35.58.900 Liberal construction. The rule of strict construction shall have no application to this chapter, but the same shall be liberally construed in all respects in order to carry out the purposes and objects for which this chapter is intended. [1965 c 7 § 35.58.900. Prior: 1957 c 213 § 56.]

35.58.910 Prior proceedings validated, ratified, approved and confirmed. All proceedings which have been taken prior to the date this 1967 amendatory act takes effect for the purpose of financing or aiding in the financing of any work, undertaking or project by any metropolitan municipal corporation, including all proceedings for the authorization and issuance of bonds and for the sale, execution, and delivery thereof, are hereby validated, ratified, approved, and confirmed, notwithstanding any lack of power (other than constitutional) of such metropolitan municipal corporation or the governing body or officers thereof, to authorize and issue such bonds, or to sell, execute, or deliver the same and notwithstanding any defects or irregularities (other than constitutional) in such proceedings. [1967 c 105 § 17.]

Reviser's note: The effective date of "this 1967 amendatory act" [1967 c 105] is March 21, 1967, see preface to 1967 session laws. Chapter 105, Laws of 1967 is codified as RCW 35.58.040, 35.58.100, 35.58.112-35.58.118, 35.58.120, 35.58.140, 35.58.150, 35.58.180, 35.58-240, 35.58.270, 35.58.450, 35.58.460, 35.58.530, 35.58.560, 35.58.910 and 35.58.920.

35.58.920 Severability—1967 c 105. If any provision of this 1967 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1967 amendatory act, or the application of the provision to other persons or circumstances is not affected. [1967 c 105 § 18.]

35.58.930 Severability—1971 ex.s. c 303. If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1971 ex.s. c 303 § 11.]

35.58.931 Severability—1974 1st ex.s. c 70. If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1974 1st ex.s. c 70 § 9.]

Chapter 35.59

MULTI-PURPOSE COMMUNITY CENTERS

Sections

- 35.59.010 Definitions.
- 35.59.020 Legislative finding—Purposes for which authority granted may be exercised.
- 35.59.030 Acquisition, construction, operation, etc., of community centers authorized.
- 35.59.040 Conveyance or lease of lands or facilities to other municipality for community center development—Participation in financing.
- 35.59.050 Powers of condemnation.
- 35.59.060 Appropriation and expenditure of public moneys, issuance of general obligation bonds authorized—Procedure.
- 35.59.070 Revenue bonds.
- 35.59.080 Lease or contract for use or operation of facilities.
- 35.59.090 Counties authorized to establish community centers.
- 35.59.100 Prior proceedings validated and ratified.
- 35.59.110 Powers and authority conferred deemed additional and supplemental.
- 35.59.900 Severability—1967 c 110.

35.59.010 Definitions. "Municipality" as used in this chapter means any county, city or town of the state of Washington.

"Government agency" as used in this chapter means the federal government or any agency thereof, or the state or any agency, subdivision, taxing district or municipal corporation thereof other than a county, city or town.

"Person" as used in this chapter means any private corporation, partnership, association or individual.

"Multi-purpose community center" as used in this chapter means the lands, interests in lands, property, property rights, equipment, buildings, structures and other improvements developed as an integrated, multi-purpose, public facility on a single site or immediately adjacent sites for the housing and furnishing of any combination of the following community or public services or facilities: Administrative, legislative or judicial offices and chambers of any municipality, public health facilities, public safety facilities including without limitation, adult and juvenile detention facilities, fire and police stations, public halls, auditoria, libraries and museums, public facilities for the teaching, practice or exhibition of arts and crafts, educational facilities, playfields, playgrounds, parks, indoor and outdoor sports and recreation facilities. The term multi-purpose community center shall also mean and include walks,

ramps, bridges, terminal and parking facilities for private vehicles and public transportation vehicles and systems, utilities, accessories, landscaping, and appurtenances incident to and necessary for such centers. [1967 c 110 § 1.]

Effective date—1967 c 110: "This act shall take effect on June 9, 1967." [1967 c 110 § 13.]

35.59.020 Legislative finding—Purposes for which authority granted may be exercised. The legislature finds that in many areas of the state local services and facilities can be more effectively and economically provided by combining two or more services and/or facilities in a single multi-purpose community center or a system of such centers. Any municipality shall have and exercise the authority and powers granted by this chapter whenever it appears to the legislative body of such municipality that the acquisition, construction, development and operation of a multi-purpose community center or a system of such centers will accomplish one or more of the following: Reduce costs of land acquisition, construction, maintenance or operation for affected public services or facilities; avoid duplication of structures, facilities or personnel; improve communication and coordination between departments of a municipality or governmental agency or between municipalities and governmental agencies; make local public services or facilities more convenient or useful to the residents and citizens of such municipality. [1967 c 110 § 2.]

35.59.030 Acquisition, construction, operation, etc., of community centers authorized. Any municipality is authorized either individually or jointly with any other municipality or municipalities or any governmental agency or agencies, or any combination thereof, to acquire by purchase, condemnation, gift or grant, to lease as lessee, and to construct, install, add to, improve, replace, repair, maintain, operate and regulate the use of multi-purpose community centers located within such municipality, and to pay for any investigations and any engineering, planning, financial, legal and professional services incident to the development and operation of such multi-purpose community centers. [1967 c 110 § 3.]

35.59.040 Conveyance or lease of lands or facilities to other municipality for community center development—Participation in financing. Any municipality, and any agency, subdivision, taxing district or municipal corporation of the state is authorized to convey or lease any lands, properties or facilities to any other municipality for the development by such other municipality of a multi-purpose community center or a system of such centers or to provide for the joint use of such lands, properties or facilities or any other facilities of a multi-purpose community center, and is authorized to participate in the financing of all or any part of such multi-purpose community center or system of such centers on such terms as may be fixed by agreement between the respective legislative bodies without submitting the matter to a vote of the electors thereof, unless the provisions of the Constitution or laws of this

state applicable to the incurring of indebtedness shall require such submission. [1967 c 110 § 4.]

Joint operations by municipal corporations, deposit and control of funds: RCW 43.09.285.

35.59.050 Powers of condemnation. The accomplishment of the objectives authorized by this chapter is declared to be a strictly public purpose of the municipality or municipalities authorized to perform the same. Any such municipality shall have the power to acquire by condemnation and purchase any lands and property rights within its boundaries which are necessary to carry out the purposes authorized by this chapter. Such right of eminent domain shall be exercised by the legislative body of each such municipality in the manner provided by applicable general law. [1967 c 110 § 5.]

35.59.060 Appropriation and expenditure of public moneys, issuance of general obligation bonds authorized—Procedure. To carry out the purposes of this chapter any municipality shall have the power to appropriate and/or expend any public moneys available therefor and to issue general obligation bonds within the limitations now or hereafter prescribed by the Constitution and laws of this state. Such general obligation bonds shall be authorized, executed, issued and made payable as provided in Title 39 RCW. If the governing body of any municipality shall submit a proposition for the approval of general obligation bonds at any general or special election and shall declare in the ordinance or resolution setting forth such proposition that its purpose is the creation of a single integrated multi-purpose community center or a city-wide or county-wide system of such centers, all pursuant to this chapter, and that the creation of such center or system of centers constitutes a single purpose, such declaration shall be presumed to be correct and, upon the issuance of the bonds, such presumption shall become conclusive. The governing body of the issuing municipality may include in the principal amount of such bond issue an amount for engineering, architectural, planning, financial, legal, and other services incident to the acquisition or construction of multi-purpose community centers. [1967 c 110 § 6.]

35.59.070 Revenue bonds. To carry out the purposes authorized by this chapter the legislative body of any municipality shall have the power to issue revenue bonds, and to create a special fund or funds for the sole purpose of paying the principal of and interest on such bonds into which fund or funds the legislative body may obligate the municipality to pay all or part of the revenues derived from any one or more facilities or properties which will form part of the multi-purpose community center. The provisions of chapter 35.41 RCW not inconsistent with this chapter shall apply to the issuance and retirement of any revenue bonds issued for the purposes authorized in this chapter and for such purposes any municipality shall have and may exercise the powers, duties, and functions incident thereto held by cities and towns under such chapter 35.41 RCW. The legislative body of any municipality may fix

the denominations of such bonds in any amount and the manner of executing such bonds, and may take such action as may be necessary and incidental to the issuance of such bonds and the retirement thereof. [1967 c 110 § 7.]

35.59.080 Lease or contract for use or operation of facilities. The legislative body of any municipality owning or operating a multi-purpose community center acquired or developed pursuant to this chapter shall have power to lease to any municipality, governmental agency or person, or to contract for the use or operation by any municipality, governmental agency or person, of all or any part of the multi-purpose community center facilities authorized by this chapter, for such period and under such terms and conditions and upon such rentals, fees and charges as such legislative body may determine, and may pledge all or any portion of such rentals, fees and charges and any other revenue derived from the ownership and/or operation of any facilities of a multi-purpose community center to pay and to secure the payment of general obligation bonds and/or revenue bonds of such municipality issued for multi-purpose community center purposes. [1967 c 110 § 8.]

35.59.090 Counties authorized to establish community centers. Counties may establish multi-purpose community centers, pursuant to this chapter, in unincorporated areas and/or within cities or towns: *Provided*, That no such center shall be located in any city or town without the prior consent of the legislative body of such city or town. [1967 c 110 § 9.]

35.59.100 Prior proceedings validated and ratified. All proceedings which have been taken prior to the date this chapter takes effect for the purpose of financing or aiding in the financing of any work, undertaking or project authorized in this chapter by any municipality, including all proceedings for the authorization and issuance of bonds and for the sale, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such municipality or the legislative body or officers thereof to authorize and issue such bonds, or to sell, execute, or deliver the same and notwithstanding any defects or irregularities (other than constitutional) in such proceedings. [1967 c 110 § 10.]

35.59.110 Powers and authority conferred deemed additional and supplemental. The powers and authority conferred upon municipalities under the provisions of this chapter, shall be construed as in addition and supplemental to powers or authority conferred by any other law, and nothing contained herein shall be construed as limiting any other powers or authority of such municipalities. [1967 c 110 § 11.]

35.59.900 Severability—1967 c 110. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1967 c 110 § 12.]

Chapter 35.60
WORLD FAIRS OR EXPOSITIONS—
PARTICIPATION BY MUNICIPALITIES

Sections
 35.60.010 "Municipality" defined.
 35.60.020 Participation, exercise of powers declared public purpose and necessity.
 35.60.030 Participation authorized—Powers—Costs.
 35.60.040 Bonds—Laws applicable to authorization and issuance.
 35.60.050 Authorization to appropriate funds and levy taxes.
 35.60.060 Cooperation between municipalities—Use of facilities after conclusion of fair or exposition—Intergovernmental disposition of property.
 35.60.070 Chapter supplemental to other laws.

35.60.010 "Municipality" defined. "Municipality" as used in this chapter, means any political subdivision or municipal corporation of the state. [1965 c 7 § 35.60.010. Prior: 1961 c 149 § 1; prior: 1961 c 39 § 1.]

State participation in world fair: RCW 43.31.500–43.31.860.

35.60.020 Participation, exercise of powers declared public purpose and necessity. The participation of any municipality in any world fair or exposition, whether held within the boundaries of such municipality or within the boundaries of another municipality; the purchase, lease, or other acquisition of necessary lands therefor; the acquisition, lease, construction, improvements, maintenance, and equipping of buildings or other structures upon such lands or other lands; the operation and maintenance necessary for such participation, and the exercise of any other powers herein granted to such municipalities, are hereby declared to be public, governmental, county and municipal functions, exercised for a public purpose, and matters of public necessity, and such lands and other property acquired, constructed, improved, maintained, equipped, used, and disposed of by such municipalities in the manner and for the purposes enumerated in this chapter shall and are hereby declared to be acquired, constructed, improved, maintained, equipped, used, and disposed of for public, governmental, county, and municipal purposes and as a matter of public necessity. [1965 c 7 § 35.60.020. Prior: 1961 c 149 § 2; prior: 1961 c 39 § 2.]

35.60.030 Participation authorized—Powers—Costs. Municipalities are authorized to participate in any world fair or exposition to be held within the state by the state or any political subdivision or municipal corporation thereof, whether held within the boundaries of such municipality or within the boundaries of another municipality. Any municipality so participating is authorized, through its governing authorities, to purchase, lease, or otherwise acquire property, real or personal; to construct, improve, maintain and equip buildings or other structures; and expend moneys for investigations, planning, operations, and maintenance necessary for such participation.

The cost of any such acquisition, construction, improvement, maintenance, equipping, investigations, planning, operation, or maintenance necessary for such

participation may be paid for by appropriation of moneys available therefor, gifts, or wholly or partly from the proceeds of bonds of the municipality, as the governing authority of the municipality may determine. [1965 c 7 § 35.60.030. Prior: 1961 c 149 § 3; prior: 1961 c 39 § 3.]

35.60.040 Bonds—Laws applicable to authorization and issuance. Any bonds to be issued by any municipality pursuant to the provisions of RCW 35.60.030, shall be authorized and issued in the manner and within the limitations prescribed by the Constitution and laws of this state or charter of the municipality for the issuance and authorization of bonds thereof for public purposes generally and secured by a general tax levy as provided by law: *Provided*, That the provisions of RCW 39.44.070 and 36.67.040 shall not apply to such bond issues. [1965 c 7 § 35.60.040. Prior: 1961 c 149 § 4; prior: 1961 c 39 § 4.]

35.60.050 Authorization to appropriate funds and levy taxes. The governing bodies having power to appropriate moneys within such municipalities for the purpose of purchasing, leasing or otherwise acquiring property, constructing, improving, maintaining, and equipping buildings or other structures, and the investigations, planning, operation or maintenance necessary to participation in any such world fair or exposition, are hereby authorized to appropriate and cause to be raised by taxation or otherwise in such municipalities, moneys sufficient to carry out such purpose. [1965 c 7 § 35.60.050. Prior: 1961 c 149 § 5; prior: 1961 c 39 § 5.]

35.60.060 Cooperation between municipalities—Use of facilities after conclusion of fair or exposition—Intergovernmental disposition of property. In any case where the participation of a municipality includes the construction of buildings or other structures on lands of another municipality, the governing authorities constructing such buildings or structures shall endeavor to cooperate with such other municipality for the construction and maintenance of such buildings or structures to a standard of health and safety common in the county where the world fair or exposition is being or will be held; and shall cooperate with such other municipality in any comprehensive plans it may promulgate for the general construction and maintenance of said world fair or exposition and utilization of the grounds and buildings or structures after the conclusion of such world fair or exposition to the end that a reasonable, economic use of said buildings or structures shall be returned for the life of said buildings or structures.

The governing authorities of any municipality are hereby authorized and empowered to sell, exchange, transfer, lease or otherwise dispose of any property, real or personal, acquired or constructed for the purpose of participation in such fair or exposition, in accordance with the provisions of RCW 39.33.010. [1965 c 7 § 35.60.060. Prior: 1961 c 149 § 6; prior: 1961 c 39 § 6.]

35.60.070 Chapter supplemental to other laws. The powers and authority conferred upon municipalities under the provisions of this chapter, shall be construed as in addition and supplemental to powers or authority conferred by any other law, and nothing contained herein shall be construed as limiting any other powers or authority of such municipalities. [1965 c 7 § 35.60-.070. Prior: 1961 c 149 § 7; prior: 1961 c 39 § 7.]

Chapter 35.61 METROPOLITAN PARK DISTRICTS

Sections

- 35.61.010 Authority to create—Withdrawal of fourth class municipalities.
- 35.61.020 Election—Petition—Area.
- 35.61.030 Election—Declaration of intention—Question stated.
- 35.61.040 Election—Creation of district.
- 35.61.050 Election of commissioners—Terms.
- 35.61.060 Election of commissioners—Time of—Nomination.
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- 35.61.100 Indebtedness limit—Without popular vote.
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- 35.61.120 Park commissioners as officers of district—Organization.
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- 35.61.220 Petition for improvements on assessment plan.
- 35.61.230 Objections—Appeal.
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- 35.61.260 Territorial annexation—Hearing on petition.
- 35.61.270 Territorial annexation—Election—Method.
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- 35.61.290 Transfer of city property—Authority—Emergency grant, loan, of funds by city.
- 35.61.300 Transfer of city property—Assumption of indebtedness.
- 35.61.310 Dissolution.
- 35.61.315 Disincorporation of district located in class A or AA county and inactive for five years.
- 35.61.320 Withdrawal of fourth class municipality—Prior levies and assessments.
- 35.61.330 Withdrawal of fourth class municipality—Contracts with district.
- 35.61.340 Withdrawal of fourth class municipality—Disposition of property—Eminent domain.

Acquisition of land for and operation of public parks, beaches or camps: RCW 67.20.010.

Acquisition of real or personal property for park purposes, conditional sales contracts: RCW 39.30.010.

Appeal of assessments and reassessments: RCW 35.44.200–35.44.270.

Elections: Title 29 RCW.

Limitations upon indebtedness: State Constitution Art. 7 § 2 (Amendment 59), Art. 8 § 6 (Amendment 27), Chapter 39.36 RCW, RCW 84.52.050.

Local governmental organizations, actions affecting boundaries, etc., review by boundary review board: Chapter 36.93 RCW.

Metropolitan park district property subject to assessment: RCW 35.44.170.

Park and recreation districts: Chapter 36.69 RCW.

Public bonds, form, terms of sale, payment, etc.: Chapter 39.44 RCW.

Shorelands, parks or playgrounds, application, grant or exchange: RCW 79.08.080, 79.08.090.

35.61.010 Authority to create—Withdrawal of fourth class municipalities. Cities of the first class and such contiguous property the residents of which may decide in favor thereof in the manner set forth in this chapter may create a metropolitan park district for the management, control, improvement, maintenance, and acquisition of parks, parkways, and boulevards: *Provided*, That no municipal corporation of the fourth class shall be included within such metropolitan park district, and any such fourth class municipal corporation heretofore included within such district is hereby automatically withdrawn. [1965 c 7 § 35.61.010. Prior: 1959 c 45 § 1; 1943 c 264 § 1; Rem. Supp. 1943 § 6741–1; prior: 1907 c 98 § 1; RRS § 6720.]

Validating—1943 c 264: "Acts of Metropolitan Park District Commissioners, and of the officers, employees and agents of Metropolitan Park Districts heretofore performed in good faith in accordance with the statutes which are hereby re-enacted, are hereby validated, and all assessments, levies and collections and all proceedings to assess, levy and collect as well as all debts, contracts and obligations heretofore made or incurred by or in favor of any Metropolitan Park District heretofore at any time existing and all bonds or other obligations thereof are hereby declared to be legal and valid and of full force and effect." [1943 c 264 § 23.]

Withdrawal conditions and provisions: RCW 35.61.320–35.61.340.

35.61.020 Election—Petition—Area. At any general election, or at any special election which may be called for that purpose, or at any city election held in the city in all of the various voting precincts thereof, the city council or commission may, or on petition of fifteen percent of the qualified electors of the city based upon the registration for the last preceding general city election, shall by ordinance, submit to the voters of the city the proposition of creating a metropolitan park district, the limits of which shall be coextensive with the limits of the city as now or hereafter established, inclusive of territory annexed to and forming a part of the city.

Territory by virtue of its annexation to any city having heretofore created a park district shall be deemed to be within the limits of the metropolitan park district.

The city council or commission shall submit the proposition at a special election to be called therefor when the petition so requests. [1965 c 7 § 35.61.020. Prior: 1943 c 264 § 2, part; Rem. Supp. 1943 § 6741–2, part; prior: 1909 c 131 § 1; 1907 c 98 § 2, part; RRS § 6721, part.]

35.61.030 Election—Declaration of intention—Question stated. In submitting the said question to the voters for their approval or rejection, the city council or commission shall pass an ordinance declaring its intention to submit the proposition of creating a metropolitan park district to the qualified voters of the city. The ordinance shall be published for at least five days in a daily newspaper published in the city, and the city

council or commission shall cause to be placed upon the ballot for the election, at the proper place, the proposition which shall be expressed in the following terms:

"For the formation of a metropolitan park district."

"Against the formation of a metropolitan park district." [1965 c 7 § 35.61.030. Prior: 1943 c 264 § 2, part; Rem. Supp. 1943 § 6741-2, part; prior: 1909 c 131 § 1; 1907 c 98 § 2, part; RRS § 6721, part.]

35.61.040 Election—Creation of district. If at an election a majority of the voters voting thereon vote in favor of the formation of a metropolitan park district, the park district shall then be and become a municipal corporation and its name shall be "Metropolitan Park District of _____ (inserting the name of the city)." [1965 c 7 § 35.61.040. Prior: 1943 c 264 § 3, part; Rem. Supp. 1943 § 6741-3, part; prior: 1909 c 131 § 2; 1907 c 98 § 3, part; RRS § 6722, part.]

35.61.050 Election of commissioners—Terms. At the same election at which the proposition is submitted to the voters as to whether a metropolitan park district is to be formed, five park commissioners shall be elected to hold office respectively for the following terms: In cities of the first class holding general elections for mayor biennially, one commissioner shall be elected to hold office for two years and two for four years and two for six years and their respective successors shall be elected at each biennial election for a term of six years and until their respective successors are elected and qualified. In cities of the first class holding elections every three years two commissioners shall be elected for three years and three commissioners shall be elected for six years and thereafter two and three commissioners, respectively, shall be elected at each general election for a term of six years and until their respective successors are elected and qualified. The term of each nominee for park commissioner shall be expressed on the ballot. [1965 c 7 § 35.61.050. Prior: 1943 c 264 § 3, part; Rem. Supp. 1943 § 6741-3, part; prior: 1909 c 131 § 2; 1907 c 98 § 3, part; RRS § 6722, part.]

35.61.060 Election of commissioners—Time of—Nomination. The election of metropolitan park commissioners shall be held in conjunction with and in the manner provided by the laws of the state for cities of the first class within which said metropolitan park district may be situated. Nominations for the metropolitan park commissioners shall be by petition of one hundred qualified electors of the park district to be filed in the office of the city clerk for the first election and with the secretary of the metropolitan park district for all succeeding elections. Nominations must be filed and certified as provided by statute for cities and districts. [1965 c 7 § 35.61.060. Prior: 1943 c 264 § 3, part; Rem. Supp. 1943 § 6741-3, part; prior: 1909 c 131 § 2; 1907 c 98 § 3, part; RRS § 6722, part.]

Elections in first class cities: RCW 29.13.021-29.13.024.

35.61.070 Election of commissioners—Filling vacancies. In the event of a vacancy caused by death, resignation, or otherwise, it shall be filled by appointment by a majority vote of the remaining commissioners until the next regular election for park commissioners. [1965 c 7 § 35.61.070. Prior: 1943 c 264 § 3, part; Rem. Supp. 1943 § 6741-3, part; prior: 1909 c 131 § 2; 1907 c 98 § 3, part; RRS § 6722, part.]

35.61.080 Elections—Eligibility of voters. Any elector, who is registered in accordance with the laws of this state entitling him to vote at a general or special election in the city or territory comprised within a metropolitan park district within time to constitute it a good registration for any general or special election of the metropolitan park district, shall be entitled to vote thereat without further or other registration. [1965 c 7 § 35.61.080. Prior: 1943 c 264 § 3, part; Rem. Supp. 1943 § 6741-3, part; prior: 1909 c 131 § 2; 1907 c 98 § 3, part; RRS § 6722, part.]

35.61.090 Elections—Laws governing. The manner of holding any general or special election in a metropolitan park district shall be in accordance with the laws of this state and charter provisions of the city within which said park district lies insofar as they are not inconsistent with the provisions of this chapter. [1965 c 7 § 35.61.090. Prior: 1943 c 264 § 3, part; Rem. Supp. 1943 § 6741-3, part; prior: 1909 c 131 § 2; 1907 c 98 § 3, part; RRS § 6722, part.]

Canvassing returns, generally: Chapter 29.62 RCW.

Conduct of elections—Canvass: RCW 29.13.040.

Notice of election: RCW 29.27.080.

Times for holding elections: Chapter 29.13 RCW.

35.61.100 Indebtedness limit—Without popular vote. Every metropolitan park district through its board of commissioners may contract indebtedness for park, boulevard, aviation landings, playgrounds and parkway purposes, and the extension and maintenance thereof, not exceeding three-fortieths of one percent of the value of the taxable property in such metropolitan park district, as the term "value of the taxable property" is defined in RCW 39.36.015. [1970 ex.s. c 42 § 14; 1965 c 7 § 35.61.100. Prior: 1943 c 264 § 6; Rem. Supp. 1943 § 6741-6; prior: 1927 c 268 § 1; 1907 c 98 § 6; RRS § 6725.]

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

35.61.110 Indebtedness limit—With popular vote. Every metropolitan park district may contract indebtedness in excess of three-fortieths of one percent of the value of the taxable property but not exceeding in amount, together with existing indebtedness, two and one-half percent of the value of the taxable property in said district, as the term "value of the taxable property" is defined in RCW 39.36.015, whenever three-fifths of the voters voting at an election held in the metropolitan park district assent thereto; the election may be either a special or a general election, and the park commissioners of the metropolitan park district may cause the

question of incurring such indebtedness, and issuing negotiable bonds of such metropolitan park district, to be submitted to the qualified voters of the district at any time. [1970 ex.s. c 42 § 15; 1965 c 7 § 35.61.110. Prior: 1943 c 264 § 7; Rem. Supp. 1943 § 6741-7; prior: 1907 c 98 § 7; RRS § 6726.]

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Limitations upon indebtedness: State Constitution Art. 7 § 2 (Amendment 59), Art. 8 § 6 (Amendment 27), Chapter 39.36 RCW, RCW 84.52.050.

35.61.120 Park commissioners as officers of district—Organization. The officers of a metropolitan park district shall be a board of park commissioners consisting of five members. The board shall annually elect one of their number as president and another of their number as clerk of the board. [1965 c 7 § 35.61.120. Prior: 1943 c 264 § 4, part; Rem. Supp. 1943 § 6741-4, part; prior: 1919 c 135 § 1, part; 1907 c 98 § 4; RRS § 6723, part.]

35.61.130 Park commissioners—Authority generally. A metropolitan park district has the right of eminent domain, and may purchase, acquire and condemn lands lying within or without the boundaries of said park district, for public parks, parkways, boulevards, aviation landings and playgrounds, and may condemn such lands to widen, alter and extend streets, avenues, boulevards, parkways, aviation landings and playgrounds, to enlarge and extend existing parks, and to acquire lands for the establishment of new parks, boulevards, parkways, aviation landings and playgrounds. The right of eminent domain shall be exercised and instituted pursuant to resolution of the board of park commissioners and conducted in the same manner and under the same procedure as is or may be provided by law for the exercise of the power of eminent domain by incorporated cities and towns of the state of Washington in the acquisition of property rights: *Provided, however,* Funds to pay for condemnation allowed by this section shall be raised only as specified in this chapter. The board of park commissioners shall have power to employ counsel, and to regulate, manage and control the parks, parkways, boulevards, streets, avenues, aviation landings and playgrounds under its control, and to provide for park policemen, for a secretary of the board of park commissioners and for all necessary employees, to fix their salaries and duties. The board of park commissioners shall have power to improve, acquire, extend and maintain, open and lay out, parks, parkways, boulevards, avenues, aviation landings and playgrounds, within or without the park district, and to authorize, conduct and manage the letting of boats, or other amusement apparatus, the operation of bath houses, the purchase and sale of foodstuffs or other merchandise, the giving of vocal or instrumental concerts or other entertainments, the establishment and maintenance of aviation landings and playgrounds, and generally the management and conduct of such forms of recreation or business as it shall judge desirable or beneficial for

the public, or for the production of revenue for expenditure for park purposes; and may pay out moneys for the maintenance and improvement of any such parks, parkways, boulevards, avenues, aviation landings and playgrounds as now exist, or may hereafter be acquired, within or without the limits of said city and for the purchase of lands within or without the limits of said city, whenever it deems the purchase to be for the benefit of the public and for the interest of the park district, and for the maintenance and improvement thereof and for all expenses incidental to its duties: *Provided,* That all parks, boulevards, parkways, aviation landings and playgrounds shall be subject to the police regulations of the city within whose limits they lie. [1969 c 54 § 1; 1965 c 7 § 35.61.130. Prior: (i) 1943 c 264 § 4, part; Rem. Supp. 1943 § 6741-4, part; prior: 1919 c 135 § 1, part; 1907 c 98 § 4; RRS § 6723, part. (ii) 1943 c 264 § 14; Rem. Supp. 1943 § 6741-14; prior: 1919 c 135 § 2; 1907 c 98 § 14; RRS § 6733.]

Outdoor recreation land acquisition or improvement under marine recreation land act: Chapter 43.99 RCW.

35.61.132 Disposition of unsuitable property. Every metropolitan park district may, by unanimous decision of its board of park commissioners, sell, exchange, or otherwise dispose of any real or personal property acquired for park or recreational purposes when such property is no longer suitable for park or other recreational purposes: *Provided,* That where the property is acquired by donation or dedication for park or recreational purposes, the consent of the donor or dedicator, his heirs, successors, or assigns is first obtained. All sales shall be by public bids and sale made only to the highest and best bidder. [1965 c 7 § 35.61.132. Prior: 1959 c 93 § 1.]

35.61.133 Executory conditional sales contracts for purchase of property—Limit on indebtedness—Election, when. See RCW 39.30.010.

35.61.140 Park commissioners—Civil service for employees. A metropolitan park district may establish civil service for its employees by resolution upon the following plan:

(1) It shall create a civil service commission with authority to appoint a personnel officer and to make rules and regulations for classification based upon suitable differences in pay for differences in work, and for like pay for like work, and for competitive entrance and promotional examinations; for certifications, appointments, probationary service periods and for dismissals therein; for demotions and promotions based upon merit and for reemployments, suspensions, transfers, sick leaves and vacations; for lay-offs when necessary according to seniority; for separations from the service by discharge for cause; for hearings and reinstatements, for establishing status for incumbent employees, and for prescribing penalties for violations.

(2) The civil service commission and personnel officer shall adopt rules to be known as civil service rules to govern the administration of personnel transactions and procedure. The rules so adopted shall have the force

and effect of law, and, in any and all proceedings, the rules shall be liberally interpreted and construed to the end that the purposes and basic requirements of the civil service system may be given the fullest force and effect. [1965 c 7 § 35.61.140. Prior: 1943 c 264 § 4, part; Rem. Supp. 1943 § 6741-4, part; prior: 1919 c 135 § 1, part; 1907 c 98 § 4; RRS § 6723, part.]

Public employment, civil service and pensions: Title 41 RCW.

35.61.150 Park commissioners—Compensation. Metropolitan park commissioners shall perform their duties without compensation. [1965 c 7 § 35.61.150. Prior: 1943 c 264 § 3, part; Rem. Supp. 1943 § 6741-3, part; prior: 1909 c 131 § 2; 1907 c 98 § 3, part; RRS § 6722, part.]

35.61.160 Park district bonds—Issuance—Sale. If incurring the indebtedness and issuing bonds therefor has been approved by the people, the commissioners of such metropolitan park district may issue the negotiable bonds of such district for the amount of such indebtedness and may dispose of said bonds either in payment of such indebtedness, or may advertise and sell said bonds in the open market for cash, but in no event shall said bonds be disposed of or negotiated at less than par. [1965 c 7 § 35.61.160. Prior: 1943 c 264 § 8; Rem. Supp. 1943 § 6741-8; prior: 1907 c 98 § 8; RRS § 6727.]

35.61.170 Park district bonds—Terms—Denominations—Form. Metropolitan park district bonds shall be in denominations of not less than one hundred dollars nor more than one thousand dollars. They shall bear the date of issue, shall be made payable to the bearer, in not more than twenty years from date of issue, and bear interest at a rate or rates as authorized by the metropolitan park district, payable annually, with coupons attached, for each interest payment. They shall be numbered from one consecutively and shall be payable in the order of their number beginning with bond numbered one. The bonds shall be payable as therein designated in any city of the United States having a national bank.

The bonds and each coupon shall be signed by the president of the board of park commissioners and shall be attested by the clerk of the board. The bonds shall be printed, engraved, or lithographed on good bond paper, and the bond shall state on its face that it is issued in accordance, and in strict compliance, with an act of the legislature of the state of Washington, entitled: "An act authorizing the formation of metropolitan park districts, providing for park officials, fixing their powers and duties, and declaring an emergency," approved March 11, 1907, and reenacted on March 22, 1943. [1970 ex.s. c 56 § 41; 1969 ex.s. c 232 § 19; 1965 c 7 § 35.61.170. Prior: (i) 1943 c 264 § 9; Rem. Supp. 1943 § 6741-9; prior: 1909 c 131 § 3; 1907 c 98 § 9; RRS § 6728. (ii) 1943 c 264 § 10, part; Rem. Supp. 1943 § 6741-10, part; prior: 1909 c 131 § 4, part; 1907 c 98 § 10; RRS § 6729, part.]

Purpose—Effective date—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

35.61.180 Park district bonds—Registration. Before the bonds are delivered to the purchaser, they shall be presented to the county treasurer who shall register them in a book kept for that purpose and known as the "metropolitan park bond register," in which register shall be entered the number of each bond, date of issue and maturity, amount, rate of interest, to whom and when payable. The county treasurer shall receive no compensation other than his regular salary for receiving and disbursing the funds of a metropolitan park district. The board of park commissioners shall keep a register of such bonds similar to that provided for the county treasurer. [1965 c 7 § 35.61.180. Prior: 1943 c 264 § 13; Rem. Supp. 1943 § 6741-13; prior: 1907 c 98 § 13; RRS § 6732.]

35.61.190 Park district bonds—Retirement. Whenever there is money in the metropolitan park district fund and the commissioners of the park district deem it advisable to apply any part thereof to the payment of bonded indebtedness, they shall advertise in a daily newspaper published within said park district for the presentation to them for payment of as many bonds as they may desire to pay with the funds on hand, the bonds to be paid in numerical order, beginning with the lowest number outstanding and called by number.

Thirty days after the first publication of the notice by the board calling in bonds they shall cease to bear interest, and this shall be stated in the notice. [1965 c 7 § 35.61.190. Prior: 1943 c 264 § 11; Rem. Supp. 1943 § 6741-11; prior: 1907 c 98 § 11; RRS § 6730.]

35.61.200 Park district bonds—Payment of coupons. The coupons for the payment of interest on metropolitan park district bonds shall be considered for all purposes as warrants drawn upon the metropolitan park district fund against which the bonds were issued, and when presented after maturity to the treasurer of the county having custody of the fund. If there are no funds in the treasury to pay the coupons, the county treasurer shall endorse said coupons as presented for payment, in the same manner as county warrants are endorsed, and thereafter the coupon shall bear interest at the same rate as the bond to which it was attached. [1965 c 7 § 35.61.200. Prior: 1943 c 264 § 12; Rem. Supp. 1943 § 6741-12; prior: 1907 c 98 § 12; RRS § 6731.]

35.61.210 Park district tax levy—"Park district fund". The board of park commissioners may levy or cause to be levied a general tax on all the property located in said park district each year not to exceed seventy-five cents per thousand dollars of assessed value of the property in such park district: *Provided*, That notwithstanding the provisions of RCW 84.52.050, and RCW 84.52.043 the board is hereby authorized to levy a general tax in excess of seventy-five cents per thousand dollars of assessed value when authorized so to do at a special election conducted in accordance with and subject to all the requirements of the Constitution and laws

of the state now in force or hereafter enacted governing the limitation of tax levies. The board is hereby authorized to call a special election for the purpose of submitting to the qualified voters of the park district a proposition to levy a tax in excess of the seventy-five cents per thousand dollars of assessed value herein specifically authorized. The manner of submitting any such proposition, of certifying the same, and of giving or publishing notice thereof, shall be as provided by law for the submission of propositions by cities or towns. The board shall include in its general tax levy for each year a sufficient sum to pay the interest on all outstanding bonds and may include a sufficient amount to create a sinking fund for the redemption of all outstanding bonds. The levy shall be certified to the proper county officials for collection the same as other general taxes and when collected, the general tax shall be placed in a separate fund in the office of the county treasurer to be known as the "metropolitan park district fund" and paid out on warrants. [1973 1st ex.s. c 195 § 25; 1965 c 7 § 35.61.210. Prior: 1951 c 179 § 1; prior: (i) 1943 c 264 § 10, part; Rem. Supp. 1943 § 6741-10, part; prior: 1909 c 131 § 4; 1907 c 98 § 10; RRS § 6729. (ii) 1947 c 117 § 1; 1943 c 264 § 5; Rem. Supp. 1947 § 6741-5; prior: 1925 ex.s. c 97 § 1; 1907 c 98 § 5; RRS § 6724.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Limitation on levies: State Constitution Art. 7 § 2 (Amendment 59), RCW 84.52.050.

35.61.220 Petition for improvements on assessment plan. If at any time any proposed improvement of any parkway, avenue, street, or boulevard is deemed by the board of metropolitan park commissioners to be a special benefit to the lands adjoining, contiguous, approximate to or in the neighborhood of the proposed improvement, which lie within the city, the board may so declare, describing the property to be benefited. Thereupon they may petition the city council to cause the improvement contemplated by the commissioners to be done and made on the local assessment plan, and the portion of the cost of the improvement as fixed by such assessment roll to be assessed against the said property so benefited in the same manner and under the same procedure as of other local improvements, and the remainder of the cost of such improvement to be paid out of the metropolitan park district fund.

The board of park commissioners shall designate the kind, manner and style of the improvement to be made, and may designate the time within which it shall be made. [1965 c 7 § 35.61.220. Prior: 1943 c 264 § 15; Rem. Supp. 1943 § 6741-15; prior: 1909 c 131 § 5; 1907 c 98 § 15; RRS § 6734.]

35.61.230 Objections—Appeal. Any person, firm or corporation feeling aggrieved by the assessment against his or its property may file objections with the city council and may appeal from the order confirming the assessment roll in the same manner as objections and appeals are made in regard to local improvements in cities of the first class. [1965 c 7 § 35.61.230. Prior:

1943 c 264 § 16; Rem. Supp. 1943 § 6741-16; prior: 1907 c 98 § 17; RRS § 6736.]

Appeal of assessments and reassessments: RCW 35.44.200-35.44.270.

35.61.240 Assessment lien—Collection. The assessment for local improvements authorized by this chapter shall become a lien in the same manner, and be governed by the same law, as is provided for local assessments in cities of the first class and be collected as such assessments are collected. [1965 c 7 § 35.61.240. Prior: 1943 c 264 § 17; Rem. Supp. 1943 § 6741-17; prior: 1907 c 98 § 18; RRS § 6737.]

Collection and foreclosure of assessments: Chapters 35.49, 35.50 RCW.

35.61.250 Territorial annexation—Authority—Petition. The territory adjoining and in the same county with a metropolitan park district may be annexed to and become a part thereof upon petition and an election held pursuant thereto. The petition shall define the territory proposed to be annexed and must be signed by twenty-five registered voters, resident within the territory proposed to be annexed, unless the territory is within the limits of another city when it must be signed by twenty percent of the registered voters residing within the territory proposed to be annexed. The petition must be addressed to the board of park commissioners requesting that the question be submitted to the legal voters of the territory proposed to be annexed, whether they will be annexed and become a part of the park district. [1965 c 7 § 35.61.250. Prior: 1943 c 264 § 20, part; Rem. Supp. 1943 § 6741-20, part; prior: 1907 c 98 § 20, part; RRS § 6739, part.]

35.61.260 Territorial annexation—Hearing on petition. Upon the filing of an annexation petition with the board of park commissioners, if the commissioners concur in the petition, they shall provide for a hearing to be held for the discussion of the proposed annexation at the office of the board of park commissioners, and shall give due notice thereof by publication at least five days before the hearing in a daily newspaper published in the park district. [1965 c 7 § 35.61.260. Prior: 1943 c 264 § 20, part; Rem. Supp. 1943 § 6741-20, part; prior: 1907 c 98 § 20, part; RRS § 6739, part.]

35.61.270 Territorial annexation—Election—Method. If the park commissioners concur in the petition, they shall cause the proposal to be submitted to the electors of such territory proposed to be annexed, at an election to be held in such territory, which shall be called, canvassed and conducted in accordance with the general election laws. The board of park commissioners by resolution shall fix a time for the holding of the election to determine the question of annexation, and in addition to the notice required by RCW 29.27.080 shall give notice thereof by causing notice to be published for five days in five consecutive issues of a daily newspaper published in said park district, and by posting notices in five public places within the territory proposed to be annexed in said district.

The ballot to be used at such election shall be in the following form:

- "For annexation to metropolitan park district."
 "Against annexation to metropolitan park district." [1965 c 7 § 35.61.270. Prior: 1943 c 264 § 20, part; Rem. Supp. 1943 § 6741-20, part; prior: 1907 c 98 § 20, part; RRS § 6739, part.]

Canvassing returns, generally: Chapter 29.62 RCW.

Conduct of elections—Canvass: RCW 29.13.040.

Times for holding elections: Chapter 29.13 RCW.

35.61.280 Territorial annexation—Election—

Result. The canvassing authority shall cause a statement of the result of such election to be forwarded to the board of park commissioners for entry on the record of the board. If the majority of the votes cast upon that question at the election shall favor annexation, the territory shall immediately become annexed to the park district, and shall thenceforth be a part of the park district, the same as though originally included in the district. The expense of such election shall be paid out of park district funds. [1965 c 7 § 35.61.280. Prior: (i) 1943 c 264 § 20, part; Rem. Supp. 1943 § 6741-20, part; prior: 1907 c 98 § 20, part; RRS § 6739, part. (ii) 1943 c 264 § 21; Rem. Supp. 1943 § 6741-21; prior: 1907 c 98 § 21; RRS § 6740.]

35.61.290 Transfer of city property—Authority—Emergency grant, loan, of funds by city. Any city within or comprising any metropolitan park district may turn over to the park district any lands which it may own, or any street, avenue, or public place within the city for playground, park or parkway purposes, and thereafter its control and management shall vest in the board of park commissioners: *Provided*, That the police regulations of such city shall apply to all such premises.

At any time that any such metropolitan park district is unable, through lack of sufficient funds, to provide for the continuous operation, maintenance and improvement of the parks and playgrounds and other properties or facilities owned by it or under its control, and the legislative body of any city within or comprising such metropolitan park district shall determine that an emergency exists requiring the financial aid of such city to be extended in order to provide for such continuous operation, maintenance and/or improvement of parks, playgrounds facilities, other properties, and programs of such park district within its limits, such city may grant or loan to such metropolitan park district such of its available funds, or such funds which it may lawfully procure and make available, as it shall find necessary to provide for such continuous operation and maintenance and, pursuant thereto, any such city and the board of park commissioners of such district are authorized and empowered to enter into an agreement embodying such terms and conditions of any such grant or loan as may be mutually agreed upon.

The board of metropolitan park commissioners may accept public streets of the city and grounds for public purposes when donated for park, playground, boulevard and park purposes. [1965 c 7 § 35.61.290. Prior: 1953 c 194 § 1. Formerly: (i) 1943 c 264 § 18; Rem. Supp. 1943

§ 6741-18. Prior: 1907 c 98 § 16; RRS § 6735. (ii) 1943 c 264 § 19; Rem. Supp. 1943 § 6741-19; prior: 1907 c 98 § 19; RRS § 6738.]

35.61.300 Transfer of city property—Assumption of indebtedness. When any metropolitan park district shall be formed pursuant to this chapter and shall assume control of the parks, parkways, boulevards, and park property of the city in which said park district is created, such park district shall assume all existing indebtedness, bonded or otherwise, against such park property, and shall arrange by taxation or issuing bonds, as herein provided, for the payment of such indebtedness, and shall relieve such city from such payment. Said park district is hereby given authority to issue refunding bonds when necessary in order to enable it to comply with this section. [1965 c 7 § 35.61.300. Prior: 1943 c 264 § 22; Rem. Supp. 1943 § 6741-22; prior: 1907 c 98 § 22; RRS § 6741.]

35.61.310 Dissolution. A board of commissioners of a metropolitan park district may, upon a majority vote of all its members, dissolve any metropolitan park district, prorate the liabilities thereof, and turn over to the city and/or county so much of the district as is respectively located therein, when:

(1) Such city and/or county, through its governing officials, agrees to, and petitions for, such dissolution and the assumption of such assets and liabilities, or;

(2) Ten percent of the voters of such city and/or county who voted at the last general election petition the governing officials for such a vote. [1965 c 7 § 35.61.310. Prior: 1953 c 269 § 1.]

35.61.315 Disincorporation of district located in class A or AA county and inactive for five years. See chapter 57.90 RCW.

35.61.320 Withdrawal of fourth class municipality—Prior levies and assessments. Any and all taxes or assessments levied or assessed against property located in the municipal corporation of the fourth class automatically withdrawn under RCW 35.61.010 from a metropolitan park district shall remain a lien and be collectible as by law provided when such taxes or assessments are levied or assessed prior to such withdrawal or when such levies or assessments are duly made to provide revenue for the payment of general obligations or general obligation bonds of the metropolitan park district duly incurred or issued prior to such automatic withdrawal. [1965 c 7 § 35.61.320. Prior: 1959 c 45 § 2.]

35.61.330 Withdrawal of fourth class municipality—Contracts with district. Any municipal corporation of the fourth class so withdrawn may, through its legislative authority, authorize contracts with the metropolitan park district from which it was withdrawn with respect to the rights, duties, and obligations of the withdrawn municipal corporation as to the ownership of property, services, assets, liabilities, and debts and any other question arising out of the withdrawal, which

contract may also make provisions for services by the district and use of the facilities or real estate within such municipal corporation or park district, and the contract may provide for such distribution of any costs or expenses as may be agreed to by the municipal corporation and the district. [1965 c 7 § 35.61.330. Prior: 1959 c 45 § 3.]

35.61.340 Withdrawal of fourth class municipality—Disposition of property—Eminent domain. The legislative authority of the municipal corporation of the fourth class so withdrawn may (1) negotiate and agree with the commissioners of the metropolitan park district from which it has been withdrawn as to the disposition of any property, real or personal, or of any right, title, or interest therein including the title, price and conveyance thereof, and (2) such municipal corporation shall also have the right of eminent domain in making a final disposition of any question arising, directly or indirectly, out of the withdrawal, such proceedings to be had in the name of the municipal corporation and in the manner prescribed for cities and towns in chapter 8.12 RCW: *Provided*, That nothing herein shall be construed to limit in any way existing powers of the municipal corporation as to condemnation generally. [1965 c 7 § 35.61.340. Prior: 1959 c 45 § 4.]

**Chapter 35.62
NAME—CHANGE OF**

Sections

- 35.62.010 Authority for.
- 35.62.020 Election—Petition—Ballot.
- 35.62.030 Nominations of new name.
- 35.62.040 Placing names on election ballot.
- 35.62.050 Results—Votes necessary.
- 35.62.060 Results—Certification.

35.62.010 Authority for. Any city or town may change its name in accordance with the procedure provided in this chapter. [1965 c 7 § 35.62.010. Prior: 1925 ex.s. c 146 § 1; RRS § 8891-1.]

35.62.020 Election—Petition—Ballot. The city or town council may, and upon presentation of a petition signed by not less than fifty electors of such city or town, shall cause to be placed upon the ballot at the next succeeding municipal election the question whether such city or town shall change its name. Such question may be in substantially the following form:

Shall the name of the city (or town) of _____(insert name)_____ be changed?

Yes

No

[1965 c 7 § 35.62.020. Prior: 1925 ex.s. c 146 § 2; RRS § 8891-2.]

Times for holding elections: Chapter 29.13 RCW.

35.62.030 Nominations of new name. If the majority of the votes cast upon the proposition favor the change, nominations for a new name may thereafter, and until

twenty days before the next succeeding municipal election, be made by filing with the city or town clerk a nominating petition therefor signed by not less than twenty-five electors of such city or town. [1965 c 7 § 35.62.030. Prior: 1925 ex.s. c 146 § 3; RRS § 8891-3.]

35.62.040 Placing names on election ballot. All names so petitioned for shall be placed upon the ballot at the next succeeding municipal election under the heading:

Proposed names for the city (or town) of _____(insert name)_____.

Vote for one.

[1965 c 7 § 35.62.040. Prior: 1925 ex.s. c 146 § 4; RRS § 8891-4.]

35.62.050 Results—Votes necessary. At the election at which new names for a city or town are voted upon, the name receiving the highest number of votes shall become the name of the city or town at the time when the officers elected at that election begin their terms: *Provided*, That if no name receives forty percent or more of the votes cast upon the proposition the two names receiving the highest votes shall again be submitted at the next succeeding municipal election in the same manner and with the same effect. [1965 c 7 § 35.62.050. Prior: 1925 ex.s. c 146 § 5; RRS § 8891-5.]

35.62.060 Results—Certification. Whenever any city or town has changed its name, the clerk shall certify the new name to the secretary of state prior to the date when the change takes effect. [1965 c 7 § 35.62.060. Prior: 1925 ex.s. c 146 § 6; RRS § 8891-6.]

**Chapter 35.63
PLANNING COMMISSIONS**

Sections

- 35.63.010 Definitions.
- 35.63.020 Commissioners—Manner of appointment.
- 35.63.030 Commissioners—Number—Tenure—Compensation.
- 35.63.040 Commissions—Organization—Meeting—Rules.
- 35.63.050 Expenditures.
- 35.63.060 Powers of commissions.
- 35.63.070 Regional commissions—Appointment—Powers.
- 35.63.080 Restrictions on buildings—Use of land.
- 35.63.090 Restrictions—Purposes of.
- 35.63.100 Restrictions—Recommendations of commission—Hearings—Adoption of comprehensive plan—Certifying—Filing or recording.
- 35.63.105 Amendments to comprehensive plan to be adopted, certified, and recorded or filed in accordance with RCW 35.63.100.
- 35.63.110 Restrictive zones.
- 35.63.120 Supplemental restrictions—Hearing—Affirmance, disaffirmance, modification of commission's decision.

Airport zoning: Chapter 14.12 RCW.

Approval of proposed plats, subdivisions, and dedications of land: Chapter 58.17 RCW.

Boundaries and plats: Title 58 RCW.

Comprehensive plans to be filed with state planning and community affairs agency: RCW 43.63A.110.

Counties, planning enabling act: Chapter 36.70 RCW.

County sewerage, water and drainage systems: Chapter 36.94 RCW.

Housing authorities law: Chapter 35.82 RCW.

Joint operations by municipal corporations or political subdivisions, deposit and control of funds: RCW 43.09.285.

Local and state planning, coordination, duties of state planning and community affairs agency: RCW 43.31.200-43.31.230, Chapter 43-.63A RCW.

Local governmental organizations, actions affecting boundaries, etc., review by boundary review board: Chapter 36.93 RCW.

Municipal revenue bond act: Chapter 35.41 RCW.

Police and sanitary regulations: State Constitution Art. 11 § 11.

Recording of plats: Chapter 58.08 RCW.

35.63.010 Definitions. As used in this chapter the following terms shall have the meaning herein given them:

"Appointive members" means all members of a commission other than ex officio members;

"Board" means the board of county commissioners;

"City" includes every incorporated city and town;

"Commission" means a city or county planning commission;

"Council" means the chief legislative body of a city;

"Ex officio members" means the members of a commission chosen from among city or county officials;

"Highways" include streets, roads, boulevards, lanes, alleys, viaducts and other traveled ways;

"Mayor" means the chief executive of a city;

"Municipality" includes every county and city. [1965 c 7 § 35.63.010. Prior: 1935 c 44 § 1; RRS § 9322-1.]

35.63.020 Commissioners—Manner of appointment. If any council or board desires to avail itself of the powers conferred by this chapter it shall create a city or county planning commission consisting of from three to twelve members to be appointed by the mayor or chairman of the municipality and confirmed by the council or board: *Provided*, That in cities of the first class having a commission form of government consisting of three or more members, the commissioner of public works shall appoint the planning commission, which appointment shall be confirmed by a majority of the city commissioners. Cities of the first class operating under self-government charters may extend the membership and the duties and powers of its commission beyond those prescribed in this chapter. [1965 c 7 § 35.63.020. Prior: (i) 1935 c 44 § 2, part; RRS § 9322-2, part. (ii) 1935 c 44 § 12; RRS § 9322-12.]

35.63.030 Commissioners—Number—Tenure—Compensation. The ordinance, resolution or act creating the commission shall set forth the number of members to be appointed, not more than one-third of which number may be ex officio members by virtue of office held in any municipality. The term of office for ex officio members shall correspond to their respective tenures. The term of office for the first appointive members appointed to such commission shall be designated from one to six years in such manner as to provide that the fewest possible terms will expire in any one year. Thereafter the term of office for each appointive member shall be six years.

Vacancies occurring otherwise than through the expiration of terms shall be filled for the unexpired term. Members may be removed, after public hearing, by the

appointing official, with the approval of his council or board, for inefficiency, neglect of duty or malfeasance in office.

The members shall be selected without respect to political affiliations and they shall serve without compensation. [1965 c 7 § 35.63.030. Prior: 1935 c 44 § 2, part; RRS § 9322-2, part.]

35.63.040 Commissions—Organization—Meeting—Rules. The commission shall elect its own chairman and create and fill such other offices as it may determine it requires. The commission shall hold at least one regular meeting in each month for not less than nine months in each year. It shall adopt rules for transaction of business and shall keep a written record of its meetings, resolutions, transactions, findings and determinations which record shall be a public record. [1965 c 7 § 35.63.040. Prior: 1935 c 44 § 3; RRS § 9322-3.]

35.63.050 Expenditures. The expenditures of any commission or regional commission authorized and established under this chapter, exclusive of gifts, shall be within the amounts appropriated for the purpose by the council or board. Within such limits, any commission may employ such employees and expert consultants as are deemed necessary for its work. [1965 c 7 § 35.63.050. Prior: 1935 c 44 § 4; RRS § 9322-4.]

35.63.060 Powers of commissions. The commission may act as the research and fact finding agency of the municipality. To that end it may make such surveys, analyses, researches and reports as are generally authorized or requested by its council or board, or by the state with the approval of its council or board. The commission, upon such request or authority may also:

(1) Make inquiries, investigations, and surveys concerning the resources of the county;

(2) Assemble and analyze the data thus obtained and formulate plans for the conservation of such resources and the systematic utilization and development thereof;

(3) Make recommendations from time to time as to the best methods of such conservation, utilization, and development;

(4) Cooperate with other commissions and with other public agencies of the municipality, state and United States in such planning, conservation, and development; and

(5) In particular cooperate with and aid the state within its territorial limits in the preparation of the state master plan provided for in RCW 43.21.190 and in advance planning of public works programs. [1965 c 7 § 35.63.060. Prior: 1935 c 44 § 10; RRS § 9322-10.]

35.63.070 Regional commissions—Appointment—Powers. The commissions of two or more adjoining counties, of two or more adjacent cities and towns, of one or more cities and towns and/or one or more counties, together with the boards of such counties and the councils of such cities and towns may cooperate to form, organize and administer a regional planning commission for the making of a regional plan

for the region defined as may be agreed upon by the commissions, boards and councils. The regional commission when requested by the commissions of its region, may further perform any of the other duties for its region that are specified in RCW 35.63.060 for city and county commissions. The number of members of a regional commission, their method of appointment and the proportion of the cost of regional planning, surveys and studies to be borne respectively by the various counties and cities in the region, shall be such as may be agreed upon by commissions, boards and councils.

Any regional planning commission, or the councils or boards respectively of any city, town, or county, are authorized to receive grants-in-aid from the government of the United States or of any of its agencies, and are authorized to enter into any reasonable agreement with any department or agency of the government of the United States to arrange for the receipt of federal funds for planning in the interest of furthering the planning program. [1965 c 7 § 35.63.070. Prior: 1957 c 130 § 1; 1935 c 44 § 11; RRS § 9322-11.]

Commission as employer for retirement system purposes: RCW 41.40.010.

35.63.080 Restrictions on buildings—Use of land. The council or board may provide for the preparation by its commission and the adoption and enforcement of coordinated plans for the physical development of the municipality. For this purpose the council or board, in such measure as is deemed reasonably necessary or requisite in the interest of health, safety, morals and the general welfare, upon recommendation by its commission, by general ordinances of the city or general resolution of the board, may regulate and restrict the location and the use of buildings, structures and land for residence, trade, industrial and other purposes; the height, number of stories, size, construction and design of buildings and other structures; the size of yards, courts and other open spaces on the lot or tract; the density of population; the set-back of buildings along highways, parks or public water frontages; and the subdivision and development of land. A council where such ordinances are in effect, may, on the recommendation of its commission provide for the appointment of a board of adjustment, to make, in appropriate cases and subject to appropriate conditions and safeguards established by ordinance, special exceptions in harmony with the general purposes and intent and in accordance with general or specific rules therein contained. [1965 c 7 § 35.63.080. Prior: 1935 c 44 § 5; RRS § 9322-5.]

35.63.090 Restrictions—Purposes of. All regulations shall be worked out as parts of a comprehensive plan which each commission shall prepare for the physical and other generally advantageous development of the municipality and shall be designed, among other things, to encourage the most appropriate use of land throughout the municipality; to lessen traffic congestion and accidents; to secure safety from fire; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to

promote a coordinated development of the unbuilt areas; to encourage the formation of neighborhood or community units; to secure an appropriate allotment of land area in new developments for all the requirements of community life; to conserve and restore natural beauty and other natural resources; to facilitate the adequate provision of transportation, water, sewerage and other public uses and requirements. [1965 c 7 § 35.63.090. Prior: 1935 c 44 § 7; RRS § 9322-7.]

35.63.100 Restrictions—Recommendations of commission—Hearings—Adoption of comprehensive plan—Certifying—Filing or recording. The commission may recommend to its council or board the plan prepared by it as a whole, or may recommend parts of the plan by successive recommendations; the parts corresponding with geographic or political sections, division or subdivisions of the municipality, or with functional subdivisions of the subject matter of the plan, or in the case of counties, with suburban settlement or arterial highway area. It may also prepare and recommend any amendment or extension thereof or addition thereto.

Before the recommendation of the initial plan to the municipality the commission shall hold at least one public hearing thereon, giving notice of the time and place by one publication in a newspaper of general circulation in the municipality and in the official gazette, if any, of the municipality.

The council may adopt by resolution or ordinance and the board may adopt by resolution the plan recommended to it by the commission, or any part of the plan, as the comprehensive plan.

A true copy of the resolution of the board adopting or embodying such plan or any part thereof or any amendment thereto shall be certified by the clerk of the board and filed with the county auditor. A like certified copy of any map or plat referred to or adopted by the county resolution shall likewise be filed with the county auditor. The auditor shall record the resolution and keep on file the map or plat.

The original resolution or ordinance of the council adopting or embodying such plan or any part thereof or any amendment thereto shall be certified by the clerk of the city and filed by him. The original of any map or plat referred to or adopted by the resolution or ordinance of the council shall likewise be certified by the clerk of the city and filed by him. The clerk shall keep on file the resolution or ordinance and map or plat. [1967 ex.s. c 144 § 8; 1965 c 7 § 35.63.100. Prior: 1935 c 44 § 8; RRS § 9322-8.]

Effective date—1967 ex.s. c 144: The effective date of 1967 ex.s. c 144 is July 30, 1967, see preface to 1967 session laws.

Severability—1967 ex.s. c 144: See note following RCW 36.98.030.

Validation—1967 ex.s. c 144: Any city comprehensive plan and all amendments thereto which have been filed or recorded with the county auditor prior to the effective date of this 1967 amendatory act shall be valid and need not be refiled with the clerk of the city to remain valid and in full force and effect. [1967 ex.s. c 144 § 10.]

35.63.105 Amendments to comprehensive plan to be adopted, certified, and recorded or filed in accordance with RCW 35.63.100. All amendments to a comprehensive plan shall be adopted, certified, and recorded or filed in the same manner as authorized in RCW 35.63.100 for an initial comprehensive plan. [1967 ex.s. c 144 § 9.]

Severability—1967 ex.s. c 144: See note following RCW 36.98.030.

Validation—1967 ex.s. c 144: See note following RCW 35.63.100.

35.63.110 Restrictive zones. For any or all of such purposes the council or board, on recommendation of its commission, may divide the municipality or any portion thereof into districts of such size, shape and area, or may establish such official maps, or development plans for the whole or any portion of the municipality as may be deemed best suited to carry out the purposes of this chapter and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land. [1965 c 7 § 35.63.110. Prior: 1935 c 44 § 6; RRS § 9322-6.]

35.63.120 Supplemental restrictions—Hearing—Affirmance, disaffirmance, modification of commission's decision. Any ordinance or resolution adopting any such plan or regulations, or any part thereof, may be amended, supplemented or modified by subsequent ordinance or resolution.

Proposed amendments, supplementations, or modifications shall first be heard by the commission and the decision shall be made and reported by the commission within ninety days of the time that the proposed amendments, supplementations, or modifications were made.

The council or board, pursuant to public hearing called by them upon application therefor by any interested party or upon their own order, may affirm, modify or disaffirm any decision of the commission. [1965 c 7 § 35.63.120. Prior: 1957 c 194 § 1; 1935 c 44 § 9; RRS § 9322-9.]

Chapter 35.66 POLICE MATRONS

Sections

35.66.010	Authority to establish.
35.66.020	Appointment.
35.66.030	Assistance by police.
35.66.040	Compensation.
35.66.050	Persons under arrest—Separate quarters.

35.66.010 Authority to establish. There shall be annexed to the police force of each city in this state having a population of not less than ten thousand inhabitants one or more police matrons who, subject to the control of the chief of police or other proper officer, shall have the immediate care of all females under arrest and while detained in the city prison until they are finally discharged therefrom. [1965 c 7 § 35.66.010. Prior: 1893 c 15 § 1; RRS § 9282.]

35.66.020 Appointment. The police matron or matrons employed or appointed in accordance with the provisions of this chapter shall be employed or appointed in the same manner as other regular members of the police departments in the city where the appointment is made. [1965 c 7 § 35.66.020. Prior: 1939 c 115 § 1; 1893 c 15 § 4; RRS § 9285.] [SLC-RO-4]

35.66.030 Assistance by police. Any person on the police force or, in their absence, any other person present, must aid and assist the matron when from necessity she may require it. [1965 c 7 § 35.66.030. Prior: 1893 c 15 § 2; RRS § 9283.]

35.66.040 Compensation. A police matron must be paid such compensation for her services as shall be fixed by the city council and at such time as may be appointed for the payment of policemen. [1965 c 7 § 35.66.040. Prior: 1893 c 15 § 6; RRS § 9287.]

35.66.050 Persons under arrest—Separate quarters. For the purpose of effecting the main object of this chapter, no member of one sex under arrest shall be confined in the same cell or apartment of the city jail or prison, with any member of the other sex whatever. [1973 1st ex.s. c 154 § 53; 1965 c 7 § 35.66.050. Prior: 1893 c 15 § 3; RRS § 9284.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Chapter 35.67 SEWERAGE SYSTEMS—REFUSE COLLECTION AND DISPOSAL

Sections

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Elections: Title 29 RCW.

Municipal water and sewer facilities act: Chapter 35.91 RCW.

Prepayment of taxes and assessments: RCW 35.21.650.

Sewer districts: Title 56 RCW.

Sewer facilities act: Chapter 35.91 RCW.

Sewerage improvement districts: Chapter 85.08 RCW.

35.67.010 Definitions—"System of sewerage", "public utility". A "system of sewerage" means and includes:

- (1) Sanitary sewage disposal sewers;
- (2) Combined sanitary sewage disposal and storm or surface water sewers;
- (3) Storm or surface water sewers;
- (4) Outfalls for storm or sanitary sewage and works, plants, and facilities for sanitary sewage treatment and disposal, or
- (5) Any combination of or part of any or all of such facilities.

The words "public utility" when used in this chapter shall have the same meaning as the words "system of sewerage." [1965 c 110 § 1; 1965 c 7 § 35.67.010. Prior: 1955 c 266 § 2; prior: 1941 c 193 § 1, part; Rem. Supp. 1941 § 9354-4, part.]

35.67.020 Authority to construct system and fix rates and charges—Classification of services. Every city and town may construct, condemn and purchase, acquire, add to, maintain, conduct, and operate systems of sewerage and systems and plants for refuse collection and disposal together with additions, extensions, and betterments thereto, within and without its limits, with full jurisdiction and authority to manage, regulate, and control them and to fix, alter, regulate, and control the rates and charges for the use thereof: *Provided*, That the rates charged must be uniform for the same class of customers or service. In classifying customers served or service furnished by such system of sewerage, the city or town legislative body may in its discretion consider any or all of the following factors: The difference in cost of service to the various customers; the location of the various customers within and without the city or town; the difference in cost of maintenance, operation, repair, and replacement of the various parts of the system; the different character of the service furnished various customers; the quantity and quality of the sewage delivered and the time of its delivery; capital contributions made to the system, including but not limited to, assessments; and any other matters which present a reasonable difference as a ground for distinction. [1965 c 7 § 35.67.020. Prior: 1959 c 90 § 1; 1955 c 266 § 3; prior: 1941 c 193 § 1, part; Rem. Supp. 1941 § 9354-4, part.]

35.67.030 Adoption of plan—Ordinance—Election—Vote required. Whenever the legislative body of any city or town, shall deem it advisable that such city

or town shall purchase, acquire or construct any public utility mentioned in RCW 35.67.020, or make any additions and betterments thereto, or extensions thereof, such legislative body shall provide therefor by ordinance, which shall specify and adopt the system or plan proposed, and declare the estimated cost thereof as near as may be, and the same shall be submitted for ratification or rejection to the qualified voters of such city or town at a general or special election, except in the following cases where no submission shall be necessary:

(1) When the adoption of a system of sewerage or system for collection and disposal of refuse, and the construction and operation of same, has been required and ordered by the state board of health.

(2) When no general indebtedness is to be incurred by such city or town in the acquiring, construction, maintenance or operation of such public utility, or when the work proposed is an addition or extension thereto or betterment thereof for which no general indebtedness is to be incurred by such city or town.

If a general indebtedness is to be incurred, the amount of such indebtedness and the terms thereof shall be included in the proposition submitted to the qualified voters as aforesaid and such proposition shall be adopted and assented to by a three-fifths majority of the qualified voters of such city or town voting at said election. Ten days' notice of such election shall be given in the newspaper doing the city or town printing, by publication in each issue of said paper during said time: *Provided, however*, That where the proposition to be submitted includes a proposed levy of taxes in excess of the levy to which the same is or may be limited by statute or the Constitution of the state of Washington without a vote of the people, then the procedure to be followed in the holding of such election shall be as prescribed by such statutory or constitutional provision regulating the holding of special elections authorizing levies in excess of such limitation. [1965 c 7 § 35.67.030. Prior: 1941 c 193 § 2; Rem. Supp. 1941 § 9354-5.]

Elections: Title 29 RCW.

Limitations upon indebtedness, how exceeded: State Constitution Art. 7 § 2 (Amendment 59), Art. 8 § 6 (Amendment 27), Chapter 39.36 RCW, RCW 84.52.050.

35.67.070 General indebtedness bonds—When issued. If the state board of health has ordered the adopting of and construction and operation of such system of sewerage or system for collection and disposal of refuse or the proposition has been adopted by vote of the people, who have authorized a general indebtedness therefor, general city or town bonds may be issued. [1965 c 7 § 35.67.070. Prior: 1941 c 193 § 3, part; Rem. Supp. 1941 § 9354-6, part.]

35.67.080 General indebtedness bonds—Terms—Denominations. The bonds shall: (1) Be registered or coupon bonds, (2) be issued in denominations of not less than one hundred dollars nor more than one thousand dollars, (3) be numbered from one upwards consecutively, (4) bear the date of their issue, (5) be serial in form finally maturing not more than thirty years

from date, (6) bear interest at the rate or rates as authorized by the legislative body of the city or town, payable annually or semiannually, with interest coupons attached, and the principal and interest shall be made payable at such place as may be designated. [1970 ex.s. c 56 § 42; 1969 ex.s. c 232 § 20; 1965 c 7 § 35.67-.080. Prior: 1941 c 193 § 3, part; Rem. Supp. 1941 § 9354-6, part.]

Purpose—Effective date—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

35.67.090 General indebtedness bonds—Signatures—Form. The bonds and each coupon shall be signed by the mayor and attested by the clerk, and the seal of such city or town shall be affixed to each bond, but not the coupons. Signatures on the coupons may be printed or lithographic facsimile of the signatures of said officials. Said bonds shall be printed, engraved or lithographed, on good bond paper. [1965 c 7 § 35.67-.090. Prior: 1941 c 193 § 3, part; Rem. Supp. 1941 § 9354-6, part.]

35.67.100 General indebtedness bonds—Sale of. The proceedings relative to the sale of bonds shall be those prescribed by RCW 39.44.030-39.44.060 as now or hereafter amended. [1965 c 7 § 35.67.100. Prior: 1941 c 193 § 3, part; Rem. Supp. 1941 § 9354-6, part.]

35.67.110 General indebtedness—Payment of bonds—Tax levy—Earnings. There shall be levied each year upon all taxable property within the city or town a tax sufficient to pay the interest on the bonds and the principal thereof as the same matures. These taxes shall become due and collectible as other taxes. In addition thereto the city or town legislative body, may set aside into a special fund and pledge to the payment of such principal and interest any sums or amounts which may accrue from the collection of service rates and charges for the private and public use of said sewerage system or systems for the collection and disposal of refuse, in excess of the cost of operation and maintenance thereof as constructed or added to, and the same shall be applied solely to the payment of such interest and bonds. Such pledge of revenue shall constitute a binding obligation, according to its terms, to continue the collection of such revenue so long as such bonds or any of them are outstanding. If the rates and charges are sufficient to meet the debt service requirements on such bonds no general tax need be levied. [1965 c 118 § 1; 1965 c 7 § 35.67.110. Prior: 1941 c 193 § 3, part; Rem. Supp. 1941 § 9354-6, part.]

35.67.120 Revenue bond fund—Authority to establish. After the city or town legislative body adopts a proposition for any such public utility, and either (1) no general indebtedness has been authorized, or (2) the city or town legislative body does not desire to incur a general indebtedness, and the legislative body can lawfully proceed without submitting the proposition to a vote of the people, it may create a special fund or funds

for the sole purpose of defraying the cost of the proposed system, or additions, betterments or extensions thereto.

The city or town legislative body may obligate the city or town to set aside and pay into this special fund: (1) A fixed proportion of the gross revenues of the system, or (2) a fixed amount out of and not exceeding a fixed proportion of the gross revenues, or (3) a fixed amount without regard to any fixed proportion, and (4) amounts received from any utility local improvement district assessments pledged to secure such bonds. [1967 c 52 § 24; 1965 c 7 § 35.67.120. Prior: 1941 c 193 § 4, part; Rem. Supp. 1941 § 9354-7, part.]

35.67.130 Revenue bond fund—Limitations upon creation. In creating the special fund, the city or town legislative body shall have due regard to the cost of operation and maintenance of the system as constructed or added to, and to any proportion or part of the revenue previously pledged as a fund for the payment of bonds, warrants and other indebtedness. It shall not set aside into the special fund a greater amount or proportion of the revenue and proceeds than in its judgment will be available over and above the cost of maintenance and operation and the amount or proportion of the revenue so previously pledged. [1965 c 7 § 35.67-.130. Prior: 1941 c 193 § 4, part; Rem. Supp. 1941 § 9354-7, part.]

35.67.140 Revenue bonds—Authority—Denominations—Terms. A city may issue revenue bonds against the special fund or funds created solely from revenues. The revenue bonds so issued shall: (1) Be registered or coupon bonds, (2) be issued in denominations of not less than one hundred dollars nor more than one thousand dollars, (3) be numbered from one upwards consecutively, (4) bear the date of their issue, (5) be serial in form finally maturing not more than thirty years from their date, (6) bear interest at the rate or rates as authorized by the legislative body of the city, payable annually or semiannually, with interest coupons attached, (7) be payable as to principal and interest at such place as may be designated therein, and (8) shall state upon their face that they are payable from a special fund, naming it and the ordinance creating it. [1970 ex.s. c 56 § 43; 1969 ex.s. c 232 § 71; 1965 c 7 § 35.67.140. Prior: 1941 c 193 § 4, part; Rem. Supp. 1941 § 9354-7, part.]

Purpose—Effective date—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

35.67.150 Revenue bonds—Signatures—Form. Every revenue bond and coupon shall be signed by the mayor and attested by the clerk. The seal of the city or town shall be attached to all bonds but not to the coupons. Signatures on the coupons may be printed or may be the lithographic facsimile of the signatures. The bonds shall be printed, engraved or lithographed upon good bond paper. [1965 c 7 § 35.67.150. Prior: 1941 c 193 § 4, part; Rem. Supp. 1941 § 9354-7, part.]

35.67.160 Revenue bonds—Obligation against fund, not city. Revenue bonds or warrants and interest shall be payable only out of the special fund. Every bond or warrant and interest thereon issued against the special fund shall be a valid claim of the holder thereof only as against that fund and its fixed proportion of the amount of revenue pledged to the fund, and shall not constitute an indebtedness of the city or town. Every warrant as well as every bond shall state on its face that it is payable from a special fund, naming it and the ordinance creating it. [1965 c 7 § 35.67.160. Prior: 1941 c 193 § 4, part; Rem. Supp. 1941 § 9354-7, part.]

35.67.170 Revenue bonds—Sale of—Other disposition. Revenue bonds and warrants may be sold in any manner the city or town legislative body deems for the best interests of the city or town. The legislative body may provide in any contract for the construction or acquisition of a proposed utility that payment therefor shall be made only in revenue bonds and warrants at their par value. [1965 c 7 § 35.67.170. Prior: 1941 c 193 § 4, part; Rem. Supp. 1941 § 9354-7, part.]

35.67.180 Revenue bonds—Remedy of holders. If a city fails to set aside and pay into the special fund created for the payment of revenue bonds and warrants the amount which it has obligated itself in the ordinance creating the fund to set aside and pay therein, the holder of any bond or warrant issued against the fund may bring suit against the city or town to compel it to do so. [1965 c 7 § 35.67.180. Prior: 1941 c 193 § 4, part; Rem. Supp. 1941 c 9354-7, part.]

35.67.190 Revenues from system—Classification of services—Minimum rates—Compulsory use. The legislative body of such city or town may provide by ordinance for revenues by fixing rates and charges for the furnishing of service to those served by its system of sewerage or system for refuse collection and disposal, which rates and charges shall be uniform for the same class of customer or service. In classifying customers served or service furnished by such system of sewerage, the city or town legislative body may in its discretion consider any or all of the following factors: The difference in cost of service to the various customers; the location of the various customers within and without the city or town; the difference in cost of maintenance, operation, repair, and replacement of the various parts of the system; the different character of the service furnished various customers; the quantity and quality of the sewage delivered and the time of its delivery; capital contributions made to the system, including but not limited to, assessments; and any other matters which present a reasonable difference as a ground for distinction.

If special indebtedness bonds or warrants are issued against the revenues, the legislative body shall by ordinance fix charges at rates which will be sufficient to take care of the costs of maintenance and operation, bond and warrant principal and interest, sinking fund requirements, and all other expenses necessary for efficient and proper operation of the system.

All property owners within the area served by such sewerage system shall be compelled to connect their private drains and sewers with such city or town system, under such penalty as the legislative body of such city or town may by ordinance direct. Such penalty may in the discretion of such legislative body be an amount equal to the charge that would be made for sewer service if the property was connected to such system. All penalties collected shall be considered revenue of the system. [1965 c 7 § 35.67.190. Prior: 1959 c 90 § 2; 1941 c 193 § 5; Rem. Supp. 1941 § 9354-8.]

35.67.194 Revenue bonds validated. Any and all water, sewer, or water and sewer revenue bonds part or all of which may have been heretofore (prior to June 8, 1955) issued by any city or town for the purpose of providing funds to pay part or all of the cost of acquiring, constructing, or installing a system of storm or surface water sewers or any part thereof necessary for the proper and efficient operation of a system of sanitary sewage disposal sewers or a sanitary sewage treatment plant, the proceedings for the issuance of which were valid in all other respects, are approved, ratified and validated, and are declared to be legal and binding obligations of such city or town, both principal of and interest on which are payable only out of the revenues of the utility or utilities pledged for such payment. [1965 c 7 § 35.67.194. Prior: 1955 c 266 § 5.]

35.67.200 Sewerage lien—Authority. Cities and towns owning their own sewer systems shall have a lien for delinquent and unpaid rates and charges for sewer service, penalties levied pursuant to RCW 35.67.190, and connection charges, including interest thereon, against the premises to which such service has been furnished or is available, which lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. The city or town by ordinance may provide that delinquent charges shall bear interest at not exceeding eight percent per annum. [1965 c 7 § 35.67.200. Prior: 1959 c 90 § 4; prior: 1941 c 193 § 6, part; Rem. Supp. 1941 § 9354-9, part.]

35.67.210 Sewerage lien—Extent—Notice. The sewerage lien shall be effective for a total of not to exceed six months' delinquent charges without the necessity of any writing or recording. In order to make such lien effective for more than six months' charges the city or town treasurer, clerk, or official charged with the administration of the affairs of the utility shall cause to be filed for record in the office of the county auditor of the county in which such city or town is located, a notice in substantially the following form:

"Sewerage lien notice

City (or town) of _____
 vs.
 _____ reputed owner.

Notice is hereby given that the city (or town) of _____ has and claims a lien for sewer charges

against the following described premises situated in _____ county, Washington, to wit:

(here insert legal description of premises)

Said lien is claimed for not exceeding six months such charges and interest now delinquent, amount to \$_____, and is also claimed for future sewerage charges against said premises.

Dated _____
City (or town) of _____
By _____"

The lien notice may be signed by the city or town treasurer or clerk or other official in charge of the administration of the utility. The lien notice shall be recorded as prescribed by law for the recording of mechanics' liens. [1965 c 7 § 35.67.210. Prior: 1959 c 90 § 5; prior: 1941 c 193 § 6, part; Rem. Supp. 1941 § 9354-9, part.]

Mechanics' and materialmen's liens recording of: RCW 60.04.064.

35.67.220 Sewerage lien foreclosure—Parts—Tracts. The city or town may foreclose its sewerage lien in an action in the superior court. All or any of the tracts subject to the lien may be proceeded against in the same action, and all parties appearing of record as owning or claiming to own, having or claiming to have any interest in or lien upon the tracts involved in the action shall be impleaded in the action as parties defendant. [1965 c 7 § 35.67.220. Prior: 1941 c 193 § 7, part; Rem. Supp. 1941 § 9354-10, part.]

35.67.230 Sewerage lien foreclosure—Limitation on time of commencement. An action to foreclose a sewerage lien pursuant to a lien notice filed as required by law must be commenced within two years from the date of the filing thereof.

An action to foreclose a six months' lien may be commenced at any time after six months subsequent to the furnishing of the sewerage service for which payment has not been made. [1965 c 7 § 35.67.230. Prior: 1941 c 193 § 7, part; Rem. Supp. 1941 § 9354-10, part.]

35.67.240 Sewerage lien foreclosure—Procedure. The service of summons, and all other proceedings except as herein otherwise prescribed including appeal, order of sale, sale, redemption, and issuance of deed, shall be governed by the statutes now or hereafter in force relating to the foreclosure of mortgages on real property. The terms "judgment debtor" or "successor in interest" in the statutes governing redemption when applied herein shall include an owner or a vendee. [1965 c 7 § 35.67.240. Prior: 1941 c 193 § 7, part; Rem. Supp. 1941 § 9354-10, part.]

35.67.250 Sewerage lien foreclosure—Trial. A sewerage lien foreclosure action shall be tried before the court without a jury. The court may allow in addition to interest on the service charges at a rate not exceeding eight percent per year from date of delinquency, costs and disbursements as provided by statute and such attorneys' fees as the court may adjudge reasonable.

If the owners and parties interested in any particular tract default, the court may enter judgment of foreclosure and sale as to such parties and tracts and the action may proceed as to the remaining defendants and tracts. The judgment shall specify separately the amount of the sewerage charges, with interest, penalty and costs chargeable to each tract. The judgment shall have the effect of a separate judgment as to each tract described in the judgment, and any appeal shall not invalidate or delay the judgment except as to the property concerning which the appeal is taken. In the judgment the court shall order the tracts therein described sold at one general sale, and an order of sale shall issue pursuant thereto for the enforcement of the judgment. Judgment may be entered as to any one or more separate tracts involved in the action, and the court shall retain jurisdiction of other properties. [1965 c 7 § 35.67.250. Prior: 1941 c 193 § 7, part; Rem. Supp. 1941 § 9354-10, part.]

35.67.260 Sewerage lien foreclosure—Redemption. All sales shall be subject to the right of redemption within one year from date of sale. [1965 c 7 § 35.67.260. Prior: 1941 c 193 § 7, part; Rem. Supp. 1941 § 9354-10, part.]

35.67.270 Sewerage sale acquired property—Disposition. At any time after deed is issued to it pursuant to lien, a city or town may lease or sell or convey any property at public or private sale for such price and on such terms as may be determined by resolution of the city or town legislative body, any provision of law, charter or ordinance to the contrary notwithstanding. [1965 c 7 § 35.67.270. Prior: 1941 c 193 § 8; Rem. Supp. 1941 § 9354-11.]

35.67.280 Sewerage sale acquired property—Payment of delinquent taxes. After the entry of judgment of foreclosure against any tract, the city or town may pay delinquent general taxes or purchase certificates of delinquency for general taxes on the tract or purchase the tract at county tax foreclosure or from the county after foreclosure.

After entry of judgment of foreclosure against any premises the city or town may pay local or special assessments which are delinquent or are about to become delinquent and if the tract has been foreclosed upon for local or special assessments and the time for redemption has not expired, it may redeem it.

No moneys shall be expended for the purposes enumerated in this section except upon enactment by the city or town legislative body of a resolution determining the desirability or necessity of making the expenditure. [1965 c 7 § 35.67.280. Prior: 1941 c 193 § 9; Rem. Supp. 1941 § 9354-12.]

35.67.290 Sewerage lien—Enforcement—Alternative method. As an additional and concurrent method of enforcing the lien authorized in this chapter any city or town operating its own municipal water system may provide by ordinance for the enforcement of the lien by cutting off the water service from the premises to which

such sewer service was furnished after the charges become delinquent and unpaid, until the charges are paid.

The right to enforce the lien by cutting off and refusing water service shall not be exercised after two years from the date of the recording of sewerage lien notice except to enforce payment of six months' charges for which no lien notice is required to be recorded. [1965 c 7 § 35.67.290. Prior: 1941 c 193 § 10; Rem. Supp. 1941 § 9354-13.]

35.67.300 Sewer districts and municipalities—Joint agreements. Any city, town, or organized and established sewer district owning or operating its own sewer system, whenever topographic conditions shall make it feasible and whenever such existing sewer system shall be adequate therefor in view of the sewerage and drainage requirements of the property in such city, town, or sewer district, served or to be served by such system, may contract with any other city, town, or organized and established sewer district for the discharge into its sewer system of sewage from all or any part or parts of such other city, town, or sewer district upon such terms and conditions and for such periods of time as may be deemed reasonable.

Any city, town, or organized and established sewer district may contract with any other city, town, or organized and established sewer district for the construction and/or operation of any sewer or sewage disposal facilities for the joint use and benefit of the contracting parties upon such terms and conditions and for such period of time as the governing bodies of the contracting parties may determine. Any such contract may provide that the responsibility for the management of the construction and/or maintenance and operation of any sewer disposal facilities or part thereof covered by such contract shall be vested solely in one of the contracting parties, with the other party or parties thereto paying to the managing party such portion of the expenses thereof as shall be agreed upon. [1965 c 7 § 35.67.300. Prior: 1947 c 212 § 3; 1941 c 193 § 11; Rem. Supp. 1947 § 9354-14.]

35.67.310 Sewers—Outside city connections. Every city or town may permit connections with any of its sewers, either directly or indirectly, from property beyond its limits, upon such terms, conditions and payments as may be prescribed by ordinance, which may be required by the city or town to be evidenced by a written agreement between the city or town and the owner of the property to be served by the connecting sewer.

If any such agreement is made and filed with the county auditor of the county in which said property is located, it shall constitute a covenant running with the land and the agreements and covenants therein shall be binding on the owner and all persons subsequently acquiring any right, title or interest in or to said property.

If the terms and conditions of the ordinance or of the agreement are not kept and performed, or the payments made, as required, the city or town may disconnect the sewer and for that purpose may at any time enter upon any public street or road or upon said property. [1965 c

7 § 35.67.310. Prior: 1941 c 75 § 1; Rem. Supp. 1941 § 9354-19.]

35.67.331 Water, sewerage, garbage systems—Combined facilities. A city or town may by ordinance provide that its water system, sewerage system, and garbage and refuse collection and disposal system may be acquired, constructed, maintained and operated jointly, either by combining any two of such systems or all three. All powers granted to cities and towns to acquire, construct, maintain and operate such systems may be exercised in the joint acquisition, construction, maintenance and operation of such combined systems: *Provided*, That if a general indebtedness is to be incurred to pay a part or all of the cost of construction, maintenance, or operation of such a combined system, no such indebtedness shall be incurred without such indebtedness first being authorized by a vote of the people at a special or general election conducted in the manner prescribed by law: *Provided further*, That nothing in this amendatory act shall be construed to supersede charter provisions to the contrary. [1969 ex.s. c 51 § 1.]

Reviser's note: "this amendatory act" [1969 ex.s. c 51] consists of this section, RCW 35.13.255, 35A.14.365, the 1969 amendment to RCW 35.67.340 and to the repeal of RCW 35.67.320 and 35.67.330.

35.67.340 Statutes governing combined facility. The operation by a city or town of a combined facility as provided for in RCW 35.67.331 shall be governed by the statutes relating to the establishment and maintenance of a city or town water system if the water system is one of the systems included in the combined acquisition, construction, or operation; otherwise the combined system shall be governed by the statutes relating to the establishment and maintenance of a city or town sewerage system. [1969 ex.s. c 51 § 2; 1965 c 7 § 35.67.340. Prior: 1941 c 193 § 12, part; Rem. Supp. 1941 § 9354-15, part.]

35.67.350 Penalty for sewer connection without permission. It is unlawful and a misdemeanor to make or cause to be made or to maintain any sewer connection with any sewer of any city or town, or with any sewer which is connected directly or indirectly with any sewer of any city or town without having permission from the city or town. [1965 c 7 § 35.67.350. Prior: 1943 c 100 § 1; Rem. Supp. 1943 § 9354-20.]

Chapter 35.68

SIDEWALKS, GUTTERS, CURBS, AND DRIVEWAYS—ALL CITIES AND TOWNS

Sections	
35.68.010	Authority conferred.
35.68.020	Resolution—Contents.
35.68.030	Resolution—Publication—Notice—Hearing.
35.68.040	"Sidewalk construction fund"
35.68.050	Assessment roll—Hearing—Notice—Confirmation—Appeal.
35.68.060	Method of payment of assessments.
35.68.070	Collection of assessments.
35.68.075	Curb ramps for physically handicapped required.
35.68.080	Construction of chapter.

35.68.010 Authority conferred. Any city or town, hereinafter referred to as city, is authorized to construct, reconstruct, and repair sidewalks, gutters and curbs along and driveways across sidewalks, which work is hereafter referred to as the improvement, and to pay the costs thereof from any available funds, or to require the abutting property owner to construct the improvement at his own cost or expense, or to assess all or any portion of the costs thereof against the abutting property owner. [1965 c 7 § 35.68.010. Prior: 1949 c 177 § 1; Rem. Supp. 1949 § 9332a.]

35.68.020 Resolution—Contents. No such improvement shall be undertaken or required except pursuant to a resolution of the council or commission of the city or town, hereinafter referred to as the city council. The resolution shall state whether the cost of the improvement shall be borne by the city or whether all or a specified portion shall be borne by the city or whether all or a specified portion shall be borne by the abutting property owner; or whether the abutting owner is required to construct the improvement at his own cost and expense. If the abutting owner is required to construct the improvement the resolution shall specify the time within which the construction shall be commenced and completed; and further that if the improvement or construction is not undertaken and completed within the time specified that the city will perform or complete the improvement and assess the cost against the abutting owner. [1965 c 7 § 35.68.020. Prior: 1949 c 177 § 2; Rem. Supp. 1949 § 9332b.]

35.68.030 Resolution—Publication—Notice—Hearing. If all or any portion of the cost is to be assessed against the abutting property owner, or if the abutting property owner is required to construct the improvement, the resolution shall fix a time from and after its passage, and a place, for hearing on the resolution. The resolution shall be published for two consecutive weeks before the time of hearing in the official newspaper or regularly published official publication of the city or town and a notice of the date of such hearing shall be given each owner or reputed owner of the abutting property by mailing to the owner or reputed owner of the property as shown on the tax rolls of the county treasurer, at the address shown thereon a notice of the date of hearing, such mailing to be at least ten days before the date fixed for such hearing. If there be no official newspaper or official publication in the city the resolution may be published in any newspaper of general circulation therein. If the publication and mailing is made as herein required, proof thereof by affidavit shall be filed with the city clerk, comptroller or auditor of the city before the hearing. The hearing may be postponed from time to time to a definite date until the hearing is held. At the time of hearing the council shall hear persons who appear for or against the improvement, and determine whether it will or will not proceed with the improvement and whether it will make any changes in the original plan, and what the changes shall be. This action may be taken by motion adopted

in the usual manner. [1965 c 7 § 35.68.030. Prior: 1949 c 177 § 3; Rem. Supp. 1949 § 9332c.]

35.68.040 "Sidewalk construction fund". When all or any portion of the cost is to be assessed against the abutting property owner, the city council may create a "sidewalk construction fund No. _____" to be numbered differently for each improvement; and with warrants drawn on this fund the cost of the respective improvements may be paid. The city may advance as a loan to the sidewalk construction fund from any available funds the amounts necessary to pay any costs of the improvement. When any assessments are made for the improvement, payments therefor shall be paid into the particular sidewalk improvement fund; and whenever any funds are available over the amounts necessary to pay outstanding warrants any advances or loans made to the fund shall be repaid. Whenever warrants are drawn on any such fund which are not paid for want of sufficient funds, they shall be so stamped and shall bear interest until called and paid at a rate established by the city council by resolution. [1965 c 7 § 35.68.040. Prior: 1949 c 177 § 4; Rem. Supp. 1949 § 9332d.]

35.68.050 Assessment roll—Hearing—Notice—Confirmation—Appeal. Where all or any portion of the costs are to be assessed against the abutting property, an assessment roll shall be prepared by the proper city official or by the city council which shall to the extent necessary be based on benefits and which shall describe the property assessed, the name of the owner, if known, otherwise stating that the owner is unknown and fixing the amount of the assessment. The assessment roll shall be filed with the city clerk, and when so filed the council shall by resolution fix a date for hearing thereon and direct the clerk to give notice of such hearing and the time and place thereof. The notice of hearing shall be mailed to the person whose name appears on the county treasurer's tax roll as the owner or reputed owner of the property, at the address shown thereon, and shall be published before the date fixed for the hearing for two consecutive weeks in the official newspaper or regular official publication of the city, or if there is no official newspaper or official publication, in a newspaper of general circulation in the city. The notice shall be mailed and first publication made at least ten days before the hearing date. Proof of mailing and publication shall be made by affidavit and shall be filed with the city clerk before the date fixed for the hearing. Following the hearing the city council shall by ordinance affirm, modify, or reject or order recasting of the assessment roll. An appeal may be taken to the superior court from the ordinance confirming the assessment roll in the same manner as is provided for appeals from the assessment roll by chapters 35.43 to 35.54 RCW, inclusive, as now or hereafter amended. [1965 c 7 § 35.68.050. Prior: 1949 c 177 § 5; Rem. Supp. 1949 § 9332e.]

35.68.060 Method of payment of assessments. The city council shall by resolution provide whether the full amount of the assessment shall be paid in one payment or whether it may be paid in installments and shall prescribe the time and amount of such payments; and if more than one payment is provided for, the city council may by resolution provide for interest on unpaid installments and fix the rate thereof. [1965 c 7 § 35.68.060. Prior: 1949 c 177 § 6; Rem. Supp. 1949 § 9332f.]

35.68.070 Collection of assessments. The assessment roll as affirmed or modified by the city council shall be filed with the city treasurer for collection, and the amount thereof including interest, if any, shall become a lien against the property described therein from the date of such filing. Whenever any payment on any assessment or installment is delinquent and unpaid for a period of thirty days or more the lien may be foreclosed in the same manner and with the same effect as is provided by chapters 35.43 to 35.54 RCW, inclusive; as now or hereafter amended. Whenever the deed is issued after the sale therein provided, the regularity, validity and correctness of the proceedings relating to such improvement and the assessment therefor shall be final and conclusive and no action shall thereafter be brought by or in behalf of any person to set aside said deed. [1965 c 7 § 35.68.070. Prior: 1949 c 177 § 7; Rem. Supp. 1949 § 9332g.]

35.68.075 Curb ramps for physically handicapped required. (1) The standard for construction of curbs on each side of any city or town street, or any connecting street or town road for which curbs and sidewalks have been prescribed by the governing body of the town or city having jurisdiction thereover, shall be not less than two ramps per lineal block on or near the crosswalks at intersections. Such ramps shall be at least thirty-six inches wide and so constructed as to allow reasonable access to the crosswalk for physically handicapped persons.

(2) Standards set for curb ramping under subsection (1) of this section shall not apply to any curb existing upon enactment of this section but shall apply to all new curb construction and to all replacement curbs constructed at any point in a block which gives reasonable access to a crosswalk. [1973 c 83 § 1.]

35.68.080 Construction of chapter. This chapter is supplemental and additional to any and all other laws relating to construction, reconstruction, and repair of sidewalks, gutters, and curbs along driveways across sidewalks in cities and towns. [1965 c 7 § 35.68.080. Prior: 1949 c 177 § 8; Rem. Supp. 1949 § 9332h.]

Chapter 35.69
SIDEWALKS—CONSTRUCTION,
RECONSTRUCTION IN FIRST, SECOND AND
THIRD CLASS CITIES

Sections

35.69.010 Definitions.
35.69.020 Resolution of necessity—Liability of abutting property.

35.69.030 Notice to owners—Service—Contents—Assessment—Collection.
35.69.040 Abutting property defined.
35.69.050 Construction of chapter.

35.69.010 Definitions. The term "street" as used herein includes boulevard, avenue, street, alley, way, lane, square or place.

The term "city" includes any city of the first, second or third class or any other city of equal population working under a special charter.

The term "sidewalk" includes any and all structures or forms of street improvement included in the space between the street margin and the roadway. [1965 c 7 § 35.69.010. Prior: 1927 c 203 § 1; RRS § 9332-1.]

35.69.020 Resolution of necessity—Liability of abutting property. Whenever a portion, not longer than one block in length, of any street in any city is not improved by the construction of a sidewalk thereon, or the sidewalk thereon has become unfit or unsafe for purposes of public travel, and such street adjacent to both ends of said portion is so improved and in good repair, and the city council of such city by resolution finds that the improvement of such portion of such street by the construction or reconstruction of a sidewalk thereon is necessary for the public safety and convenience, the duty, burden, and expense of constructing or reconstructing such sidewalk shall devolve upon the property directly abutting upon such portion: *Provided*, That such abutting property shall not be charged with any costs of construction or reconstruction under this chapter in excess of fifty percent of the valuation of such abutting property, exclusive of improvements thereon, according to the valuation last placed upon it for purposes of general taxation. [1965 c 7 § 35.69.020. Prior: 1927 c 203 § 2; RRS § 9332-2.]

35.69.030 Notice to owners—Service—Contents—Assessment—Collection. Whenever the city council of any such city has adopted such resolution it shall cause a notice to be served on the owner of the property directly abutting on such portion of such street, instructing him to construct or reconstruct a sidewalk on such portion in accordance with the plans and specifications which shall be attached to such notice. The notice shall be deemed sufficiently served if delivered in person to the owner or if left at the home of such owner with a person of suitable age and discretion then resident therein, or with an agent of such owner, authorized to collect rentals on such property, or, if the owner is a nonresident of the state of Washington, by mailing a copy to his last known address, or if he is unknown or if his address is unknown, then by posting a copy in a conspicuous place at such portion of the street where the improvement is to be made. The notice shall specify a reasonable time within which such construction or reconstruction shall be made, and shall state that in case the owner fails to make the same within such time, the city will proceed to make it through the officer or department thereof charged with the inspection of sidewalks and that such officer or department will report to the city council, at a

subsequent date, to be definitely stated in the notice, an assessment roll showing the lot or parcel of land directly abutting on such portion of the street so improved, the cost of the improvement, and the name of the owner, if known, and that the city council at the time stated in the notice or at the time or times to which the same may be adjourned, will hear any and all protests against the proposed assessment. Upon the expiration of the time fixed within which the owner is required to construct or reconstruct such sidewalk, if the owner has failed to perform such work, the city may proceed to perform it, and the officer or department of the city performing the work shall, within the time fixed in the notice, report to the city council an assessment roll showing the lot or parcel of land directly abutting on that portion of the street so improved, the cost of the work, and the name of the owner, if known. The city council shall, at the time in such notice designated, or at an adjourned time or times, assess the cost of such improvement against said property and shall fix the time and manner for payment thereof, which said assessment shall become a lien upon said property and shall be collected in the manner as is provided by law for collection of local improvements assessments under this title. [1965 c 7 § 35.69.030. Prior: 1927 c 203 § 3; RRS § 9332-3.]

35.69.040 Abutting property defined. For the purposes of this chapter all property having a frontage upon the sides or margins of any street shall be deemed to be abutting property, and such property shall be chargeable, as provided herein, for all costs of construction or reconstruction or any form of sidewalk improvement between the margin of said street and the roadway lying in front of and adjacent to said property. [1965 c 7 § 35.69.040. Prior: 1927 c 203 § 4; RRS § 9332-4.]

35.69.050 Construction of chapter. Nothing in this chapter shall be construed to limit or repeal any existing powers of cities with reference to the construction or reconstruction of sidewalks or the improvement or maintenance of streets, but the power and authority herein granted is to be exercised concurrent with or in extension of powers and authority now existing. The legislative authority of any city before exercising the powers and authority herein granted shall, by proper ordinance, provide for the application and enforcement of the same within the limitations herein specified. [1965 c 7 § 35.69.050. Prior: 1927 c 203 § 5; RRS § 9332-5.]

Chapter 35.70

SIDEWALKS—CONSTRUCTION IN THIRD CLASS CITIES AND TOWNS

Sections

35.70.010	Definitions.
35.70.020	Owners' responsibility.
35.70.030	Convenience and necessity reported by superintendent.
35.70.040	Council's resolution and notice—Adoption.
35.70.050	Council's resolution and notice—Contents.
35.70.060	Notice of resolution and order—Service.
35.70.070	Superintendent to construct and prepare assessment roll.
35.70.080	Hearing on assessment roll—Notice.

35.70.090	Lien of assessments and foreclosure.
35.70.100	Provisions of chapter not exclusive.

35.70.010 Definitions. For the purposes of this chapter all property having a frontage on the side or margin of any street or other public place shall be deemed abutting property, and such property shall be chargeable, as provided in this chapter, with all costs of construction of any form of sidewalk improvement, between the margin of said street or other public place and the roadway lying in front of and adjacent to said property, and the term sidewalk as used in this chapter shall be construed to mean and include any and all structures or forms of improvement included in the space between the street margin and the roadway known as the sidewalk area. [1965 c 7 § 35.70.010. Prior: 1915 c 149 § 7; RRS § 9161.]

35.70.020 Owners' responsibility. In all cities of the third class and towns the burden and expense of constructing sidewalks along the side of any street or other public place shall devolve upon and be borne by the property directly abutting thereon. [1965 c 7 § 35.70.020. Prior: 1915 c 149 § 1; RRS § 9155.]

35.70.030 Convenience and necessity reported by superintendent. If in the judgment of the officer or department having superintendence of streets and public places, public convenience or safety requires that a sidewalk be constructed along either side of any street, he shall report the fact to the city or town council immediately. [1965 c 7 § 35.70.030. Prior: 1915 c 149 § 2, part; RRS § 9156, part.]

35.70.040 Council's resolution and notice—Adoption. If upon receiving a report from the proper officer, the city or town council deems the construction of the proposed sidewalk necessary or convenient for the public it shall by an appropriate resolution order the sidewalk constructed and shall cause a written notice to be served upon the owner of each parcel of land abutting upon that portion and side of the street where the sidewalk is constructed requiring him to construct the sidewalk in accordance with the resolution. [1965 c 7 § 35.70.040. Prior: 1915 c 149 § 2, part; RRS § 9156, part.]

35.70.050 Council's resolution and notice—Contents. The resolution and notice and order to construct a sidewalk shall:

- (1) Describe each parcel of land abutting upon that portion and side of the street where the sidewalk is ordered to be constructed,
- (2) Specify the kind of sidewalk required, its size and dimensions, the method and material to be used in construction,
- (3) Contain an estimate of the cost thereof, and
- (4) State that unless the sidewalk is constructed in compliance with the notice, and within a reasonable time therein specified, the city or town will construct the sidewalk and assess the cost and expense thereof against the abutting property described in the notice.

[1965 c 7 § 35.70.050. Prior: 1915 c 149 § 3; RRS § 9157.]

35.70.060 Notice of resolution and order—Service. The notice shall be served:

(1) By delivering a copy to the owner or reputed owner of each parcel of land affected, or to the authorized agent of the owners, or

(2) By leaving a copy thereof at the usual place of abode of such owner in the city or town with a person of suitable age and discretion residing therein, or

(3) If the owner is a nonresident of the city or town and his place of residence is known by mailing a copy to the owner addressed to his last known place of residence, or

(4) If the place of residence of the owner is unknown or if the owner of any parcel of land affected is unknown, by publication in two weekly issues of the official newspaper of such city or town or if there be no official newspaper then in any weekly newspaper published in said city or town. Such notice shall specify a reasonable time within which said sidewalk shall be constructed which in the case of publication of the notice shall not be less than sixty days from the date of the first publication of such notice. [1965 c 7 § 35.70.060. Prior: 1915 c 149 § 4; RRS § 9158.]

35.70.070 Superintendent to construct and prepare assessment roll. If the notice and order to construct a sidewalk is not complied with within the time therein specified, the officer or department having the superintendence of streets shall proceed to construct said sidewalk forthwith and shall report to the city or town council at its next regular meeting or as soon thereafter as is practicable an assessment roll showing each parcel of land abutting upon the sidewalk, the name of the owner thereof if known, and apportion the cost of said improvement to be assessed against each parcel of such land. [1965 c 7 § 35.70.070. Prior: 1915 c 149 § 5, part; RRS § 9159, part.]

35.70.080 Hearing on assessment roll—Notice. Thereupon the city or town council shall set a date for hearing any protests against the proposed assessment roll and shall cause a notice of the time and place of said hearing to be published for two successive weeks in the official newspaper of said city or town or if there is no official newspaper then in any weekly newspaper published in such city or town, the date of said hearing to be not less than thirty days from the date of the first publication of said notice. At the hearing or at any adjournment thereof the council by ordinance shall assess the cost of constructing the sidewalk against the abutting property in accordance with the benefits thereto. [1965 c 7 § 35.70.080. Prior: (i) 1915 c 149 § 5, part; RRS § 9159, part. (ii) 1915 c 149 § 6, part; RRS § 9160, part.]

35.70.090 Lien of assessments and foreclosure. The assessments shall become a lien upon the respective parcels of land and shall be collected in the manner provided by law for the collection of local improvement

assessments and shall bear interest at the rate of six percent per annum from the date of the approval of said assessment thereon. [1965 c 7 § 35.70.090. Prior: 1915 c 149 § 6, part; RRS § 9160, part.]

Collection and foreclosure of local improvement assessments: Chapters 35.49, 35.50 RCW.

35.70.100 Provisions of chapter not exclusive. This chapter shall not be construed as repealing or amending any provision relating to the improvement of streets or public places by special assessments commonly known as local improvement laws, but shall be considered as additional legislation and auxiliary thereto and the city or town council, of any city of the third class or town before exercising the authority herein granted may by ordinance provide for the application and enforcement of the provisions of this chapter within the limitations herein specified. [1965 c 7 § 35.70.100. Prior: 1915 c 149 § 8; RRS § 9162.]

Chapter 35.71 PEDESTRIAN MALLS

Sections

35.71.010	Definitions.
35.71.020	Establishment declared public purpose—Authority to establish—General powers.
35.71.030	Resolution of intention—Traffic limitation—Property owner's right of ingress and egress.
35.71.040	Plan—Alternate vehicle routes—Off-street parking—Hearing, notice.
35.71.050	Real estate appraisers—Report.
35.71.060	Financing methods.
35.71.070	Waivers and quitclaim deeds—Rights in right of way.
35.71.080	Vacating, replatting right of way for mall purposes.
35.71.090	"Mall organization"—Powers in general—Directors—Officers.
35.71.100	Special assessment.
35.71.110	Claims for damages.
35.71.120	Contracts with mall organization for administration—Conflicting charter provisions.
35.71.130	Election to discontinue mall—Ordinance—Outstanding obligations—Restoration to former status.
35.71.910	Chapter controls inconsistent laws.

35.71.010 Definitions. As used in this chapter, the following terms shall have the meaning herein given to each of them:

"City" means any city or town.

"Chief executive" means the mayor in a mayor-council or commission city and city manager in a council-manager city.

"Corporate authority" means the legislative body of any city.

"Project" means a pedestrian mall project.

"Right of way" means that area of land dedicated for public use or secured by the public for purposes of ingress and egress to abutting property and other public purposes.

"Mall" means an area of land, part of which may be surfaced, landscaped, and used entirely for pedestrian movements, except with respect to governmental functions, utilities, and loading and unloading of goods.

"Mall organization" means a group of property owners, lessors, or lessees in an area that has been organized to consider the establishment, maintenance, and

operation of a mall in a given area and persons owning or having any legal or equitable interest in the real property affected by the establishment of the mall. [1965 c 7 § 35.71.010. Prior: 1961 c 111 § 1.]

35.71.020 Establishment declared public purpose—Authority to establish—General powers. The establishment of pedestrian malls is declared to be for a public purpose. Any corporate authority, by ordinance, may establish and regulate any street right of way as a mall, may prohibit, in whole or in part, vehicular traffic on a mall, and may provide for the acquisition of any interest in the right of way necessary to its establishment, and may provide for the determination of legal damages, if any, to abutting property. [1965 c 7 § 35.71.020. Prior: 1961 c 111 § 2.]

35.71.030 Resolution of intention—Traffic limitation—Property owner's right of ingress and egress. When the corporate authority determines that the public interest, safety, and convenience is best served by the establishment of a mall and that vehicular traffic will not be unduly inconvenienced thereby, it may adopt a resolution declaring its intention to do so, and announcing the intended extent of traffic limitation. Any corporate authority is authorized to limit the utilization of any right of way, except for utilities and governmental functions, provided adequate alternative routes for vehicular movement, and the loading and unloading of goods are established or are available. The abutting property owner's right of ingress and egress shall be considered to have been satisfied whenever the corporate authority has planned and constructed, or there is available, an alternate route, alleyway, and service driveway. [1965 c 7 § 35.71.030. Prior: 1961 c 111 § 3.]

35.71.040 Plan—Alternate vehicle routes—Off-street parking—Hearing, notice. Before a mall is established, a plan shall be formulated consistent with the city's comprehensive plan, including at least the area of the right of way between two intersecting streets and showing alternate routes outside the mall area upon which any vehicles excluded from using the mall may be accommodated; it may include a provision for on and off-street parking. After the plans have been prepared, the corporate authority shall hold a public hearing thereon, giving notice of time and place at least two weeks in advance of the hearing in a newspaper of general circulation in the city and as required by chapter 42.32 RCW. [1965 c 7 § 35.71.040. Prior: 1961 c 111 § 4.]

35.71.050 Real estate appraisers—Report. The corporate authority is authorized to engage duly qualified real estate appraisers, for the purpose of determining the value, or legal damages, if any, to any person, owning or having any legal or equitable interest in any real property who contends that he would suffer damage if a projected mall were established; in connection therewith the city shall take into account any increment in value that may result from the establishment of the

mall. The appraisers shall submit their findings in writing to the chief executive of the city. [1965 c 7 § 35.71.050. Prior: 1961 c 111 § 5.]

35.71.060 Financing methods. The corporate authority may finance the establishment of a mall, including, but not limited to, right of way improvements, traffic control devices, and off-street parking facilities in the vicinity of the mall, by one or more of the following methods or by a combination of any two or more of them:

(1) By creating local improvement districts under the laws applicable thereto in Title 35 RCW.

(2) By issuing revenue bonds pursuant to chapter 35.41 RCW, RCW 35.24.305, chapter 35.92 RCW, RCW 35.81.100, and by such other statutes that may authorize such bonds.

(3) By issuing general obligation bonds pursuant to chapter 39.52 RCW, RCW 35.81.115, and by such other statutes and applicable provisions of the state Constitution that may authorize such bonds.

(4) By use of gifts and donations.

(5) General fund and other available moneys: *Provided*, That if any general fund moneys are expended for a mall, provision may be made for repayment thereof to the general fund from money received from the financing of the mall.

The corporate authority may include within the cost of any mall project the expense of moving utilities, or any facility located within a right of way. [1965 c 7 § 35.71.060. Prior: 1961 c 111 § 6.]

35.71.070 Waivers and quitclaim deeds—Rights in right of way. The corporate authority may formulate, solicit, finance and acquire, purchase, or negotiate the acquisition of waivers and the execution of quitclaim deeds by persons owning or having any legal or equitable interest in the real property affected by the establishment of a mall, conveying the necessary rights to the city to prohibit through vehicular traffic and otherwise limit vehicular access to, and from, such right of way: *Provided*, That the execution of such waivers and quitclaim deeds shall not operate to extinguish the rights of the abutting owner, lessor, or lessee in the right of way, not included in such waiver or quitclaim deed. [1965 c 7 § 35.71.070. Prior: 1961 c 111 § 7.]

35.71.080 Vacating, replatting right of way for mall purposes. The corporate authority, as an alternate to the preceding methods, may find that the right of way no longer is needed as a right of way. When persons owning or having any legal or equitable interest in the real property affected by a proposed mall, present a petition to the corporate authority for vacating the right of way pursuant to chapter 35.79 RCW, or the corporate authority initiates by resolution such a vacation proceeding, a right of way may be vacated and replatted for mall purposes, and closed to vehicular traffic except as provided in RCW 35.71.030, consistent with the subdivision standards allowed by Title 58 RCW, and chapter 35.63 RCW. [1965 c 7 § 35.71.080. Prior: 1961 c 111 § 8.]

35.71.090 "Mall organization"—Powers in general—Directors—Officers. The corporate authority may cause an organization of persons to be known as a "Mall organization" interested in creating a mall in a given area to be formed to provide for consultative assistance to the city with respect to the establishment and administration of a mall. This organization may elect a board of directors of not less than three nor more than twelve members. The board shall elect a president, a vice president, and a secretary from its membership. [1965 c 7 § 35.71.090. Prior: 1961 c 111 § 9.]

35.71.100 Special assessment. After the establishment of the mall, the corporate authority may levy a special assessment on the real property within the area specially benefited by the improvement. Such special levy, if any, shall be for operation and maintenance of the mall and appurtenances thereto, which may not exceed one percent of the aggregate actual valuation of the real property (including twenty-five percent of the actual valuation of the improvements thereon) according to the valuation last placed upon it for purposes of general taxation: *Provided*, That if a mall organization board of directors exists as authorized by RCW 35.71.090, the corporate authority may entertain a recommendation from this organization with respect to such a levy by the corporate authority. [1965 c 7 § 35.71.100. Prior: 1961 c 111 § 10.]

35.71.110 Claims for damages. Following the public hearing on the ordinance to establish a mall any person owning or having any legal or equitable interest in property which might be affected by reason of the establishment of the proposed mall or the board of directors of a mall organization shall, within twenty days of such hearing, file with the city clerk a statement describing the real property as to which the claim is made, the nature of the claimant's interest therein, the nature of the alleged damage thereto and the amount of damages claimed. After the receipt thereof, the corporate authority may negotiate with the affected parties concerning them or deny them. [1965 c 7 § 35.71.110. Prior: 1961 c 111 § 11.]

35.71.120 Contracts with mall organization for administration—Conflicting charter provisions. If the corporate authority desires to have the mall administered by a mall organization rather than by one of its departments, the corporate authority may execute a contract with such an organization for the administration of the mall upon mutually satisfactory terms and conditions: *Provided*, That if any provision of a city charter conflicts with this section, such provision of the city charter shall prevail. [1965 c 7 § 35.71.120. Prior: 1961 c 111 § 12.]

35.71.130 Election to discontinue mall—Ordinance—Outstanding obligations—Restoration to former status. The board of directors of a mall organization may call for an election, after the mall has been in operation for two years, at which the voting shall be

by secret ballot, on the question: "Shall the mall be continued in operation?" If sixty percent of the membership of the organization vote to discontinue the mall, the results of the election shall be submitted to the corporate authority. The corporate authority may initiate proceedings by ordinance for the discontinuation of the mall, allocate the proportionate amount of the outstanding obligations of the mall to the abutting property of the mall or property specially benefited if a local improvement district is established, subject to the provisions of any applicable statutes and bond ordinances, resolutions, or agreements, and thereafter, at a time set by the corporate authority, the mall may be restored to its former right of way status. [1965 c 7 § 35.71.130. Prior: 1961 c 111 § 13.]

35.71.910 Chapter controls inconsistent laws. Insofar as the provisions of this chapter are inconsistent with a provision of any other law, the provisions of this chapter shall be controlling. [1965 c 7 § 35.71.910. Prior: 1961 c 111 § 15.]

Chapter 35.73 STREET GRADES—SANITARY FILLS

Sections	
35.73.010	Authority—First and second class cities.
35.73.020	Estimates—Intention—Property included—Resolution.
35.73.030	Hearing—Time of—Publication of resolution.
35.73.040	Ordinance—Assessments.
35.73.050	Lien of assessments.
35.73.060	Improvement district bonds—Issuance.
35.73.070	Improvement district bonds—Payment—Remedies.
35.73.080	Provisions not exclusive.

35.73.010 Authority—First and second class cities. If a city of the first or second class establishes the grade of any street or alley at a higher elevation than any private property abutting thereon, thereby rendering the drainage of such private property or any part thereof impracticable without the raising of the surface of such private property, or if the surface of any private property in any such city is so low as to make sanitary drainage thereof impracticable and it is determined by resolution of the city council of such city that a fill of such private property is necessary as a sanitary measure, the city may provide therefor, and by general or special ordinance or both make provision for the necessary surveys, estimates, bids, contract, bond and supervision of the work and for making and approving the assessment roll of the local improvement district and for the collection of the assessments made thereby, and for the doing of everything which in their discretion may be necessary or be incidental thereto: *Provided*, That before the approval of the assessment roll, notice shall be given and an opportunity offered for the owners of the property affected by the assessment roll to be heard before such city council in the same manner as in case of assessments for drainage or sewerage in the city. [1965 c 7 § 35.73.010. Prior: (i) 1907 c 243 § 1; RRS § 9426. (ii) 1907 c 243 § 4; RRS § 9429.]

35.73.020 Estimates—Intention—Property included—Resolution. Before establishing a grade for property or providing for the fill of property, the city must adopt a resolution declaring its intention to do so.

The resolution shall:

- (1) Describe the property proposed to be improved by the fill,
- (2) State the estimated cost of making the improvement,
- (3) State that the cost thereof is to be assessed against the property improved thereby, and
- (4) Fix a time not less than thirty days after the first publication of the resolution within which protests against the proposed improvement may be filed with the city clerk.

The resolution may include as many separate parcels of property as may seem desirable whether or not they are contiguous so long as they lie in the same general neighborhood and may be included conveniently in one local improvement district. [1965 c 7 § 35.73.020. Prior: 1907 c 243 § 2, part; RRS § 9427, part.]

35.73.030 Hearing—Time of—Publication of resolution. Upon the passage of the resolution the city clerk shall cause it to be published in the official newspaper of the city in at least two successive issues before the time fixed in the resolution for filing protests. Proof of publication by affidavit shall be filed as part of the record of the proceedings. [1965 c 7 § 35.73.030. Prior: 1907 c 243 § 2, part; RRS § 9427, part.]

35.73.040 Ordinance—Assessments. If no protest is filed, or if protests are filed but the city council after full hearing determines that it is necessary to fill any portion of the private property it shall proceed to enact an ordinance for such improvement. By the provisions of the ordinance, a local improvement district shall be established to be called "local improvement district No. -----," which shall include all the property found by the said council to require the fill as a sanitary measure. The ordinance shall provide that such improvement shall be made and shall fix and establish the grades to which the said property and the different portions thereof shall be brought by such improvement, and that the cost and expense thereof shall be taxed and assessed upon all the property in such local improvement district, which cost shall be assessed in proportion to the number of cubic yards of earth and bulkheading required for the different portions of said property included in said improvement district and in proportion to the benefits derived by such improvement: *Provided*, That the city council may expend from the general fund for such purposes such sums as in its judgment may seem fair and equitable in consideration of the benefits accruing to the general public by reason of such improvement. [1965 c 7 § 35.73.040. Prior: 1907 c 243 § 3, part; RRS § 9428, part.]

35.73.050 Lien of assessments. Whenever any expense or cost of work has been assessed the amount of such expense and cost shall become a lien upon said lands against which the same are so assessed and shall

take precedence of all other liens, except general tax liens and special assessment liens theretofore assessed by the said city thereon and which may be foreclosed in accordance with law in the name of such city as plaintiff. And in any such proceeding if the court trying the same shall be satisfied that the work has been done or material furnished for the fill of such property, a recovery shall be permitted or charge enforced to the extent of the proper proportion of the value of the work or material which would be chargeable on such lot or land notwithstanding any informality, irregularity or defects in any of the proceedings of such municipal corporation or its officers. [1965 c 7 § 35.73.050. Prior: 1907 c 243 § 3, part; RRS § 9428, part.]

Collection and foreclosure of local improvement district assessments: Chapters 35.49, 35.50 RCW.

35.73.060 Improvement district bonds—Issuance. The city may, in its discretion, by general or special ordinance, or both, instead of requiring immediate payment for the said work to be made by the owners of property included in the assessment roll, authorize the issuance of interest bearing bonds or warrants of the local improvement district, payable on or before a date not to exceed twelve years from and after their date. The bonds may be issued subject to call, the amount of the said assessment to be payable in installments or otherwise, and the bonds to be of such terms as may be provided in the ordinances and to bear interest at such rate as may be prescribed in the ordinances, not exceeding eight percent per annum: *Provided*, That if the improvement lies wholly or partly within the boundaries of any commercial waterway district, the bonds may be made payable on or before a date not to exceed twenty-two years from and after the date of their issue. [1965 c 7 § 35.73.060. Prior: 1915 c 87 § 1, part; 1907 c 243 § 5, part; RRS § 9430, part.]

35.73.070 Improvement district bonds—Payment—Remedies. The bonds or warrants shall be payable only from the fund created by the special assessments upon the property in the local improvement district, and the holder of any bond or warrant shall look only to that fund for the payment of the principal and interest thereof and shall have no claim or lien therefor against the city by which the same was issued except from that fund. [1965 c 7 § 35.73.070. Prior: 1915 c 87 § 1, part; 1907 c 243 § 5, part; RRS § 9430, part.]

35.73.080 Provisions not exclusive. The provisions and remedies provided by this chapter for filling lowlands in connection with establishing street grades or for sanitary reasons are cumulative. [1965 c 7 § 35.73.080. Prior: 1907 c 243 § 6; RRS § 9431.]

Chapter 35.74 STREETS—DRAWBRIDGES

Sections	
35.74.010	Authority to construct or grant franchise to construct.
35.74.020	Initiation of proceedings—Notice to county commissioners.
35.74.030	Determination of width of draw—Appeal.

- 35.74.040 Required specifications.
 35.74.050 City may operate as toll bridges.
 35.74.060 Prerequisites of grant of franchise—Approval of bridge—Tolls.
 35.74.070 License fees—Renewal of license.

Bridges across navigable waters: Chapter 79.01 RCW.

Counties may assist as to certain bridges on city streets: RCW 36.75.200.

35.74.010 Authority to construct or grant franchise to construct. Every city and town may erect and maintain drawbridges across navigable streams that flow through or penetrate the boundaries thereof, when the public necessity requires it, or it may grant franchises to persons or corporations to erect them and charge toll thereon. [1965 c 7 § 35.74.010. Prior: 1890 p 54 § 1; RRS § 9323.]

35.74.020 Initiation of proceedings—Notice to county commissioners. If the city or town council desires to erect a drawbridge across any navigable stream on any street, or to grant the privilege so to do to any corporation or individual, it shall notify the board of county commissioners to that effect stating the precise point where such bridge is proposed to be located. [1965 c 7 § 35.74.020. Prior: 1890 p 54 § 2, part; RRS § 9324, part.]

35.74.030 Determination of width of draw—Appeal. The board of county commissioners within ten days from the receipt of the notice, if in session, and if not in session, within five days after the first day of the next regular or special session, shall designate the width of the draw to be made in such bridge, and the length of span necessary to permit the free flow of water: *Provided*, That if any persons deem themselves aggrieved by the determination of the matter by the board, they may appeal to the superior court which may hear and determine the matter upon such further notice and on such testimony as it shall direct to be produced. [1965 c 7 § 35.74.030. Prior: 1890 p 54 § 2, part; RRS § 9324, part.]

35.74.040 Required specifications. All bridges constructed under the provisions of this chapter must be so constructed as not to obstruct navigation, and must have a draw or swing of sufficient space or span to permit the safe, convenient, and expeditious passage at all times of any steamer or vessel or raft which may navigate the stream or waters bridged. [1965 c 7 § 35.74.040. Prior: 1890 p 55 § 5; RRS § 9327.]

35.74.050 City may operate as toll bridges. A city or town may build and maintain toll bridges and charge and collect tolls thereon, and to that end may provide a system and elect or appoint persons to operate the same, or the said bridges may be made free, as it may elect. [1965 c 7 § 35.74.050. Prior: 1890 p 55 § 6; RRS § 9328.]

35.74.060 Prerequisites of grant of franchise—Approval of bridge—Tolls. Before any franchise to build any bridge across any such navigable stream is granted by any city or town council it shall fix a license tax, not

to exceed ten percent of the tolls collected annually. Upon the completion of the bridge the city or town council shall cause it to be inspected and if it is found to comply in all respects with the specifications previously made, and to be safe and convenient for the public, the council shall declare it open as a toll bridge, and shall immediately fix the rates of toll thereof. [1965 c 7 § 35.74.060. Prior: 1890 p 55 § 3; RRS § 9325.]

35.74.070 License fees—Renewal of license. The owner or keeper of any toll bridges in any city or town shall, before the renewal of any license, report to the city or town council under oath, the actual cost of construction and equipment of the toll bridge, the repairs and cost of maintaining it during the preceding year, the amount of tax collected, and the estimated cash value of the bridge, exclusive of the franchise. All funds arising from the license tax shall be paid into the general fund of the city or town. [1965 c 7 § 35.74.070. Prior: 1890 p 55 § 4; RRS § 9326.]

Chapter 35.75 STREETS—BICYCLES—PATHS

Sections

- 35.75.010 Authority to regulate and license bicycles—Penalties.
 35.75.020 Use of bicycle paths for other purposes prohibited.
 35.75.030 License fees authorized.
 35.75.040 Rules regulating use of bicycle paths.
 35.75.050 Bicycle road fund—Sources—Use.
 35.75.060 Use of street and road funds for bicycle paths, lanes, routes and improvements authorized.

Rules of the road, bicycles: RCW 46.61.750–46.61.780.

35.75.010 Authority to regulate and license bicycles—Penalties. Every city and town may by ordinance regulate and license the riding of bicycles and other similar vehicles upon or along the streets, alleys, highways, or other public grounds within its limits and may construct and maintain bicycle paths or roadways within or outside of and beyond its limits leading to or from the city or town. The city or town may provide by ordinance for reasonable fines and penalties for violation of the ordinance. [1965 c 7 § 35.75.010. Prior: (i) 1899 c 31 § 1; RRS § 9204. (ii) 1899 c 31 § 2; RRS § 9205.]

35.75.020 Use of bicycle paths for other purposes prohibited. It shall be unlawful for any person to lead, drive, ride or propel any team, wagon, animal, or vehicle other than a bicycle or similar vehicle upon and along any bicycle path constructed within or without the corporate limits of any city or town excepting at suitable crossings to be provided in the construction of such paths. Any person violating the provisions of this section shall be guilty of a misdemeanor. [1965 c 7 § 35.75.020. Prior: 1899 c 31 § 3; RRS § 9206.]

35.75.030 License fees authorized. Every city and town by ordinance may establish and collect reasonable license fees from all persons riding a bicycle or other similar vehicle within its respective corporate limits, and may enforce the payment thereof by reasonable fines

and penalties. [1965 c 7 § 35.75.030. Prior: 1899 c 31 § 4; RRS § 9207.]

35.75.040 Rules regulating use of bicycle paths. The license fee to be paid and the rules regulating the riding of bicycles or other similar vehicles within any city or town shall be fixed by ordinance, and the rules regulating the use of such bicycle paths or roadways constructed or maintained within its limits and the fines and penalties for the violation of such rules shall be fixed by ordinance. [1965 c 7 § 35.75.040. Prior: 1899 c 31 § 5; RRS § 9208.]

35.75.050 Bicycle road fund—Sources—Use. The city or town council shall by ordinance provide that the whole amount or any amount not less than seventy-five percent of all license fees, penalties or other moneys collected under the authority of this chapter shall be paid into and placed to the credit of a special fund to be known as the "bicycle road fund." The moneys in the bicycle road fund shall not be transferred to any other fund and shall be paid out for the sole purpose of building and maintaining bicycle paths and roadways authorized to be constructed and maintained by this chapter or for special policemen, bicycle tags, stationery and other expenses growing out of the regulating and licensing of the riding of bicycles and other vehicles and the construction, maintenance and regulation of the use of bicycle paths and roadways. [1965 c 7 § 35.75.050. Prior: 1899 c 31 § 6; RRS § 9209.]

35.75.060 Use of street and road funds for bicycle paths, lanes, routes and improvements authorized. Any city or town may use any funds available for street or road construction, maintenance, or improvement for building, improving, and maintaining bicycle paths, lanes, roadways, and routes, and for improvements to make existing streets and roads more suitable and safe for bicycle traffic: *Provided*, That any such paths, lanes, roadways, routes, or streets for which any such street or road funds are expended shall be suitable for bicycle transportation purposes and not solely for recreation purposes. [1974 1st ex.s. c 141 § 10.]

**Chapter 35.76
STREETS—BUDGET AND ACCOUNTING**

Sections

- 35.76.010 Declaration of purpose—Budget and accounting by functional categories.
- 35.76.020 Cost accounting and reporting—Cities over eight thousand.
- 35.76.030 Cost accounting and reporting—Cities of eight thousand or less.
- 35.76.040 Manual of instructions.
- 35.76.050 Cost-audit examination and report.
- 35.76.060 Budgets.

Budgets in cities over 300,000: Chapter 35.32A RCW.

Budgets in second and third class cities and first class cities under 300,000: Chapter 35.33 RCW.

35.76.010 Declaration of purpose—Budget and accounting by functional categories. Records of city street expenditures are generally inadequate to meet the needs

of cities for planning and administration of their street programs and the needs of the legislature in providing for city street financing. It is the intent of the legislature that each city and town shall budget and thereafter maintain records and accounts for all street expenditures by functional categories in a manner consistent with its size, administrative capabilities, and the amounts of money expended by it for street purposes. [1965 c 7 § 35.76.010. Prior: 1963 c 115 § 1.]

35.76.020 Cost accounting and reporting—Cities over eight thousand. The state auditor, through the division of municipal corporations, shall formulate, prescribe and install a system of cost accounting and reporting for each city having a population of more than eight thousand, according to the last official census, which will correctly show all street expenditures by functional categories. The system shall also provide for reporting all revenues available for street purposes from whatever source including local improvement district assessments and state and federal aid. [1965 c 7 § 35.76.020. Prior: 1963 c 115 § 2.]

Cities over eight thousand, equipment rental fund in street department: RCW 35.21.088.

35.76.030 Cost accounting and reporting—Cities of eight thousand or less. Consistent with the intent of this chapter as stated in RCW 35.76.010, the state auditor, from and after July 1, 1965, through the division of municipal corporations, is authorized and directed to prescribe accounting and reporting procedures for street expenditures for cities and towns having a population of eight thousand or less, according to the last official census. [1965 c 7 § 35.76.030. Prior: 1963 c 115 § 3.]

35.76.040 Manual of instructions. The state auditor, after consultation with the association of Washington cities and the planning division of the state highway commission shall prepare and distribute to the cities and towns a manual of instructions governing accounting and reporting procedures for all street expenditures. [1965 c 7 § 35.76.040. Prior: 1963 c 115 § 4.]

35.76.050 Cost-audit examination and report. The division of municipal corporations shall annually make a cost-audit examination of street records for each city and town and make a written report thereon to the legislative body of each city and town. The expense of such examination shall be paid out of that portion of the motor vehicle fund allocated to the cities and towns and withheld for use by the state highway commission under the terms of RCW 46.68.110(1). [1965 c 7 § 35.76.050. Prior: 1963 c 115 § 5.]

35.76.060 Budgets. Expenditures for city and town streets shall be budgeted by each city and town according to the same functional categories prescribed by the state auditor for purposes of accounting and reporting as provided in RCW 35.76.020 and 35.76.030.

In the preparation of city and town budgets, including the preparation and filing of budget estimates, adoption of preliminary budgets and adoption of final

budgets, all expenditures for street purposes shall be designated by such functional categories only. [1965 c 7 § 35.76.060. Prior: 1963 c 115 § 6.]

Chapter 35.77
**STREETS—PLANNING, ESTABLISHMENT,
CONSTRUCTION, AND MAINTENANCE**

Sections

- 35.77.010 Perpetual advanced plans for coordinated street program—Six year program for arterial street construction.
- 35.77.015 Provisions for bicycle paths, lanes, routes, roadways and improvements to be included in annual revision or extension of comprehensive street programs—Exception.
- 35.77.020 Agreements with county for planning, establishment, construction, and maintenance.
- 35.77.030 Agreements with county for planning, establishment, construction, and maintenance—County may use road fund—Payments by city—Contracts, bids.
- 35.77.040 Agreements with county for planning, establishment, construction, and maintenance—Act is additional and concurrent method.

Commission and board to coordinate long range needs studies: RCW 47.01.240.

Planning commissions: Chapter 35.63 RCW.

State highways in urban areas, allocation of funds, planning, bond issue, etc.: Chapter 47.26 RCW.

Urban arterials, planning, construction by cities and counties, urban arterial board, bond issue, etc.: Chapter 47.26 RCW.

35.77.010 Perpetual advanced plans for coordinated street program—Six year program for arterial street construction. Prior to July 1, 1968, the legislative body of each city and town, pursuant to one or more public hearings thereon, shall prepare and adopt a comprehensive street program for the ensuing six calendar years and shall file the same with the director of highways not more than thirty days after its adoption. Annually thereafter the legislative body of each city and town shall review the work accomplished under the program and determine current city street needs. Based on these findings each such legislative body shall prepare and after public hearings thereon adopt a revised and extended comprehensive street program, and each one year extension and revision shall be filed with the director of highways not more than thirty days after its adoption. The purpose of this section shall be to assure that perpetually each city and town shall have available advanced plans, looking to the future for not less than six years as a guide in carrying out a coordinated street construction program. Such program may at any time be revised by a majority of the legislative body of a city or town, but only after a public hearing.

The six year program of each city lying within an urban area shall contain a separate section setting forth the six year program for arterial street construction based upon its long range construction plan and formulated in accordance with regulations of the urban arterial board. The six year program for arterial street construction shall be submitted to the urban arterial board forthwith after its annual revision and adoption by the legislative body of the city. The six year program for arterial street construction shall be based upon estimated revenues available for such construction together

with such additional sums as the legislative authority may request for urban arterials only from the urban arterial trust account for the six year period. The arterial street construction program shall provide for a more rapid rate of completion of the long range construction needs of major arterial streets than for secondary and collector arterial streets, pursuant to regulations of the urban arterial board. [1967 ex.s. c 83 § 27; 1965 c 7 § 35.77.010. Prior: 1961 c 195 § 2.]

Severability—1967 ex.s. c 83: See RCW 47.26.900.

Highways, roads, streets in urban areas, urban arterials, development: Chapter 47.26 RCW.

Joint planning of urban arterial development: RCW 47.26.230.

Long range arterial construction plans, counties and cities to prepare: RCW 47.26.170.

Perpetual advanced plan for coordinated county road program: RCW 36.81.121.

Priority projects to be selected in preparation of six year program: RCW 47.26.220.

Urban arterial board: Chapter 47.26 RCW.

35.77.015 Provisions for bicycle paths, lanes, routes, roadways and improvements to be included in annual revision or extension of comprehensive street programs—Exception. The annual revision and extension of comprehensive street programs pursuant to RCW 35.77.010 shall include consideration of and, wherever reasonably practicable, provisions for bicycle routes: *Provided*, That no provision need be made for any such route where the cost of establishing it would be excessively disproportionate to the need or probable use. [1974 1st ex.s. c 141 § 11.]

35.77.020 Agreements with county for planning, establishment, construction, and maintenance. Any city or town may enter into an agreement with the county in which it is located authorizing the county to perform all or any part of the construction, repair, and maintenance of streets in such city or town at such cost as shall be mutually agreed upon. The agreement shall be approved by ordinance of the governing body of the city or town and by resolution of the board of county commissioners.

Any such agreement may include, but shall not be limited to the following:

(1) A provision that the county shall perform all or a specified part of the construction, repair, or maintenance of the city or town streets and bridges to the same standards provided by the county in unincorporated areas, or to increased standards as shall be specified which may include construction, repair, or maintenance of drainage facilities including storm sewers, sidewalks and curbs, street lighting, and traffic control devices.

(2) A provision that the county may provide engineering and administrative services necessary for the planning, establishment, construction, and maintenance of the streets of the city or town, including engineering and clerical services necessary for the establishment of local improvement districts. In providing such services the county engineer may exercise all the powers and perform all the duties vested by law or by ordinance in

the city or town engineer or other officer or department charged with street administration.

(3) A provision that the city or town shall enact ordinances for the administration, establishment, construction, repair, maintenance, regulation, and protection of its streets as may be necessary to authorize the county to lawfully carry out the terms of the agreement. [1965 c 7 § 35.77.020. Prior: 1961 c 245 § 1.]

35.77.030 Agreements with county for planning, establishment, construction, and maintenance—County may use road fund—Payments by city—Contracts, bids. Pursuant to an agreement authorized by RCW 35.77.020, the board of county commissioners may expend funds from the county road fund for the construction, repair, and maintenance of the streets of such city or town and for engineering and administrative services. Payments by a city or town under such an agreement shall be made to the county treasurer and by him deposited in the county road fund. Such construction, repair, maintenance, and engineering service shall be ordered by resolution and proceedings conducted in respect thereto in the same manner as provided for the construction, repair, and maintenance of county roads by counties, and for the preparation of maps, plans and specifications, advertising and award of contracts therefor: *Provided*, That except in case of emergency all construction work performed by a county on city streets pursuant to RCW 35.77.020 through 35.77.040, which exceeds ten thousand dollars, shall be done by contract, unless after advertisement and solicitation of competitive bids it appears that bids are unobtainable or that the lowest bid exceeds the amount for which such construction can be done by means other than contract. No street construction project shall be divided into lesser component parts for the purpose of avoiding the requirements for competitive bidding. [1965 c 7 § 35.77.030. Prior: 1961 c 245 § 2.]

35.77.040 Agreements with county for planning, establishment, construction, and maintenance—Act is additional and concurrent method. RCW 35.77.020 through 35.77.040 shall not repeal, amend, or modify any law providing for joint or cooperative agreements between cities and counties with respect to city streets, but shall be held to be an additional and concurrent method providing for such purpose. [1965 c 7 § 35.77.040. Prior: 1961 c 245 § 3.]

Chapter 35.78

STREETS—CLASSIFICATION AND DESIGN STANDARDS

Sections

35.78.010	Classification of streets.
35.78.020	State design standards—Committee—Membership.
35.78.030	Committee to adopt uniform design standards.
35.78.040	Design standards must be followed by municipalities—Approval of deviations.

City and town streets as part of state highways: Chapter 47.24 RCW.

Design standards committee for county roads: Chapter 43.32 RCW, RCW 36.86.070, 36.86.080.

35.78.010 Classification of streets. The governing body of each municipal corporation shall classify and designate city streets as follows:

Major arterials, which are defined as transportation arteries which connect the focal points of traffic interest within a city; arteries which provide communications with other communities and the outlying areas; or arteries which have relatively high traffic volume compared with other streets within the city;

Secondary arterials, which are defined as routes which serve lesser points of traffic interest within a city; provide communication with outlying districts in the same degree or serve to collect and distribute traffic from the major arterials to the local streets;

Access streets, which are defined as land service streets and are generally limited to providing access to abutting property. They are tributary to the major and secondary thoroughfares and generally discourage through traffic. [1965 c 7 § 35.78.010. Prior: 1949 c 164 § 1; Rem. Supp. 1949 § 9300-1.]

35.78.020 State design standards—Committee—Membership. There is created a state design standards committee of seven members, six of whom shall be appointed by the executive committee of the Association of Washington Cities to hold office at its pleasure and the seventh to be the assistant state director of highways in charge of state aid. The members to be appointed by the executive committee of the Association of Washington Cities shall be restricted to the membership of the association or to those holding office and/or performing the function of chief engineer in any of the several municipalities in the state. [1965 c 7 § 35.78.020. Prior: 1949 c 164 § 2; Rem. Supp. 1949 § 9300-2.]

35.78.030 Committee to adopt uniform design standards. The design standards committee shall from time to time adopt uniform design standards for major arterial and secondary arterial streets. [1965 c 7 § 35.78.030. Prior: 1949 c 164 § 3; Rem. Supp. 1949 § 9300-3.]

35.78.040 Design standards must be followed by municipalities—Approval of deviations. The governing body of the several municipalities shall apply the uniform design standards so adopted to all new construction on major arterial and secondary arterial streets, and to reconstruction of old such streets as far as practicable. No deviation from such design standards as to such streets shall be made without approval of the assistant state director of highways for state aid. [1965 c 7 § 35.78.040. Prior: 1949 c 164 § 4; Rem. Supp. 1949 § 9300-4.]

Chapter 35.79

STREETS—VACATION

Sections

35.79.010	Petition by owners—Fixing time for hearing.
35.79.020	Notice of hearing—Objections prior to hearing.
35.79.030	Hearing—Ordinance of vacation.
35.79.040	Title to vacated street or alley.
35.79.050	Vested rights not affected.

35.79.010 Petition by owners—Fixing time for hearing. The owners of an interest in any real estate abutting upon any street or alley who may desire to vacate the street or alley, or any part thereof, may petition the legislative authority to make vacation, giving a description of the property to be vacated, or the legislative authority may itself initiate by resolution such vacation procedure. The petition or resolution shall be filed with the city or town clerk, and, if the petition is signed by the owners of more than two-thirds of the property abutting upon the part of such street or alley sought to be vacated, legislative authority by resolution shall fix a time when the petition will be heard and determined by such authority or a committee thereof, which time shall not be more than sixty days nor less than twenty days after the date of the passage of such resolution. [1965 c 7 § 35.79.010. Prior: 1957 c 156 § 2; 1901 c 84 § 1, part; RRS § 9297, part.]

35.79.020 Notice of hearing—Objections prior to hearing. Upon the passage of the resolution the city or town clerk shall give twenty days' notice of the pendency of the petition by a written notice posted in three of the most public places in the city or town and a like notice in a conspicuous place on the street or alley sought to be vacated. The said notice shall contain a statement that a petition has been filed to vacate the street or alley described in the notice, together with a statement of the time and place fixed for the hearing of the petition. In all cases where the proceeding is initiated by resolution of the city or town council or similar legislative authority without a petition having been signed by the owners of more than two-thirds of the property abutting upon the part of the street or alley sought to be vacated, in addition to the notice hereinabove required, there shall be given by mail at least fifteen days before the date fixed for the hearing, a similar notice to the owners or reputed owners of all lots, tracts or parcels of land or other property abutting upon any street or alley or any part thereof sought to be vacated, as shown on the rolls of the county treasurer, directed to the address thereon shown: *Provided*, That if fifty percent of the abutting property owners file written objection to the proposed vacation with the clerk, prior to the time of hearing, the city shall be prohibited from proceeding with the resolution. [1965 c 7 § 35.79.020. Prior: 1957 c 156 § 3; 1901 c 84 § 1, part; RRS § 9297, part.]

35.79.030 Hearing—Ordinance of vacation. The hearing on such petition may be held before the legislative authority, or before a committee thereof upon the date fixed by resolution or at the time said hearing may be adjourned to. If the hearing is before such a committee the same shall, following the hearing, report its recommendation on the petition to the legislative authority which may adopt or reject the recommendation. If such hearing be held before such a committee it shall not be necessary to hold a hearing on the petition before such legislative authority. If the legislative authority determines to grant said petition or any part thereof,

such city or town shall be authorized and have authority by ordinance to vacate such street, or alley, or any part thereof, and the ordinance may provide that it shall not become effective until the owners of property abutting upon the street or alley, or part thereof so vacated, shall compensate such city or town in an amount which does not exceed one-half the appraised value of the area so vacated: *Provided*, That such ordinance may provide that the city retain an easement or the right to exercise and grant easements in respect to the vacated land for the construction, repair, and maintenance of public utilities and services: *Provided further*, That no city or town shall be authorized or have authority to vacate such street, or alley, or any parts thereof if any portion thereof abuts on a body of salt or fresh water unless such vacation be sought to enable the city, town, port district or state to acquire the property for port purposes, boat moorage or launching sites, park, viewpoint, recreational, or educational purposes, or other public uses. This proviso shall not apply to industrial zoned property. A certified copy of such ordinance shall be recorded by the clerk of the legislative authority and in the office of the auditor of the county in which the vacated land is located. [1969 c 28 § 4. Prior: 1967 ex.s. c 129 § 1; 1967 c 123 § 1; 1965 c 7 § 35.79.030; prior: 1957 c 156 § 4; 1949 c 14 § 1; 1901 c 84 § 2; Rem. Supp. 1949 § 9298.]

35.79.040 Title to vacated street or alley. If any street or alley in any city or town is vacated by the city or town council, the property within the limits so vacated shall belong to the abutting property owners, one-half to each. [1965 c 7 § 35.79.040. Prior: 1901 c 84 § 3; RRS § 9299.]

35.79.050 Vested rights not affected. No vested rights shall be affected by the provisions of this chapter. [1965 c 7 § 35.79.050. Prior: 1901 c 84 § 4; RRS § 9300.]

Chapter 35.80 UNFIT DWELLINGS, BUILDINGS AND STRUCTURES

Sections	
35.80.010	Declaration of purpose.
35.80.020	Definitions.
35.80.030	Permissible ordinances—Appeal.
35.80.040	Discrimination prohibited.

35.80.010 Declaration of purpose. It is hereby found that there exist, in the various municipalities and counties of the state, dwellings which are unfit for human habitation, and buildings and structures which are unfit for other uses due to dilapidation, disrepair, structural defects, defects increasing the hazards of fire, accidents, or other calamities, inadequate ventilation and uncleanness, inadequate light or sanitary facilities, inadequate drainage, overcrowding, or due to other conditions which are inimical to the health and welfare of the residents of such municipalities and counties.

It is further found and declared that the powers conferred by this chapter are for public uses and purposes

for which public money may be expended, and that the necessity of the public interest for the enactment of this law is hereby declared to be a matter of local legislative determination. [1969 ex.s. c 127 § 1; 1967 c 111 § 1; 1965 c 7 § 35.80.010. Prior: 1959 c 82 § 1.]

35.80.020 Definitions. The following terms, however used or referred to in this chapter, shall have the following meanings, unless a different meaning is clearly indicated by the context:

(1) "Board" shall mean the improvement board as provided for in RCW 35.80.030(1)(a);

(2) "Local governing body" shall mean the council, board, commission, or other legislative body charged with governing the municipality or county;

(3) "Municipality" shall mean any city, town or county in the state;

(4) "Public officer" shall mean any officer who is in charge of any department or branch of the government of the municipality or county relating to health, fire, building regulation, or other activities concerning dwellings, buildings, and structures in the municipality or county. [1969 ex.s. c 127 § 2; 1967 c 111 § 2; 1965 c 7 § 35.80.020. Prior: 1959 c 82 § 2.]

35.80.030 Permissible ordinances—Appeal. (1) Whenever the local governing body of a municipality finds that one or more conditions of the character described in RCW 35.80.010 exist within its territorial limits, said governing body may adopt ordinances relating to such dwellings, buildings, or structures. Such ordinances may provide for the following:

(a) That an "improvement board" or officer be designated or appointed to exercise the powers assigned to such board or officer by the ordinance as specified herein. Said board or officer may be an existing municipal board or officer in the municipality, or may be a separate board or officer appointed solely for the purpose of exercising the powers assigned by said ordinance.

If a board is created, the ordinance shall specify the terms, method of appointment, and type of membership of said board, which may be limited, if the local governing body chooses, to public officers as herein defined.

(b) If a board is created, a public officer, other than a member of the improvement board, may be designated to work with the board and carry out the duties and exercise the powers assigned to said public officer by the ordinance.

(c) That if, after a preliminary investigation of any dwelling, building, or structure, the board or officer finds that it is unfit for human habitation or other use, he shall cause to be served either personally or by certified mail, with return receipt requested, upon all persons having any interest therein, as shown upon the records of the auditor's office of the county in which such property is located, and shall post in a conspicuous place on such property, a complaint stating in what respects such dwelling, building, or structure is unfit for human habitation or other use. If the whereabouts of

such persons is unknown and the same cannot be ascertained by the board or officer in the exercise of reasonable diligence, and the board or officer shall make an affidavit to the effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two consecutive weeks in a legal newspaper published in the municipality in which the property is located, or in the absence of such legal newspaper, it shall be posted in three public places in the municipality in which the dwellings, buildings, or structures are located. Such complaint shall contain a notice that a hearing will be held before the board or officer, at a place therein fixed, not less than ten days nor more than thirty days after the serving of said complaint; or in the event of publication or posting, not less than fifteen days nor more than thirty days from the date of the first publication and posting; that all parties in interest shall be given the right to file an answer to the complaint, and to appear in person, or otherwise, and to give testimony at the time and place fixed in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the board or officer. A copy of such complaint shall also be filed with the auditor of the county in which the dwelling, building, or structure is located, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law.

(d) That the board or officer may determine that a dwelling, building, or structure is unfit for human habitation or other use if it finds that conditions exist in such dwelling, building, or structure which are dangerous or injurious to the health or safety of the occupants of such dwelling, building, or structure, the occupants of neighboring dwellings, or other residents of such municipality. Such conditions may include the following, without limitations: Defects therein increasing the hazards of fire or accident; inadequate ventilation, light, or sanitary facilities, dilapidation, disrepair, structural defects, uncleanness, overcrowding, or inadequate drainage. The ordinance shall state reasonable and minimum standards covering such conditions, including those contained in ordinances adopted in accordance with subdivision (7)(a) herein, to guide the board or the public officer and the agents and employees of either, in determining the fitness of a dwelling for human habitation, or building or structure for other use.

(e) That the determination of whether a dwelling, building, or structure should be repaired or demolished, shall be based on specific stated standards on (i) the degree of structural deterioration of the dwelling, building, or structure, or (ii) the relationship that the estimated cost of repair bears to the value of the dwelling, building, or structure, with the method of determining this value to be specified in the ordinance.

(f) That if, after the required hearing, the board or officer determines that the dwelling is unfit for human habitation, or building or structure is unfit for other use, it shall state in writing its findings of fact in support of such determination, and shall issue and cause to be served upon the owner or party in interest thereof, as is provided in subdivision (1)(c), and shall post in a

conspicuous place on said property, an order which (i) requires the owner or party in interest, within the time specified in the order, to repair, alter, or improve such dwelling, building, or structure to render it fit for human habitation, or for other use, or to vacate and close the dwelling, building, or structure, if such course of action is deemed proper on the basis of the standards set forth as required in subdivision (1)(e); or (ii) requires the owner or party in interest, within the time specified on the order, to remove or demolish such dwelling, building, or structure, if this course of action is deemed proper on the basis of said standards. If no appeal is filed, a copy of such order shall be filed with the auditor of the county in which the dwelling, building, or structure is located.

(g) The owner or any party in interest, within thirty days from the date of service upon the owner and posting of an order issued by the board under the provisions of subdivision (c) of this subsection, may file an appeal with the appeals commission.

The local governing body of the municipality shall designate or establish a municipal agency to serve as the appeals commission. The local governing body shall also establish rules of procedure adequate to assure a prompt and thorough review of matters submitted to the appeals commission, and such rules of procedure shall include the following, without being limited thereto: (i) All matters submitted to the appeals commission must be resolved by the commission within sixty days from the date of filing therewith and (ii) a transcript of the findings of fact of the appeals commission shall be made available to the owner or other party in interest upon demand.

The findings and orders of the appeals commission shall be reported in the same manner and shall bear the same legal consequences as if issued by the board, and shall be subject to review only in the manner and to the extent provided in subdivision (2) of this section.

If the owner or party in interest, following exhaustion of his rights to appeal, fails to comply with the final order to repair, alter, improve, vacate, close, remove, or demolish the dwelling, building, or structure, the board or officer may direct or cause such dwelling, building, or structure to be repaired, altered, improved, vacated, and closed, removed, or demolished.

(h) That the amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the board or officer, shall be assessed against the real property upon which such cost was incurred unless such amount is previously paid. Upon certification to him by the treasurer of the municipality in cases arising out of the city or town or by the county improvement board or officer, in cases arising out of the county, of the assessment amount being due and owing, the county treasurer shall enter the amount of such assessment upon the tax rolls against the property for the current year and the same shall become a part of the general taxes for that year to be collected at the same time and with interest at such rates and in such manner as provided for in RCW 84.56.020, as now or hereafter amended, for delinquent taxes, and

when collected to be deposited to the credit of the general fund of the municipality. If the dwelling, building or structure is removed or demolished by the board or officer, the board or officer shall, if possible, sell the materials of such dwelling, building, or structure in accordance with procedures set forth in said ordinance, and shall credit the proceeds of such sale against the cost of the removal or demolition and if there be any balance remaining, it shall be paid to the parties entitled thereto, as determined by the board or officer, after deducting the cost incident thereto.

The demolition assessment shall constitute a lien against the property of equal rank with state, county and municipal taxes.

(2) Any person affected by an order issued by the appeals commission pursuant to subdivision (1)(f) hereof may, within thirty days after the posting and service of the order, petition to the superior court for an injunction restraining the public officer or members of the board from carrying out the provisions of the order. In all such proceedings the court is authorized to affirm, reverse, or modify the order and such trial shall be heard de novo.

(3) An ordinance adopted by the local governing body of the municipality may authorize the board or officer to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this section. These powers shall include the following in addition to others herein granted: (a) (i) To determine which dwellings within the municipality are unfit for human habitation; (ii) to determine which buildings or structures are unfit for other use; (b) to administer oaths and affirmations, examine witnesses and receive evidence; and (c) to investigate the dwelling and other use conditions in the municipality or county and to enter upon premises for the purpose of making examinations when the board or officer has reasonable ground for believing they are unfit for human habitation, or for other use: *Provided*, That such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose after submitting evidence in support of an application which is adequate to justify such an order from a court of competent jurisdiction in the event entry is denied or resisted.

(4) The local governing body of any municipality adopting an ordinance pursuant to this chapter may appropriate the necessary funds to administer such ordinance.

(5) Nothing in this section shall be construed to abrogate or impair the powers of the courts or of any department of any municipality to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law.

(6) Nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

(7) Any municipality may (by ordinance adopted by its governing body) (a) prescribe minimum standards for the use and occupancy of dwellings throughout the municipality, or county, (b) prescribe minimum standards for the use or occupancy of any building or structure used for any other purpose, (c) prevent the use or occupancy of any dwelling, building, or structure, which is injurious to the public health, safety, morals, or welfare, and (d) prescribe punishment for the violation of any provision of such ordinance. [1973 1st ex.s. c 144 § 1; 1969 ex.s. c 127 § 3; 1967 c 111 § 3; 1965 c 7 § 35-80.030. Prior: 1959 c 82 § 3.]

35.80.040 Discrimination prohibited. For all the purposes of this chapter and the ordinances adopted as provided herein, no person shall, because of race, creed, color, or national origin, be subjected to any discrimination. [1965 c 7 § 35.80.040. Prior: 1959 c 82 § 4.]

Law against discrimination: Chapter 49.60 RCW.

Chapter 35.81 URBAN RENEWAL LAW

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35.81.010 Definitions. The following terms wherever used or referred to in this chapter, shall have the following meanings, unless a different meaning is clearly indicated by the context:

(1) "Agency" or "urban renewal agency" shall mean a public agency created by RCW 35.81.160.

(2) "Blighted area" shall mean an area which, by reason of the substantial physical dilapidation, deterioration, defective construction, material, and arrangement and/or age or obsolescence of buildings or improvements, whether residential or nonresidential, inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality; inappropriate or mixed uses of land or buildings; high density of population and overcrowding; defective or inadequate street layout; faulty lot layout in relation to size, adequacy,

accessibility or usefulness; excessive land coverage; insanitary or unsafe conditions; deterioration of site; diversity of ownership; tax or special assessment delinquency exceeding the fair value of the land; defective or unusual conditions of title; improper subdivision or obsolete platting; or the existence of conditions which endanger life or property by fire or other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime; substantially impairs or arrests the sound growth of the city or its environs, retards the provision of housing accommodations or constitutes an economic or social liability, and/or is detrimental, or constitutes a menace, to the public health, safety, welfare, and morals in its present condition and use.

(3) "Bonds" shall mean any bonds, notes, or debentures (including refunding obligations) herein authorized to be issued.

(4) "Clerk" shall mean the clerk or other official of the municipality who is the custodian of the official records of such municipality.

(5) "Federal government" shall include the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(6) "Local governing body" shall mean the council or other legislative body charged with governing the municipality.

(7) "Mayor" shall mean the chief executive of a city, town, or class AA county.

(8) "Municipality" shall mean any incorporated city, town, or class AA county in the state.

(9) "Obligee" shall include any bondholder, agent or trustee for any bondholders, or lessor demising to the municipality property used in connection with an urban renewal project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the municipality.

(10) "Person" shall mean any individual, firm, partnership, corporation, company, association, joint stock association, or school district; and shall include any trustee, receiver, assignee, or other person acting in a similar representative capacity.

(11) "Public body" shall mean the state or any municipality, township, board, commission, district, or any other subdivision or public body of the state.

(12) "Public officer" shall mean any officer who is in charge of any department or branch of the government of the municipality relating to health, fire, building regulations, or to other activities concerning dwellings in the municipality.

(13) "Real property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, right and use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise.

(14) "Redevelopment" may include (a) acquisition of a blighted area or portion thereof; (b) demolition and removal of buildings and improvements; (c) installation, construction or reconstruction of streets, utilities,

parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this chapter in accordance with the urban renewal plan, and (d) making the land available for development or redevelopment by private enterprise or public agencies (including sale, initial leasing, or retention by the municipality itself) at its fair value for uses in accordance with the urban renewal plan.

(15) "Rehabilitation" may include the restoration and renewal of a blighted area or portion thereof, in accordance with an urban renewal plan, by (a) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements; (b) acquisition of real property and demolition or removal of buildings and improvements thereon where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities; (c) installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this chapter; and (d) the disposition of any property acquired in such urban renewal area (including sale, initial leasing, or retention by the municipality itself) at its fair value for uses in accordance with such urban renewal plan.

(16) "Urban renewal area" means a blighted area which the local governing body designates as appropriate for an urban renewal project or projects.

(17) "Urban renewal plan" means a plan, as it exists from time to time, for an urban renewal project, which plan (a) shall conform to the comprehensive plan or parts thereof for the municipality as a whole; and (b) shall be sufficiently complete to indicate such land acquisition, demolition, and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban renewal area, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

(18) "Urban renewal project" may include undertakings or activities of a municipality in an urban renewal area for the elimination and for the prevention of the development or spread of blight, and may involve redevelopment in an urban renewal area, or rehabilitation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan. [1971 ex.s. c 177 § 6; 1965 c 7 § 35.81.010. Prior: 1957 c 42 § 1.]

35.81.020 Declaration of purpose and necessity. It is hereby found and declared that blighted areas which constitute a serious and growing menace, injurious to the public health, safety, morals and welfare of the residents of the state exist in municipalities of the state; that the existence of such areas contributes substantially and increasingly to the spread of disease and crime and

depreciation of property values, constitutes an economic and social liability, substantially impairs or arrests the sound growth of municipalities, retards the provision of housing accommodations, aggravates traffic problems and substantially impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities; and that the prevention and elimination of such areas is a matter of state policy and state concern in order that the state and its municipalities shall not continue to be endangered by areas which are focal centers of disease, promote juvenile delinquency, are conducive to fires, are difficult to police and to provide police protection for, and, while contributing little to the tax income of the state and its municipalities, consume an excessive proportion of its revenues because of the extra services required for police, fire, accident, hospitalization and other forms of public protection, services, and facilities.

It is further found and declared that certain of such areas, or portions thereof, may require acquisition, clearance, and disposition subject to use restrictions, as provided in this chapter, since the prevailing condition of decay may make impracticable the reclamation of the area by rehabilitation; that other areas or portions thereof may, through the means provided in this chapter, be susceptible of rehabilitation in such a manner that the conditions and evils hereinbefore enumerated may be eliminated, remedied or prevented; and that to the extent feasible salvable blighted areas should be rehabilitated through voluntary action and the regulatory process.

It is further found and declared that the powers conferred by this chapter are for public uses and purposes for which public money may be expended and the power of eminent domain exercised; and that the necessity in the public interest for the provisions herein enacted is hereby declared as a matter of legislative determination. [1965 c 7 § 35.81.020. Prior: 1957 c 42 § 2.]

35.81.030 Encouragement of private enterprise. A municipality, to the greatest extent it determines to be feasible in carrying out the provisions of this chapter, shall afford maximum opportunity, consistent with the sound needs of the municipality as a whole, to the rehabilitation or redevelopment of the urban renewal area by private enterprise. A municipality shall give consideration to this objective in exercising its powers under this chapter, including the formulation of a workable program, the approval of urban renewal plans (consistent with the comprehensive plan or parts thereof for the municipality), the exercise of its zoning powers, the enforcement of other laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements, the disposition of any property acquired, and the provision of necessary public improvements. [1965 c 7 § 35.81.030. Prior: 1957 c 42 § 3.]

35.81.040 Formulation of workable program. A municipality for the purposes of this chapter may formulate a workable program for utilizing appropriate private and public resources to eliminate, and prevent

the development or spread of, blighted areas, to encourage needed urban rehabilitation, to provide for the redevelopment of such areas, or to undertake such of the aforesaid activities, or other feasible municipal activities as may be suitably employed to achieve the objectives of such workable program. Such workable program may include, without limitation, provision for: The prevention of the spread of blight into areas of the municipality which are free from blight through diligent enforcement of housing, zoning, and occupancy controls and standards; the rehabilitation of blighted areas or portions thereof by replanning, removing congestion, providing parks, playgrounds and other public improvements, by encouraging voluntary rehabilitation and by compelling the repair and rehabilitation of deteriorated or deteriorating structures; and the clearance and redevelopment of blighted areas or portions thereof. [1965 c 7 § 35.81.040. Prior: 1957 c 42 § 4.]

35.81.050 Findings by local governing body required.

No municipality shall exercise any of the powers hereafter conferred upon municipalities by this chapter until after its local governing body shall have adopted a resolution finding that: (1) One or more blighted areas exist in such municipality; and (2) the rehabilitation, redevelopment, or a combination thereof, of such area or areas is necessary in the interest of the public health, safety, morals, or welfare of the residents of such municipality. [1965 c 7 § 35.81.050. Prior: 1957 c 42 § 5.]

35.81.060 Comprehensive plan—Preparation—Hearing—Approval—Modification—Effect. (1) A municipality shall not approve an urban renewal project for an urban renewal area unless the local governing body has, by resolution, determined such area to be a blighted area and designated such area as appropriate for an urban renewal project. The local governing body shall not approve an urban renewal plan until a comprehensive plan or parts of such plan for an area which would include an urban renewal area for the municipality have been prepared as provided in chapter 35.63 RCW. For this purpose and other municipal purposes, authority is hereby vested in every municipality to prepare, to adopt, and to revise from time to time, a comprehensive plan or parts thereof for the physical development of the municipality as a whole (giving due regard to the environs and metropolitan surroundings), to establish and maintain a planning commission for such purpose and related municipal planning activities, and to make available and to appropriate necessary funds therefor. A municipality shall not acquire real property for an urban renewal project unless the local governing body has approved the urban renewal project plan in accordance with subsection (4) hereof.

(2) The municipality may itself prepare or cause to be prepared an urban renewal plan, or any person or agency, public or private, may submit such a plan to the municipality. Prior to its approval of an urban renewal project, the local governing body shall submit such plan to the planning commission of the municipality for review and recommendations as to its conformity with the comprehensive plan or parts thereof for

the development of the municipality as a whole. The planning commission shall submit its written recommendations with respect to the proposed urban renewal plan to the local governing body within sixty days after receipt of it. Upon receipt of the recommendations of the planning commission, or if no recommendations are received within sixty days, then without such recommendations, the local governing body may proceed with the hearing on the proposed urban renewal project plan prescribed by subsection (3) hereof.

(3) The local governing body shall hold a public hearing on an urban renewal plan after public notice thereof. Such notice shall be given by publication once each week for two consecutive weeks not less than ten nor more than thirty days prior to the date of the hearing in a newspaper having a general circulation in the urban renewal area of the municipality and by mailing a notice of such hearing not less than ten days prior to the date of the hearing to the persons whose names appear on the county treasurer's tax roll as the owner or reputed owner of the property, at the address shown on the tax roll. The notice shall describe the time, date, place, and purpose of the hearing, shall generally identify the urban renewal area affected, and shall outline the general scope of the urban renewal plan under consideration.

(4) Following such hearing, the local governing body may approve an urban renewal project if it finds that (a) a workable and feasible plan exists for making available adequate housing for the persons who may be displaced by the project; (b) the urban renewal plan conforms to the comprehensive plan or parts thereof for the municipality as a whole; (c) the urban renewal plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise; and (d) a sound and adequate financial program exists for the financing of said project; (e) the urban renewal project area is a blighted area as defined in RCW 35.81.010(2).

(5) An urban renewal project plan may be modified at any time by the local governing body: *Provided*, That if modified after the lease or sale by the municipality of real property in the urban renewal project area, such modification shall be subject to such rights at law or in equity as a lessee or purchaser, or his successor or successors in interest may be entitled to assert.

(6) Upon the approval of an urban renewal project by a municipality, the provisions of the urban renewal plan with respect to the future use and building requirements applicable to the property covered by said plan shall be controlling with respect thereto. [1965 c 7 § 35.81.060. Prior: 1957 c 42 § 6.]

35.81.070 Powers of municipality. Every municipality shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

(1) To undertake and carry out urban renewal projects within the municipality, to make and execute contracts and other instruments necessary or convenient to

the exercise of its powers under this chapter, and to disseminate blight clearance and urban renewal information.

(2) To provide or to arrange or contract for the furnishing or repair by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities or other facilities for, or in connection with, an urban renewal project; to install, construct, and reconstruct streets, utilities, parks, playgrounds, and other public improvements; and to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of an urban renewal project, and to include in any contract let in connection with such a project, provisions to fulfill such of said conditions as it may deem reasonable and appropriate.

(3) Within the municipality, to enter upon any building or property in any urban renewal area, in order to make surveys and appraisals, provided that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted; to acquire by purchase, lease, option, gift, grant, bequest, devise, eminent domain, or otherwise, any real property and such personal property as may be necessary for the administration of the provisions herein contained, together with any improvements thereon; to hold, improve, clear, or prepare for redevelopment any such property; to dispose of any real property; to insure or provide for the insurance of any real or personal property or operations of the municipality against any risks or hazards, including the power to pay premiums on any such insurance: *Provided*, That no statutory provision with respect to the acquisition, clearance, or disposition of property by public bodies shall restrict a municipality in the exercise of such functions with respect to an urban renewal project.

(4) To invest any urban renewal project funds held in reserves or sinking funds or any such funds which are not required for immediate disbursement, in property or securities in which mutual savings banks may legally invest funds subject to their control; to redeem such bonds as have been issued pursuant to RCW 35.81.100 at the redemption price established therein or to purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be canceled.

(5) To borrow money and to apply for, and accept, advances, loans, grants, contributions and any other form of financial assistance from the federal government, the state, county, or other public body, or from any sources, public or private, for the purposes of this chapter, and to enter into and carry out contracts in connection therewith. A municipality may include in any application or contract for financial assistance with the federal government for an urban renewal project such conditions imposed pursuant to federal laws as the municipality may deem reasonable and appropriate and

which are not inconsistent with the purposes of this chapter.

(6) Within the municipality, to make or have made all plans necessary to the carrying out of the purposes of this chapter and to contract with any person, public or private, in making and carrying out such plans and to adopt or approve, modify, and amend such plans. Such plans may include, without limitation: (a) a comprehensive plan or parts thereof for the locality as a whole, (b) urban renewal plans, (c) plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements, (d) plans for the enforcement of state and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements, and (e) appraisals, title searches, surveys, studies, and other preliminary plans and work necessary to prepare for the undertaking of urban renewal projects. The municipality is authorized to develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of urban blight and to apply for, accept, and utilize grants of, funds from the federal government for such purposes.

(7) To prepare plans for the relocation of families displaced from an urban renewal area, and to coordinate public and private agencies in such relocation, including requesting such assistance for this purpose as is available from other private and governmental agencies, both for the municipality and other parties.

(8) To appropriate such funds and make such expenditures as may be necessary to carry out the purposes of this chapter, and in accordance with state law: (a) levy taxes and assessments for such purposes; (b) acquire land by negotiation and/or eminent domain; (c) close, vacate, plan, or replan streets, roads, sidewalks, ways, or other places; (d) plan or replan, zone or rezone any part of the municipality; (e) adopt annual budgets for the operation of an urban renewal agency, department, or offices vested with urban renewal project powers under RCW 35.81.150; (f) enter into agreements with such agencies or departments (which agreements may extend over any period) respecting action to be taken by such municipality pursuant to any of the powers granted by this chapter.

(9) Within the municipality, to organize, coordinate, and direct the administration of the provisions of this chapter as they apply to such municipality in order that the objective of remedying blighted areas and preventing the causes thereof within such municipality may be most effectively promoted and achieved, and to establish such new office or offices of the municipality or to reorganize existing offices in order to carry out such purpose most effectively.

(10) To exercise all or any part or combination of powers herein granted. [1965 c 7 § 35.81.070. Prior: 1957 c 42 § 7.]

35.81.080 Eminent domain. A municipality shall have the right to acquire by condemnation, in accordance with the procedure provided for condemnation by

such municipality for other purposes, any interest in real property, which it may deem necessary for an urban renewal project under this chapter after the adoption by the local governing body of a resolution declaring that the acquisition of the real property described therein is necessary for such purpose. Condemnation for urban renewal of blighted areas is declared to be a public use, and property already devoted to any other public use or acquired by the owner or his predecessor in interest by eminent domain may be condemned for the purposes of this chapter.

The award of compensation for real property taken for such a project shall not be increased by reason of any increase in the value of the real property caused by the assembly, clearance, or reconstruction, or proposed assembly, clearance, or reconstruction in the project area. No allowance shall be made for the improvements begun on real property after notice to the owner of such property of the institution of proceedings to condemn such property. Evidence shall be admissible bearing upon the insanitary, unsafe, or substandard condition of the premises, or the unlawful use thereof. [1965 c 7 § 35.81.080. Prior: 1957 c 42 § 8.]

Eminent domain by cities: Chapter 8.12 RCW.

35.81.090 Disposal of real property in urban renewal area. (1) A municipality may sell, lease, or otherwise transfer real property or any interest therein acquired by it for an urban renewal project, in an urban renewal area for residential, recreational, commercial, industrial, or other uses or for public use, and may enter into contracts with respect thereto, or may retain such property or interest only for parks and recreation, education, public utilities, public transportation, public safety, health, highways, streets, and alleys, administrative buildings, or civic centers, in accordance with the urban renewal project plan, subject to such covenants, conditions, and restrictions, including covenants running with the land, as it may deem to be necessary or desirable to assist in preventing the development or spread of blighted areas or otherwise to carry out the purposes of this chapter: *Provided*, That such sale, lease, other transfer, or retention, and any agreement relating thereto, may be made only after the approval of the urban renewal plan by the local governing body. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the urban renewal plan, and may be obligated to comply with such other requirements as the municipality may determine to be in the public interest, including the obligation to begin, within a reasonable time, any improvements on such real property required by the urban renewal plan. Such real property or interest shall be sold, leased, otherwise transferred, or retained at not less than its fair value for uses in accordance with the urban renewal plan. In determining the fair value of real property for uses in accordance with the urban renewal plan, a municipality shall take into account, and give consideration to, the uses provided in such plan; the restrictions upon, and the covenants, conditions, and obligations assumed by, the purchaser or lessee or by the municipality retaining the

property; and the objectives of such plan for the prevention of the recurrence of blighted areas. The municipality in any instrument of conveyance to a private purchaser or lessee may provide that such purchaser or lessee shall be without power to sell, lease, or otherwise transfer the real property without the prior written consent of the municipality until he has completed the construction of any and all improvements which he has obligated himself to construct thereon. Real property acquired by a municipality which, in accordance with the provisions of the urban renewal plan, is to be transferred, shall be transferred as rapidly as feasible, in the public interest, consistent with the carrying out of the provisions of the urban renewal plan. The inclusion in any such contract or conveyance to a purchaser or lessee of any such covenants, restrictions, or conditions (including the incorporation by reference therein of the provisions of an urban renewal plan or any part thereof) shall not prevent the recording of such contract or conveyance in the land records of the auditor or the county in which such city or town is located, in such manner as to afford actual or constructive notice thereof.

(2) A municipality may dispose of real property in an urban renewal area to private persons only under such reasonable competitive bidding procedures as it shall prescribe or as hereinafter provided in this subsection. A municipality may, by public notice by publication once each week for three consecutive weeks in a newspaper having a general circulation in the community, prior to the execution of any contract or deed to sell, lease, or otherwise transfer real property and prior to the delivery of any instrument of conveyance with respect thereto under the provisions of this section, invite bids from, and make available all pertinent information to, private redevelopers or any persons interested in undertaking to redevelop or rehabilitate an urban renewal area, or any part thereof. Such notice shall identify the area, or portion thereof, and shall state that such further information as is available may be obtained at such office as shall be designated in said notice. The municipality shall consider all redevelopment or rehabilitation bids and the financial and legal ability of the persons making such bids to carry them out. The municipality may accept such bids as it deems to be in the public interest and in furtherance of the purposes of this chapter. Thereafter, the municipality may execute, in accordance with the provisions of subsection (1), and deliver contracts, deeds, leases, and other instruments of transfer.

(3) A municipality may operate and maintain real property acquired in an urban renewal area for a period of three years pending the disposition of the property for redevelopment, without regard to the provisions of subsection (1) above, for such uses and purposes as may be deemed desirable even though not in conformity with the urban renewal plan: *Provided*, That the municipality may, after a public hearing, extend the time for a period not to exceed three years. [1965 c 7 § 35.81.090. Prior: 1957 c 42 § 9.]

35.81.100 Bonds—Issuance—Form, terms, payment, etc. (1) A municipality shall have the power to issue bonds from time to time in its discretion to finance the undertaking of any urban renewal project under this chapter, including, without limiting the generality thereof, the payment of principal and interest upon any advances for surveys and plans for urban renewal projects, and shall also have power to issue refunding bonds for the payment or retirement of such bonds previously issued by it. Such bonds shall not pledge the general credit of the municipality and shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the municipality derived from, or held in connection with, its undertaking and carrying out of urban renewal projects under this chapter: *Provided*, That payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant, or contribution from the federal government or other source, in aid of any urban renewal projects of the municipality under this chapter.

(2) Bonds issued under this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and shall not be subject to the provisions of any other law or charter relating to the authorization, issuance, or sale of bonds. Bonds issued under the provisions of this chapter are declared to be issued for an essential public and governmental purpose, and together with interest thereon and income therefrom, shall be exempted from all taxes.

(3) Bonds issued under this section shall be authorized by resolution or ordinance of the local governing body and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics, as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto.

(4) Such bonds may be sold at not less than ninety-eight percent of par at public or private sale, or may be exchanged for other bonds on the basis of par: *Provided*, That such bonds may be sold to the federal government at private sale at not less than par and, in the event less than all of the authorized principal amount of such bonds is sold to the federal government, the balance may be sold at public or private sale at not less than ninety-eight percent of par at an interest cost to the municipality of not to exceed the interest cost to the municipality of the portion of the bonds sold to the federal government.

(5) The municipality may annually pay into a fund to be established for the benefit of such bonds any and all

excess of the taxes received by it from the same property over and above the average of the annual taxes authorized without vote for a five-year period immediately preceding the acquisition of the property by the municipality for renewal purposes, such payment to continue until such time as all bonds payable from the fund are paid in full. Any other taxing unit in a municipality is authorized to allocate a like amount of such excess taxes to the municipality or municipalities in which it is situated.

(6) In case any of the public officials of the municipality whose signatures appear on any bonds or coupons issued under this chapter shall cease to be such officials before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds, issued pursuant to this chapter shall be fully negotiable.

(7) In any suit, action, or proceeding involving the validity or enforceability of any bond issued under this chapter or the security therefor, any such bond reciting in substance that it has been issued by the municipality in connection with an urban renewal project, as herein defined, shall be conclusively deemed to have been issued for such purpose and such project shall be conclusively deemed to have been planned, located, and carried out in accordance with the provisions of this chapter. [1970 ex.s. c 56 § 44; 1969 ex.s. c 232 § 21; 1965 c 7 § 35.81.100. Prior: 1957 c 42 § 10.]

Purpose—Effective date—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

35.81.110 Bonds as legal investment, security. All banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking or investment business, all insurance companies, insurance associations, and other persons carrying on an insurance business and all executors, administrators, curators, trustees, and other fiduciaries, may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or other obligations issued by a municipality pursuant to this chapter: *Provided*, That such bonds and other obligations shall be secured by an agreement between the issuer and the federal government in which the issuer agrees to borrow from the federal government and the federal government agrees to lend to the issuer, prior to the maturity of such bonds or other obligations, moneys in an amount which (together with any other moneys irrevocably committed to the payment of interest on such bonds or other obligations) will suffice to pay the principal of such bonds or other obligations with interest to maturity thereon, which moneys under the terms of said agreement are required to be used for the purpose of paying the principal of, and the interest on, such bonds or other obligations at their maturity. Such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this

section to authorize any persons, political subdivisions, and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations. Nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities. [1965 c 7 § 35.81.110. Prior: 1957 c 42 § 11.]

35.81.115 General obligation bonds authorized. For the purposes of this chapter a municipality may (in addition to any authority to issue bonds pursuant to RCW 35.81.100) issue and sell its general obligation bonds. Any bonds issued by a municipality pursuant to this section shall be issued in the manner and within the limitations prescribed by the laws of this state for the issuance and authorization of bonds by such municipality for public purposes generally. [1965 c 7 § 35.81.115. Prior: 1959 c 79 § 1.]

35.81.120 Property of municipality exempt from process and taxes. (1) All property of a municipality, including funds, owned or held by it for the purposes of this chapter, shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall judgment against a municipality be a charge or lien upon such property: *Provided*, That the provisions of this section shall not apply to, or limit the right of, obligees to pursue any remedies for the enforcement of any pledge or lien given pursuant to this chapter by a municipality on its rents, fees, grants, or revenues from urban renewal projects.

(2) The property of a municipality, acquired or held for the purposes of this chapter, is declared to be public property used for essential public and governmental purposes and such property shall be exempt from all taxes of the municipality, the county, the state, or any political subdivision thereof: *Provided*, That such tax exemption shall terminate when the municipality sells, leases, or otherwise disposes of such property in an urban renewal area to a purchaser or lessee which is not a public body or other organization normally entitled to tax exemption with respect to such property. [1965 c 7 § 35.81.120. Prior: 1957 c 42 § 12.]

35.81.130 Aid to public bodies. (1) For the purpose of aiding in the planning, undertaking, or carrying out of an urban renewal project located within the area in which it is authorized to act, any public body authorized by law or by this chapter, may, upon such terms, with or without consideration, as it may determine: (a) Dedicate, sell, convey, or lease any of its interest in any property, or grant easements, licenses, or other rights or privileges therein to a municipality; (b) incur the entire expense of any public improvements made by such public body, in exercising the powers granted in this section; (c) do any and all things necessary to aid or cooperate in the planning or carrying out of an urban renewal plan; (d) lend, grant, or contribute funds to a municipality; (e) enter into agreements (which may extend over any period, notwithstanding any provision or

rule of law to the contrary) with a municipality or other public body respecting action to be taken pursuant to any of the powers granted by this chapter, including the furnishing of funds or other assistance in connection with an urban renewal project, and (f) cause public building and public facilities, including parks, playgrounds, recreational, community, educational, water, sewer, or drainage facilities, or any other works which it is otherwise empowered to undertake to be furnished; furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, sidewalks, ways, or other places; plan or replan, zone or rezone any part of the urban renewal area; and provide such administrative and other services as may be deemed requisite to the efficient exercise of the powers herein granted.

(2) Any sale, conveyance, lease, or agreement provided for in this section shall be made by a public body with appraisal, public notice, advertisement, or public bidding in accordance with the provisions of RCW 35.81.090(2). [1965 c 7 § 35.81.130. Prior: 1957 c 42 § 13.]

Demonstration Cities and Metropolitan Development Act—Authority to contract with federal government: RCW 35.21.660.

35.81.140 Conveyance to purchaser, etc., presumed to be in compliance with chapter. Any instrument executed by a municipality and purporting to convey any right, title, or interest in any property under this chapter shall be conclusively presumed to have been executed in compliance with the provisions of this chapter insofar as title or other interest of any bona fide purchasers, lessees, or transferees of such property is concerned. [1965 c 7 § 35.81.140. Prior: 1957 c 42 § 14.]

35.81.150 Exercise of urban renewal project powers. (1) A municipality may itself exercise its urban renewal project powers (as herein defined) or may, if the local governing body by resolution determines such action to be in the public interest, elect to have such powers exercised by the urban renewal agency (created by RCW 35.81.160) or a department or other officers of the municipality or by any existing public body corporate, as they are authorized to exercise under this chapter.

(2) In the event the local governing body makes such determination, such body may authorize the urban renewal agency or department or other officers of the municipality to exercise any of the following urban renewal project powers:

(a) To formulate and coordinate a workable program as specified in RCW 35.81.040.

(b) To prepare urban renewal plans.

(c) To prepare recommended modifications to an urban renewal project plan.

(d) To undertake and carry out urban renewal projects as required by the local governing body.

(e) To make and execute contracts as specified in RCW 35.81.070, with the exception of contracts for the purchase or sale of real or personal property.

(f) To disseminate blight clearance and urban renewal information.

(g) To exercise the powers prescribed by RCW 35.81.070(2), except the power to agree to conditions for

federal financial assistance and imposed pursuant to federal law relating to salaries and wages, shall be reserved to the local governing body.

(h) To enter any building or property, in any urban renewal area, in order to make surveys and appraisals in the manner specified in RCW 35.81.070(3).

(i) To improve, clear, or prepare for redevelopment any real or personal property in an urban renewal area.

(j) To insure real or personal property as provided in RCW 35.81.070(3).

(k) To effectuate the plans provided for in RCW 35.81.070(6).

(l) To prepare plans for the relocation of families displaced from an urban renewal area and to coordinate public and private agencies in such relocation.

(m) To prepare plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements.

(n) To conduct appraisals, title searches, surveys, studies, and other preliminary plans and work necessary to prepare for the undertaking of urban renewal projects.

(o) To negotiate for the acquisition of land.

(p) To study the closing, vacating, planning, or re-planning of streets, roads, sidewalks, ways, or other places and to make recommendations with respect thereto.

(q) To organize, coordinate, and direct the administration of the provisions of this chapter.

(r) To perform such duties as the local governing body may direct so as to make the necessary arrangements for the exercise of the powers and the performance of the duties and responsibilities entrusted to the local governing body.

Any powers granted in this chapter that are not included in RCW 35.81.150(2) as powers of the urban renewal agency or a department or other officers of a municipality in lieu thereof, may only be exercised by the local governing body or other officers, boards, and commissions as provided under existing law. [1965 c 7 § 35.81.150. Prior: 1957 c 42 § 15.]

35.81.160 Exercise of urban renewal project powers—Assignment of powers—Urban renewal agency.

(1) When a municipality has made the finding prescribed in RCW 35.81.050 and has elected to have the urban renewal project powers, as specified in RCW 35.81.150, exercised, such urban renewal project powers may be assigned to a department or other officers of the municipality or to any existing public body corporate, or the legislative body of a city may create an urban renewal agency in such municipality to be known as a public body corporate to which such powers may be assigned.

(2) If the urban renewal agency is authorized to transact business and exercise powers hereunder, the mayor, by and with the advice and consent of the local governing body, shall appoint a board of commissioners of the urban renewal agency which shall consist of five commissioners. The initial membership shall consist of one commissioner appointed for one year, one for two

years, one for three years, and two for four years; and each appointment thereafter shall be for four years.

(3) A commissioner shall receive no compensation for his services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. Each commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk of the municipality and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner.

The powers and responsibilities of an urban renewal agency shall be exercised by the commissioners thereof. A majority of the commissioners shall constitute a quorum for the purpose of conducting business and exercising the powers and responsibilities of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the commissioners present, unless in any case the bylaws shall require a larger number. Any persons may be appointed as commissioners if they reside within the municipality.

The urban renewal agency or department or officers exercising urban renewal project powers shall be staffed with the necessary technical experts and such other agents and employees, permanent and temporary, as it may require. An agency authorized to transact business and exercise powers under this chapter shall file, with the local governing body, on or before March 31st of each year, a report of its activities for the preceding calendar year, which report shall include a complete financial statement setting forth its assets, liabilities, income, and operating expense as of the end of such calendar year. At the time of filing the report, the agency shall publish in a newspaper of general circulation in the community a notice to the effect that such report has been filed with the municipality and that the report is available for inspection during business hours in the office of the city clerk and in the office of the agency.

(4) For inefficiency, neglect of duty, or misconduct in office, a commissioner may be removed. [1965 c 7 § 35.81.160. Prior: 1957 c 42 § 16.]

35.81.170 Discrimination prohibited. For all of the purposes of this chapter, no person shall, because of race, creed, color, or national origin, be subjected to any discrimination. [1965 c 7 § 35.81.170. Prior: 1957 c 42 § 17.]

Law against discrimination: Chapter 49.60 RCW.

35.81.180 Restrictions against public officials or employees acquiring or owning an interest in project, contract, etc. No public official, department or division head of a municipality or urban renewal agency or department or officers which have been vested by a municipality with urban renewal project powers and responsibilities under RCW 35.81.150, shall voluntarily acquire any interest, direct or indirect, in any urban renewal project, or in any property included or planned to be included in any urban renewal project of such municipality, or in any contract or proposed contract in connection with such urban renewal project. Where

such acquisition is not voluntary, the interest acquired shall be immediately disclosed in writing to the local governing body and such disclosure shall be entered upon the minutes of the governing body. If any such official, department or division head owns or controls, or owned or controlled within two years prior to the date of hearing on the urban renewal project, any interest, direct or indirect, in any property which he knows is included in an urban renewal project, he shall immediately disclose this fact in writing to the local governing body, and such disclosure shall be entered upon the minutes of the governing body, and any such official, department or division head shall not participate in any action on that particular project by the municipality or urban renewal agency, department, or officers which have been vested with urban renewal project powers by the municipality pursuant to the provisions of RCW 35.81.150. A majority of the commissioners of an urban renewal agency exercising powers pursuant to this chapter shall not hold any other public office under the municipality other than their commissioner's office with respect to such urban renewal agency, department, or officers. Any violation of the provisions of this section shall constitute misconduct in office. [1965 c 7 § 35.81.180. Prior: 1957 c 42 § 18.]

35.81.910 Short title. This chapter shall be known and may be cited as the "Urban Renewal Law." [1965 c 7 § 35.81.910. Prior: 1957 c 42 § 20.]

Chapter 35.82 HOUSING AUTHORITIES LAW

Sections	
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35.82.900	Short title.
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Eminent domain: Title 8 RCW.

Planning commissions: Chapter 35.63 RCW.

35.82.010 Finding and declaration of necessity. It is hereby declared: (1) that there exist in the state insanitary or unsafe dwelling accommodations and that persons of low income are forced to reside in such insanitary or unsafe accommodations; that within the state there is a shortage of safe or sanitary dwelling accommodations available at rents which persons of low income can afford and that such persons are forced to occupy overcrowded and congested dwelling accommodations; that the aforesaid conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the residents of the state and impair economic values; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities; (2) that these areas in the state cannot be cleared, nor can the shortage of safe and sanitary dwellings for persons of low income be relieved, through the operation of private enterprise, and that the construction of housing projects for persons of low income (as herein defined) would therefore not be competitive with private enterprise; (3) that the clearance, replanning and reconstruction of the areas in which insanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which public money may be spent and private property acquired and are governmental functions of state concern; (4) that it is in the public interest that work on projects for such purposes be commenced as soon as possible in order to relieve unemployment which now (1939) constitutes an emergency; and the necessity in the public interest for the provisions hereinafter enacted, is hereby declared as a matter of legislative determination. [1965 c 7 § 35.82.010. Prior: 1939 c 23 § 2; RRS § 6889-2. Formerly RCW 74.24.010.]

35.82.020 Definitions. The following terms, wherever used or referred to in this chapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(1) "Authority" or "Housing Authority" shall mean any of the public corporations created by RCW 35.82.030.

(2) "City" shall mean any city of any class. "County" shall mean any county in the state. "The city" shall mean the particular city for which a particular housing authority is created. "The county" shall mean the particular county for which a particular housing authority is created.

(3) "Governing body" shall mean, in the case of a city, the city council or the commission and in the case of a county, the board of county commissioners.

(4) "Mayor" shall mean the mayor of the city or the officer thereof charged with the duties customarily imposed on the mayor or executive head of the city.

(5) "Clerk" shall mean the clerk of the city or the clerk of the board of county commissioners, as the case

may be, or the officer charged with the duties customarily imposed on such clerk.

(6) "Area of operation": (a) in the case of a housing authority of a city, shall include such city and the area within five miles from the territorial boundaries thereof: *Provided*, That the area of operation of a housing authority of any city shall not include any area which lies within the territorial boundaries of some other city, as herein defined; (b) in the case of a housing authority of a county, shall include all of the county except that portion which lies within the territorial boundaries of any city as herein defined.

(7) "Federal government" shall include the United States of America, the United States housing authority or any other agency or instrumentality, corporate or otherwise, of the United States of America.

(8) "Slum" shall mean any area where dwellings predominate which, by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilities, or any combination of these factors, are detrimental to safety, health and morals.

(9) "Housing project" shall mean any work or undertaking: (a) to demolish, clear or remove buildings from any slum area; such work or undertaking may embrace the adaptation of such area to public purposes, including parks or other recreational or community purposes; or (b) to provide decent, safe and sanitary urban or rural dwellings, apartments or other living accommodations for persons of low income; such work or undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, welfare or other purposes; or (c) to accomplish a combination of the foregoing. The term "housing project" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith.

(10) "Persons of low income" shall mean persons or families who lack the amount of income which is necessary (as determined by the authority undertaking the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

(11) "Bonds" shall mean any bonds, notes, interim certificates, debentures, or other obligations issued by the authority pursuant to this chapter.

(12) "Real property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

(13) "Obligee of the authority" or "obligee" shall include any bondholder, trustee or trustees for any bondholders, or lessor demising to the authority property used in connection with a housing project, or any assignee or assignees of such lessor's interest or any part

thereof, and the federal government when it is a party to any contract with the authority. [1965 c 7 § 35.82-.020. Prior: 1939 c 23 § 3; RRS § 6889-3. Formerly RCW 74.24.020.]

35.82.030 Creation of housing authorities. In each city (as herein defined) and in each county of the state there is hereby created a public body corporate and politic to be known as the "Housing Authority" of the city or county: *Provided, however*, That such authority shall not transact any business or exercise its powers hereunder until or unless the governing body of the city or the county, as the case may be, by proper resolution shall declare at any time hereafter that there is need for an authority to function in such city or county. The determination as to whether or not there is such need for an authority to function (1) may be made by the governing body on its own motion or (2) shall be made by the governing body upon the filing of a petition signed by twenty-five residents of the city or county, as the case may be, asserting that there is need for an authority to function in such city or county and requesting that the governing body so declare.

The governing body shall adopt a resolution declaring that there is need for a housing authority in the city or county, as the case may be, if it shall find (1) that insanitary or unsafe inhabited dwelling accommodations exist in such city or county or (2) that there is a shortage of safe or sanitary dwelling accommodations in such city or county available to persons of low income at rentals they can afford. In determining whether dwelling accommodations are unsafe or insanitary said governing body may take into consideration the degree of overcrowding, the percentage of land coverage, the light, air, space and access available to the inhabitants of such dwelling accommodations, the size and arrangement of the rooms, the sanitary facilities, and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes.

In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of the authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution by the governing body declaring the need for the authority. Such resolution or resolutions shall be deemed sufficient if it declares that there is such need for an authority and finds in substantially the foregoing terms (no further detail being necessary) that either or both of the above enumerated conditions exist in the city or county, as the case may be. A copy of such resolution duly certified by the clerk shall be admissible in evidence in any suit, action or proceeding. [1965 c 7 § 35.82.030. Prior: 1939 c 23 § 4; RRS § 6889-4. Formerly RCW 74.24.030.]

35.82.040 Appointment, qualifications and tenure of commissioners. When the governing body of a city adopts a resolution as aforesaid, it shall promptly notify the mayor of such adoption. Upon receiving such notice, the mayor shall appoint five persons as commissioners of the authority created for said city. When the

governing body of a county adopts a resolution as aforesaid, said body shall appoint five persons as commissioners of the authority created for said county. The commissioners who are first appointed shall be designated to serve for terms of one, two, three, four and five years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed as aforesaid for a term of office of five years except that all vacancies shall be filled for the unexpired term. No commissioner of an authority may be an officer or employee of the city or county for which the authority is created. A commissioner shall hold office until his successor has been appointed and has qualified, unless sooner removed according to this chapter. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his services for the authority, in any capacity, but he shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties.

The powers of each authority shall be vested in the commissioners thereof in office from time to time. Three commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the commissioners present, unless in any case the bylaws of the authority shall require a larger number. The mayor (or in the case of an authority for a county, the governing body of the county) shall designate which of the commissioners appointed shall be the first chairman and he shall serve in the capacity of chairman until the expiration of his term of office as commissioner. When the office of the chairman of the authority thereafter becomes vacant, the authority shall select a chairman from among its commissioners. An authority shall select from among its commissioners a vice chairman, and it may employ a secretary (who shall be executive director), technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, an authority may call upon the chief law officer of the city or the county or may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper. [1965 c 7 § 35.82.040. Prior: 1939 c 23 § 5; RRS § 6889-5. Formerly RCW 74.24.040.]

35.82.050 Interested commissioners or employees. No commissioner or employee of an authority shall acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project. If any commissioner or employee of an authority owns or controls an interest direct or indirect in any property included or

planned to be included in any housing project, he immediately shall disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure so to disclose such interest shall constitute misconduct in office. Upon such disclosure such commissioner or employee shall not participate in any action by the authority affecting such property. [1965 c 7 § 35.82.050. Prior: 1939 c 23 § 6; RRS § 6889-6. Formerly RCW 74.24.050.]

35.82.060 Removal of commissioners. For inefficiency or neglect of duty or misconduct in office, a commissioner of an authority may be removed by the mayor (or in the case of an authority for a county, by the governing body of said county), but a commissioner shall be removed only after he shall have been given a copy of the charges at least ten days prior to the hearing thereon and had an opportunity to be heard in person or by counsel. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk. [1965 c 7 § 35.82.060. Prior: 1939 c 23 § 7; RRS § 6889-7. Formerly RCW 74.24.060.]

35.82.070 Powers of authority. An authority shall constitute a public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

(1) To sue and be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with this chapter, to carry into effect the powers and purposes of the authority.

(2) Within its area of operation: to prepare, carry out, acquire, lease and operate housing projects; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project or any part thereof.

(3) To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, or facilities for, or in connection with, a housing project or the occupants thereof; and (notwithstanding anything to the contrary contained in this chapter or in any other provision of law) to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project.

(4) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and (subject to the limitations contained in this chapter) to establish and revise the rents or charges therefor; to own, hold, and improve real or personal property; to purchase, lease,

obtain options upon, acquire by gift, grant, bequest, devise, or otherwise including financial assistance and other aid from the state or any public body, person or corporation, any real or personal property or any interest therein; to acquire by the exercise of the power of eminent domain any real property; to sell, lease, exchange, transfer, assign, pledge or dispose of any real or personal property or any interest therein; to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards; to procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts thereof issued by an authority, including the power to pay premiums on any such insurance.

(5) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be canceled.

(6) Within its area of operation: to investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where slum areas exist or where there is a shortage of decent, safe and sanitary dwelling accommodations for persons of low income; to make studies and recommendations relating to the problem of clearing, replanning and reconstructing of slum areas, and the problem of providing dwelling accommodations for persons of low income, and to cooperate with the city, the county, the state or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies and experimentation on the subject of housing.

(7) Acting through one or more commissioners or other person or persons designated by the authority: to conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to administer oaths, issue subpoenas requiring the attendance of witnesses or the production of books and papers and to issue commissions for the examination of witnesses who are outside of the state or unable to attend before the authority, or excused from attendance; to make available to appropriate agencies (including those charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or insanitary structures within its area of operation) its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety or welfare.

(8) To exercise all or any part or combination of powers herein granted.

No provisions of law with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to an authority unless the legislature shall specifically so state.

(9) To agree (notwithstanding the limitation contained in RCW 35.82.210) to make such payments in

lieu of taxes as the authority finds consistent with the achievement of the purposes of this chapter.

(10) To exercise the powers granted in this chapter within the boundaries of any city, town, or county not included in the area in which such housing authority is originally authorized to function: *Provided, however,* The governing or legislative body of such city, town, or county, as the case may be, adopts a resolution declaring that there is a need for the authority to function in such territory. [1965 c 7 § 35.82.070. Prior: 1945 c 43 § 1; 1939 c 23 § 8; Rem. Supp. 1945 § 6889-8. Formerly RCW 74.24.070.]

35.82.080 Operation not for profit. It is hereby declared to be the policy of this state that each housing authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe and sanitary dwelling accommodations, and that no housing authority shall construct or operate any such project for profit, or as a source of revenue to the city or the county. To this end an authority shall fix the rentals for dwellings in its projects at no higher rates than it shall find to be necessary in order to produce revenues which (together with all other available moneys, revenues, income and receipts of the authority from whatever sources derived) will be sufficient (1) to pay, as the same become due, the principal and interest on the bonds of the authority; (2) to meet the cost of, and to provide for, maintaining and operating the projects (including the cost of any insurance) and the administrative expenses of the authority; and (3) to create (during not less than the six years immediately succeeding its issuance of any bonds) a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any one year thereafter and to maintain such reserve. [1965 c 7 § 35.82.080. Prior: 1939 c 23 § 9; RRS § 6889-9. Formerly RCW 74.24.080.]

35.82.090 Rentals and tenant selection. In the operation and management of housing projects an authority shall at all times observe the following duties with respect to rentals and tenant selection: (1) it may rent or lease the dwelling accommodations therein only to persons of low income and at rentals within the financial reach of such persons of low income; (2) it may rent or lease to a tenant dwelling accommodations consisting of the number of rooms (but no greater number) which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding; and (3) it shall not accept any person as a tenant in any housing project if the person or persons who would occupy the dwelling accommodations have an annual net income in excess of five times the annual rental of the quarters to be furnished such person or persons, except that in the case of families with three or more minor dependents, such ratio shall not exceed six to one; in computing the rental for this purpose of selecting tenants, there shall be included in the rental the average annual cost (as determined by the authority) to occupants of heat, water, electricity, gas, cooking range

and other necessary services or facilities, whether or not the charge for such services and facilities is in fact included in the rental.

Nothing contained in this section or RCW 35.82.080 shall be construed as limiting the power of an authority to vest in an obligee the right, in the event of a default by the authority, to take possession of a housing project or cause the appointment of a receiver thereof, free from all the restrictions imposed by this section or RCW 35.82.080. [1965 c 7 § 35.82.090. Prior: 1939 c 23 § 10; RRS § 6889-10. Formerly RCW 74.24.090.]

35.82.100 Cooperation between authorities. Any two or more authorities may join or cooperate with one another in the exercise of any or all of the powers conferred hereby for the purpose of financing, planning, undertaking, constructing or operating a housing project or projects located within the area of operation of any one or more of said authorities. [1965 c 7 § 35.82.100. Prior: 1939 c 23 § 11; RRS § 6889-11. Formerly RCW 74.24.100.]

35.82.110 Eminent domain. An authority shall have the right to acquire by the exercise of the power of eminent domain any real property which it may deem necessary for its purposes under this chapter after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. An authority may exercise the power of eminent domain in the same manner and under the same procedure as now is or may be hereafter provided by law in the case of other corporations authorized by the laws of the state to exercise the right of eminent domain; or it may exercise the power of eminent domain in the manner now or which may be hereafter provided by any other applicable statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired in like manner: *Provided*, That no real property belonging to the city, the county, the state or any political subdivision thereof may be acquired without its consent. [1965 c 7 § 35.82.110. Prior: 1939 c 23 § 12; RRS § 6889-12. Formerly RCW 74.24.110.]

Eminent domain: Title 8 RCW.

35.82.120 Planning, zoning and building laws. All housing projects of an authority shall be subject to the planning, zoning, sanitary and building laws, ordinances and regulations applicable to the locality in which the housing project is situated. In the planning and location of any housing project, an authority shall take into consideration the relationship of the project to any larger plan or long-range program for the development of the area in which the housing authority functions. [1965 c 7 § 35.82.120. Prior: 1939 c 23 § 13; RRS § 6889-13. Formerly RCW 74.24.120.]

Ordinances—Adoption of codes by reference: RCW 35.21.180.
Planning commissions: Chapter 35.63 RCW.

35.82.130 Bonds. An authority shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes. An authority shall also have

power to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it. An authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable: (1) exclusively from the income and revenues of the housing project financed with the proceeds of such bonds; (2) exclusively from the income and revenues of certain designated housing projects whether or not they are financed in whole or in part with the proceeds of such bonds; or (3) from its revenues generally. Any such bonds may be additionally secured by a pledge of any grant or contributions from the federal government or other source, or a pledge of any income or revenues of the authority, or a mortgage of any housing project, projects or other property of the authority.

Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority (and such bonds and obligations shall so state on their face) shall not be a debt of the city, the county, the state or any political subdivision thereof and neither the city or the county, nor the state or any political subdivision thereof shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of said authority. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes. [1965 c 7 § 35.82.130. Prior: 1939 c 23 § 14; RRS § 6889-14. Formerly RCW 74.24.130.]

35.82.140 Form and sale of bonds. Bonds of an authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution, its trust indenture or mortgage may provide.

The bonds may be sold at public or private sale at not less than par.

In case any of the commissioners or officers of the authority whose signatures appear on any bond or coupons shall cease to be such commissioners or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if they had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this chapter shall be fully negotiable.

In any suit, action or proceedings involving the validity or enforceability of any bond of an authority or

the security therefor, any such bond reciting in substance that it has been issued by the authority to aid in financing a housing project to provide dwelling accommodations for persons of low income shall be conclusively deemed to have been issued for a housing project of such character and said project shall be conclusively deemed to have been planned, located and constructed in accordance with the purposes and provisions of this chapter. [1970 ex.s. c 56 § 45; 1969 ex.s. c 232 § 22; 1965 c 7 § 35.82.140. Prior: 1939 c 23 § 15; RRS § 6889–15. Formerly RCW 74.24.140.]

Purpose—Effective date—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

35.82.150 Provisions of bonds, trust indentures, and mortgages. In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds or obligations, an authority, in addition to its other powers, shall have power:

(1) To pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence.

(2) To mortgage all or any part of its real or personal property, then owned or thereafter acquired.

(3) To covenant against pledging all or any part of its rents, fees and revenues, or against mortgaging all or any part of its real or personal property, to which its right or title then exists or may thereafter come into existence or against permitting or suffering any lien on such revenues or property; to covenant with respect to limitations on its right to sell, lease or otherwise dispose of any housing project or any part thereof; and to covenant as to what other, or additional debts or obligations may be incurred by it.

(4) To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest thereon; and to redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(5) To covenant (subject to the limitations contained in this chapter) as to the rents and fees to be charged in the operation of a housing project or projects, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof; to create or to authorize the creation of special funds for moneys held for construction or operating costs, debt service, reserves, or other purposes, and to covenant as to the use and disposition of the moneys held in such funds.

(6) To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(7) To covenant as to use of any or all of its real or personal property; and to covenant as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

(8) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(9) To vest in a trustee or trustees or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default by said authority, to take possession and use, operate and manage any housing project or part thereof, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the authority with said trustee; to provide for the powers and duties of a trustee or trustees and to limit the liabilities thereof; and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

(10) To exercise all or any part or combination of the powers herein granted; to make covenants other than and in addition to the covenants herein expressly authorized, of like or different character; to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or, in the absolute discretion of said authority, as will tend to make the bonds more marketable notwithstanding that such covenants, acts or things may not be enumerated herein. [1965 c 7 § 35.82.150. Prior: 1939 c 23 § 16; RRS § 6889–16. Formerly RCW 74.24.150.]

35.82.160 Certification by attorney general. Any authority may submit to the attorney general of the state any bonds to be issued hereunder after all proceedings for the issuance of such bonds have been taken. Upon the submission of such proceedings to the attorney general, it shall be the duty of the attorney general to examine into and pass upon the validity of such bonds and the regularity of all proceedings in connection therewith. If such proceedings conform to the provisions of this chapter and are otherwise regular in form and if such bonds when delivered and paid for will constitute binding and legal obligations of the authority enforceable according to the terms thereof, the attorney general shall certify in substance upon the back of each of said bonds that it is issued in accordance with the Constitution and laws of the state of Washington. [1965 c 7 § 35.82.160. Prior: 1939 c 23 § 17; RRS § 6889–17. Formerly RCW 74.24.160.]

35.82.170 Remedies of an obligee of authority. An obligee of an authority shall have the right in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

(1) By mandamus, suit, action or proceeding at law or in equity to compel said authority and the commissioners, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any contract of said authority with or for the benefit of such obligee, and to require the carrying out of any or all such covenants and agreements of said authority and the fulfillment of all duties imposed upon said authority by this chapter.

(2) By suit, action or proceeding in equity, to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of said authority. [1965 c 7 § 35.82.170. Prior: 1939 c 23 § 18; RRS § 6889-18. Formerly RCW 74.24.170.]

35.82.180 Additional remedies conferable by authority. An authority shall have power by its resolution, trust indenture, mortgage, lease or other contract to confer upon any obligee holding or representing a specified amount in bonds, or holding a lease, the right (in addition to all rights that may otherwise be conferred), upon the happening of an event of default as defined in such resolution or instrument, by suit, action or proceeding in any court of competent jurisdiction:

(1) To cause possession of any housing project or any part thereof to be surrendered to any such obligee.

(2) To obtain the appointment of a receiver of any housing project of said authority or any part thereof and of the rents and profits therefrom. If such receiver be appointed, he may enter and take possession of such housing project or any part thereof and operate and maintain same, and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom, and shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligations of said authority as the court shall direct.

(3) To require said authority and the commissioners thereof to account as if it and they were the trustees of an express trust. [1965 c 7 § 35.82.180. Prior: 1939 c 23 § 19; RRS § 6889-19. Formerly RCW 74.24.180.]

35.82.190 Exemption of property from execution sale. All real property of an authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against an authority be a charge or lien upon its real property: *Provided, however,* That the provisions of this section shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of an authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by an authority on its rents, fees or revenues. [1965 c 7 § 35.82.190. Prior: 1939 c 23 § 20; RRS § 6889-20. Formerly RCW 74.24.190.]

35.82.200 Aid from federal government. In addition to the powers conferred upon an authority by other provisions of this chapter, an authority is empowered to borrow money or accept contributions, grants or other financial assistance from the federal government for or in aid of any housing project within its area of operation, to take over or lease or manage any housing project or undertaking constructed or owned by the federal government, and to these ends, to comply with such conditions and enter into such mortgages, trust indentures, leases or agreements as may be necessary, convenient or desirable. It is the purpose and intent of this chapter to authorize every authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the federal government in the undertaking, construction, maintenance or operation of any housing project by such authority. [1965 c 7 § 35.82.200. Prior: 1939 c 23 § 21; RRS § 6889-21. Formerly RCW 74.24.200.]

35.82.210 Tax exemption and payments in lieu of taxes. The property of an authority is declared to be public property used for essential public and governmental purposes and such property and an authority shall be exempt from all taxes and special assessments of the city, the county, the state or any political subdivision thereof: *Provided, however,* That in lieu of such taxes an authority may agree to make payments to the city or the county or any such political subdivision for improvements, services and facilities furnished by such city, county or political subdivision for the benefit of a housing project, but in no event shall such payments exceed the amount last levied as the annual tax of such city, county or political subdivision upon the property included in said project prior to the time of its acquisition by the authority. [1965 c 7 § 35.82.210. Prior: 1939 c 23 § 22; RRS § 6889-22. Formerly RCW 74.24.210.]

35.82.220 Housing bonds legal investments and security. Notwithstanding any restrictions on investments contained in any laws of this state, the state and all public officers, municipal corporations, political subdivisions, and public bodies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or other obligations issued by a housing authority pursuant to the housing authorities law of this state or issued by any public housing authority or agency in the United States, when such bonds or other obligations are secured by a pledge of annual contributions to be paid by the United States government or any agency thereof, and such bonds and other obligations shall be authorized security for all public deposits; it being the purpose of this chapter to authorize any persons, firms, corporations, associations,

political subdivisions, bodies and officers, public or private, to use any funds owned or controlled by them, including (but not limited to) sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations: *Provided, however*, That nothing contained in this chapter shall be construed as relieving any person, firm or corporation from any duty of exercising reasonable care in selecting securities. [1965 c 7 § 35.82.220. Prior: 1939 c 23 § 23; RRS § 6889–23. Formerly RCW 74.24.220.]

35.82.230 Reports. At least once a year, an authority shall file with the clerk a report of its activities for the preceding year, and shall make recommendations with reference to such additional legislation or other action as it deems necessary in order to carry out the purposes of this chapter. [1965 c 7 § 35.82.230. Prior: 1939 c 23 § 24; RRS § 6889–24. Formerly RCW 74.24.230.]

35.82.240 Rural housing projects. Housing authorities created for counties are specifically empowered and authorized to borrow money, accept grants and exercise their other powers to provide housing for farmers of low income as herein defined. In providing such housing, such housing authorities shall not be subject to the tenant selection limitations provided in RCW 35.82.090(3). In connection with such projects, such housing authorities may enter into such leases or purchase agreements, accept such conveyances and rent or sell dwellings forming part of such projects to or for farmers of low income, as such housing authority deems necessary in order to assure the achievement of the objectives of this chapter. Such leases, agreements or conveyances may include such covenants as the housing authority deems appropriate regarding such dwellings and the tracts of land described in any such instrument, which covenants shall be deemed to run with the land where the housing authority deems it necessary and the parties to such instrument so stipulate. Nothing contained in this section shall be construed as limiting any other powers of any housing authority. [1965 c 7 § 35.82.240. Prior: 1941 c 69 § 1; Rem. Supp. 1941 § 6889–23a. Formerly RCW 74.24.240.]

35.82.250 Housing applications by farmers. The owner of any farm operated, or worked upon, by farmers of low income in need of safe and sanitary housing may file an application with a housing authority of a county requesting that it provide for a safe and sanitary dwelling or dwellings for occupancy by such farmers of low income. Such applications shall be received and examined by housing authorities in connection with the formulation of projects or programs to provide housing for farmers of low income. [1965 c 7 § 35.82.250. Prior: 1941 c 69 § 2; Rem. Supp. 1941 § 6889–23b. Formerly RCW 74.24.250.]

35.82.260 Farmers of low income. "Farmers of low income" shall mean persons or families who at the time of their admission to occupancy in a dwelling of a housing authority: (1) live under unsafe or insanitary

housing conditions; (2) derive their principal income from operating or working upon a farm; and (3) had an aggregate average annual net income for the three years preceding their admission that was less than the amount determined by the housing authority to be necessary, within its area of operation, to enable them, without financial assistance, to obtain decent, safe and sanitary housing without overcrowding. [1965 c 7 § 35.82.260. Prior: 1941 c 69 § 3; Rem. Supp. 1941 § 6889–23c. Formerly RCW 74.24.260.]

35.82.270 Powers are additional. The powers conferred by RCW 35.82.240 through 35.82.270 shall be in addition and supplemental to the powers conferred by any other law, and nothing contained herein shall be construed as limiting any other powers of any housing authority. [1965 c 7 § 35.82.270. Prior: 1941 c 69 § 4; Rem. Supp. 1941 § 6889–23d. Formerly RCW 74.24.270.]

35.82.280 Supplemental projects. Except as limited by this section, an authority shall have the same powers with respect to supplemental projects as hereinafter in this section defined as are now or hereafter granted to it under this chapter with respect to housing projects.

No funds shall be expended by an authority for a supplemental project except by resolution adopted on notice at a public hearing as provided by chapter 42.32 RCW, supported by formal findings of fact incorporated therein, establishing that:

(1) Low-income housing needs within the area of operation of the authority are being or will be adequately met by existing programs; and

(2) A surplus of funds will exist after meeting such low-income housing needs.

Expenditures for supplemental projects shall be limited to those funds determined to be surplus.

"Supplemental project" for the purposes of this chapter shall mean any work or undertaking to provide buildings, land, equipment, facilities, and other real or personal property for recreational, group home, halfway house or other community purposes which by resolution of the housing authority is determined to be necessary for the welfare of the community within its area of operation and to fully accomplish the purposes of this chapter. Such project need not be in conjunction with the clearing of a slum area under subsection (9)(a) of RCW 35.82.020 or with the providing of low-income housing under subsection (9)(b) of RCW 35.82.020. [1971 ex.s. c 300 § 2.]

35.82.285 Group homes or halfway houses for released juveniles or developmentally disabled. Housing authorities of first class counties created under this chapter may establish and operate group homes or halfway houses to serve juveniles released from state juvenile or correctional institutions, or to serve the developmentally disabled as defined in 42 U.S.C. 2670, 85 Stat. 1316. Such authorities may contract for the operation of facilities so established, with qualified nonprofit organizations as agent of the authority.

Action under this section shall be taken by the authority only after a public hearing as provided by chapter 42.30 RCW. In exercising this power the authority shall not be empowered to acquire property by eminent domain, and the facilities established shall comply with all zoning, building, fire, and health regulations and procedures applicable in the locality. [1973 1st ex.s. c 198 § 2.]

Effective date—1973 1st ex.s. c 198: See note following RCW 13.06.050.

35.82.900 Short title. This chapter shall be known and may be cited as the "Housing Authorities Law." [1965 c 7 § 35.82.900. Prior: 1939 c 23 § 1.]

35.82.910 Chapter controlling. Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, the provisions of this chapter shall be controlling. [1965 c 7 § 35.82.910. Prior: 1939 c 23 § 26.]

Chapter 35.83 HOUSING COOPERATION LAW

Sections

35.83.005	Short title.
35.83.010	Finding and declaration of necessity.
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Housing authorities law: Chapter 35.82 RCW.

35.83.005 Short title. This act may be referred to as the "Housing Cooperation Law." [1965 c 7 § 35.83.005. Prior: 1939 c 24 § 1; RRS § 6889–31.]

35.83.010 Finding and declaration of necessity. It has been found and declared in the housing authorities law that there exist in the state unsafe and insanitary housing conditions and a shortage of safe and sanitary dwelling accommodations for persons of low income; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities; and that the public interest requires the remedying of these conditions. It is hereby found and declared that the assistance herein provided for the remedying of the conditions set forth in the housing authorities law constitutes a public use and purpose and an essential governmental function for which public moneys may be spent, and other aid given; that it is a proper public purpose for any state public body to aid any housing authority operating within its boundaries or jurisdiction or any housing project located therein, as the state public body derives immediate benefits and advantages from such an authority or project; and that the provisions hereinafter enacted are necessary in the public interest. [1965 c 7 § 35.83.010. Prior: 1939 c 24 § 2; RRS § 6889–32. Formerly RCW 74.28.010.]

35.83.020 Definitions. The following terms, whenever used or referred to in this chapter shall have the following respective meanings, unless a different meaning clearly appears from the context:

(1) "Housing authority" shall mean any housing authority created pursuant to the housing authorities law of this state.

(2) "Housing project" shall mean any work or undertaking of a housing authority pursuant to the housing authorities law or any similar work or undertaking of the federal government.

(3) "State public body" shall mean any city, town, county, municipal corporation, commission, district, authority, other subdivision or public body of the state.

(4) "Governing body" shall mean the council, the commission, board of county commissioners or other body having charge of the fiscal affairs of the state public body.

(5) "Federal government" shall include the United States of America, the United States housing authority, or any other agency or instrumentality, corporate or otherwise, of the United States of America. [1965 c 7 § 35.83.020. Prior: 1939 c 24 § 3; RRS § 6889–33. Formerly RCW 74.28.020.]

35.83.030 Cooperation in undertaking housing projects. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects located within the area in which it is authorized to act, any state public body may upon such terms, with or without consideration, as it may determine:

(1) Dedicate, sell, convey or lease any of its interest in any property, or grant easements, licenses or any other rights or privileges therein to a housing authority or the federal government;

(2) Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;

(3) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake;

(4) Plan or replan, zone or rezone any part of such state public body; make exceptions from building regulations and ordinances; any city or town also may change its map;

(5) Cause services to be furnished to the housing authority of the character which such state public body is otherwise empowered to furnish;

(6) Enter into agreements with respect to the exercise by such state public body of its powers relating to the repair, elimination or closing of unsafe, insanitary or unfit dwellings;

(7) Employ (notwithstanding the provisions of any other law) any funds belonging to or within the control of such state public body, including funds derived from

the sale or furnishing of property or facilities to a housing authority, in the purchase of the bonds or other obligations of a housing authority; and exercise all the rights of any holder of such bonds or other obligations;

(8) Do any and all things, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of such housing projects;

(9) Incur the entire expense of any public improvements made by such state public body in exercising the powers granted in this chapter;

(10) Enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary), with a housing authority respecting action to be taken by such state public body pursuant to any of the powers granted by this chapter. Any law or statute to the contrary notwithstanding, any sale, conveyance, lease or agreement provided for in this section may be made by a state public body without appraisal, advertisement or public bidding: *Provided*, There must be five days public notice given either by posting in three public places or publishing in the official county newspaper of the county wherein the property is located; and

(11) With respect to any housing project which a housing authority has acquired or taken over from the federal government and which the housing authority by resolution has found and declared to have been constructed in a manner that will promote the public interest and afford necessary safety, sanitation and other protection, no state public body shall require any changes to be made in the housing project or the manner of its construction or take any other action relating to such construction. [1965 c 7 § 35.83.030. Prior: 1939 c 24 § 4; RRS § 6889-34. Formerly RCW 74.28.030.]

35.83.040 Agreements as to payments by housing authority. In connection with any housing project located wholly or partly within the area in which it is authorized to act, any state public body may agree with a housing authority or the federal government that a certain sum (in no event to exceed the amount last levied as the annual tax of such state public body upon the property included in said project prior to the time of its acquisition by the housing authority) or that no sum, shall be paid by the authority in lieu of taxes for any year or period of years. [1965 c 7 § 35.83.040. Prior: 1939 c 24 § 5; RRS § 6889-35. Formerly RCW 74.28.040.]

35.83.050 Advances to housing authority. Any city, town, or county located in whole or in part within the area of operation of a housing authority shall have the power from time to time to lend or donate money to such authority or to agree to take such action. Such housing authority, when it has money available therefor, shall make reimbursements for all such loans made to it. [1965 c 7 § 35.83.050. Prior: 1939 c 24 § 6; RRS § 6889-36. Formerly RCW 74.28.050.]

35.83.060 Procedure for exercising powers. The exercise by a state public body of the powers herein granted may be authorized by resolution of the governing body of such state public body adopted by a majority of the members of its governing body present at a meeting of said governing body, which resolution may be adopted at the meeting at which such resolution is introduced. Such a resolution or resolutions shall take effect immediately and need not be laid over or published or posted. [1965 c 7 § 35.83.060. Prior: 1939 c 24 § 7; RRS § 6889-37. Formerly RCW 74.28.060.]

35.83.070 Supplemental nature of chapter. The powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law. [1965 c 7 § 35.83.070. Prior: 1939 c 24 § 8; RRS § 6889-39. Formerly RCW 74.28.070.]

Chapter 35.84 UTILITY AND OTHER SERVICES BEYOND CITY LIMITS

Sections

35.84.010	Electric energy—Sale of—Purchase.
35.84.020	Electric energy facilities—Right to acquire.
35.84.030	Limitation on right of eminent domain.
35.84.040	Fire apparatus—Use beyond city limits.
35.84.050	Fireman injured outside corporate limits.
35.84.060	Street railway extensions.

35.84.010 Electric energy—Sale of—Purchase. Every city or town owning its own electric power and light plant, shall have the right to sell and dispose of electric energy to any other city or town, public utility district, governmental agency, or municipal corporation, mutual association, or to any person, firm, or corporation, inside or outside its corporate limits, and to purchase electric energy therefrom. [1965 c 7 § 35.84.010. Prior: 1933 c 51 § 1; RRS § 9209-1.]

35.84.020 Electric energy facilities—Right to acquire. Every city or town owning its own electric power and light plant may acquire, construct, purchase, condemn and purchase, own, operate, control, add to and maintain lands, easements, rights-of-way, franchises, distribution systems, substations, inter-tie or transmission lines, to enable it to use, purchase, sell, and dispose of electric energy inside or outside its corporate limits, or to connect its electric plant with any other electric plant or system, or to connect parts of its own electric system. [1965 c 7 § 35.84.020. Prior: 1933 c 51 § 2; RRS § 9209-2.]

35.84.030 Limitation on right of eminent domain. Every city or town owning its own electric power and light plant may exercise the power of eminent domain as provided by law for the condemnation of private property for any of the corporate uses or purposes of the city or town: *Provided*, That no city or town shall acquire, by purchase or condemnation, any publicly or privately owned electric power and light plant or electric system located in any other city or town except with the approval of a majority of the qualified electors

of the city or town in which the property to be acquired is situated; nor shall any city or town acquire by condemnation the electric power and light plant or electric system, or any part thereof, belonging to or owned or operated by any municipal corporation, mutual, non-profit, or cooperative association or organization, or by a public utility district. [1965 c 7 § 35.84.030. Prior: 1933 c 51 § 3; RRS § 9209-3.]

Eminent domain by cities: Chapter 8.12 RCW.

35.84.040 Fire apparatus—Use beyond city limits. Every municipal corporation which owns, operates, or maintains fire apparatus and equipment may permit, under conditions prescribed by the governing body of such corporation, such equipment and the personnel operating the same to go outside of the corporate limits of such municipality for the purpose of extinguishing or aiding in the extinguishing or control of fires. Any use made of such equipment or personnel under the authority of this section shall be deemed an exercise of a governmental function of such municipal corporation. [1965 c 7 § 35.84.040. Prior: 1941 c 96 § 1; Rem. Supp. 1941 § 9213-9.]

35.84.050 Fireman injured outside corporate limits. Whenever a fireman engages in any duty outside the limits of such municipality, such duty shall be considered as part of his duty as fireman for the municipality, and a fireman who is injured while engaged in such duties outside the limits of the municipality shall be entitled to the same benefits that he or his family would be entitled to receive had he been injured within the municipality. [1965 c 7 § 35.84.050. Prior: 1941 c 96 § 2; Rem. Supp. 1941 § 9563-1.]

35.84.060 Street railway extensions. Every municipal corporation which owns or operates an urban public transportation system as defined in RCW 47.04.082 within its corporate limits, may acquire, construct, extend, own or operate such urban public transportation system to any point or points not to exceed fifteen miles outside of its corporate limits: *Provided*, That no municipal corporation shall extend its urban public transportation system beyond its corporate limits to operate in any territory already served by a privately operated auto transportation company holding a certificate of public convenience and necessity from the utilities and transportation commission. [1969 ex.s. c 281 § 26; 1965 c 7 § 35.84.060. Prior: 1919 c 138 § 1; 1917 c 59 § 1; RRS § 9213.]

Chapter 35.85

VIADUCTS, ELEVATED ROADWAYS, TUNNELS AND SUBWAYS

Sections

35.85.010	Authority to construct viaducts, bridges, elevated roadways, etc.
35.85.020	Assessment district—Resolution—Hearing—Ordinance ordering improvement.
35.85.030	Limit of assessment—Lien—Priority.
35.85.040	Operation by city—Leases—Use of income.
35.85.050	Authority to construct tunnels and subways.

35.85.060	Procedure.
35.85.070	Assessments—Bonds.
35.85.080	Construction of chapter.

35.85.010 Authority to construct viaducts, bridges, elevated roadways, etc. Any city of the first class shall have power to provide for the construction, maintenance and operation upon public streets and upon the extensions and connections thereof over intervening tidelands to and across any harbor reserves, waterways, canals, rivers, natural watercourses and other channels, any bridges, drawbridges, viaducts, elevated roadways and tunnels or any combination thereof together with all necessary approaches thereto, with or without street railway tracks thereon or therein, and to make any and all necessary cuts, fills, or other construction, upon, in, or along such streets and approaches as a part of any such improvement, and to order any and all work to be done which shall be necessary to complete any such improvement. The word "approaches" as used in this section shall include any arterial highway or highways or streets connecting with any such bridge, drawbridge, viaduct, elevated roadway or tunnel, or combination thereof, which are necessary to give convenient access thereto or therefrom from any portion of the improvement district which may be specially benefited by such improvement and which is liable to assessment for such improvement.

Whenever it is desired to pay the whole or any portion of the cost and expense of any such improvement by special assessments, the council or other legislative body of such city shall in the ordinance ordering such improvement fix and establish the boundaries of the improvement district, the property within which is to bear such assessment, which district shall include as near as may be, all the property specially benefited by such improvement. [1965 c 7 § 35.85.010. Prior: 1911 c 103 § 1; 1909 ex.s. c 14 § 1; RRS § 9001.]

First class cities, generally: Chapter 35.22 RCW.

35.85.020 Assessment district—Resolution—Hearing—Ordinance ordering improvement. Any such improvement may be initiated by the city council, or other legislative body, by a resolution, declaring its intention to order such improvement, which resolution shall set forth the nature and territorial extent of such proposed improvement, shall specify and describe the boundaries of the proposed improvement district and notify all persons who may desire to object thereto to appear and present such objections at a meeting of the council specified in such resolution and directing the board of public works, or other proper board, officer, or authority of the city, to submit to such council at or prior to the date fixed for such hearing the estimated cost and expense of the improvement, and a statement of the proportionate amount thereof which should be borne by the property within the proposed improvement district, and a statement of the aggregate assessed valuation of the real property exclusive of improvements, within said district, according to the valuation last placed upon it for purposes of general taxation.

Such resolution shall be published in at least two consecutive issues of the official newspaper of the city, the date of the first publication to be at least thirty days prior to the date fixed by the resolution for hearing before the council.

Upon such hearing, or upon any adjournment thereof, the council shall have power to amend, change, extend, or contract the boundaries of the proposed improvement district as specified in the resolution, and to consider and determine all matters in relation to the proposed improvement, and, upon the conclusion of the hearing, or any adjournment thereof, shall have power by ordinance to order the improvement to be made and to adopt, fix and establish the boundaries of the improvement district. The action of such council in ordering such improvement, or in abandoning it, and in fixing and establishing the boundaries of the improvement district shall be final and conclusive. Any such ordinance may be passed upon majority vote of the council or other legislative body of the city.

Such ordinance may provide for the construction of the improvement in sections, the letting of separate contracts for each such section, and, in case the same is made in sections, separate assessment rolls to defray the cost and expense of any such section of such improvement may be prepared, and the amounts thereon appearing as finally determined, may be levied and assessed against real property within the improvement district. The provisions of law, charter and ordinance of any such city, relating to supplemental assessments, reassessments and omitted property shall be applicable to any improvement authorized in this chapter.

The city council, or other legislative body of such city, shall by general ordinance, make provision for hearing any objections in writing, to any assessment roll for such improvement, filed with the city clerk or comptroller at a prior date to the hearing thereon. Any right of appeal to the superior court provided by law to be taken from any local improvement assessment levied and assessed by any such city, may be exercised, within the time and in the manner therein provided, by any person so objecting to any assessment levied and assessed for any improvement authorized in this chapter. [1965 c 7 § 35.85.020. Prior: 1911 c 103 § 2; 1909 ex.s. c 14 § 2; RRS § 9002.]

Appeal from local improvement district assessments: RCW 35.44-.200-35.44.270.

35.85.030 Limit of assessment—Lien—Priority.

The city council may prescribe by general ordinance, the mode and manner in which the charge upon property in such local improvement district shall be assessed and determined for the purpose of paying the cost and expense of establishing and constructing such improvement: *Provided*, That no assessment shall be levied on any such district, the aggregate of which is a greater sum than twenty-five percent of the assessed value of all the real property in such district according to the last equalized assessment thereof for general taxation: *Provided further*, That there shall be, in all cases, an opportunity for a hearing upon objections to the assessment roll by the parties affected thereby, before the

council as a board of equalization, which hearing shall be after publication of a reasonable notice thereof, such notice to be published in such manner and for such time as may be prescribed by ordinance. At such hearing, or at legal adjournments thereof, such changes may be made in the assessment roll as the city council may find necessary to make the same just and equitable. Railroad rights-of-way shall be assessed for such benefits as shall inure or accrue to the owners, lessees, or operators of the same, resulting or to result from the construction and maintenance of any such improvement, whether such rights-of-way lie within the limits of any street or highway or not; such assessment to lie against the franchise rights when such right-of-way is within such street or highway.

When the assessment roll has been finally confirmed by the city council, the charges therein made shall be and become a lien against the property or franchise therein described, paramount to all other liens (except liens for assessments and taxes) upon the property assessed from the time the assessment roll shall be placed in the hands of the collector. [1965 c 7 § 35.85.030. Prior: 1909 ex.s. c 14 § 3; RRS § 9003.]

35.85.040 Operation by city—Leases—Use of

income. As a part of the original construction of any improvement herein authorized, or afterward as an alteration or renewal thereof, any such city, notwithstanding any charter provision to the contrary, may, at its own cost, construct, maintain and operate street railway tracks in the roadway thereof, and may provide electric power for the propulsion of cars, and may lease the use of such tracks and power for the operation of street cars or interurban railways; or such city may authorize any operator of the street or interurban railways to construct and furnish such street railway tracks and electric power and use the same for street or interurban purposes, under lease or franchise ordinance: *Provided*, That no such lease or franchise shall be exclusive, but shall at all times reserve the right to the city to permit other lines of street or interurban railway to use such street railway tracks in common with any preceding lessee or grantee, upon equal terms. The rate of lease or use of such street railway tracks for streets or interurban cars shall be as fixed by the legislative authority of the city, but shall not be less than one mill for each passenger carried, or ten cents for each freight car moved over such improvement. The income from such charges, rental and leasing shall be used wholly for the maintenance, repair and betterment of said improvement and the extinguishment of any debt incurred by the city in constructing it. [1965 c 7 § 35.85.040. Prior: 1909 ex.s. c 14 § 4; RRS § 9004.]

35.85.050 Authority to construct tunnels and sub-

ways. Any city of the first class shall have power to provide for the construction, maintenance and operation within such city of tunnels, subways, or both, with or without roadways, sidewalks, street railway tracks or any combination thereof therein, together with all necessary approaches thereto; and to order any and all work to be done which shall be necessary to complete

any such improvement. The word "approaches," as used in this section, shall include any arterial highway or highways or streets connecting with any such tunnel or subway which may be necessary to give convenient access thereto or therefrom from any portion of the improvement district which may be specially benefited by such improvement, and which is liable to assessment for such improvement.

Whenever it is desired to pay the whole or any portion of the cost and expense of any such improvement by special assessments, the council or other legislative body of such city shall, in the ordinance ordering such improvement, fix and establish the boundaries of the improvement district, the property in which is to bear such assessment, which district shall include as near as may be all the property specially benefited by such improvement. [1965 c 7 § 35.85.050. Prior: 1925 ex.s. c 168 § 1; RRS § 9005-1.]

35.85.060 Procedure. Any such improvement may be initiated and assessments therefor determined and levied as prescribed in RCW 35.85.020 to 35.85.040, inclusive. [1965 c 7 § 35.85.060. Prior: 1925 ex.s. c 168 § 2; RRS § 9005-2.]

35.85.070 Assessments—Bonds. Any assessments so levied shall be collected, and bonds may be issued for the payment of the whole or any part of the cost of such improvement, in the manner now or hereafter provided for the collection of assessments and the issuance of bonds for other local improvements. [1965 c 7 § 35.85.070. Prior: 1925 ex.s. c 168 § 3; RRS § 9005-3.]

35.85.080 Construction of chapter. The provisions and remedies provided by this chapter are cumulative of existing provisions and remedies, and nothing herein contained shall be held to repeal any provision of the existing law or of any charter of any city upon the subject matter thereof, but such existing law or charter provision shall continue in full force and effect, and it shall be optional with the city authorities to proceed under either such existing law, charter provision or this chapter. [1965 c 7 § 35.85.080. Prior: (i) 1909 ex.s. c 14 § 5; RRS § 9005. (ii) 1925 ex.s. c 168 § 4; RRS § 9005-4.]

35.86.010 Space and facilities authorized and declared public use—Bids for operation of space and facilities in or beneath public parks. Cities of the first, second, and third classes are authorized to provide off-street parking space and facilities for motor vehicles, and the use of real property for such purpose is declared to be a public use. Notwithstanding the provisions of RCW 35.86.040 such cities shall call for competitive bids for the operation of any off-street parking space and facilities for motor vehicles in or beneath a public park by any private person, firm or corporation, upon such reasonable notice, bidder qualifications and bid conditions as the city shall determine. In the case of off-street parking space in, upon or beneath a public park the term "facilities" as used hereafter in this chapter may include public parks thereon. [1967 ex.s. c 144 § 13; 1965 c 7 § 35.86.010. Prior: 1961 c 186 § 1; 1959 c 302 § 1.]

Severability—1967 ex.s. c 144: See note following RCW 36.98.030.

Off-street parking space and facilities in towns: RCW 35.27.550-35.27.600.

Public parks in or beneath off-street parking space or facilities—Revenue bond financing—Special funds—Use of off-street and on-street parking revenues: RCW 35.41.010.

35.86.020 Financing. In order to provide for off-street parking space and/or facilities, such cities are authorized, in addition to the powers already possessed by them for financing public improvements, to finance their acquisition and construction through the issuance and sale of revenue bonds or general obligation bonds or both. Any bonds issued by such cities pursuant to this section shall be issued in the manner and within the limitations prescribed by the Constitution and the laws of this state.

In addition local improvement districts may be created and their financing procedures used for this purpose in accordance with the provisions of Title 35 RCW as now or hereafter amended.

Such cities may authorize and finance the economic and physical surveys and plans, acquisition and construction, for off-street parking spaces and facilities, and the maintenance and management of such off-street parking spaces and facilities either within their general budget or by issuing revenue bonds or general obligation bonds or both.

General obligation bonds issued hereunder may additionally be made payable from any otherwise unpledged revenue, fees or charges which may be derived from the ownership, operation, lease or license of off-street parking space or facilities or which may be derived from the license of on-street parking space.

Such cities may, in addition to utilizing the pledging revenues from off-street parking spaces and facilities, utilize and pledge revenues from on-street parking meters in exercising any of the powers provided by this chapter, including the financing of economic and physical surveys and plans, acquisition, and construction, for off-street parking facilities, the maintenance and management thereof, and for the payment of debt service of revenue bonds issued therefor.

**Chapter 35.86
OFF-STREET PARKING FACILITIES**

Sections	
35.86.010	Space and facilities authorized and declared public use—Bids for operation of space and facilities in or beneath public parks.
35.86.020	Financing.
35.86.030	Acquisition and disposition of real property.
35.86.040	Operation—Lease—Bid requirements and procedure.
35.86.045	Operation of parking facilities by cities prohibited, exception—Bid requirements and procedure.
35.86.050	Procedure to establish—Plan, surveys, hearings.
35.86.060	Maximum parking fee schedule.
35.86.080	Leasing for store space in lieu of undesirable off-street parking facility.
35.86.910	Chapter prevails over inconsistent laws.

In the event revenue bonds are issued, such cities are authorized to make such covenants pertaining to the continued maintenance of on-street and/or off-street parking spaces and facilities and the fixing of rates and charges for the use thereof as are deemed necessary to effectuate the sale of such revenue bonds. [1969 ex.s. c 204 § 14; 1965 c 7 § 35.86.020. Prior: 1961 c 186 § 2; 1959 c 302 § 2.]

Severability—1969 ex.s. c 204: See note following RCW 35.86A.010.

Severability—1967 ex.s. c 144: See note following RCW 36.98.030.

Public parks in or beneath off-street parking space or facilities—Revenue bond financing—Special funds—Use of off-street and on-street parking revenues: RCW 35.41.010.

35.86.030 Acquisition and disposition of real property. Such cities are authorized to obtain by lease, purchase, donation and/or gift, or by eminent domain in the manner provided by law for the exercise of this power by cities, such real property for off-street parking as the legislative bodies thereof determine to be necessary by ordinance. Such property or any fraction or fractions thereof may be sold, transferred, exchanged, leased, or otherwise disposed of by the city when its legislative body has determined by ordinance such property or fraction or fractions thereof is no longer necessary for off-street parking purposes. [1965 c 7 § 35.86.030. Prior: 1961 c 186 § 3; 1959 c 302 § 3.]

Eminent domain by cities: Chapter 8.12 RCW.

35.86.040 Operation—Lease—Bid requirements and procedure. Such cities are authorized to establish the method of operation of off-street parking space and/or facilities by ordinance, which may include leasing or municipal operation: *Provided, however,* That no city with a population of more than one hundred thousand shall operate any such off-street parking space and/or facilities but shall call for sealed bids from responsible, experienced, private operators of such facilities for the operation thereof. The call for bids shall specify the terms and conditions under which the facility will be leased for private operation. The call for bids shall specify the time and place at which the bids will be received and the time when the same will be opened, and such call shall be advertised once a week for two successive weeks before the time fixed for the filing of bids in a newspaper of general circulation in the city. The competitive bid requirements of this section shall not apply in any case where such a city shall grant a long-term negotiated lease of any such facility to a private operator on the condition that the tenant-operator shall construct a substantial portion of the facility or the improvements thereto, which construction and/or improvements shall become the property of the city on expiration of the lease. If no bid is received for the operation of such an off-street parking facility, or if none of the bids received are satisfactory, the legislative body of the city may reject all bids, in the latter case, and in both situations shall readvertise the facility for lease. In the event that no bids or no satisfactory bids shall have been received following the second advertising the city

may negotiate with a private operator for the operation of the facility without competitive bidding. In the event the city shall be unable to negotiate for satisfactory private operation within a reasonable time, the city may operate the facility for a period not to exceed three years, at which time it shall readvertise as provided above in this section. [1969 ex.s. c 204 § 13; 1965 c 7 § 35.86.040. Prior: 1959 c 302 § 4.]

Severability—1969 ex.s. c 204: See note following RCW 35.86A.010.

35.86.045 Operation of parking facilities by cities prohibited, exception—Bid requirements and procedure. See RCW 35.86A.120.

35.86.050 Procedure to establish—Plan, surveys, hearings. In the establishment of off-street parking space and/or facilities, cities shall proceed with the development of the plan therefor by making such economic and physical surveys as are necessary, shall prepare comprehensive plans therefor, and shall hold a public hearing thereon prior to the adoption of any ordinances relating to the leasing or acquisition of property and providing for the financing thereof for this purpose. [1965 c 7 § 35.86.050. Prior: 1959 c 302 § 5.]

35.86.060 Maximum parking fee schedule. The lease referred to in RCW 35.86.040 shall specify a schedule of maximum parking fees which the operator may charge. This maximum parking fee schedule may be modified from time to time by agreement of the city and the operator. [1965 c 7 § 35.86.060. Prior: 1959 c 302 § 6.]

35.86.080 Leasing for store space in lieu of undesirable off-street parking facility. Cities are expressly authorized to lease space which would otherwise be wasted in an off-street parking facility for store space, both for the enhancement of civic beauty and aesthetic values and for revenue which such leasing can provide. [1965 c 7 § 35.86.080. Prior: 1961 c 186 § 4.]

35.86.910 Chapter prevails over inconsistent laws. Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, the provisions of this chapter shall be controlling. [1965 c 7 § 35.86.910. Prior: 1959 c 302 § 9.]

Chapter 35.86A OFF-STREET PARKING—PARKING COMMISSIONS

Sections

- 35.86A.010 Declaration.
- 35.86A.020 Authority of cities of first, second and third class to establish parking facilities through parking commissions.
- 35.86A.030 Definitions.
- 35.86A.040 Ownership, control and use of parking facilities.
- 35.86A.050 Parking commission—Creation authorized—Purpose—Membership—Terms—Vacancies—Expenses.
- 35.86A.060 Parking commission—Chairman—Rules—Resolutions.
- 35.86A.070 Powers and authority of parking commission.
- 35.86A.080 New off-street parking facilities—Powers of parking commission and city council.

- 35.86A.090 Powers of cities.
 35.86A.100 Disposition of revenues—Expenditure procedure.
 35.86A.110 Excise tax to reimburse taxing authorities for loss of property tax revenue.
 35.86A.120 Operation of parking facilities by cities prohibited, exception—Bid requirements and procedure.

35.86A.010 Declaration. It is hereby determined and declared:

(1) The free circulation of traffic of all kinds through our cities is necessary to the health, safety and general welfare of the public, whether residing in, traveling to or through the cities of this state;

(2) The most efficient use of the street and highway system requires availability of strategically located parking for vehicles in localities where large numbers of persons congregate;

(3) An expanding suburban population has increased demands for further concentration of uses in central metropolitan areas, necessitating an increasing investment in streets and highways;

(4) On-street parking is now inadequate, and becomes increasingly an inefficient and uneconomical method for temporary storage of vehicles in commercial, industrial and high-density residential areas, causing such immediate adverse consequences as the following, among others:

(a) Serious traffic congestion from on-street parking, which interferes with use of streets for travel, disrupts public surface transportation at peak hours, impedes rapid and effective fighting of fires and disposition of police forces, slows emergency vehicles, and inflicts hardship upon handicapped persons and others dependent upon private vehicles for transportation;

(b) On-street parking absorbs right-of-way useful and usable for travel;

(c) On-street parking reduces the space available for truck and passenger loading for the abutting properties, hinders ready access, and impedes cleaning of streets;

(d) Inability to temporarily store automobiles has discouraged the public from travel to and within our cities, from congregating at public events, and from using public facilities.

(5) Insufficient off-street parking has had long-range results, as the following, among others:

(a) Metropolitan street and highway systems have lost efficiency and the free circulation of traffic and persons has been impaired;

(b) The growth and development of metropolitan areas has been retarded;

(c) Business, industry, and housing has become unnecessarily and uneconomically dispersed;

(d) Limited and valuable land area is under used.

All of which cause loss of payrolls, business and productivity, and property values, with resulting impairment of the public health, safety and welfare, the utility of our streets and highways, and tax revenues;

(6) Establishment of public off-street parking facilities will promote the public health, safety, convenience, and welfare, by:

(a) Expediting the movement of the public, and of goods in metropolitan areas, alleviating traffic congestion, and preserving the large investment in streets and highways;

(b) Permitting a greater use of public facilities, congregation of the public, and more intensive development of private property within the community;

(7) Establishment of public off-street parking is a necessary ancillary to and extension of an efficient street and highway system in metropolitan areas, as much so as a station or terminal is to a railroad or urban transit line;

(8) Public off-street parking facilities, open to the public and owned by a city or town, are and remain a public use and a public function, irrespective of whether:

(a) Parking fees are charged to users;

(b) The management or operation of one or more parking facilities is conducted by a public agency, or under contract or lease by private enterprise; or

(c) A portion of the facilities is used for commercial, store or automobile accessory purposes;

(9) Public parking facilities under the control of a parking commission are appropriately treated differently from other parking facilities of a city. [1969 ex.s. c 204 § 1.]

Severability—1969 ex.s. c 204: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 204 § 15.] This applies to chapter 35.86A RCW and to RCW 35.86.020 and 35.86.040.

35.86A.020 Authority of cities of first, second and third class to establish parking facilities through parking commissions. Cities of the first, second and third class are authorized and empowered to establish and maintain public off-street parking facilities through a parking commission; the use of property and property rights for such purpose is declared to be a public use; and parking facilities under the control of such parking commission shall be governed by the provisions of this chapter. [1969 ex.s. c 204 § 2.]

35.86A.030 Definitions. (1) "Parking facilities" means lots, garages, parking terminals, buildings and structures and accommodations for parking of motor vehicles off the street or highway, open to public use, with or without charge.

(2) "Parking commission" shall mean the department or agency created by the legislative authority of the municipality as hereinafter provided.

(3) "City council" shall mean the city council or legislative authority of the municipality.

(4) "Mayor" shall mean the chief executive officer of the municipality. [1969 ex.s. c 204 § 3.]

35.86A.040 Ownership, control and use of parking facilities. Parking facilities established pursuant to this chapter shall be owned by the city, under the control of the parking commission (unless relinquished), and for the use of the public. The provisions of chapter 35.86 RCW as now or hereafter amended shall not apply to

such parking facilities or other facilities under parking commission control. [1969 ex.s. c 204 § 4.]

35.86A.050 Parking commission—Creation authorized—Purpose—Membership—Terms—Vacancies—Expenses. Any city of the first, second or third class may by ordinance create a parking commission for the purpose of establishing and operating off-street parking facilities.

Such parking commission shall consist of five members appointed by the mayor and confirmed by the city council, who shall serve without compensation but may be reimbursed for necessary expenses. One member of the parking commission shall be selected from among persons actively engaged in the private parking industry, if available.

Three of those first appointed shall be designated to serve for one, two, and three years respectively, and two shall be designated to serve four years. The terms for all subsequently appointed members shall be four years. In event of any vacancy, the mayor, subject to confirmation of the city council, shall make appointments to fill the unexpired portion of the term.

A member may be reappointed, and shall hold office until his successor has been appointed and has qualified. Members may be removed by the mayor upon consent of the city council. [1969 ex.s. c 204 § 5.]

35.86A.060 Parking commission—Chairman—Rules—Resolutions. The parking commission shall select from its members a chairman, and may establish its own rules, regulations and procedures not inconsistent with this chapter. No resolution shall be adopted by the parking commission except upon the concurrence of at least three members. [1969 ex.s. c 204 § 6.]

35.86A.070 Powers and authority of parking commission. The parking commission is authorized and empowered, in the name of the municipality by resolution to:

(1) Own and acquire property and property rights by purchase, gift, devise, or lease for the construction, maintenance, or operation of off-street parking facilities, or for effectuating the purpose of this chapter; and accept grants-in-aid, including compliance with conditions attached thereto;

(2) Construct, maintain, and operate parking facilities, and undertake research, and prepare plans incidental thereto subject to applicable statutes and charter provisions for municipal purchases, expenditures, and improvements: *Provided*, That the provisions of chapter 35.86 RCW as now or hereafter amended shall not apply to such construction, operation or maintenance;

(3) Establish and collect parking fees, make exemption for handicapped persons, lease space for commercial, store, advertising or automobile accessory purposes, and regulate prices and service charges, for use of and within and the aerial space over parking facilities under its control;

(4) Subject to applicable city civil service provisions, provide for the appointment, removal and control of officers and employees, and prescribe their duties and

compensation, and to control all equipment and property under the commission's jurisdiction;

(5) Contract with private persons and organizations for the management and/or operation of parking facilities under its control, and services related thereto, including leasing of such facilities or portions thereof;

(6) Cause construction of parking facilities as a condition of an operating agreement or lease, derived through competitive bidding, or in the manner authorized by chapter 35.42 RCW;

(7) Execute and accept instruments, including deeds, necessary or convenient for the carrying on of its business; acquire rights to develop parking facilities over or under city property; and to contract to operate and manage parking facilities under the jurisdiction of other city departments or divisions and of other public bodies;

(8) Determine the need for and recommend to the city council:

(a) The establishment of local improvement districts to pay the cost of parking facilities or any part thereof;

(b) The issuance of bonds or other financing by the city for construction of parking facilities;

(c) The acquisition of property and property rights by condemnation from the public, or in street areas;

(9) Transfer its control of property to the city and liquidate its affairs, so long as such transfer does not contravene any covenant or agreement made with the holders of bonds or other creditors; and

(10) Require payment of the excise tax hereinafter provided. The city shall not have any power to regulate parking facilities not owned by the city. Parking fees for parking facilities under the control of the parking commission shall be maintained commensurate with and neither higher nor lower than prevailing rates for parking charged by commercial operators in the general area. [1969 ex.s. c 204 § 7.]

35.86A.080 New off-street parking facilities—Powers of parking commission and city council. (1) Whenever the parking commission intends to construct new off-street parking facilities it shall:

(a) Prepare plans for such proposed development, which shall meet the approval of the planning commission, other appropriate city planning agency, or city council;

(b) Prepare a report to the city council stating the proposed method of financing and property acquisition;

(c) Specify the property rights, if any, to be secured from the public or of property devoted to public use; the uses of streets necessary therefor, or realignment or vacation of streets and alleys; the relocation of street utilities; and any street area to be occupied or closed during construction.

(2) In the event the proposed parking facility shall require:

(a) Creation of a local improvement district;

(b) Issuance of bonds, allocation or appropriation of municipal revenues from other sources, or guarantees of or use of the credit of the municipality;

(c) Exercise of the power of eminent domain; or

(d) Use of, or vacation, realignment of streets and alleys, or relocation of municipal utilities.

One or more public hearings shall be held thereon before the city council, or an assigned committee thereof, which shall report its recommendations to be approved, revised, or rejected by the city council. Such hearings may be consolidated with any required hearings for street vacations, or creation of a local improvement district. Pursuant to such hearing, the city council may:

(1) Create a local improvement district to finance all or part of the parking facility, in accordance with Title 35 RCW, as now existing or hereinafter amended: *Provided, however,* That assessments against property within the district may be measured per lot, per square foot, by property valuation, or any other method as fairly reflects the special benefits derived therefrom, and credit in calculating the assessment may be allowed for property rights or services performed;

(2) Provide for issuance of revenue bonds payable from revenues of the proposed parking facility, from other off-street parking facilities, on-street meter collections, or allocations of other sources of funds; issue general obligation bonds; make reimbursable or non-refundable appropriations from the general fund, or reserves; and/or guarantee bonds issued or otherwise pledge the city's credit, all in such combination, and under such terms and conditions as the city council shall specify;

(3) Authorize acquisition of the necessary property and property rights by eminent domain proceedings, in the manner authorized by law for cities in Title 8 RCW: *Provided,* That the city council shall first determine that the proposed parking facility will promote the circulation of traffic or the more convenient or efficient use by the public of streets or public facilities in the immediate area than would exist if the proposed parking facility were not provided, or that the parking facility otherwise enhances the public health, safety and welfare; and

(4) Authorize and execute the necessary transfer or control of property rights; vacate or realign streets and alleys or permit uses within the same; and direct relocation of street utilities.

In event none of the four above powers need be exercised, the city council's approval of construction plans shall be deemed full authority to construct and complete the parking facility. [1969 ex.s. c 204 § 8.]

35.86A.090 Powers of cities. The city may:

(1) Transfer control of off-street parking facilities under other departments to the parking commission under such conditions as deemed appropriate;

(2) Issue revenue bonds pursuant to chapter 35.41 RCW, and RCW 35.24.305, and 35.81.100 as now or hereafter amended, and such other statutes as may authorize such bonds for parking facilities authorized herein;

(3) Issue general obligation bonds pursuant to chapters 39.44, 39.52 RCW, and RCW 35.81.115 as now or

hereafter amended, and such other statutes and applicable provisions of the state Constitution that may authorize such bonds for parking facilities authorized herein;

(4) Appropriate funds for the parking commission; and

(5) Enact such ordinances as may be necessary to carry out the provisions of this chapter, notwithstanding any charter provisions to the contrary. [1969 ex.s. c 204 § 9.]

Regulation of noncity owned parking facilities prohibited: RCW 35.86A.070(10).

35.86A.100 Disposition of revenues—Expenditure procedure. All revenues received shall be paid to the municipal treasurer for the credit of the general fund, or such other funds as may be provided by ordinance.

Expenditures of the parking commission shall be made in accordance with the budget adopted by the municipality pursuant to chapter 35.32A RCW. [1969 ex.s. c 204 § 10.]

35.86A.110 Excise tax to reimburse taxing authorities for loss of property tax revenue. Such cities shall pay to the county treasurer an annual excise tax equal to the amount which would be paid upon real property devoted to the purpose of off-street parking, were it in private ownership. This section shall apply to parking facilities acquired and/or operated under this chapter. The proceeds of such excise tax shall be allocated by the county treasurer to the various taxing authorities in which such property is situated, in the same manner as though the property were in private ownership. [1969 ex.s. c 204 § 11.]

35.86A.120 Operation of parking facilities by cities prohibited, exception—Bid requirements and procedure. No city shall operate off-street parking facilities but shall call for sealed bids from responsible, experienced private operators of such facilities for the operation thereof. The call for bids shall specify the terms and conditions under which the facility will be leased for private operation. The call for bids shall specify the time and place at which the bids will be received and the time when the same will be opened, and such call shall be advertised once a week for two successive weeks before the time fixed for the filing of bids in a newspaper of general circulation in the city. The competitive bid requirements of this section shall not apply in any case where such a city shall grant a long-term negotiated lease of any such facility to a private operator on the condition that the tenant-operator shall construct a substantial portion of the facility or the improvements thereto, which construction and/or improvements shall become the property of the city on expiration of the lease. If no bid is received for the operation of such an off-street parking facility, or if the bids received are not satisfactory, the legislative body of the city may reject such bids and shall readvertise the facility for lease. In the event that no bids or no satisfactory bids shall have been received following the second advertising, the city may negotiate with a private

operator for the operation of the facility without competitive bidding. In the event the city shall be unable to negotiate for satisfactory private operation within a reasonable time, the city may operate the facility for a period not to exceed three years, at which time it shall readvertise as provided above in this section. [1969 ex.s. c 204 § 12.]

Chapter 35.87

PARKING FACILITIES—CONVEYANCE OF LAND FOR IN CITIES OVER 300,000

Sections

- 35.87.010 Sale, lease or conveyance of real property for free public parking authorized—"Municipality" defined.
 35.87.020 Notice of intention to sell, lease or convey real property in business area—Posting—Publication—Preference right to purchase or lease.
 35.87.030 Consideration, terms and conditions—Reversion.
 35.87.040 RCW 35.87.020 inapplicable to sale, lease or conveyance to federal government or agency or to the state or any county, city or political subdivision.

35.87.010 Sale, lease or conveyance of real property for free public parking authorized—"Municipality" defined. Any municipality may sell, lease or convey any real property located in an area zoned to permit the operation of retail business, when such property is no longer needed for the use or purposes of the municipality, to any private corporation or association established to develop and maintain free public parking facilities. "Municipality" as used in RCW 35.87.010 through 35.87.040, means any city with a population over three hundred thousand and any municipal corporation or other political subdivision located within the boundaries of such city. [1967 ex.s. c 144 § 2.]

Severability—1967 ex.s. c 144: See note following RCW 36.98.030.

35.87.020 Notice of intention to sell, lease or convey real property in business area—Posting—Publication—Preference right to purchase or lease. Before any municipality may sell, lease or convey any real property located in an area zoned to permit the operation of retail business, it shall post in a conspicuous place on such property and publish in the official newspaper for the county in which such property is located for fifteen days prior to such sale, lease or conveyance a notice giving the legal description of such property and disclosing an intention to sell, lease or convey such property; and it shall offer in its notice, and shall give, the first right of purchase or lease of the whole or any part of such property to any private corporation or association (1) established to develop and maintain free public parking facilities and (2) which agrees to dedicate such property for free public parking. [1967 ex.s. c 144 § 3.]

35.87.030 Consideration, terms and conditions—Reversion. A sale, lease or conveyance to such corporation or association may be made for such consideration and on such terms and conditions as the municipality deems appropriate: *Provided*, That the price charged such corporation or association shall not be in excess of

the fair market value of such property: *Provided further*, That all deeds, leases and other instruments of conveyance shall incorporate a reversion to the municipality of the property or property interest so deeded, leased or conveyed, in the event that such property should no longer be used as a free public parking facility. [1967 ex.s. c 144 § 4.]

35.87.040 RCW 35.87.020 inapplicable to sale, lease or conveyance to federal government or agency or to the state or any county, city or political subdivision. The provisions of RCW 35.87.020 shall not apply to any sale, lease or conveyance to the federal government or to any agency thereof, or to the state or any agency, county, city, town or other political subdivision of this state. [1967 ex.s. c 144 § 5.]

Chapter 35.87A

PARKING AND BUSINESS IMPROVEMENT AREAS

Sections

- 35.87A.010 Authorized—Purposes—Special assessments—Financing.
 35.87A.020 Definitions.
 35.87A.030 Initiation petition or resolution—Contents.
 35.87A.040 Resolution of intention to establish—Contents—Hearing.
 35.87A.050 Notice of hearing.
 35.87A.060 Hearings.
 35.87A.070 Change of boundaries.
 35.87A.080 Special assessments—Classification of businesses.
 35.87A.090 Special assessments—Same basis or rate for classes not required—Factors as to parking facilities.
 35.87A.100 Ordinance to establish—Adoption—Contents.
 35.87A.110 Use of revenue—Contracts to administer operation of area.
 35.87A.120 Use of assessment proceeds restricted.
 35.87A.130 Collection of assessments.
 35.87A.140 Changes in assessment rates.
 35.87A.150 Benefit zones—Authorized—Rates.
 35.87A.160 Benefit zones—Establishment, modification and disestablishment of area provisions and procedure to be followed.
 35.87A.170 Exemption period for new businesses.
 35.87A.180 Disestablishment of area—Hearing.
 35.87A.190 Disestablishment of area—Assets and liabilities.
 35.87A.200 Bids required—Monetary amount.
 35.87A.210 Computing cost of improvement for bid requirement.
 35.87A.220 Existing laws not affected—Chapter supplemental—Purposes may be accomplished in conjunction with other methods.
 35.87A.900 Severability—1971 ex.s. c 45.

35.87A.010 Authorized—Purposes—Special assessments—Financing. The legislature hereby authorizes all counties and all incorporated cities and towns, including unclassified cities and towns operating under special charters:

(1) To establish parking and business improvement areas, hereafter referred to as area or areas, for the following purposes:

(a) The acquisition, construction or maintenance of parking facilities for the benefit of the area;

(b) Decoration of any public place in the area;

(c) Promotion of public events which are to take place on or in public places in the area;

(d) Furnishing of music in any public place in the area;

(e) The general promotion of retail trade activities in the area;

(2) To levy special assessments on all businesses within the area and specially benefited by a parking and business improvement area to pay in whole or in part the damages or costs incurred therein as provided in this chapter.

(3) To provide in accordance with any applicable provisions of the Constitution or statutory authority for the issuance and sale of revenue bonds to finance the cost of any parking and business improvement area. [1971 ex.s. c 45 § 1.]

35.87A.020 Definitions. (1) "Business" as used in this chapter means all types of business, including professions.

(2) "Legislative authority" as used in this chapter means the legislative authority of any city or town including unclassified cities or towns operating under special charters or the legislative authority of any county. [1971 ex.s. c 45 § 2.]

35.87A.030 Initiation petition or resolution—Contents. For the purpose of establishing a parking and business improvement area, an initiation petition may be presented to the legislative authority having jurisdiction of the area in which the proposed parking and business improvement area is to be located or the legislative authority may by resolution initiate a parking and business improvement area. The initiation petition or resolution shall contain the following:

(1) A description of the boundaries of the proposed area;

(2) The proposed uses and projects to which the proposed special assessment revenues shall be put and the total estimated cost thereof;

(3) The estimated rate of levy of special assessment with a proposed breakdown by class of business if such classification is to be used.

The initiating petition shall also contain the signatures of the persons who operate businesses in the proposed area which would pay fifty percent of the proposed special assessments. [1971 ex.s. c 45 § 3.]

35.87A.040 Resolution of intention to establish—Contents—Hearing. The legislative authority, after receiving a valid initiation petition or after passage of an initiation resolution, shall adopt a resolution of intention to establish an area. The resolution shall state the time and place of a hearing to be held by the legislative authority to consider establishment of an area and shall restate all the information contained in the initiation petition or initiation resolution regarding boundaries, projects and uses, and estimated rates of assessment. [1971 ex.s. c 45 § 4.]

35.87A.050 Notice of hearing. Notice of a hearing held under the provisions of this chapter shall be given by:

(1) One publication of the resolution of intention in a newspaper of general circulation in the city; and

(2) Mailing a complete copy of the resolution of intention to each business in the proposed, or established, area. Publication and mailing shall be completed at least ten days prior to the time of the hearing. [1971 ex.s. c 45 § 5.]

35.87A.060 Hearings. Whenever a hearing is held under this chapter, the legislative authority shall hear all protests and receive evidence for or against the proposed action. The legislative authority may continue the hearing from time to time. Proceedings shall terminate if protest is made by businesses in the proposed area which would pay a majority of the proposed special assessments. [1971 ex.s. c 45 § 6.]

35.87A.070 Change of boundaries. If the legislative authority decides to change the boundaries of the proposed area, the hearing shall be continued to a time at least fifteen days after such decision and notice shall be given as prescribed in RCW 35.87A.050, showing the boundary amendments, but no resolution of intention is required. [1971 ex.s. c 45 § 7.]

35.87A.080 Special assessments—Classification of businesses. For purposes of the special assessments to be imposed pursuant to this chapter, the legislative authority may make a reasonable classification of businesses, giving consideration to various factors, including the degree of benefit received from parking only. [1971 ex.s. c 45 § 8.]

35.87A.090 Special assessments—Same basis or rate for classes not required—Factors as to parking facilities. The special assessments need not be imposed on different classes of business, as determined pursuant to RCW 35.87A.080, on the same basis or the same rate: *Provided, however,* That the special assessments imposed for the purpose of the acquisition, construction or maintenance of parking facilities for the benefit of the area shall be imposed on the basis of benefit determined by the legislative authority after giving consideration to the total cost to be recovered from the businesses upon which the special assessment is to be imposed, the total area within the boundaries of the parking and business improvement area, the assessed value of the land and improvements within the area, the total business volume generated within the area and within each business, and such other factors as the legislative authority may find and determine to be a reasonable measure of such benefit. [1971 ex.s. c 45 § 9.]

35.87A.100 Ordinance to establish—Adoption—Contents. If the legislative authority, following the hearing, decides to establish the proposed area, it shall adopt an ordinance to that effect. This ordinance shall contain the following information:

(1) The number, date and title of the resolution of intention pursuant to which it was adopted;

(2) The time and place the hearing was held concerning the formation of such area;

(3) The description of the boundaries of such area;

(4) A statement that the businesses in the area established by the ordinance shall be subject to the provisions of the special assessments authorized by RCW 35.87A.010;

(5) The initial or additional rate or levy of special assessment to be imposed with a breakdown by classification of business, if such classification is used; and

(6) A statement that a parking and business improvement area has been established.

(7) The uses to which the special assessment revenue shall be put: *Provided, however,* That such use shall conform to the use as declared in the initiation petition presented pursuant to RCW 35.87A.030. [1971 ex.s. c 45 § 10.]

35.87A.110 Use of revenue—Contracts to administer operation of area. The legislative authority of each city or town or county shall have sole discretion as to how the revenue derived from the special assessments is to be used within the scope of the purposes; however, the legislative authority may appoint existing advisory boards or commissions to make recommendations as to its use, or the legislative authority may create a new advisory board or commission for the purpose.

The legislative authority may contract with a chamber of commerce or other similar business association operating primarily within the boundaries of the legislative authority to administer the operation of a parking and business improvement area, including any funds derived pursuant thereto: *Provided,* That such administration must comply with all applicable provisions of law including this chapter, with all county, city, or town resolutions and ordinances, and with all regulations lawfully imposed by the state auditor or other state agencies. [1971 ex.s. c 45 § 11.]

35.87A.120 Use of assessment proceeds restricted. The special assessments levied hereunder must be for the purposes specified in the ordinances and the proceeds shall not be used for any other purpose. [1971 ex.s. c 45 § 12.]

35.87A.130 Collection of assessments. Collections of assessments imposed pursuant to this chapter shall be made at the same time and in the same manner as otherwise prescribed by Title 35 RCW or in such other manner as the legislative authority shall determine. [1971 ex.s. c 45 § 13.]

35.87A.140 Changes in assessment rates. Changes may be made in the rate or additional rate of special assessment as specified in the ordinance establishing the area, by ordinance adopted after a hearing before the legislative authority.

The legislative authority shall adopt a resolution of intention to change the rate or additional rate of special assessment at least fifteen days prior to the hearing required by this section. This resolution shall specify the proposed change and shall give the time and place of the hearing: *Provided,* That proceedings to change the rate or impose an additional rate of special assessments

shall terminate if protest is made by businesses in the proposed area which would pay a majority of the proposed increase or additional special assessments. [1971 ex.s. c 45 § 14.]

35.87A.150 Benefit zones—Authorized—Rates. The legislative authority may, for each of the purposes set out in RCW 35.87A.010, establish and modify one or more separate benefit zones based upon the degree of benefit derived from the purpose and may impose a different rate of special assessment within each such benefit zone. [1971 ex.s. c 45 § 15.]

35.87A.160 Benefit zones—Establishment, modification and disestablishment of area provisions and procedure to be followed. All provisions of this chapter applicable to establishment or disestablishment of an area also apply to the establishment, modification, or disestablishment of benefit zones pursuant to *RCW 35.87A.150. The establishment or the modification of any such zone shall follow the same procedure as provided for the establishment of a parking and business improvement area and the disestablishment shall follow the same procedure as provided for disestablishment of an area. [1971 ex.s. c 45 § 16.]

**Reviser's note:* "RCW 35.87A.150" has been translated from "section 13 of this act", as the reference to section 13, herein codified as RCW 35.87A.130, was apparently erroneous.

35.87A.170 Exemption period for new businesses. Businesses established after the creation of an area within the area may be exempted from the special assessments imposed pursuant to this chapter for a period not exceeding one year from the date they commenced business in the area. [1971 ex.s. c 45 § 17.]

35.87A.180 Disestablishment of area—Hearing. The legislative authority may disestablish an area by ordinance after a hearing before the legislative authority. The legislative authority shall adopt a resolution of intention to disestablish the area at least fifteen days prior to the hearing required by this section. The resolution shall give the time and place of the hearing. [1971 ex.s. c 45 § 18.]

35.87A.190 Disestablishment of area—Assets and liabilities. Upon disestablishment of an area, any proceeds of the special assessments, or assets acquired with such proceeds, or liabilities incurred as a result of the formation of such area, shall be subject to disposition as the legislative authority shall determine: *Provided, however,* Any liabilities, either current or future, incurred as a result of action taken to accomplish the purposes of RCW 35.87A.010 shall not be an obligation of the general fund or any special fund of the city or town, but such liabilities shall be provided for entirely from available revenue generated from the projects or facilities authorized by RCW 35.87A.010 or from special assessments on the property specially benefited within the area. [1971 ex.s. c 45 § 19.]

35.87A.200 Bids required—Monetary amount. Any city or town or county authorized by this chapter to establish a parking improvement area shall call for competitive bids by appropriate public notice and award contracts, whenever the estimated cost of such work or improvement, including cost of materials, supplies and equipment, exceeds the sum of two thousand five hundred dollars. [1971 ex.s. c 45 § 20.]

35.87A.210 Computing cost of improvement for bid requirement. The cost of the improvement for the purposes of this chapter shall be aggregate of all amounts to be paid for the labor, materials and equipment on one continuous or inter-related project where work is to be performed simultaneously or in near sequence. Breaking an improvement into small units for the purposes of avoiding the minimum dollar amount prescribed in RCW 35.87A.200 is contrary to public policy and is prohibited. [1971 ex.s. c 45 § 21.]

35.87A.220 Existing laws not affected—Chapter supplemental—Purposes may be accomplished in conjunction with other methods. This chapter providing for parking and business improvement areas shall not be deemed or construed to affect any existing act, or any part thereof, relating to special assessments or other powers of counties, cities and towns, but shall be supplemental thereto and concurrent therewith.

The purposes and functions of parking and business improvement areas as set forth by the provisions of this chapter may be accomplished in part by the establishment of an area pursuant to this chapter and in part by any other method otherwise provided by law, including provisions for local improvements. [1971 ex.s. c 45 § 22.]

35.87A.900 Severability—1971 ex.s. c 45. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provisions to other persons or circumstances is not affected. [1971 ex.s. c 45 § 23.]

Chapter 35.88

WATER POLLUTION—PROTECTION FROM

Sections

35.88.010	Authority over sources of supply.
35.88.020	Enforcement of ordinance—Special police.
35.88.030	Pollution declared to be a nuisance—Abatement.
35.88.040	Pollution as criminal nuisance—Punishment.
35.88.050	Prosecution—Trial—Abatement of nuisance.
35.88.060	Health officers and mayor must enforce.
35.88.070	Injunction proceeding.
35.88.080	Inland cities over 100,000—Discharge of sewage prohibited—Nuisance.
35.88.090	Inland cities over 100,000—Investigation of disposal systems by director of health.

Furnishing impure water: RCW 70.54.020.

Pollution of watershed or source of drinking water: RCW 70.54.010, 70.54.030.

Sewer districts: Title 56 RCW.

Sewerage improvement districts: Chapter 85.08 RCW.

Water districts: Title 57 RCW.

35.88.010 Authority over sources of supply. For the purpose of protecting the water furnished to the inhabitants of cities and towns from pollution, cities and towns are given jurisdiction over all property occupied by the works, reservoirs, systems, springs, branches and pipes, by means of which, and of all the lakes, rivers, springs, streams, creeks, or tributaries constituting the sources of supply from which the cities and towns or the companies or individuals furnishing water to the inhabitants thereof obtain their supply of water, or store or conduct it, and over all property acquired for any of the foregoing works or purposes or for the preservation and protection of the purity of the water supply, and over all property within the areas draining into the lakes, rivers, springs, streams, creeks, or tributaries constituting the sources of supply whether they or any of them are within the city or town limits or outside. [1965 c 7 § 35.88.010. Prior: 1907 c 227 § 1, part; 1899 c 70 § 1, part; RRS § 9473, part.]

35.88.020 Enforcement of ordinance—Special police. Every city and town may by ordinance prescribe what acts shall constitute offenses against the purity of its water supply and the punishment or penalties therefor and enforce them. The mayor of each city and town may appoint special policemen, with such compensation as the city or town may fix, who shall, after taking oath, have the powers of constables, and who may arrest with or without warrant any person committing, within the territory over which any city or town is given jurisdiction by this chapter, any offense declared by law or by ordinance, against the purity of the water supply, or which violate any rule or regulation lawfully promulgated by the state board of health for the protection of the purity of such water supply. Every special policeman whose appointment is authorized herein may take any person arrested for any such offense or violation before any court having jurisdiction thereof to be proceeded with according to law. Every such special policeman shall, when on duty wear in plain view a badge or shield bearing the words "special police" and the name of the city or town by which he has been appointed. [1965 c 7 § 35.88.020. Prior: 1907 c 227 § 1, part; 1899 c 70 § 1, part; RRS § 9473, part.]

35.88.030 Pollution declared to be a nuisance—Abatement. The establishment or maintenance of any slaughter pens, stock feeding yards, hogpens, or the deposit or maintenance of any uncleanly or unwholesome substance, or the conduct of any business or occupation, or the allowing of any condition upon or sufficiently near the (1) sources from which the supply of water for the inhabitants of any city or town is obtained, or (2) where its water is stored, or (3) the property or means through which the same may be conveyed or conducted so that such water would be polluted or the purity of such water or any part thereof destroyed or endangered, is prohibited and declared to be unlawful, and is declared to constitute a nuisance, and may be abated as other nuisances are abated. [1965 c 7 § 35.88.030. Prior: 1899 c 70 § 2, part; RRS § 9474, part.]

35.88.040 Pollution as criminal nuisance—Punishment. Any person who does, establishes, maintains, or creates any of the things which have the effect of polluting any such sources of water supply, or water, and any person who does any of the things in RCW 35.88-.030 declared to be unlawful, shall be deemed guilty of creating and maintaining a nuisance, and may be prosecuted therefor, and upon conviction thereof may be fined in any sum not exceeding five hundred dollars. [1965 c 7 § 35.88.040. Prior: 1899 c 70 § 2, part; RRS § 9474, part.]

Nuisance: Chapter 9.66 RCW.

35.88.050 Prosecution—Trial—Abatement of nuisance. If upon the trial of any person for the violation of any of the provisions of this chapter he is found guilty of creating or maintaining a nuisance or of violating any of the provisions of this chapter, he shall forthwith abate the nuisance, and if he fails so to do within one day after such conviction, unless further time is granted by the court, a warrant shall be issued by the court wherein the conviction was obtained, directed to the sheriff of the county in which such nuisance exists and the sheriff shall forthwith proceed to abate the said nuisance and the cost thereof shall be taxed against the person so convicted as a part of the costs of such case. [1965 c 7 § 35.88.050. Prior: 1899 c 70 § 3; RRS § 9475.]

35.88.060 Health officers and mayor must enforce. The city health officer, city physician, board of public health, mayor, or any other officer, who has the sanitary condition of the city or town in charge, shall see that the provisions of this chapter are enforced and upon complaint being made to any such officer of an alleged violation, he shall immediately investigate the said complaint and if the same appears to be well founded he shall file a complaint against the person or persons violating any of the provisions of this chapter and cause their arrest and prosecution. [1965 c 7 § 35.88.060. Prior: 1899 c 70 § 4; RRS § 9476.]

35.88.070 Injunction proceeding. If any provision of this chapter is being violated, the city or town supplied with the water or a corporation owning waterworks for the purpose of supplying the city or town or the inhabitants thereof with water may, by civil action in the superior court of the proper county, have the maintenance of the nuisance which pollutes or tends to pollute the said water, enjoined and such injunction may be perpetual. [1965 c 7 § 35.88.070. Prior: 1899 c 70 § 5; RRS § 9477.]

35.88.080 Inland cities over 100,000—Discharge of sewage prohibited—Nuisance. Any city not located on tidewater, having a population of one hundred thousand or more, is hereby prohibited from discharging, draining or depositing, or causing to be discharged, drained or deposited, any sewage, garbage, feculent matter, offal, refuse, filth, or any animal, mineral, or vegetable matter or substance, offensive, injurious or dangerous to health, into any springs, streams, rivers,

lakes, tributaries thereof, wells, or into any subterranean or other waters used or intended to be used for human or animal consumption or for domestic purposes.

Anything done, maintained, or suffered, in violation of any of the provisions of this section, shall be deemed to be a public nuisance, and may be summarily abated as such by any court of competent jurisdiction at the suit of the director of health or any person whose supply of water for human or animal consumption or for domestic purposes is or may be affected. [1965 c 7 § 35.88.080. Prior: (i) 1941 c 186 § 1; Rem. Supp. 1941 § 9354-1. (ii) 1941 c 186 § 3; Rem. Supp. 1941 § 9354-3.]

Nuisance: Chapter 9.66 RCW.

35.88.090 Inland cities over 100,000—Investigation of disposal systems by director of health. The director of health shall have the power, and it shall be his duty, to investigate the system of disposal of sewage, garbage, feculent matter, offal, refuse, filth, or any animal, mineral, or vegetable matter or substance, by cities not located on tidewater, having a population of one hundred thousand or more, and if he shall determine upon investigation that any such system or systems of disposal is or may be injurious or dangerous to health, he shall have the power, and it shall be his duty, to order such city or cities to provide for, construct, and maintain a system or systems of disposal which will not be injurious or dangerous to health. [1965 c 7 § 35.88.090. Prior: 1941 c 186 § 2; Rem. Supp. 1941 § 9354-2.]

Chapter 35.89 WATER REDEMPTION BONDS

Sections

35.89.010	Authority to issue water redemption bonds.
35.89.020	Bonds—Terms—Execution—Rights of holder.
35.89.030	Bonds exchange—Subrogation.
35.89.040	Water redemption fund—Creation.
35.89.050	Water redemption fund—Sources.
35.89.060	Water redemption fund—Trust fund.
35.89.070	Payment of interest on bonds.
35.89.080	Payment of principal of bonds.
35.89.090	Violations—Penalties—Personal liability.
35.89.100	Water systems—What included.

Water districts: Title 57 RCW.

35.89.010 Authority to issue water redemption bonds. If a public water system has been constructed within any local improvement district of any city or town for the construction of which bonds of the local improvement district were issued and are outstanding and unpaid, and if the city or town has taken over the system or is operating it as a public utility or has incorporated it into or connected it with any system operated by city or town as a public utility, from the operation of which such city or town derives a revenue, the city or town may by resolution of its council authorize the issue of bonds to an amount not exceeding the amount of the local improvement bonds issued for the construction of the water system then outstanding and unpaid with interest due and unpaid, and may redeem the outstanding local improvement bonds by exchanging therefor an equal amount at par of the bonds authorized by this

chapter. The new bonds shall be called water redemption bonds. [1965 c 7 § 35.89.010. Prior: (i) 1929 c 85 § 1; 1923 c 52 § 1; RRS § 9154-1. (ii) 1923 c 52 § 2, part; RRS § 9154-2, part.]

35.89.020 Bonds—Terms—Execution—Rights of holder. Water redemption bonds shall be in denominations of not more than one thousand nor less than one hundred dollars each, and shall bear interest at a rate or rates as authorized by the city or town council, payable semiannually, and shall bear a serial number and shall be signed by the mayor of the city or town and shall be otherwise executed in such manner and payable at such time and place not exceeding twenty years after the date of issue as the city or town council shall determine and such bonds shall be payable only out of the special fund created by authority of this chapter and shall be a valid claim of the holder thereof only against that fund and the fixed portion or amount of the revenues of the water system pledged to the fund, and shall not constitute an indebtedness of the city or town. [1970 ex.s. c 56 § 46; 1969 ex.s. c 232 § 23; 1965 c 7 § 35.89.020. Prior: 1923 c 52 § 2, part; RRS § 9154-2, part.]

Purpose—Effective date—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

35.89.030 Bonds exchange—Subrogation. Water redemption bonds issued under the authority of this chapter shall only be sold or disposed of in exchange for an equal amount in par value of principal and interest of the local improvement district bonds issued for the construction of water systems taken over and operated by the city or town, or incorporated into or connected with a water system operated by it.

Upon the exchange of the water redemption bonds authorized by this chapter for local improvement district bonds the city or town shall be subrogated to all the rights of the owners and holders of such local improvement district bonds against the property of the local improvement district and against any person or corporation liable thereon.

Any money derived by the city or town from the sale or enforcement of such local improvement district bonds shall be paid into the city's water redemption fund. [1965 c 7 § 35.89.030. Prior: 1923 c 52 § 3; RRS § 9154-3.]

35.89.040 Water redemption fund—Creation. The city or town council before issuing water redemption bonds shall by ordinance establish a fund for the payment of the bonds at maturity and of interest thereon as it matures to be designated the water redemption fund. [1965 c 7 § 35.89.040. Prior: 1923 c 52 § 4; RRS § 9154-4.]

35.89.050 Water redemption fund—Sources. Every city and town shall have power to regulate and control the use and price of water supplied through a water system taken over from a local improvement district.

It shall establish such rates and charges for the water as shall be sufficient after providing for the operation and maintenance of the system to provide for the payment of the water redemption bonds at maturity and of interest thereon as it matures, and such portion shall be included in and collected as a part of the charges made by such city or town for water supplied through such water system and such portion shall be paid into the water redemption fund. [1965 c 7 § 35.89.050. Prior: 1923 c 52 § 5; RRS § 9154-5.]

35.89.060 Water redemption fund—Trust fund. All moneys paid into or collected for the water redemption fund shall be used for the payment of principal and interest of the water redemption bonds issued under the authority of this chapter and no part thereof while any of said bonds are outstanding and unpaid, shall be diverted to any other fund or use: *Provided*, That when both principal and interest on all water redemption bonds issued and outstanding have been paid, any unexpended balance remaining in the fund may be transferred to the general fund or such other fund as the city or town council may direct. [1965 c 7 § 35.89.060. Prior: 1923 c 52 § 8; RRS § 9154-8.]

35.89.070 Payment of interest on bonds. The treasurer of such city or town shall pay the interest on the water redemption bonds authorized by this chapter out of the money in the water redemption fund. [1965 c 7 § 35.89.070. Prior: 1923 c 52 § 6; RRS § 9154-6.]

35.89.080 Payment of principal of bonds. Whenever there is sufficient money in the water redemption fund, over and above the amount that will be required to pay the interest on the bonds up to the time of maturity of the next interest payment, to pay the principal of one or more bonds, the city or town treasurer shall call in and pay such bonds. The bonds shall be called and paid in their numerical order, and the call shall be made by publication in the official newspaper of the city or town. The call shall state the total amount and the serial number or numbers of the bonds called and that they will be paid on the date when the next semiannual payment of interest will be due, and that interest on the bonds called will cease from such date. [1965 c 7 § 35.89.080. Prior: 1923 c 52 § 7; RRS § 9154-7.]

35.89.090 Violations—Penalties—Personal liability. Every ordinance, resolution, order, or action of the council, board, or officer of any city or town, and every warrant or other instrument made, issued, passed or done in violation of the provisions of this chapter shall be void.

Every officer, agent, employee, or member of the council of the city or town, and every person or corporation who shall knowingly commit any violation of the provisions of this chapter or knowingly aid in such violation, shall be liable to the city or town for all money transferred, diverted or paid out in violation thereof and such liability shall attach to and be enforceable against the official bond, if any, of such official agent,

employee, or member of the council. [1965 c 7 § 35.89-.090. Prior: 1923 c 52 § 9; RRS § 9154-9.]

35.89.100 Water systems—What included. The term "water system" as used in this chapter shall include and be applicable to all reservoirs, storage and clarifying tanks, conduits, mains, laterals, pipes, hydrants and other equipment used or constructed for the purpose of supplying water for public or domestic use, and shall include not only water systems constructed by local improvement districts, but also any system with which the same may be incorporated or connected. [1965 c 7 § 35.89.100. Prior: 1923 c 52 § 10; RRS § 9154-10.]

Chapter 35.91

MUNICIPAL WATER AND SEWER FACILITIES ACT

Sections

- 35.91.010 Declaration of purpose—Short title.
 35.91.020 Contracts with owners of real estate for water or sewer facilities—Reimbursement of costs by subsequent users.
 35.91.030 Approval and acceptance of facilities by municipality—Rates, costs.
 35.91.040 Contract payment to be made prior to tap, connection, or use—Removal of tap or connection.
 35.91.050 Owner's pro rata share of cost to which he did not contribute.

Water districts: Title 57 RCW.

35.91.010 Declaration of purpose—Short title. The improvement of public health and the implementation of both urban and rural development being furthered by adequate and comprehensive water facilities and storm and sanitary sewer systems, and there being a need for legislation enabling such aids to the welfare of the state, there is hereby enacted the "municipal water and sewer facilities act." [1965 c 7 § 35.91.010. Prior: 1959 c 261 § 1.]

35.91.020 Contracts with owners of real estate for water or sewer facilities—Reimbursement of costs by subsequent users. The governing body of any city, town, sewer district, water district or drainage district, hereinafter referred to as a "municipality" may contract with owners of real estate for the construction of storm, sanitary or combination sewers, pumping stations and disposal plants, water mains, hydrants or appurtenances, hereinafter called "water or sewer facilities", within their boundaries or within ten miles from their corporate limits connecting with the public water or sewerage system to serve the area in which the real estate of such owners is located, and to provide for a period of not to exceed fifteen years for the reimbursement of such owners and their assigns by any owner of real estate who did not contribute to the original cost of such water or sewer facilities and who subsequently tap onto or use the same of a fair pro rata share of the cost of the construction of said water or sewer facilities, including not only those directly connected thereto, but also users connected to laterals or branches connecting thereto, subject to such reasonable rules and regulations as the

governing body of such municipality may provide or contract, and notwithstanding the provisions of any other law. To the extent it may require in the performance of such contract, such municipality shall have the right to install said water or sewer facilities in and along the county streets in the area to be served as hereinabove provided, subject to such reasonable requirements as to the manner of occupancy of such streets as the county may by resolution provide. The provisions of such contract shall not be effective as to any owner of real estate not a party thereto unless such contract shall have been recorded in the office of the county auditor of the county in which the real estate of such owner is located prior to the time such owner taps into or connects to said water or sewer facilities. The power of the governing body of such municipality to so contract shall also apply to water or sewer facilities in process of construction on June 10, 1959 or which shall not have been finally approved or accepted for full maintenance and operation by such municipality upon June 10, 1959. [1967 c 113 § 1; 1965 c 7 § 35.91.020. Prior: 1959 c 261 § 2.]

35.91.030 Approval and acceptance of facilities by municipality—Rates, costs. Upon the completion of water or sewer facilities pursuant to contract mentioned in the foregoing section, the governing body of any such municipality shall be authorized to approve their construction and accept the same as facilities of the municipality and to charge for their use such water or sewer rates as such municipality may be authorized by law to establish, and if any such water or sewer facilities are so approved and accepted, all further maintenance and operation costs of said water or sewer lines and facilities shall be borne by such municipality. [1965 c 7 § 35.91.030. Prior: 1959 c 261 § 3.]

35.91.040 Contract payment to be made prior to tap, connection, or use—Removal of tap or connection. No person, firm or corporation shall be granted a permit or be authorized to tap into, or use any such water or sewer facilities or extensions thereof during the period of time prescribed in such contract without first paying to the municipality, in addition to any and all other costs and charges made or assessed for such tap, or use, or for the water lines or sewers constructed in connection therewith, the amount required by the provisions of the contract under which the water or sewer facilities so tapped into or used were constructed. All amounts so received by the municipality shall be paid out by it under the terms of such contract within sixty days after the receipt thereof. Whenever any tap or connection is made into any such contracted water or sewer facilities without such payment having first been made, the governing body of the municipality may remove, or cause to be removed, such unauthorized tap or connection and all connecting tile, or pipe located in the facility right of way and dispose of unauthorized material so removed without any liability whatsoever. [1965 c 7 § 35.91.040. Prior: 1959 c 261 § 4.]

35.91.050 Owner's pro rata share of cost to which he did not contribute. Whenever the cost, or any part thereof, of any water or sewer improvement, whether local or general, is or will be assessed against the owners of real estate and such water or sewer improvement will be connected into or will make use of, contracted water or sewer facilities constructed under the provisions of this chapter and to the cost of which such owners, or any of them, did not contribute, there shall be included in the engineer's estimate before the hearing on any such improvement, separately itemized, and in such assessments, a sum equal to the amount provided in or computed from such contract as the fair pro rata share due from such owners upon and for such contracted water or sewer facilities. [1965 c 7 § 35.91-.050. Prior: 1959 c 261 § 5.]

Chapter 35.92 MUNICIPAL UTILITIES

Sections

- 35.92.010 Authority to acquire and operate waterworks—Classification of services for rates.
- 35.92.012 May accept and operate water district's property when boundaries are identical.
- 35.92.014 Acquisition of out-of-state waterworks.
- 35.92.015 Acquisition of out-of-state waterworks—Joint acquisition and operation.
- 35.92.020 Authority to acquire and operate sewerage and garbage systems—Classification of services for rates.
- 35.92.025 Authority to make charges for connecting to water or sewerage system.
- 35.92.030 Authority to acquire and operate stone or asphalt plants.
- 35.92.040 Authority to acquire and operate public markets and cold storage plants.
- 35.92.050 Authority to acquire and operate utilities.
- 35.92.054 May acquire electrical distribution property from public utility district.
- 35.92.060 Authority to acquire and operate transportation facilities.
- 35.92.070 Procedure.
- 35.92.080 General indebtedness bonds.
- 35.92.090 Limit of indebtedness.
- 35.92.100 Revenue bonds or warrants.
- 35.92.110 Funding or refunding bonds.
- 35.92.120 Funding or refunding bonds—Bonds not general obligation.
- 35.92.130 Funding or refunding bonds—Single issue may refund multiple series.
- 35.92.140 Funding or refunding bonds—Issuance of bonds—Ordinance.
- 35.92.150 Funding or refunding bonds—Terms of bonds.
- 35.92.160 Funding or refunding bonds—Recourse of bondholders.
- 35.92.170 City may extend water system outside limits.
- 35.92.180 City may extend water system outside limits—May acquire property outside city.
- 35.92.190 City may extend water system outside limits—Cannot condemn irrigation system.
- 35.92.200 City may extend water system outside limits—Contracts for outside service.
- 35.92.220 Acquisition of water rights.
- 35.92.230 Acquisition of water rights—Special assessments.
- 35.92.240 Acquisition of water rights—Levy of assessments.
- 35.92.250 Acquisition of water rights—District property need not be contiguous.
- 35.92.260 Acquisition of water rights—Mode of assessment.
- 35.92.263 Acquisition of water rights—Water rights acquired by purchase of shares in water users' association or corporation—Authority to acquire and hold shares.
- 35.92.265 Acquisition of water rights—Existing local improvement districts validated—Debts, obligations, assessments, etc., declared legal and valid.
- 35.92.270 Passenger transportation systems—Authority to make studies—Contracts with and acquisition of privately owned systems.
- 35.92.275 Assumption of obligations of private pension plan when urban transportation system acquired.
- 35.92.280 Cities over 150,000, joint undertaking with P.U.D. as to electric utility properties—"Electric utility properties" defined.
- 35.92.290 Cities over 150,000, joint undertaking with P.U.D. as to electric utility properties—Agreements.
- 35.92.300 Cities over 150,000, joint undertaking with P.U.D. as to electric utility properties—Financing.
- 35.92.310 Cities over 150,000, joint undertaking with P.U.D. as to electric utility properties—Authority granted is additional power.
- 35.92.350 Electrical construction or improvement—Bid proposals—Contract proposal forms—Conditions for issuance—Refusal—Appeal.

Elections: Title 29 RCW.

Electric franchises and rights of way: Chapter 80.32 RCW.

Electrical utilities and facilities owned by cities, support for political subdivisions and taxing districts: RCW 35.21.420-35.21.440.

Eminent domain by cities: Chapter 8.12 RCW.

Joint development of nuclear, thermal power facilities: Chapter 54.44 RCW.

Limitations upon indebtedness: State Constitution Art. 7 § 2 (Amendment 59), Art. 8 § 6 (Amendment 27), Chapter 39.36 RCW, RCW 84.52.050.

Local improvement districts, creation: Chapter 35.43 RCW.

Public utility districts: Title 54 RCW.

Sewer districts: Title 56 RCW.

Sewerage improvement districts: Chapter 85.08 RCW.

Special assessments or taxation for local improvements: State Constitution Art. 7 § 9.

Street railways: Chapter 81.64 RCW.

Water districts: Title 57 RCW.

35.92.010 Authority to acquire and operate waterworks—Classification of services for rates. A city or town may construct, condemn and purchase, purchase, acquire, add to, maintain and operate waterworks, within or without its limits, for the purpose of furnishing the city and its inhabitants, and any other persons, with an ample supply of water for all purposes, public and private, including water power and other power derived therefrom, with full power to regulate and control the use, distribution, and price thereof: *Provided*, That the rates charged must be uniform for the same class of customers or service. In classifying customers served or service furnished, the city or town governing body may in its discretion consider any or all of the following factors: The difference in cost of service to the various customers; location of the various customers within and without the city or town; the difference in cost of maintenance, operation, repair, and replacement of the various parts of the system; the different character of the service furnished various customers; the quantity and quality of the water furnished; the time of its use; capital contributions made to the system including, but not limited to, assessments; and any other matters which present a reasonable difference as a ground for distinction. No rate shall be charged that is less than the cost of the water and service to the class of customers served.

For such purposes any city or town may take, condemn and purchase, purchase, acquire, and retain water from any public or navigable lake or watercourse, surface or ground, and, by means of aqueducts or pipe lines, conduct it to the city or town; and it may erect and build dams or other works across or at the outlet of any lake or watercourse in this state for the purpose of storing and retaining water therein up to and above high water mark; and for all the purposes of erecting such aqueducts, pipe lines, dams, or waterworks or other necessary structures in storing and retaining water, or for any of the purposes provided for by this chapter, the city or town may occupy and use the beds and shores up to the high water mark of any such watercourse or lake, and acquire the right by purchase, or by condemnation and purchase, or otherwise, to any water, water rights, easements or privileges named in this chapter, or necessary for any of said purposes, and the city or town may acquire by purchase or condemnation and purchase any properties or privileges necessary to be had to protect its water supply from pollution. Should private property be necessary for any such purposes or for storing water above high water mark, the city or town may condemn and purchase, or purchase and acquire such private property. [1965 c 7 § 35.92.010. Prior: 1959 c 90 § 6; 1957 c 209 § 2; prior: 1951 c 252 § 1; 1947 c 214 § 1, part; 1933 c 163 § 1, part; 1931 c 53 § 1, part; 1923 c 173 § 1, part; 1913 c 45 § 1, part; 1909 c 150 § 1, part; 1899 c 128 § 1, part; 1897 c 112 § 1, part; 1893 c 8 § 1, part; 1890 p 520 § 1, part; Rem. Supp. 1947 § 9488, part. Formerly RCW 80.40.010.]

Validating—1917 c 12: "Whenever any city or town has heretofore issued or authorized to be issued by such vote of its electors as is required by law at any election duly and legally held to vote on such proposition, such utility bonds for the purpose of purchasing, paying for or acquiring any such utility as is described in this act, in every such case such utility bonds are hereby declared to be legal and valid, and such city or town is hereby authorized and empowered to proceed to issue and negotiate such bonds and to continue and conclude proceedings for the purchase or acquirement of such utility, and is hereby given full power to maintain and operate the same within all and every part of such contiguous territory whether incorporated or unincorporated." [1917 c 12 § 2.]

Validating—1909 c 150: "That in all cases where the qualified electors of any city or town have heretofore, at any election, ratified any plan or system of any public utility mentioned in section 1 of this act, and shall have authorized a general indebtedness of such city or town and the issuance of bonds therefor, or the creation of a special fund or funds out of the revenues of the public utility the plan or system of which was so ratified, and the issuance of bonds or warrants payable only out of such fund or funds; and pursuant to such authorization or ratification a general indebtedness shall have been incurred or authorized to be incurred, and bonds or other obligations issued or contracted to be issued or authorized to be issued, or a special fund or funds shall have been created out of the revenue of any such public utility by pledging or setting aside a fixed proportion of such revenues, or a fixed amount out of and not exceeding a fixed proportion or a fixed amount without regard to any fixed proportion, and bonds or warrants payable either upon the call of such city or town or at a fixed date, but only out of such special fund or funds, issued or contracted to be issued or authorized to be issued, or a contract or contracts for the purchase, construction, acquisition, improvement, betterment, or addition to such public utility entered into; such general indebtedness, bonds or other obligations, contracts, special funds, and bonds or warrants, payable out of such special funds, and all proceedings relating thereto, are hereby ratified, confirmed and validated; and any bonds or other obligations constituting a general indebtedness, or bonds or warrants payable out of such special funds, heretofore so authorized, may be hereafter issued or sold as if

all of said proceedings were taken pursuant to and under the authority of this act, and in full compliance therewith." [1909 c 150 § 5.]
Eminent domain by cities: Chapter 8.12 RCW.

35.92.012 May accept and operate water district's property when boundaries are identical. A town, whose boundaries are identical with those of a water district which is free from all debts and liabilities except contractual obligations between the district and the town, may accept the property and assets of the water district and operate such property and assets as a municipal waterworks, if the district and the town each participate in a summary dissolution proceedings for the district as provided in RCW 57.04.110. [1965 c 7 § 35.92.012. Prior: 1955 c 358 § 2. Formerly RCW 80.40.012.]

35.92.014 Acquisition of out-of-state waterworks. Municipalities of this state under ordinance of the governing body are empowered to acquire by purchase or lease, and to maintain and operate, in cooperation with neighboring municipalities of states bordering this state, the out-of-state property, plant and equipment of privately owned utilities supplying water to the purchasing municipalities from an out-of-state source: *Provided*, The legislature of the state in which such property, plant, equipment and supply are located, by enabling legislation similar to this, authorizes its municipalities to join in such acquisition, maintenance and operation. [1965 c 7 § 35.92.014. Prior: 1951 c 39 § 1. Formerly RCW 80.40.014.]

35.92.015 Acquisition of out-of-state waterworks—Joint acquisition and operation. The governing bodies of the municipalities acting jointly under RCW 35.92.014 and this section shall have authority by mutual agreement to exercise jointly all powers granted to each individual municipality in the acquisition, maintenance and operation of a water supply system. [1965 c 7 § 35.92.015. Prior: 1951 c 39 § 2. Formerly RCW 80.40.015.]

35.92.020 Authority to acquire and operate sewerage and garbage systems—Classification of services for rates. A city or town may also construct, condemn and purchase, purchase, acquire, add to, maintain, and operate systems of sewerage, and systems and plants for garbage and refuse collection and disposal, with full authority to manage, regulate, operate, and control them, and to fix the price of service thereof, within and without the limits of the city or town: *Provided*, That the rates charged must be uniform for the same class of customers or service. In classifying customers served or service furnished by such system of sewerage, the city or town governing body may in its discretion consider any or all of the following factors: The difference in cost of service to the various customers; the location of the various customers within and without the city or town; the difference in cost of maintenance, operation, repair, and replacement of the various parts of the system; the different character of the service furnished various customers; the quantity and quality of the sewage delivered and the time of its delivery; capital contributions made to the system, including but not limited to, assessments; and any other matters which present a

reasonable difference as a ground for distinction. [1965 c 7 § 35.92.020. Prior: 1959 c 90 § 7; 1957 c 288 § 3; 1957 c 209 § 3; prior: 1947 c 214 § 1, part; 1933 c 163 § 1, part; 1931 c 53 § 1, part; 1923 c 173 § 1, part; 1913 c 45 § 1, part; 1909 c 150 § 1, part; 1899 c 128 § 1, part; 1897 c 112 § 1, part; 1893 c 8 § 1, part; 1890 p 520 § 1, part; Rem. Supp. 1947 § 9488, part. Formerly RCW 80.40.020.]

35.92.025 Authority to make charges for connecting to water or sewerage system. Cities and towns are authorized to charge property owners seeking to connect to the water or sewerage system of the city or town as a condition to granting the right to so connect, in addition to the cost of such connection, such reasonable connection charge as the legislative body of the city or town shall determine proper in order that such property owners shall bear their equitable share of the cost of such system. Connection charges collected shall be considered revenue of such system. [1965 c 7 § 35.92.025. Prior: 1959 c 90 § 8. Formerly RCW 80.40.025.]

35.92.030 Authority to acquire and operate stone or asphalt plants. A city or town may also construct, condemn and purchase, purchase, acquire, add to, maintain, and operate works, plants and facilities for the preparation and manufacture of all stone or asphalt products or compositions or other materials which may be used in street construction or maintenance, together with the right to use them, and also fix the price of and sell such products for use in the construction of municipal improvements. [1965 c 7 § 35.92.030. Prior: 1957 c 288 § 4; 1957 c 209 § 4; prior: 1947 c 214 § 1, part; 1933 c 163 § 1, part; 1931 c 53 § 1, part; 1923 c 173 § 1, part; 1913 c 45 § 1, part; 1909 c 150 § 1, part; 1899 c 128 § 1, part; 1897 c 112 § 1, part; 1893 c 8 § 1, part; 1890 p 520 § 1, part; Rem. Supp. 1947 § 9488, part. Formerly RCW 80.40.030.]

Eminent domain by cities: Chapter 8.12 RCW.

35.92.040 Authority to acquire and operate public markets and cold storage plants. A city or town may also construct, acquire, and operate public markets and cold storage plants for the sale and preservation of butter, eggs, meats, fish, fruits, vegetables, and other perishable provisions. [1965 c 7 § 35.92.040. Prior: 1957 c 288 § 5; 1957 c 209 § 5; prior: 1947 c 214 § 1, part; 1933 c 163 § 1, part; 1931 c 53 § 1, part; 1923 c 173 § 1, part; 1913 c 45 § 1, part; 1909 c 150 § 1, part; 1899 c 128 § 1, part; 1897 c 112 § 1, part; 1893 c 8 § 1, part; 1890 p 520 § 1, part; Rem. Supp. 1947 § 9488, part. Formerly RCW 80.40.040.]

35.92.050 Authority to acquire and operate utilities. A city or town may also construct, condemn and purchase, purchase, acquire, add to, maintain and operate works, plants, facilities for the purpose of furnishing the city or town and its inhabitants, and any other persons, with gas, electricity, and other means of power and facilities for lighting, heating, fuel, and power purposes, public and private, with full authority to regulate and control the use, distribution, and price thereof, together

with the right to handle and sell or lease, any meters, lamps, motors, transformers, and equipment or accessories of any kind, necessary and convenient for the use, distribution, and sale thereof; authorize the construction of such plant or plants by others for the same purpose, and purchase gas, electricity, or power from either within or without the city or town for its own use and for the purpose of selling to its inhabitants and to other persons doing business within the city or town and regulate and control the use and price thereof. [1965 c 7 § 35.92.050. Prior: 1957 c 288 § 6; 1957 c 209 § 6; prior: 1947 c 214 § 1, part; 1933 c 163 § 1, part; 1931 c 53 § 1, part; 1923 c 173 § 1, part; 1913 c 45 § 1, part; 1909 c 150 § 1, part; 1899 c 128 § 1, part; 1897 c 112 § 1, part; 1893 c 8 § 1, part; 1890 p 520 § 1, part; Rem. Supp. 1947 § 9488, part. Formerly RCW 80.40.050.]

35.92.054 May acquire electrical distribution property from public utility district. Any city or town may acquire by purchase or condemnation from any public utility district or combination of public utility districts any electrical distribution property within the boundaries of such city or town: *Provided*, That such right of condemnation shall not apply to a city or town located within a public utility district that owns the electric distribution properties sought to be condemned. [1965 c 7 § 35.92.054. Prior: 1953 c 97 § 1; 1951 c 272 § 1. Formerly RCW 80.40.054.]

Right of county-wide utility district to acquire distribution properties: RCW 54.32.040.

35.92.060 Authority to acquire and operate transportation facilities. A city or town may also construct, condemn and purchase, purchase, acquire, add to, maintain, operate, or lease cable, electric, and other railways, automobiles, motor cars, motor buses, auto trucks, and any and all other forms or methods of transportation of freight or passengers within the corporate limits of the city or town for the transportation of freight and passengers above, upon, or underneath the ground, and fix, alter, regulate, and control the fares and rates to be charged therefor; and without the payment of any license fee or tax, or the filing of a bond with, or the securing of a permit from, the state, or any department thereof, and to engage in, carry on, and operate the business of transporting and carrying passengers or freight for hire by any method or combination of methods that the legislative authority of any city or town may by ordinance provide, with full authority to regulate and control the use and operation of vehicles or other agencies of transportation used for such business. [1965 c 7 § 35.92.060. Prior: 1957 c 288 § 7; 1957 c 209 § 7; prior: 1947 c 214 § 1, part; 1933 c 163 § 1, part; 1931 c 53 § 1, part; 1923 c 173 § 1, part; 1913 c 45 § 1, part; 1909 c 150 § 1, part; 1899 c 128 § 1, part; 1897 c 112 § 1, part; 1893 c 8 § 1, part; 1890 p 520 § 1, part; Rem. Supp. 1947 § 9488, part. Formerly RCW 80.40.060.]

Public transportation systems in first class cities, financing, purchase of leased systems: Chapter 35.95 RCW.

35.92.070 Procedure. When the governing body of a city or town deems it advisable that the city or town purchase, acquire, or construct any such public utility or make any additions and betterments thereto or extensions thereof, it shall provide therefor by ordinance, which shall specify and adopt the system or plan proposed, and declare the estimated cost thereof, as near as may be, and the ordinance shall be submitted for ratification or rejection to the voters of the city or town at a general or special election, except in the following cases where no submission shall be necessary:

(1) When the work proposed is an addition to, or betterment of, or extension of, or an increased water supply for, existing waterworks, or an addition, betterment, or extension of an existing system or plant of any other public utility for which no general indebtedness is to be incurred by the city or town;

(2) When in the charter of a city or town a provision has been adopted authorizing the corporate authorities thereof to provide by ordinance for acquiring, opening, or operating any of such public utilities, for which no general indebtedness is to be incurred; or

(3) When in the judgment of the corporate authority, the public health is being endangered by the discharge of raw or untreated sewage into any river or stream and the danger to the public health may be abated by the construction and maintenance of a sewage disposal plant for which no general indebtedness shall be incurred by the city or town responsible for such contamination.

If a general indebtedness is to be incurred, the amount and terms thereof shall be included in the proposition submitted to the voters and such proposition shall be adopted by three-fifths of the voters voting at such election.

If no general indebtedness is to be incurred the proposition may be adopted by a majority vote.

Ten days' notice of the election shall be given in the newspaper doing the city or town printing, by publication in each issue of the paper during such time.

When a proposition has been adopted, or in the cases where no submission is necessary, the corporate authorities of the city or town may proceed forthwith to purchase, construct, and acquire the public utility or make additions, betterments, and extensions thereto and to make payment therefor. [1965 c 7 § 35.92.070. Prior: 1941 c 147 § 1; 1931 c 53 § 2; 1909 c 150 § 2; 1901 c 85 § 1; 1897 c 112 § 2; 1893 c 8 § 2; 1891 c 141 § 1; 1890 p 520 § 2; Rem. Supp. 1941 § 9489. Formerly RCW 80.40.070.]

Elections: Title 29 RCW.

Notice of elections: RCW 29.27.080.

35.92.080 General indebtedness bonds. When the voters have adopted a proposition for any public utility and have authorized a general indebtedness, general city or town bonds may be issued. The bonds shall be registered or coupon bonds; numbered from one up consecutively; bear the date of their issue; and bear interest at a rate or rates as authorized by the city or town council, payable semiannually, with interest coupons attached, and the principal and interest shall be

made payable at such place as may be designated. Except as otherwise provided in RCW 39.44.100, the bonds and each coupon shall be signed by the mayor and attested by the clerk under the seal of the city or town.

There shall be levied each year a tax upon the taxable property of the city or town sufficient to pay the interest and principal of the bonds then due, which taxes shall become due and collectible as other taxes: *Provided*, That it may pledge to the payment of such principal and interest the revenue of the public utility being acquired, constructed, or improved out of the proceeds of sale of such bonds. Such pledge of revenue shall constitute a binding obligation, according to its terms, to continue the collection of such revenue so long as such bonds or any of them are outstanding, and to the extent that revenues are insufficient to meet the debt service requirements on such bonds, the governing body of the municipality shall provide for the levy of taxes sufficient to meet such deficiency.

The bonds shall be printed and engraved, or lithographed, on good bond paper. The bonds shall be sold in such manner as the corporate authorities shall deem for the best interest of the city or town. A register shall be kept of all the bonds, which shall show the number, date, amount, interest, to whom delivered—if coupon bonds—and the name of the payee—if registered bonds; and when and where payable, and each bond issued or sold. [1970 ex.s. c 56 § 47; 1969 ex.s. c 232 § 24; 1967 c 107 § 1; 1965 c 118 § 2; 1965 c 7 § 35.92.080. Prior: 1909 c 150 § 3, part; RRS § 9490, part. Formerly RCW 80.40.080.]

Purpose—Effective date—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

35.92.090 Limit of indebtedness. The total general indebtedness incurred under this chapter, added to all other indebtedness of a city or town at any time outstanding, shall not exceed the amounts of indebtedness authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred without and with the assent of the voters: *Provided*, That a city or town may become indebted to a larger amount, but not exceeding the amount authorized therefor by chapter 39.36 RCW, as now or hereafter amended, for supplying it with water, artificial light, and sewers when works for supplying such water, light, and sewers are owned and controlled by the city or town. [1965 c 7 § 35.92.090. Prior: 1909 c 150 § 3, part; RRS § 9490, part. Formerly RCW 80.40.090.]

Limitations upon indebtedness: State Constitution Art. 7 § 2 (Amendment 59), Art. 8 § 6 (Amendment 27), RCW 84.52.050.

35.92.100 Revenue bonds or warrants. When the voters of a city or town, or the corporate authorities thereof, have adopted a proposition for any public utility and either no general indebtedness has been authorized or the corporate authorities do not desire to incur a

general indebtedness, and when the corporate authorities are authorized to exercise any of the powers conferred by this chapter without submitting the proposition to a vote, the corporate authorities may create a special fund for the sole purpose of defraying the cost of the public utility or addition, betterment, or extension thereto, into which special fund they may obligate and bind the city or town to set aside and pay a fixed proportion of the gross revenues of the utility, or any fixed amount out of and not exceeding a fixed proportion of such revenues, or a fixed amount without regard to any fixed proportion, and issue and sell bonds or warrants bearing interest at a rate or rates as authorized by the corporate authorities; payable semiannually, executed in such manner and payable at such times and places as the corporate authorities shall determine, but the bonds or warrants and the interest thereon shall be payable only out of the special fund and shall be a lien and charge against payments received from any utility local improvement district assessments pledged to secure such bonds. Such bonds shall be negotiable instruments within the meaning of the negotiable instruments law, Title 62, or Title 62A, notwithstanding same are made payable out of a particular fund contrary to the provisions of RCW 62.01-.003 or 62A.3-105.

When corporate authorities deem it necessary to construct any sewage disposal plant, it may be considered as a part of the waterworks department of the city or town and the cost of construction and maintenance thereof may be chargeable to the water fund of the municipality, or to any other special fund which the corporate authorities may by ordinance designate.

In creating a special fund, the corporate authorities shall have due regard to the cost of operation and maintenance of the plant or system as constructed or added to, and to any proportion or part of the revenue previously pledged as a fund for the payment of bonds, warrants, or other indebtedness, and shall not set aside into such special fund a greater amount or proportion of the revenue and proceeds than in their judgment will be available above such cost of maintenance and operation and the amount or proportion, if any, of the revenue so previously pledged. Rates shall be maintained adequate to service such bonds and to maintain the utility in sound financial condition.

The bonds or warrants and interest thereon issued against any such fund shall be a valid claim of the holder thereof only as against the special fund and its fixed proportion or amount of the revenue pledged thereto, and shall not constitute an indebtedness of the city or town within the meaning of constitutional provisions and limitations. Each bond or warrant shall state upon its face that it is payable from a special fund, naming it and the ordinance creating it. The bonds and warrants shall be sold in such manner as the corporate authorities shall deem for the best interest of the city or town, and they may provide in any contract for the construction and acquirement of the proposed improvement that payment therefor shall be made only in such bonds and warrants at par value thereof.

When a special fund is created and any such obligation is issued against it, a fixed proportion, or a fixed amount out of and not exceeding such fixed proportion, or a fixed amount without regard to any fixed proportion, of revenue shall be set aside and paid into such fund as provided in the ordinance creating it, and in case the city or town fails to thus set aside and pay such fixed proportion or amount, the holder of any bond or warrant against the fund may bring action against the city or town and compel such setting aside and payment: *Provided*, That whenever the corporate authorities of any city or town shall so provide by ordinance then all such bonds thereafter issued shall be on a parity, without regard to date of issuance or authorization and without preference or priority of right or lien with respect to participation of special funds in amounts from gross revenues for payment thereof. [1970 ex.s. c 56 § 48; 1969 ex.s. c 232 § 25; 1965 c 7 § 35.92.100. Prior: 1953 c 231 § 1; 1931 c 53 § 3; 1909 c 150 § 4; RRS § 9491. Formerly RCW 80.40.100.]

Purpose—**Effective date**—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—**Saving**—**Severability**—1969 ex.s. c 232: See notes following RCW 39.44.030.

Construction—1967 c 52: See note following RCW 35.43.042.

Severability—1967 c 52: See note following RCW 35.43.042.

Instruments payable from a particular fund: RCW 62A.3-105.

Municipal revenue bond act: Chapter 35.41 RCW.

35.92.110 Funding or refunding bonds. The legislative authority of a city or town which has any outstanding warrants or bonds issued for the purpose of purchasing, acquiring, or constructing any such public utility or for making any additions or betterments thereto or extensions thereof, whether the warrants or bonds are general obligation warrants or bonds of the municipality or are payable solely from a special fund, into which fund the city or town is bound and obligated to set aside and pay any proportion or part of the revenue of the public utility, for the purchase, acquisition, or construction of which utility or the making of any additions and betterments thereto or extensions thereof such outstanding warrants or bonds were issued, may, without submitting the matter to the voters, provide for the issuance of funding or refunding bonds with which to take up, cancel, retire, and refund such outstanding warrants or bonds, or any part thereof, at maturity thereof, or before the maturity thereof, if they are subject to call for prior redemption. [1965 c 7 § 35.92.110. Prior: 1935 c 81 § 1; RRS § 9492-1. Formerly RCW 80.40.110.]

35.92.120 Funding or refunding bonds—Bonds not general obligation. Such funding or refunding bonds shall not be a general indebtedness of the city or town, but shall be payable solely from a special fund created therefor by ordinance. Each bond shall state upon its face that it is payable from a special fund, naming the fund and the ordinance creating it. [1965 c 7 § 35.92-.120. Prior: 1935 c 81 § 2; RRS § 9492-2. Formerly RCW 80.40.120.]

35.92.130 Funding or refunding bonds—Single issue may refund multiple series. At the option of the legislative authority of the city or town various series and issues of outstanding warrants or bonds, or parts thereof, issued for the purpose of acquiring or constructing any public utility, or for making any additions or betterments thereto or extensions thereof, may be funded or refunded by a single issue of funding or refunding bonds. No proportion or part of the revenue of any one such public utility shall be pledged for the payment of funding or refunding bonds issued to fund or refund warrants or bonds issued for the acquisition or construction, or the making of additions or betterments to or extensions of, any other public utility. [1965 c 7 § 35.92.130. Prior: 1935 c 81 § 3; RRS § 9492-3. Formerly RCW 80.40.130.]

35.92.140 Funding or refunding bonds—Issuance of bonds—Ordinance. When the legislative authority of a city or town determines to issue such funding or refunding bonds, it shall provide therefor by ordinance, which shall create a special fund for the sole purpose of paying the bonds and the interest thereon, into which fund the ordinance shall bind and obligate the city or town to set aside and pay a fixed amount without regard to any fixed proportion out of the gross revenue of the public utility as provided therein. In creating such special fund, the legislative authority shall have due regard to the cost of operation and maintenance of the utility as constructed or added to, and to any proportion or part of the revenue thereof previously pledged as a fund for the payment of bonds, warrants, or other indebtedness, and shall not bind and obligate the city or town to set aside into the fund a greater amount of the revenue of the utility than in its judgement will be available above the cost of maintenance and operation and the amount or proportion of the revenue thereof so previously pledged. [1965 c 7 § 35.92.140. Prior: 1935 c 81 § 4, part; RRS § 9492-4, part. Formerly RCW 80.40.140.]

35.92.150 Funding or refunding bonds—Terms of bonds. Such funding or refunding bonds, together with the interest thereon, issued against the special fund shall be a valid claim of the holder thereof only as against such fund, and the amount of the revenue of the utility pledged thereto, and shall not constitute an indebtedness of the city or town within the meaning of constitutional or statutory provisions and limitations. They shall be sold in such manner as the corporate authorities shall deem for the best interest of the municipality. The rate of interest on the bonds shall not exceed the rate of interest on warrants or bonds to be funded or refunded thereby. Interest on the bonds shall be paid semiannually. The bonds shall be executed in such manner and payable at such time and place as the legislative authority shall by ordinance determine. Nothing in this chapter shall prevent a city from funding or refunding any of its indebtedness in any other manner provided by law. [1965 c 7 § 35.92.150. Prior: 1935 c 81 § 4, part; RRS § 9492-4, part. Formerly RCW 80.40.150.]

35.92.160 Funding or refunding bonds—Recourse of bondholders. When such funding or refunding bonds have been issued and the city or town fails to set aside and pay into the special fund from which they are payable, the amount without regard to any fixed proportion out of the gross revenue of the public utility which the city or town has, by ordinance, bound and obligated itself to set aside and pay into the special fund, the holder of any funding or refunding bond may bring action against the city or town and compel such setting aside and payment. [1965 c 7 § 35.92.160. Prior: 1935 c 81 § 5; RRS § 9492-5. Formerly RCW 80.40.160.]

35.92.170 City may extend water system outside limits. When a city or town owns or operates a municipal waterworks system and desires to extend such utility beyond its corporate limits it may acquire, construct and maintain any addition to or extension of the system, and dispose of and distribute water to any other municipality, water district, community, or person desiring to purchase it. [1965 c 7 § 35.92.170. Prior: 1933 ex.s. c 17 § 1; RRS § 9502-1. Cf. 1917 c 12 § 1. Formerly RCW 80.40.170.]

Water districts: Title 57 RCW.

35.92.180 City may extend water system outside limits—May acquire property outside city. A city or town may construct, purchase, or acquire any waterworks, pipe lines, distribution systems and any extensions thereof, necessary to furnish such outside service. [1965 c 7 § 35.92.180. Prior: 1933 ex.s. c 17 § 2; RRS § 9502-2. Cf. 1917 c 12 § 1. Formerly RCW 80.40.180.]

35.92.190 City may extend water system outside limits—Cannot condemn irrigation system. No city or town may exercise the power of eminent domain to take or damage any waterworks, storage reservoir, site, pipe line distribution system or any extension thereof, or any water right, water appropriation, dam, canal, plant, or any interest in, or to any of the above used, operated, held, or owned by an irrigation district. [1965 c 7 § 35.92.190. Prior: 1933 ex.s. c 17 § 2A; RRS § 9502-2A. Formerly RCW 80.40.190.]

Eminent domain by cities: Chapter 8.12 RCW.

35.92.200 City may extend water system outside limits—Contracts for outside service. A city or town may enter into a firm contract with any outside municipality, community, corporation, or person, for furnishing them with water without regard to whether said water shall be considered as surplus or not and regardless of the source from which such water is obtained, which contract may fix the terms upon which the outside distribution systems will be installed and the rates at which and the manner in which payment shall be made for the water supplied or for the service rendered. [1965 c 7 § 35.92.200. Prior: 1961 c 125 § 1; 1957 c 288 § 8; 1933 ex.s. c 17 § 3; RRS § 9502-3. Cf. 1917 c 12 § 1. Formerly RCW 80.40.200.]

35.92.220 Acquisition of water rights. A city or town, situated within or served by, an irrigation project, or projects, owned or operated by the United States government, a water users' association, associations, corporation, or corporations or another city or town or towns, where the legislative authority deems it feasible to furnish water for irrigation and domestic purposes, or either, and where the water used for irrigation and domestic purposes or either, is appurtenant or may become appurtenant to the land located within such city or town, may purchase, lease or otherwise acquire water or water rights for the purpose of furnishing the city or town and the inhabitants thereof with a supply of water for irrigation and domestic purposes, or either; purchase, construct or otherwise acquire systems and means of distribution and delivery of water within and without the limits of the city or town, or for the delivery of water where the owner of land within the city or town owns a water right appurtenant to his land, with full power to maintain, repair, reconstruct, regulate, and control the same, and if private property is necessary for such purposes, the city or town may condemn and purchase or purchase and acquire property, enter into any contract, and order any and all work to be done which shall be necessary to carry out such purposes, and it may do so either by the entire city or town or by assessment districts, consisting of the whole or any portion thereof, as the legislative authority of the city or town may determine. [1965 c 130 § 1; 1965 c 7 § 35.92-.220. Prior: 1915 c 112 § 1; RRS § 9495. Formerly RCW 80.40.220.]

35.92.230 Acquisition of water rights—Special assessments. For the purpose of paying for a water right purchased by the city or town from the United States government where the purchase price has not been fully paid; paying annual maintenance or annual rental charge to the United States government or any corporation or individual furnishing the water for irrigation and domestic purposes, or either; paying assessments made by any water users' association; paying the cost of constructing or acquiring any system or means of distribution or delivery of water for said purposes; and for the upkeep, repair, reconstruction, operation, and maintenance thereof; and for any expense incidental to said purposes, the city or town may levy and collect special assessments against the property within any district created pursuant to RCW 35.92.220 as now or hereafter amended, to pay the whole or any part of any such costs and expenses. [1965 c 130 § 2; 1965 c 7 § 35.92.230. Prior: 1915 c 112 § 2; RRS § 9496. Formerly RCW 80.40.230.]

35.92.240 Acquisition of water rights—Levy of assessments. All such assessments shall be levied upon the several parcels of land located within the local improvement district in accordance to the special benefits conferred on such property in proportion to the surface area, one square foot of surface to be the unit of assessment: *Provided*, That where the water right is acquired or a special improvement is made for a portion of any district, the cost of the water right or the cost of

such special improvement shall be levied in the same manner upon such portion of the district as shall be specially benefited thereby: *Provided* further, That whenever a special improvement is made for a portion of any district, the land assessed for the cost thereof shall be entitled to an equitable reduction in the annual assessments in proportion to the reduced cost of operation on account of the construction of the improvement. [1965 c 7 § 35.92.240. Prior: 1915 c 112 § 3; RRS § 9497. Formerly RCW 80.40.240.]

35.92.250 Acquisition of water rights—District property need not be contiguous. One local improvement district may be established for any or all of the purposes embraced herein even though the area assessed for such purposes may not coincide or be contiguous: *Provided*, That whenever the legislative body of the city or town decides to construct a special improvement in a distribution system, a separate local improvement district may be formed for such portion and bonds may be issued therefor as provided in the general local improvement law. [1965 c 7 § 35.92.250. Prior: 1915 c 112 § 4; RRS § 9498. Formerly RCW 80.40.250.]

Creation of local improvement districts: Chapter 35.43 RCW.
Issuance of bonds to pay for local improvements: Chapters 35.45, 35-.48 RCW.

35.92.260 Acquisition of water rights—Mode of assessment. When a city or town makes local improvements for any of the purposes specified in RCW 35.92-.220 and RCW 35.92.230, as now or hereafter amended, the proceedings relative to the creation of districts, financing of improvements, levying and collecting assessments and all other procedure shall be had, and the legislative authority shall proceed in accordance with the provisions of the laws relating to local improvement districts in cities of the first class: *Provided*, That when the improvement is initiated upon petition, the petition shall set forth the fact that the signers are the owners according to the records in the office of the county auditor, of property to an aggregate amount of a majority of the surface area within the limits of the assessment district to be created: *Provided further*, That when an assessment is made for any purpose other than the construction or reconstruction of any system or means of distribution or delivery of water, it shall not be necessary for the legislative authority to be furnished with a statement of the aggregate assessed valuation of the real estate exclusive of improvements in the district according to the valuation last placed upon it for purposes of general taxation, or the estimated amount of the cost of the improvement to be borne by each tract of land or other property, but a statement by the engineer or other officer, showing the estimated cost of the improvement per square foot, shall be sufficient: *Provided further*, That when the legislative authority of a city or town shall deem it necessary to levy special assessments for the purposes specified in RCW 35.92.230, as now or hereafter amended, other than for the purpose of paying the costs of acquiring, constructing or reconstructing any system or means of distribution or delivery of water for irrigation or domestic purposes, the legislative

authority for such city or town may hold a single hearing on the assessment rolls for all irrigation local improvement districts within the city or town. Such legislative authority shall fix the date of such hearing and shall direct the city or town clerk to give notice thereof, in the form prescribed by RCW 35.44.080, by publication thereof in a legal newspaper of general circulation in the city or town, once, not less than fifteen days prior to the date fixed for hearing; and by mailing, not less than fifteen days prior to the date fixed for hearing, notice thereof to the owner or reputed owner of each item of property described on the assessment roll whose name appears on such roll at the address of such owner or reputed owner shown on the tax rolls of the county treasurer for each such item of property: *Provided further*, That when an assessment roll is once prepared and does not include the cost of purchase, construction, or reconstruction of works of delivery or distribution and the legislative authority of such city or town decides to raise a similar amount the ensuing year, it shall not be necessary to prepare a new assessment roll, but the legislative authority may pass a resolution of intention estimating the cost for the ensuing year to be the same as the preceding year, and directing the clerk to give notice stating the estimated cost per square foot of all land within the district and refer persons interested to the books of the treasurer, and fixing the date for a hearing on such assessment roll. Notice of such hearing shall be given by the city or town clerk in the form and manner required in the preceding proviso. The treasurer shall be present at the hearing and shall note any changes on his books. The legislative authority shall have the same right to make changes in the assessment roll as in an original assessment, and after all changes have been made it shall, by ordinance, confirm the assessment and direct the treasurer to extend it on the books of his office. [1965 c 130 § 3; 1965 c 7 § 35.92.260. Prior: 1915 c 112 § 5; RRS § 9499. Formerly RCW 80.40.260.]

35.92.263 Acquisition of water rights—Water rights acquired by purchase of shares in water users' association or corporation—Authority to acquire and hold shares. Whenever the public interest, welfare, convenience and necessity require that a city or town acquire water rights for the purposes set forth in RCW 35.92.220, as now or hereafter amended, and that such water rights be acquired through the purchases of shares in a water users' association or corporation, such city or town shall have full authority and power to acquire, or to hold in trust, such shares as shall be necessary for said purposes. [1965 c 130 § 4.]

35.92.265 Acquisition of water rights—Existing local improvement districts validated—Debts, obligations, assessments, etc., declared legal and valid. Each and all of the respective areas of land heretofore organized into local improvement assessment districts for irrigation or domestic water supply purposes including all areas annexed thereto, under the provisions of chapter 112, Laws of 1915, codified as RCW 35.92.220–35.92.260, whether organized by or within a city or town

other than a city of the first class or by or within a city of the first class, are hereby validated and declared to be duly existing local improvement districts having the respective boundaries set forth in their organization or annexation proceedings as shown by the files in the office of the clerk of the city or town in which formed. All debts, contracts and obligations heretofore made or incurred by or in favor of any such local improvement district and any and all assessments or levies and all other things and proceedings done or taken by the city or town within, and by which such districts were organized, under or in pursuance of such organization, and under or in pursuance of the levy and collection of special assessments by the city or town to pay the whole or any part of the cost and expense or upkeep, repair, reconstruction, operation and maintenance of such local improvement districts and any expense incident to said purposes are hereby declared legal and valid and in full force and effect. [1965 c 130 § 5.]

35.92.270 Passenger transportation systems—Authority to make studies—Contracts with and acquisition of privately owned systems. Every passenger transportation system owned by a municipal corporation may:

(1) Engage in planning, studies and surveys with respect to areas within and beyond the corporate boundaries of such municipal corporation, in order to develop a sound factual basis for any possible future adjustment or expansion of such municipally owned passenger transportation system;

(2) Purchase or lease privately owned passenger transportation systems: *Provided*, That such purchases shall not, per se, extend the area of service of such municipally owned passenger transportation system;

(3) Contract with privately owned passenger transportation systems in order to provide adequate service in the service area of the municipal transportation system. [1965 c 7 § 35.92.270. Prior: 1957 c 114 § 1. Formerly RCW 80.40.270.]

35.92.275 Assumption of obligations of private pension plan when urban transportation system acquired. See RCW 54.04.160.

35.92.280 Cities over 150,000, joint undertaking with P.U.D. as to electric utility properties—"Electric utility properties" defined. As used in RCW 35.92.280 through 35.92.310 "electric utility properties" shall mean any and all permits, licenses, property rights, water rights and any and all works, plants, dams, powerhouses, transmission lines, switchyards, substations, property and facilities of every kind and character which may be used, or may be useful, in the generation and transmission of electric power and energy, produced by water power, steam or any other methods. [1965 c 7 § 35.92.280. Prior: 1957 c 287 § 1. Formerly RCW 80.40.280.]

35.92.290 Cities over 150,000, joint undertaking with P.U.D. as to electric utility properties—Agreements. Any city or town with a population over one hundred

fifty thousand within the state of Washington owning an electric public utility is authorized to cooperate with any public utility district within this state in the joint acquisition, purchase, construction, ownership, maintenance and operation, within or without the respective limits of any such city or town or public utility district, of electric utility properties. The respective governing bodies of any such city or town and of any such public utility district desiring to cooperate in the joint ownership, maintenance and operation of electric utility properties pursuant to the authority contained in RCW 35.92.280 through 35.92.310, shall by mutual agreement provide for such joint ownership, maintenance and operation. Such agreement shall prescribe the rights and property interest which the parties thereto shall have in such electric utility properties, which property interest may be either divided or undivided; and shall further provide for the rights of the parties thereto in the ownership and disposition of the power and energy produced by such electric utility properties, and for the operation and management thereof. [1965 c 7 § 35.92.290. Prior: 1957 c 287 § 2. Formerly RCW 80.40.290.]

35.92.300 Cities over 150,000, joint undertaking with P.U.D. as to electric utility properties—Financing. Any city or town and any public utility district cooperating under the provisions of RCW 35.92.280 through 35.92.310 may, without an election or other proceedings under any existing law, contribute money and property, both real and personal, to any joint undertaking pursuant hereto, and may issue and sell revenue bonds to pay its respective share of the costs of acquisition and construction of such electric utility properties. Such bonds shall be issued under the provisions of applicable laws authorizing the issuance of revenue bonds for the acquisition and construction of electric public utility properties by cities, towns and public utility districts, as the case may be. [1965 c 7 § 35.92.300. Prior: 1957 c 287 § 3. Formerly RCW 80.40.300.]

Revenue bonds and warrants issued by cities and towns to finance acquisition of public utilities: RCW 35.92.100.

Revenue bonds and warrants issued by public utility districts: Chapter 54.24 RCW.

35.92.310 Cities over 150,000, joint undertaking with P.U.D. as to electric utility properties—Authority granted is additional power. The authority and power granted by RCW 35.92.280 through 35.92.310 is an additional grant of power to cities, towns, and public utility districts to acquire and operate electric public utilities, and the provisions hereof shall be construed liberally to effectuate the authority herein conferred, and no restriction or limitation prescribed in any other law shall prohibit the cities, towns and public utility districts of this state from exercising the authority herein conferred: *Provided*, That nothing in RCW 35.92.280 through 35.92.310 shall authorize any public utility district or city cooperating under the provisions of RCW 35.92.280 through 35.92.310 to condemn any property owned or operated by any privately owned utility. [1965 c 7 § 35.92.310. Prior: 1957 c 287 § 4. Formerly RCW 80.40.310.]

35.92.350 Electrical construction or improvement—Bid proposals—Contract proposal forms—Conditions for issuance—Refusal—Appeal. Any city or town owning an electrical utility shall require that bid proposals upon any electrical construction or improvement shall be made upon contract proposal form supplied by the governing authority of such utility, and in no other manner. The governing authority shall, before furnishing any person, firm or corporation desiring to bid upon any electrical work with a contract proposal form, require from such person, firm or corporation, answers to questions contained in a standard form of questionnaire and financial statement, including a complete statement of the financial ability and experience of such person, firm, or corporation in performing electrical work. Such questionnaire shall be sworn to before a notary public or other person authorized to take acknowledgment of deeds, and shall be submitted once a year and at such other times as the governing authority may require. Whenever the governing authority is not satisfied with the sufficiency of the answers contained in such questionnaire and financial statement or whenever the governing authority determines that such person, firm, or corporation does not meet all of the requirements hereinafter set forth it may refuse to furnish such person, firm or corporation with a contract proposal form and any bid proposal of such person, firm or corporation must be disregarded. In order to obtain a contract proposal form, a person, firm or corporation shall have all of the following requirements:

- (1) Adequate financial resources, or the ability to secure such resources;
- (2) The necessary experience, organization, and technical qualifications to perform the proposed contract;
- (3) The ability to comply with the required performance schedule taking into consideration all of its existing business commitments;
- (4) A satisfactory record of performance, integrity, judgment, and skills; and
- (5) Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

Such refusal shall be conclusive unless appeal therefrom to the superior court of the county where the utility district is situated or Thurston county be taken within fifteen days, which appeal shall be heard summarily within ten days after the same is taken and on five days' notice thereof to the governing authority of the utility. [1971 ex.s. c 220 § 1.]

Chapter 35.94

SALE OR LEASE OF MUNICIPAL UTILITIES

Sections

35.94.010	Authority to sell or let.
35.94.020	Procedure.
35.94.030	Execution of lease or conveyance.
35.94.040	Lease or sale of land or property originally acquired for public utility purposes.

35.94.010 Authority to sell or let. A city may lease for any term of years or sell and convey any public utility works, plant, or system owned by it or any part

thereof, together with all or any equipment and appurtenances thereof. [1965 c 7 § 35.94.010. Prior: 1917 c 137 § 1; RRS § 9512. Cf. 1907 c 86 §§ 1-3; 1897 c 106 §§ 1-4. Formerly RCW 80.48.010.]

35.94.020 Procedure. The legislative authority of the city, if it deems it advisable to lease or sell such works, plant, or system, or any part thereof, shall adopt a resolution stating whether it desires to lease or sell. If it desires to lease, the resolution shall state the general terms and conditions of the lease, but not the rent. If it desires to sell the general terms of sale shall be stated, but not the price. The resolution shall direct the city clerk, or other proper official, to publish the resolution not less than once a week for four weeks in the official newspaper of the city if there is one, or if not, then in any newspaper published in the city, or if there is none, then in any newspaper published in the county in which the city is located, together with a notice calling for sealed bids to be filed with the clerk or other proper official not later than a certain time, accompanied by a certified check payable to the order of the city, for such amount as the resolution shall require, or a deposit of a like sum in money. Each bid shall state that the bidder agrees that if his bid is accepted and he fails to comply therewith within the time hereinafter specified, the check or deposit shall be forfeited to the city. If bids for a lease are called for, bidders shall bid the amount to be paid as the rent for each year of the term of the lease. If bids for a sale are called for, the bids shall state the price offered. The legislative authority of the city may reject any or all bids and accept any bid which it deems best. At the first meeting of the legislative authority of the city held after the expiration of the time fixed for receiving bids, or at some later meeting, the bids shall be considered. In order for such legislative authority to declare it advisable to accept any bid it shall be necessary for two-thirds of all the members elected to such legislative authority to vote in favor of a resolution making the declaration. If the resolution is adopted it shall be necessary, in order that such bid be accepted, to enact an ordinance accepting it and directing the execution of a lease or conveyance by the mayor and city clerk or other proper official. Such ordinance shall not take effect until it has been submitted to the voters of the city for their approval or rejection at the next general election or at a special election called for that purpose, and a majority of the voters voting thereon have approved it. If approved it shall take effect as soon as the result of the vote is proclaimed by the mayor. If it is so submitted and fails of approval, it shall be rejected and annulled. The mayor shall proclaim the vote as soon as it is properly certified. [1965 c 7 § 35.94.020. Prior: 1917 c 137 § 2; RRS § 9513. Cf. 1907 c 86 §§ 1-3; 1897 c 106 §§ 1-4. Formerly RCW 80.48.020.]

Elections: Title 29 RCW.

35.94.030 Execution of lease or conveyance. Upon the taking effect of the ordinance the mayor and the city clerk or other proper official shall execute, in the name and on behalf of the city, the lease or conveyance directed thereby. The lessee or grantee shall accept and

execute the instrument within ten days after notice of its execution by the city or forfeit to the city, the amount of the check or deposit accompanying his bid: *Provided*, That if litigation in good faith is instituted within ten days to determine the rights of the parties, no forfeiture shall take place unless the lessee or grantee fails for five days after the termination of the litigation in favor of the city to accept and execute the lease or conveyance. [1965 c 7 § 35.94.030. Prior: 1917 c 137 § 3; RRS § 9514. Cf. 1907 c 86 §§ 1-3; 1897 c 106 §§ 1-4. Formerly RCW 80.48.030.]

35.94.040 Lease or sale of land or property originally acquired for public utility purposes. Whenever a city shall determine, by resolution of its legislative authority, that any lands, property, or equipment originally acquired for public utility purposes is surplus to the city's needs and is not required for providing continued public utility service, then such legislative authority by resolution and after a public hearing may cause such lands, property, or equipment to be leased, sold, or conveyed. Such resolution shall state the fair market value or the rent or consideration to be paid and such other terms and conditions for such disposition as the legislative authority deems to be in the best public interest.

The provisions of RCW 35.94.020 and 35.94.030 shall not apply to dispositions authorized by this section. [1973 1st ex.s. c 95 § 1.]

Chapter 35.95 PUBLIC TRANSPORTATION SYSTEMS IN CITIES AND METROPOLITAN MUNICIPAL CORPORATIONS—FINANCING

Sections	
35.95.010	Declaration of intent and purpose.
35.95.020	Definitions.
35.95.030	Appropriation of funds for transportation systems authorized—Referendum.
35.95.040	Levy and collection of excise taxes authorized—Business and occupation tax—Excise tax on persons served and billed for public utility services—Appropriation and use of proceeds.
35.95.050	Collection of tax—Billing.
35.95.060	Funds derived from taxes—Restrictions on classification, etc.
35.95.070	Purchase of leased public transportation system—Purchase price.
35.95.080	Referendum rights not impaired.
35.95.090	Corporate authorities may refer ordinance levying tax to voters.
35.95.100	Mass public transportation systems.
35.95.900	Severability—1965 ex.s. c 111.

Contracts between political subdivisions for services or use of public transportation systems: RCW 39.33.050.

Local sales and use taxes for financing public transportation systems: RCW 82.14.045-82.14.060.

Mass public transportation systems: RCW 35.58.272-35.58.2793.

35.95.010 Declaration of intent and purpose. We, the legislature find that an increasing number of municipally owned, or leased, and operated transportation systems in the urban areas of the state of Washington, as in the nation, are finding it impossible, from the revenues derived from tolls, tariffs and fares, to maintain

the financial solvency of such systems, and as a result thereof such municipalities have been forced to subsidize such systems to the detriment of other essential public services.

All persons in a community benefit from a solvent and adequate public transportation system, either directly or indirectly, and the responsibility of financing the operation, maintenance, and capital needs of such systems is a community obligation and responsibility which should be shared by all.

We further find and declare that the maintenance and operation of an adequate public transportation system is an absolute necessity and is essential to the economic, industrial and cultural growth, development and prosperity of a municipality and of the state and nation, and to protect the health and welfare of the residents of such municipalities and the public in general.

We further find and declare that the appropriation of general funds and levying and collection of taxes by such municipalities as authorized in the succeeding sections of this chapter is necessary, and any funds so derived and expended are for a public purpose for which public funds may properly be used. [1969 ex.s. c 255 § 1; 1965 ex.s. c 111 § 1.]

Construction—1969 ex.s. c 255: See note following RCW 35.58.272.

Severability—1969 ex.s. c 255: See note following RCW 35.58.272.

35.95.020 Definitions. The following terms however used or referred to in this chapter, shall have the following meanings, unless a different meaning is required by the context:

(1) "Corporate authority" shall mean the council or other legislative body of a municipality.

(2) "Municipality" shall mean any incorporated city of the first, second or third class in the state, or any metropolitan municipal corporation created pursuant to RCW 35.58.010, et seq.

(3) "Person" shall mean any individual, firm, partnership, corporation, company, association, joint stock association, school district or political subdivision of the state, fraternal, benevolent, religious or charitable society, club or organization, and shall include any trustee, receiver, assignee, or other person acting in a similar representative capacity. The term "person" shall not be construed to include the United States nor the state of Washington. [1969 ex.s. c 255 § 2; 1967 ex.s. c 145 § 65; 1965 ex.s. c 111 § 2.]

Construction—1969 ex.s. c 255: See note following RCW 35.58.272.

Severability—1969 ex.s. c 255: See note following RCW 35.58.272.

35.95.030 Appropriation of funds for transportation systems authorized—Referendum. The corporate authorities of any municipality are authorized to appropriate general funds for the operation, maintenance, and capital needs of municipally owned or leased and municipally operated public transportation systems subject to the right of referendum as provided by statute or charter. [1965 ex.s. c 111 § 3.]

35.95.040 Levy and collection of excise taxes authorized—Business and occupation tax—Excise tax on persons served and billed for public utility services—Appropriation and use of proceeds. The corporate authorities of a municipality are authorized to adopt ordinances for the levy and collection of excise taxes and/or for the imposition of an additional tax for the act or privilege of engaging in business activities. Such business and occupation tax shall be imposed in such amounts as fixed and determined by the corporate authorities of the municipality and shall be measured by the application of rates against value of products, gross proceeds of sales, or gross income of the business, as the case may be. The terms "business", "engaging in business", "gross proceeds of sales", and "gross income of the business" shall for the purpose of this chapter have the same meanings as defined and set forth in chapter 82.04 RCW or as said chapter may hereafter be amended.

The excise taxes other than the business and occupation tax above provided for shall be levied and collected from all persons within the municipality who are served and billed for any one or more public utility services owned and operated by such municipality in such amounts as shall be fixed and determined by the corporate authorities of the municipality: *Provided*, That such excise tax shall not exceed one dollar per month for each housing unit. For the purposes of this section, the term "housing unit" shall mean a building or portion thereof designed for or used as the residence or living quarters of one or more persons living together, or of one family.

All taxes herein authorized shall be taxes other than a retail sales tax defined in chapter 82.08 RCW and a use tax defined in chapter 82.12 RCW, and the municipality shall appropriate and use the proceeds derived from all taxes authorized herein only for the operation, maintenance and capital needs of its municipally owned or leased and municipally operated public transportation system. [1965 ex. s. c 111 § 4.]

35.95.050 Collection of tax—Billing. The tax levied under the provisions of RCW 35.95.040 shall be billed and collected at such times and in the manner fixed and determined by the corporate authorities in an ordinance levying the tax: *Provided*, That the tax shall be designated and identified as a tax to be used solely for the operation, maintenance, and capital needs of the municipally owned or leased and municipally operated public transit system: *And provided further*, That the corporate authorities may in connection with municipally owned or leased transit systems enter into contracts covering the operation and maintenance of such systems, including the employment of personnel. [1967 ex.s. c 145 § 66; 1965 ex.s. c 111 § 5.]

Severability—1967 ex.s. c 145: See RCW 47.98.043.

35.95.060 Funds derived from taxes—Restrictions on classification, etc. No funds derived from any tax levied under the provisions of this chapter shall, for any purpose whatsoever, be classified as or constitute income, earnings, or revenue of the public transportation

system for which the tax is levied nor of any other public utility owned or leased and operated by such municipality; nor shall such funds constitute or be classified as any part of the rate structure or rate charged for the public utility. [1965 ex.s. c 111 § 6.]

35.95.070 Purchase of leased public transportation system—Purchase price. In the event the corporate authorities of any municipality during the term of a lease or any renewal thereof of a public transportation system desire to purchase the said system, the purchase price shall be no greater than the fair market value of the said system at the commencement of the lease. [1965 ex.s. c 111 § 7.]

Authority to acquire and operate transportation facilities: RCW 35.92.060.

35.95.080 Referendum rights not impaired. Nothing contained in this chapter nor the provisions of any city charter shall prevent a referendum on any ordinance or action adopted or taken by any municipality under the provisions of this chapter. [1965 ex.s. c 111 § 8.]

35.95.090 Corporate authorities may refer ordinance levying tax to voters. The corporate authorities of a municipality adopting an ordinance for the levy and collection of an excise tax or additional tax as provided in RCW 35.95.040 may refer such ordinance to the voters of the municipality before making such ordinance effective. [1967 ex.s. c 145 § 67.]

Severability—1967 ex.s. c 145: See RCW 47.98.043.

35.95.100 Mass public transportation systems. See RCW 35.58.272–35.58.2793.

35.95.900 Severability—1965 ex.s. c 111. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1965 ex.s. c 111 § 9.]

Chapter 35.96 ELECTRIC AND COMMUNICATION FACILITIES—CONVERSION TO UNDERGROUND

Sections	
35.96.010	Declaration of public interest and purpose.
35.96.020	Definitions.
35.96.030	Conversion of electric and communication facilities to underground facilities authorized—Local improvement districts—Special assessments.
35.96.040	Contracts for conversion—Authorized—Provisions.
35.96.050	Notice to owners to convert service lines to underground—Objections—Hearing—Time limitation for conversion.
35.96.060	Application of provisions relating to local improvements in cities and towns to chapter.
35.96.070	Validation of pre-existing debts, contracts, obligations, etc., made or incurred incidental to conversion of electric and communication facilities to underground facilities.
35.96.080	Authority granted deemed alternative and additional.
35.96.900	Severability—1967 c 119.

Counties, conversion of overhead electric and communication facilities to underground facilities: RCW 36.88.410–36.88.480.

Local improvements for underground utilities transmission lines: RCW 35.43.040(12).

35.96.010 Declaration of public interest and purpose.

It is hereby found and declared that the conversion of overhead electric and communication facilities to underground facilities is substantially beneficial to the public safety and welfare, is in the public interest and is a public purpose, notwithstanding any resulting incidental private benefit to any electric or communication utility affected by such conversion. [1967 c 119 § 2.]

35.96.020 Definitions. As used in this chapter, unless specifically defined otherwise, or unless the context indicates otherwise:

"Conversion area" means that area in which existing overhead electric and communication facilities are to be converted to underground facilities pursuant to the provisions of this chapter.

"Electric utility" means any publicly or privately owned utility engaged in the business of furnishing electric energy to the public in all or part of the conversion area and includes electrical companies as defined by RCW 80.04.010 and public utility districts.

"Communication utility" means any utility engaged in the business of affording telephonic, telegraphic, cable television or other communication service to the public in all or part of the conversion area and includes telephone companies and telegraph companies as defined by RCW 80.04.010. [1967 c 119 § 3.]

35.96.030 Conversion of electric and communication facilities to underground facilities authorized—Local improvement districts—Special assessments. Every city or town shall have the power to convert existing overhead electric and communication facilities to underground facilities pursuant to RCW 35.43.190 where such facilities are owned or operated by the city or town. Where such facilities are not so owned or operated, every city or town shall have the power to contract with electric and communication utilities, as hereinafter provided, for the conversion of existing overhead electric and communication facilities to underground facilities. To provide funds to pay the whole or any part of the cost of any such conversion, either where the existing overhead electric and communication facilities are owned or operated by the city or town or where they are not so owned or operated, every city or town shall have the power to create local improvement districts and to levy and collect special assessments against the real property specially benefited by such conversion. For the purpose of ascertaining the amount to be assessed against each lot or parcel of land within any local improvement district established pursuant to this chapter, in addition to other methods provided by law for apportioning special benefits, the legislative authority of any city or town may apportion all or part of the special benefits accruing on a square footage basis or on a per lot basis. [1967 c 119 § 4.]

35.96.040 Contracts for conversion—Authorized—Provisions. Every city or town shall have the power to contract with electric and communication utilities for the conversion of existing overhead electric and communication facilities to underground facilities including all work incidental to such conversion. Such contracts may include, among other provisions, any of the following:

(1) For the supplying and approval by electric and communication utilities of plans and specifications for such conversion;

(2) For the payment to the electric and communication utilities for any work performed or services rendered by it in connection with the conversion project;

(3) For the payment to the electric and communication utilities for the value of the overhead facilities removed pursuant to the conversion;

(4) For ownership of the underground facilities by the electric and communication utilities. [1967 c 119 § 5.]

35.96.050 Notice to owners to convert service lines to underground—Objections—Hearing—Time limitation for conversion. When service from the underground electric and communication facilities is available in all or part of a conversion area, the city or town shall mail a notice to the owners of all structures or improvements served from the existing overhead facilities in the area, which notice shall state that:

(1) Service from the underground facilities is available;

(2) All electric and communication service lines from the existing overhead facilities within the area to any structure or improvement must be disconnected and removed within ninety days after the date of the mailing of the notice;

(3) Should such owner fail to convert such service lines from overhead to underground within ninety days after the date of the mailing of the notice, the city or town will order the electric and communication utilities to disconnect and remove the service lines;

(4) Should the owner object to the disconnection and removal of the service lines he may file his written objections thereto with the city or town clerk within thirty days after the date of the mailing of the notice and failure to so object within such time will constitute a waiver of his right thereafter to object to such disconnection and removal.

If the owner of any structure or improvement served from the existing overhead electric and communication facilities within a conversion area shall fail to convert to underground the service lines from such overhead facilities to such structure or improvement within ninety days after the mailing to him of the notice, the city or town shall order the electric and communication utilities to disconnect and remove all such service lines: *Provided*, That if the owner has filed his written objections to such disconnection and removal with the city or town clerk within thirty days after the mailing of the notice then the city or town shall not order such disconnection and removal until after the hearing on such objections.

Upon the timely filing by the owner of objections to the disconnection and removal of the service lines, the legislative authority of such city or town, or a committee thereof, shall conduct a hearing to determine whether the removal of all or any part of the service lines is in the public benefit. The hearing shall be held at such time as the legislative authority of such city or town may establish for hearings on the objections and shall be held in accordance with the regularly established procedure set by the legislative authority of the city or town. If the hearing is before a committee, the committee shall following the hearing report its recommendation to the legislative authority of the city or town for final action. The determination reached by the legislative authority shall be final in the absence of an abuse of discretion. [1967 c 119 § 6.]

35.96.060 Application of provisions relating to local improvements in cities and towns to chapter. Unless otherwise provided in this chapter, the general provisions relating to local improvements in cities and towns including but not limited to chapters 35.43, 35.44, 35.45, 35.48, 35.49, 35.50, 35.53 and 35.54 RCW shall apply to local improvements authorized by this chapter. [1967 c 119 § 7.]

35.96.070 Validation of pre-existing debts, contracts, obligations, etc., made or incurred incidental to conversion of electric and communication facilities to underground facilities. All debts, contracts and obligations heretofore made or incurred by or in favor of any city or town incident to the conversion of overhead electric and communication facilities to underground facilities and all bonds, warrants, or other obligations issued by any such city or town, or by any local improvement district created to effect such conversion and any and all assessments heretofore levied in any such local improvement district, and all other things and proceedings relating thereto are hereby declared to be legal and valid and of full force and effect from the date thereof. [1967 c 119 § 8.]

35.96.080 Authority granted deemed alternative and additional. The authority granted by this chapter shall be considered an alternative and additional method for converting existing overhead electric and communication facilities to underground facilities, and for paying all or part of the cost thereof, and shall not be construed as a restriction or limitation upon any other authority for or method of converting any such facilities or placing such facilities underground or paying all or part of the cost thereof, including, but not limited to, existing authority or methods under chapter 35.43 RCW and chapter 35.44 RCW. [1967 c 119 § 10.]

35.96.900 Severability—1967 c 119. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1967 c 119 § 9.]

Chapter 35.98
CONSTRUCTION

Sections

- 35.98.010 Continuation of existing law.
 35.98.020 Title, chapter, section headings not part of law.
 35.98.030 Invalidity of part of title not to affect remainder.
 35.98.040 Repeals and saving.
 35.98.050 Emergency—1965 c 7.

35.98.010 Continuation of existing law. The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. [1965 c 7 § 35.98.010.]

35.98.020 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law. [1965 c 7 § 35.98.020.]

35.98.030 Invalidity of part of title not to affect remainder. If any provision, section, or chapter of this title or its application to any person or circumstance is held invalid, the remainder of the provision, section, chapter, or title, or the application thereof to other persons or circumstances is not affected. [1965 c 7 § 35.98.030.]

35.98.040 Repeals and saving. The following acts or parts of acts are repealed:

- (1) Chapter 56, Laws of 1963;
- (2) Chapter 57, Laws of 1963;
- (3) Chapter 72, Laws of 1963;
- (4) Chapter 115, Laws of 1963;
- (5) Chapter 119, Laws of 1963;
- (6) Section 1, chapter 127, Laws of 1963;
- (7) Chapter 130, Laws of 1963;
- (8) Chapter 131, Laws of 1963;
- (9) Chapter 155, Laws of 1963;
- (10) Chapter 170, Laws of 1963;
- (11) Chapter 184, Laws of 1963;
- (12) Chapter 191, Laws of 1963;
- (13) Sections 12, 13, 14, 15, and 16, chapter 200, Laws of 1963;
- (14) Chapter 222, Laws of 1963;
- (15) Chapter 231, Laws of 1963;
- (16) Chapter 33, Laws of 1961;
- (17) Chapter 46, Laws of 1961;
- (18) Chapter 51, Laws of 1961;
- (19) Chapter 58, Laws of 1961;
- (20) Chapter 70, Laws of 1961;
- (21) Chapter 81, Laws of 1961;
- (22) Chapter 89, Laws of 1961;
- (23) Chapter 111, Laws of 1961;
- (24) Chapter 125, Laws of 1961;
- (25) Chapter 149, Laws of 1961;
- (26) Chapter 165, Laws of 1961;
- (27) Chapter 166, Laws of 1961;
- (28) Chapter 186, Laws of 1961;
- (29) Section 2, chapter 195, Laws of 1961;
- (30) Chapter 200, Laws of 1961;
- (31) Chapter 212, Laws of 1961;

- (32) Chapter 213, Laws of 1961;
- (33) Chapter 245, Laws of 1961;
- (34) Sections 7, 9, 10, 11, and 12, chapter 268, Laws of 1961;
- (35) Section 4, chapter 277, Laws of 1961;
- (36) Chapter 282, Laws of 1961;
- (37) Chapter 45, Laws of 1959;
- (38) Sections 1, 2, and 3, chapter 75, Laws of 1959;
- (39) Chapter 76, Laws of 1959;
- (40) Chapter 79, Laws of 1959;
- (41) Chapter 80, Laws of 1959;
- (42) Chapter 82, Laws of 1959;
- (43) Sections 2, 3, and 4, chapter 86, Laws of 1959;
- (44) Chapter 90, Laws of 1959;
- (45) Chapter 93, Laws of 1959;
- (46) Chapter 203, Laws of 1959;
- (47) Chapter 261, Laws of 1959;
- (48) Chapter 302, Laws of 1959;
- (49) Chapter 311, Laws of 1959;
- (50) Chapter 42, Laws of 1957;
- (51) Chapter 44, Laws of 1957;
- (52) Chapter 56, Laws of 1957;
- (53) Sections 1 through 8, chapter 97, Laws of 1957;
- (54) Chapter 113, Laws of 1957;
- (55) Chapter 114, Laws of 1957;
- (56) Chapter 117, Laws of 1957;
- (57) Chapter 119, Laws of 1957;
- (58) Chapter 121, Laws of 1957;
- (59) Chapter 123, Laws of 1957;
- (60) Section 1, chapter 126, Laws of 1957;
- (61) Chapter 130, Laws of 1957;
- (62) Chapter 143, Laws of 1957;
- (63) Chapter 144, Laws of 1957;
- (64) Chapter 156, Laws of 1957;
- (65) Chapter 166, Laws of 1957;
- (66) Chapter 173, Laws of 1957;
- (67) Sections 13, 14, and 15, chapter 175, Laws of 1957;
- (68) Chapter 180, Laws of 1957;
- (69) Chapter 194, Laws of 1957;
- (70) Chapter 209, Laws of 1957;
- (71) Chapter 213, Laws of 1957;
- (72) Sections 1 through 4, chapter 224, Laws of 1957;
- (73) Chapter 239, Laws of 1957;
- (74) Chapter 282, Laws of 1957;
- (75) Chapter 287, Laws of 1957;
- (76) Chapter 288, Laws of 1957;
- (77) Section 1, chapter 9, Laws of 1955 extraordinary session;
- (78) Sections 4 through 10, chapter 55, Laws of 1955;
- (79) Chapter 81, Laws of 1955;
- (80) Chapter 145, Laws of 1955;
- (81) Chapter 252, Laws of 1955;
- (82) Chapter 266, Laws of 1955;
- (83) Chapter 290, Laws of 1955;
- (84) Chapter 309, Laws of 1955;
- (85) Chapter 319, Laws of 1955;
- (86) Chapter 322, Laws of 1955;
- (87) Chapter 337, Laws of 1955;
- (88) Chapter 345, Laws of 1955;
- (89) Chapter 353, Laws of 1955;
- (90) Chapter 354, Laws of 1955;

- (91) Chapter 355, Laws of 1955;
 (92) Section 2, chapter 358, Laws of 1955;
 (93) Chapter 364, Laws of 1955;
 (94) Chapter 365, Laws of 1955;
 (95) Section 4, chapter 378, Laws of 1955;
 (96) Chapter 19, Laws of 1953;
 (97) Chapter 26, Laws of 1953;
 (98) Chapter 27, Laws of 1953;
 (99) Chapter 38, Laws of 1953;
 (100) Chapter 60, Laws of 1953;
 (101) Chapter 67, Laws of 1953;
 (102) Chapter 86, Laws of 1953;
 (103) Chapter 97, Laws of 1953;
 (104) Chapter 117, Laws of 1953;
 (105) Chapter 134, Laws of 1953;
 (106) Chapter 177, Laws of 1953;
 (107) Chapter 180, Laws of 1953;
 (108) Chapter 190, Laws of 1953;
 (109) Chapter 194, Laws of 1953;
 (110) Chapter 219, Laws of 1953;
 (111) Chapter 231, Laws of 1953;
 (112) Chapter 269, Laws of 1953;
 (113) Chapter 27, Laws of 1951 second extraordinary session;
 (114) Chapter 21, Laws of 1951;
 (115) Chapter 35, Laws of 1951;
 (116) Chapter 39, Laws of 1951;
 (117) Chapter 46, Laws of 1951;
 (118) Chapter 47, Laws of 1951;
 (119) Chapter 65, Laws of 1951;
 (120) Chapter 71, Laws of 1951;
 (121) Chapter 80, Laws of 1951;
 (122) Chapter 85, Laws of 1951;
 (123) Chapter 86, Laws of 1951;
 (124) Section 2, chapter 100, Laws of 1951;
 (125) Chapter 104, Laws of 1951;
 (126) Chapter 109, Laws of 1951;
 (127) Chapter 153, Laws of 1951;
 (128) Chapter 154, Laws of 1951;
 (129) Chapter 162, Laws of 1951;
 (130) Chapter 179, Laws of 1951;
 (131) Section 1, chapter 211, Laws of 1951;
 (132) Chapter 217, Laws of 1951;
 (133) Chapter 248, Laws of 1951;
 (134) Chapter 252, Laws of 1951;
 (135) Section 1, chapter 272, Laws of 1951;
 (136) Section 1, chapter 275, Laws of 1951;
 (137) Chapter 14, Laws of 1949;
 (138) Chapter 28, Laws of 1949;
 (139) Chapter 83, Laws of 1949;
 (140) Chapter 84, Laws of 1949;
 (141) Chapter 113, Laws of 1949;
 (142) Chapter 118, Laws of 1949;
 (143) Chapter 151, Laws of 1949;
 (144) Chapter 164, Laws of 1949;
 (145) Chapter 177, Laws of 1949;
 (146) Chapter 233, Laws of 1949;
 (147) Chapter 28, Laws of 1947;
 (148) Chapter 117, Laws of 1947;
 (149) Chapter 151, Laws of 1947;
 (150) Chapter 155, Laws of 1947;
 (151) Chapter 162, Laws of 1947;
 (152) Section 3, chapter 212, Laws of 1947;
 (153) Chapter 214, Laws of 1947;
 (154) Chapter 245, Laws of 1947;
 (155) Chapter 43, Laws of 1945;
 (156) Chapter 55, Laws of 1945;
 (157) Chapter 58, Laws of 1945;
 (158) Chapter 70, Laws of 1945: *Provided*, That such repeal shall not affect sec. 36.48.110, chapter 4, Laws of 1963;
 (159) Chapter 128, Laws of 1945;
 (160) Chapter 190, Laws of 1945;
 (161) Chapter 214, Laws of 1945;
 (162) Chapter 240, Laws of 1945;
 (163) Sections 1, 3, and 4, chapter 25, Laws of 1943;
 (164) Section 1, chapter 80, Laws of 1943;
 (165) Section 12, chapter 82, Laws of 1943;
 (166) Chapter 92, Laws of 1943;
 (167) Chapter 100, Laws of 1943;
 (168) Chapter 183, Laws of 1943;
 (169) Chapter 213, Laws of 1943;
 (170) Sections 2 through 7, chapter 244, Laws of 1943;
 (171) Sections 1 through 22, chapter 264, Laws of 1943;
 (172) Chapter 270, Laws of 1943;
 (173) Chapter 271, Laws of 1943;
 (174) Chapter 18, Laws of 1941: *Provided*, That such repeal shall not affect sec. 36.48.110, chapter 4, Laws of 1963;
 (175) Chapter 25, Laws of 1941;
 (176) Chapter 27, Laws of 1941;
 (177) Chapter 49, Laws of 1941;
 (178) Chapter 57, Laws of 1941;
 (179) Chapter 60, Laws of 1941;
 (180) Chapter 69, Laws of 1941;
 (181) Chapter 74, Laws of 1941;
 (182) Chapter 75, Laws of 1941;
 (183) Chapter 80, Laws of 1941;
 (184) Chapter 85, Laws of 1941;
 (185) Chapter 88, Laws of 1941;
 (186) Chapter 90, Laws of 1941;
 (187) Chapter 91, Laws of 1941;
 (188) Chapter 96, Laws of 1941;
 (189) Chapter 108, Laws of 1941;
 (190) Chapter 115, Laws of 1941;
 (191) Chapter 145, Laws of 1941;
 (192) Chapter 147, Laws of 1941;
 (193) Chapter 186, Laws of 1941;
 (194) Sections 1 through 12, chapter 193, Laws of 1941;
 (195) Chapter 23, Laws of 1939;
 (196) Chapter 24, Laws of 1939;
 (197) Chapter 87, Laws of 1939;
 (198) Chapter 96, Laws of 1939;
 (199) Chapter 105, Laws of 1939;
 (200) Chapter 115, Laws of 1939;
 (201) Chapter 16, Laws of 1937;
 (202) Chapter 79, Laws of 1937;
 (203) Chapter 98, Laws of 1937;
 (204) Chapter 110, Laws of 1937;
 (205) Section 64, chapter 187, Laws of 1937;
 (206) Chapter 32, Laws of 1935;

- (207) Chapter 37, Laws of 1935;
 (208) Chapter 44, Laws of 1935;
 (209) Chapter 45, Laws of 1935;
 (210) Chapter 81, Laws of 1935;
 (211) Chapter 17, Laws of 1933 extraordinary session;
 (212) Section 81, chapter 62, Laws of 1933 extraordinary session: *Provided*, That such repeal shall not affect sec. 36.27.020(13), chapter 4, Laws of 1963;
 (213) Sections 1 and 2, chapter 9, Laws of 1933;
 (214) Sections 1, 2, and 3, chapter 51, Laws of 1933;
 (215) Chapter 83, Laws of 1933;
 (216) Chapter 107, Laws of 1933;
 (217) Chapter 109, Laws of 1933;
 (218) Chapter 128, Laws of 1933;
 (219) Chapter 135, Laws of 1933;
 (220) Chapter 163, Laws of 1933;
 (221) Chapter 53, Laws of 1931;
 (222) Chapter 85, Laws of 1931;
 (223) Sections 4 and 5, chapter 87, Laws of 1931;
 (224) Chapter 61, Laws of 1929;
 (225) Chapter 63, Laws of 1929;
 (226) Sections 1 through 14, chapter 64, Laws of 1929;
 (227) Chapter 85, Laws of 1929;
 (228) Chapter 97, Laws of 1929;
 (229) Chapter 98, Laws of 1929;
 (230) Chapter 139, Laws of 1929;
 (231) Chapter 142, Laws of 1929;
 (232) Chapter 143, Laws of 1929;
 (233) Chapter 182, Laws of 1929;
 (234) Chapter 183, Laws of 1929;
 (235) Chapter 186, Laws of 1929: *Provided*, That such repeal shall not affect secs. 36.48.110 through 36.48.150, chapter 4, Laws of 1963;
 (236) Chapter 192, Laws of 1929;
 (237) Chapter 204, Laws of 1929;
 (238) Chapter 212, Laws of 1929;
 (239) Chapter 52, Laws of 1927;
 (240) Chapter 109, Laws of 1927;
 (241) Chapter 159, Laws of 1927;
 (242) Chapter 168, Laws of 1927;
 (243) Chapter 203, Laws of 1927;
 (244) Section 1, chapter 207, Laws of 1927;
 (245) Chapter 209, Laws of 1927;
 (246) Chapter 210, Laws of 1927;
 (247) Chapter 261, Laws of 1927;
 (248) Chapter 273, Laws of 1927;
 (249) Sections 1 through 6, chapter 275, Laws of 1927;
 (250) Chapter 293, Laws of 1927;
 (251) Chapter 61, Laws of 1925 extraordinary session;
 (252) Chapter 76, Laws of 1925 extraordinary session;
 (253) Chapter 81, Laws of 1925 extraordinary session;
 (254) Chapter 97, Laws of 1925 extraordinary session;
 (255) Chapter 117, Laws of 1925 extraordinary session;
 (256) Chapter 121, Laws of 1925 extraordinary session;
 (257) Chapter 125, Laws of 1925 extraordinary session;
 (258) Chapter 137, Laws of 1925 extraordinary session;
 (259) Chapter 146, Laws of 1925 extraordinary session;
 (260) Section 1, chapter 159, Laws of 1925 extraordinary session;
 (261) Chapter 168, Laws of 1925 extraordinary session;
 (262) Chapter 170, Laws of 1925 extraordinary session;
 (263) Chapter 183, Laws of 1925 extraordinary session;
 (264) Chapter 12, Laws of 1925;
 (265) Chapter 18, Laws of 1923;
 (266) Chapter 52, Laws of 1923;
 (267) Chapter 92, Laws of 1923;
 (268) Chapter 135, Laws of 1923;
 (269) Chapter 141, Laws of 1923;
 (270) Section 1, chapter 153, Laws of 1923;
 (271) Chapter 158, Laws of 1923;
 (272) Chapter 173, Laws of 1923;
 (273) Chapter 176, Laws of 1923;
 (274) Chapter 179, Laws of 1923;
 (275) Chapter 182, Laws of 1923;
 (276) Chapter 24, Laws of 1921;
 (277) Chapter 70, Laws of 1921;
 (278) Chapter 92, Laws of 1921;
 (279) Chapter 128, Laws of 1921;
 (280) Chapter 70, Laws of 1919;
 (281) Chapter 113, Laws of 1919;
 (282) Chapter 135, Laws of 1919;
 (283) Chapter 138, Laws of 1919;
 (284) Section 2, chapter 167, Laws of 1919;
 (285) Chapter 58, Laws of 1917;
 (286) Chapter 59, Laws of 1917;
 (287) Chapter 63, Laws of 1917;
 (288) Chapter 96, Laws of 1917;
 (289) Chapter 99, Laws of 1917;
 (290) Section 1, chapter 103, Laws of 1917;
 (291) Chapter 124, Laws of 1917;
 (292) Chapter 137, Laws of 1917;
 (293) Chapter 139, Laws of 1917;
 (294) Chapter 140, Laws of 1917;
 (295) Chapter 141, Laws of 1917;
 (296) Sections 1 and 2, chapter 13, Laws of 1915;
 (297) Chapter 17, Laws of 1915;
 (298) Chapter 87, Laws of 1915;
 (299) Chapter 112, Laws of 1915;
 (300) Chapter 134, Laws of 1915;
 (301) Chapter 148, Laws of 1915;
 (302) Chapter 149, Laws of 1915;
 (303) Chapter 168, Laws of 1915;
 (304) Sections 1 through 16, and 18 through 33, chapter 184, Laws of 1915;
 (305) Chapter 185, Laws of 1915;
 (306) Chapter 186, Laws of 1915;
 (307) Chapter 16, Laws of 1913;
 (308) Chapter 45, Laws of 1913;
 (309) Chapter 57, Laws of 1913;
 (310) Chapter 103, Laws of 1913;
 (311) Chapter 118, Laws of 1913;
 (312) Chapter 131, Laws of 1913;
 (313) Sections 1 and 2, chapter 17, Laws of 1911;
 (314) Chapter 31, Laws of 1911;

- (315) Chapter 32, Laws of 1911;
 (316) Chapter 33, Laws of 1911;
 (317) Chapter 67, Laws of 1911;
 (318) Section 1 and sections 3 through 72, chapter 98, Laws of 1911;
 (319) Chapter 103, Laws of 1911;
 (320) Sections 1 through 6, and 10 through 25, chapter 116, Laws of 1911;
 (321) Chapter 10, Laws of 1909 extraordinary session;
 (322) Chapter 14, Laws of 1909 extraordinary session;
 (323) Chapter 40, Laws of 1909;
 (324) Chapter 71, Laws of 1909;
 (325) Chapter 83, Laws of 1909;
 (326) Chapter 108, Laws of 1909;
 (327) Chapter 111, Laws of 1909;
 (328) Chapter 120, Laws of 1909;
 (329) Sections 1 through 5, chapter 128, Laws of 1909;
 (330) Chapter 130, Laws of 1909;
 (331) Chapter 131, Laws of 1909;
 (332) Chapter 147, Laws of 1909;
 (333) Sections 1 through 4, chapter 150, Laws of 1909;
 (334) Chapter 161, Laws of 1909;
 (335) Chapter 167, Laws of 1909;
 (336) Chapter 22, Laws of 1907;
 (337) Chapter 41, Laws of 1907;
 (338) Chapter 61, Laws of 1907;
 (339) Chapter 89, Laws of 1907;
 (340) Chapter 98, Laws of 1907;
 (341) Chapter 227, Laws of 1907;
 (342) Chapter 228, Laws of 1907;
 (343) Sections 1 through 32, 34 through 52, 57 through 67, and 69 through 74, chapter 241, Laws of 1907;
 (344) Chapter 243, Laws of 1907;
 (345) Chapter 245, Laws of 1907;
 (346) Chapter 248, Laws of 1907;
 (347) Chapter 29, Laws of 1905;
 (348) Chapter 75, Laws of 1905;
 (349) Chapter 103, Laws of 1905;
 (350) Chapter 29, Laws of 1903;
 (351) Chapter 30, Laws of 1903;
 (352) Sections 4 and 5, chapter 113, Laws of 1903;
 (353) Chapter 120, Laws of 1903;
 (354) Chapter 141, Laws of 1903;
 (355) Chapter 186, Laws of 1903;
 (356) Chapter LXXXIV(84), Laws of 1901;
 (357) Chapter CXVII(117), Laws of 1901;
 (358) Chapter CXLIX (149), page 346, Laws of 1901;
 (359) Chapter XXXI(31), Laws of 1899;
 (360) Chapter LX(60), Laws of 1899;
 (361) Chapter LXIX(69), Laws of 1899;
 (362) Chapter LXX(70), Laws of 1899;
 (363) Chapter LXXIX(79), Laws of 1899;
 (364) Chapter LXXXV(85), Laws of 1899;
 (365) Chapter XCVII(97), Laws of 1899;
 (366) Chapter CIII(103), Laws of 1899;
 (367) Chapter LXIX(69), Laws of 1897;
 (368) Chapter LXXXIV(84), Laws of 1897;
 (369) Chapter XIII(13), Laws of 1895;
 (370) Chapter XXVII(27), Laws of 1895;
 (371) Chapter XCIII(93), Laws of 1895;
 (372) Section 1, chapter CXXX(130), Laws of 1895;
 (373) Chapter CLII(152), Laws of 1895: *Provided*, That such repeal shall not affect secs. 36.29.060 and 36.29.070, chapter 4, Laws of 1963;
 (374) Chapter XV(15), Laws of 1893;
 (375) Section 1, chapter XLVIII(48), Laws of 1893: *Provided*, That such repeal shall not affect sec. 36.29.040, chapter 4, Laws of 1963;
 (376) Chapter LVIII(58), Laws of 1893;
 (377) Chapter CXXVIII(128), Laws of 1891;
 (378) Chapter CXXXII(132), Laws of 1891;
 (379) Sections 1 through 7, pages 54 and 55, Laws of 1890;
 (380) Chapter VII(7), pages 131 through 215, except sections 4, 5, 7, and 8 thereof, Laws of 1890;
 (381) Sections 1 through 9, pages 215 through 224, Laws of 1890;
 (382) Sections 1 through 4, 6, and 7, pages 225 through 227, Laws of 1890;
 (383) "AN ACT declaring certain streets in incorporated cities public highways, and placing the same under corporate authorities." Approved February 28, 1890, page 733, Laws of 1890.
- Such repeals shall not be construed as affecting any existing right acquired under the statutes repealed, nor as affecting any actions, activities or proceedings validated thereunder, nor as affecting any civil or criminal proceedings instituted thereunder, nor any rule, regulation, resolution, charter, ordinance, or order adopted or promulgated thereunder, nor any administrative action taken thereunder nor the term of office, or appointment or employment of any person appointed or employed thereunder.
- The repeal of said acts and parts of acts shall not be construed as reviving any former acts amended, superseded, or expressly or impliedly repealed thereby, nor as abrogating any savings clauses or other conditions contained in any repealer sections which are herein repealed, nor as abrogating any validations accomplished by any statutes herein repealed. [1965 c 7 § 35.98.040.]
- 35.98.050 Emergency—1965 c 7.** This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing institutions and shall take effect immediately. [1965 c 7 § 35.98.050.]

